

The Lawyer as Advocate*

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REMARKS: JONATHAN RAPPING

If I had to pick three descriptors to describe myself, I would go with father, husband, public defender. Literally, my professional identity is part of my personal identity. I was a career public defender before I came to Georgia in 2004 to be the first training director of the statewide public defender system here. I then spent a couple years after Hurricane Katrina helping to rebuild that public defender office. I've worked with public defenders across the South and now across the country.

In 2007, I joined the faculty of Atlanta's John Marshall Law School and at the same time I founded Gideon's Promise.¹ John Marshall was a great home because it allowed me to bring my passion, Gideon's Promise, into the institution. I speak to our new incoming law students every year for orientation, and I ask our students, "Why are you here?" We have an amazing group of law students at John Marshall. Many of them are

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**Newton D. Baker/Baker & Hostetler Chair, Capital University School of Law. Professor Brown's remarks were transformed into an article, co-authored with Professor Patrick E. Longan, entitled *Technique With Ideals: An Essay on Professional Identity and Cause Lawyering*, 76 *MERCER L. REV.* 1243 (2025).

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1. *Gideon's Promise*, <https://www.gideonspromise.org/> (last visited Apr. 24, 2025).

first-generation college graduates, and many come from communities that have been unable to access justice.

Each year, when I meet the incoming class at Orientation, I ask them why they are here, and they share things like, “I want to represent a certain type of person” or “I want to represent a particular cause.” I share with them a quote from an unnamed law student that says, “The first thing I lost in law school is the reason why I came.”² That hits me. “The first thing I lost in law school is the reason why I came.”³ I share that with them, and I say to them, “You’re about to enter a first year where we are going to teach you that the law can be reduced to rules and doctrine, to black letters on a white page. Before you know it, you’ll forget there are human beings behind these cases.” I challenge my students at the end of the first year, “After you’ve read dozens and dozens of cases, I want you to come to me and share with me the story of one human being, one person behind any of those cases.” None of them can do it. They can’t do it because the way we teach law—and this isn’t a knock on John Marshall or any other institution—in America is we reduce complicated personal interactions to facts that we can use to mechanically analyze to arrive at a solution. I say to my students it’s critical that you learn to do that. You can’t be a good lawyer if you don’t know how to analyze, if you can’t issue spot, or if you don’t know rules. But, if you do that without understanding the human impact, you won’t be a good lawyer.

I tell my students as important as anything else you will do in three years, find your purpose. I think there’s a tension. Professor Brown talked about how he is a cause lawyer. I think that there is this struggle law students have: do I want to become a cause lawyer, do I believe in environmental justice, reproductive rights, do I want to do policy work or advocacy for a cause, or do I want to represent people—clients, maybe corporations—do I want to represent clients? I think that there is a thinking among some scholars that when you are a cause lawyer, it is easier to marry your personal identity with your professional identity. When you are a client lawyer, you are more of a hired gun, and you have to sort of do the work, wash your hands, go home, and leave that identity.

I see myself very much as a client lawyer, and I also see myself as a cause lawyer. I believe I figured out how to marry those things. I would urge those of you who want to represent people—particularly people who are living on the margins, whether it’s as a public defender or civil legal services—figure out how to marry your personal and your professional identities and make that client your cause.

2. William P. Quigley, *Letter to a Law Student Interest in Social Justice*, 1 DEPAUL J. FOR SOC. JUS. 7, 8 (2007).

3. *Id.*

Professor Jones asked us to touch on the Preamble of the Model Code.⁴ As a representative of clients, and Professor Heminway mentioned this, a lawyer performs various functions. We are advisors, we are advocates, we are negotiators, and we are evaluators. One of the most important roles that I believe we play, particularly when we represent people, is left out: storytelling. I think it is critical that we are storytellers when we stand next to people who have been silenced in a system that doesn't care much about their story.

Paragraph six states that "A lawyer should be mindful of deficiencies in the administration of justice of the fact that the poor, [sometimes persons who are not poor] cannot afford adequate legal service. All lawyers should devote professional time and resources to ensure equal access to our system of justice."⁵ I do think that there is a mindset in our profession that if you go do work where you are not helping people that can't access justice, you have an obligation to find a way to do that. Again, I would encourage those of you for whom you see your personal identity, your personal values, and the reason you came to law school as helping people who can't access justice, don't see that as something you do as pro bono work. Find a way to have a career where that's what you do and it's your professional identity.

Paragraph seven: "Many of a lawyer's professional responsibilities are prescribed in the rules of professional conduct as well as substantive procedural law. However, lawyers are also guided by personal conscience and the approbation of professional peers."⁶ If there are any judges in the room, I apologize, but let me say this. I would ask you to think about—while I agree that the approbation of our peers can be alluring, is there a danger? I'm going to talk about some of the things I've seen where lawyers become judge-centered, more eager to please judges than serve clients, and how that can lead to violations of the Rules of Professional Conduct. Lastly, "Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system, and a lawyer's own interest in remaining an ethical person."⁷

I'm glad to say I don't feel that I have ever felt any conflict between my ethical obligations to my clients and my personal morals or ethics. I think that's because I put in work on the front end to carve out a career where that's the case. I train and mentor hundreds of public defenders across the country, and critical to our model of recruitment, training, and mentorship is helping lawyers find that marriage between their personal

4. MODEL RULES OF PRO. CONDUCT Preamble (AM. BAR ASS'N 2024).

5. *Id.*

6. *Id.*

7. *Id.*

and their professional identity. One of those lawyers is Travis Williams. If any of you saw Gideon's Army, you met Travis.⁸



This is Travis with his arm around a client. I think this picture represents the essence of what we teach at Gideon's Promise: client-centered lawyering. Again, I don't divorce client lawyering from cause lawyering because the client is the cause. The cause is standing with someone who has been stripped of their dignity and who has had their voice taken from them. Your cause is making sure that you understand their priorities, you understand the challenges they face, and you use your skills and your knowledge to help them navigate those challenges to achieve their priorities. That is the highest calling of our work.

I have no conflict when I disagree with their priorities because my goal is to help them amplify their voice. I see this as civil rights work. In fact, I see it as perhaps one of the most important civil rights struggles we are going through today. If anyone has taken the time to read Michelle Alexander's *The New Jim Crow*⁹ or watch Ava Duvernay's *13th*,¹⁰ you know that there is a correlation between what we started in 1619 with racial terror and what's happening in our criminal legal system today. It

8. GIDEON'S ARMY (HBO Documentary Films, 2013).

9. Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (THE NEW PRESS, 2012).

10. 13TH (Netflix 2016).

is an ongoing extension of those civil rights battles that have happened for 400 years. I don't want to say we are giving a voice because the people we serve have voices. Helping people have their voices amplified and heard is what I see as a critical role as lawyers and storytellers in a system that wants to strip people of their story and wants to frame them in the image of the people who are prosecuting and incarcerating them. The role of the public defender is to hear those stories and amplify those stories, and in doing so, we infuse the system with humanity and dignity—that's the cause.



I love this image of Frank Woo's painting captioned, *Indifference*.¹¹ These robotic legs walking past a homeless veteran curled up in a fetal position. We have all been out on the streets when someone has asked us for a dollar and we have walked by and ignored them. I teach my children never walk by and ignore someone who asks you for help. Yet, there are times I'm with my kids and someone says can you spare a dollar and I say, "I can't help you," but my kids tug me on the shoulder and say, "Daddy, what about what you taught us?" and I say, "Yeah, thank you for reminding me." As lawyers who represent folks on the margin, you will go into systems that will over time wear down your passion, wear down your spirit, and before you know it, you can find yourself sleepwalking through those systems if you don't quit.

What we do at Gideon's Promise, and what I think our job is as teachers and mentors, is to help lawyers not only identify their purpose, but when they get out into the field, to protect it, nurture it, and sustain

11. Frank Wu, *Indifference* (2001).

it. I'm going to share with you a few models that we use to do that. We recruit some of the smartest and most passionate young lawyers across the country to join public defender offices in some of the most difficult places in the country. They go through a two-week boot camp, they understand exactly what every client deserves, and then they go into systems where they cannot give it to them because they have 300 cases and they don't have enough resources. Judges won't let them stand up and make the argument, and before you know it, the phone starts ringing. Myself, other faculty members, and mentors hear from students saying, "I can't do this anymore. I feel like I need to quit."

I want to share with you three models we use to try to support lawyers who are committed to doing this important work and marrying their personal and their professional identity.



The first is a model that we call the Motivation Triangle, and it comes to us from a great trainer named Jeff Sherr, who at the time was the Training Director for the Department of Public Advocacy in Kentucky, and is now the Training Director for the National Association for Public Defense.¹² What this model teaches us is this: for every person who comes to public defense for client-centered reasons, they have one primary

12. See OFF. OF PUB. INT. PROGRAMS, UCLA SCH. OF L., CAREERS IN PUBLIC DEFENSE 20 (2017), <https://law.ucla.edu/sites/default/files/PDFs/Careers/Careers%20in%20Public%20Defense%20Guide%20UCLA%20School%20of%20Law%209517%20v2.pdf> [https://perma.cc/24S5-5NDB].

motivator. Some have the social worker motivator, perhaps best epitomized by the quote from Sister Helen Prejean that “The dignity of the human spirit is that no person is as bad as the worst thing they’ve ever done.”¹³

Some come because they are warriors. Paul Butler famously says, “I became a prosecutor because I [hated] bullies. I [quit] being a prosecutor because I [hated] bullies.”¹⁴ There are some people that do this work because they want to fight against a powerful entity and stand next to someone who doesn’t have power. Perhaps the Nietzsche quote, “Distrust all in whom the impulse to punish is powerful” is most apt.¹⁵

Others do it because they see the system as a racist and classist system populated almost exclusively by poor folks—disproportionately black and brown people—and they want to be part of a community that’s going to change that. They are the activists. Margaret Mead says, “Never doubt that a small group of thoughtful, committed people can change the world. Indeed, it’s the only thing that ever has.”¹⁶

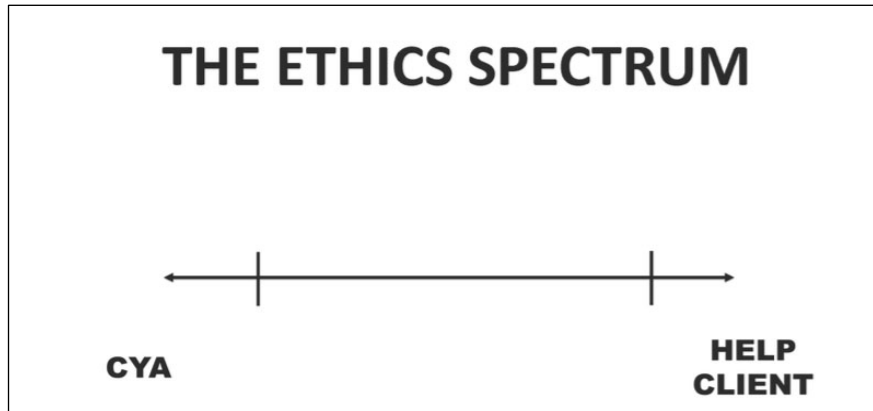
What we do is we teach that even though you may have one primary motivator, every public defender I know who is client-centered and does the work for the right reasons has a little of all three in us. So, what we do is we teach our lawyers how to view the problem through various lenses. Maybe you are the social worker, but you have that one client you just can’t connect with. We say to tap into your warrior motivator. Even though you’re not feeling that client, in a battle between the state with all its resources and that person who came from nothing who had nothing, who do you want to support? The warrior motivator gets you through. We teach our lawyers how to tap into various aspects of their personal and professional identity to sustain themselves in really difficult situations.

13. *Id.*; JONATHAN RAPPING, GIDEON’S PROMISE: A PUBLIC DEFENDER MOVEMENT TO TRANSFORM CRIMINAL JUSTICE 118 (2020).

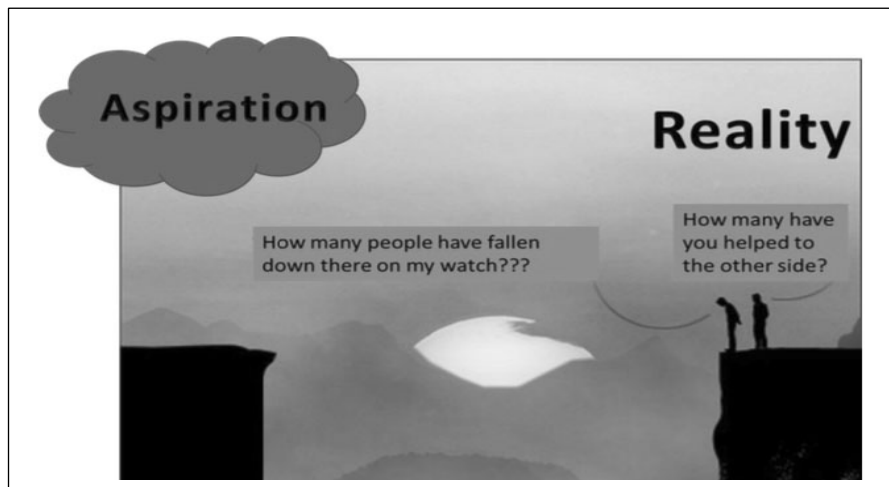
14. Paul Butler, *The Prosecutor Problem*, BRENNAN CTR. FOR JUS. (Aug. 23, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/prosecutor-problem> [https://perma.cc/4G2X-YMJB].

15. RAPPING, *supra* note 12, at 117.

16. *Id.*



This is a great model called The Ethics Spectrum. It really is a model that helps us look at everyday ethical challenges and figure out how to resolve them in a way that avoids the CYA instinct, approbation of everyone but your client, being liked, not getting in trouble. CYA is being lawyer-centered rather than client-centered—thinking how do I help my client. This model helps us recognize when our motivation is CYA versus helping the client. If unchecked, either one can land you in ethical hot water. We work through exercises to help lawyers think about how to get as close to the help client side without crossing that line.



Then this model, which I think is critical to our work, we call it Close the Gap. One thing about doing this work is you will find, if you're a caring lawyer, you will start to feel like you are complicit. You will start

to feel like you contribute to injustice because you can't achieve the outcome every client deserves. We developed a model called Close the Gap where when a lawyer calls and says, "I feel like I'm part of the problem and I need to quit," we sit them down and say let's talk about the reality that you are facing, let's talk about the aspiration you want to achieve. We have now defined the gap—let's identify all the obstacles to closing that gap, and let's think about what lessons you've learned to chip away at the obstacles that are manageable. Forgive yourselves for the ones you can't deal with that are beyond your control, and trust that when you're chipping away inch by inch, your colleague is doing it in a courtroom next door, another group is doing it in the next county over, another group in the next state over. You are making a difference!

Those are some of the models we use to help people maintain their personal identity married with their professional identity, and not quit—what I think is one of the most important jobs a lawyer can do. I want to share this last story because when the pandemic hit, we started getting a lot of calls from public defenders who said, "I really can't do this anymore. I have people I love, clients I care about, they're stuck in cages that are Covid-infested and they're dying. I think I need to quit. I've been filing motions that are falling on deaf ears." I thought back to 2010 when I was in Birmingham, Alabama training a group of lawyers and a story hit the news that thirty-three Chilean miners were trapped underground when a mine collapsed. For seventeen days, rescue workers were drilling and putting microphones, lights, and cameras into the mine trying to find proof of life. On the seventeenth day, a drill bit came back and there was a note attached. Miraculously, all thirty-three miners were alive. They were filming, and the world was watching. I was fixated, maybe because we learned their stories—they were fathers and brothers and sons, and I'm a father and brother and son. I watched for the next fifty-two days as rescue efforts went on and on the sixty-ninth day they rescued all thirty-three miners miraculously.

I thought to myself, as awful as those last fifty-two days must have been underground, I would take those over the first seventeen any day. The first seventeen were when these miners didn't know if anyone cared, if there was any hope, or if anyone was fighting for them. I say to our lawyers, when you go to the jails, when you talk to people, when you deliver messages to their loved ones, you may not get them out, but think of how many people that have lawyers who are ignoring their calls and aren't visiting them. When you do that, it matters. You are the lights, you are the cameras, you are the microphones, and that matters.

I end with this, the happiest people I know in this world are lawyers. The most miserable people I know in this world are lawyers. The difference between the two is the first group found their purpose. It's not

something they do on the side before they go home and then live their real life, it's who they are and it's their identity. A public defender, dear friend of mine, shared a quote with me his grandfather told him. His grandfather was a minister. The quote is this: "Every day you write your epitaph." Think about if every day you are writing the story of how you'll be remembered when you're gone, your legacy, how can you fail to spend one single day writing the most powerful, purposeful, meaningful legacy that you can write? If you do that every day as a lawyer, whether you think you're able to accomplish what your client deserves or not, there will be a day when you're taking your last breath and you can know that your children, your loved ones, the people who care about you have something to carry on with them. So, I wish you all godspeed, it is a pleasure to be here with you today, and I can't wait to see some of you in the trenches.

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REMARKS: CHRISTIAN STEGMAIER

I wanted to talk about three things today: balancing zealous advocacy with ethics, the role of civility and professionalism, and professional credibility and advocacy style. But, I'm going to call a little bit of an audible before we talk about all that. I listened to the professor talk about finding your purpose, and he's exactly right as far as that goes. But I'll also suggest to you this, and this is geared towards every law student in this room: find your mentors. Find your mentors. Your mentor will set the cadence for your career. I've got two mentors that I consider second fathers. I had the opportunity to clerk for a judge on the Court of Appeals in South Carolina, Ralph King Anderson. What he taught me about ethics, what he taught me about advocacy, what he taught me about the law, is invaluable. I was thinking last night, when Judge Anderson from the Eleventh Circuit got up to speak, I was thinking to myself—having had the opportunity to work inside chambers—I can't imagine what working for him must have been like. Can you imagine that? I had a very similar experience. My second mentor is my partner, Joel Collins. He's tried more cases than anybody. He was an Army Jag Officer; he was an Assistant United States Attorney; he taught at West Point. And the current that runs through the two of them is this—and this is why I mentioned this—is that they are probably the most generous people I've ever met. This is the reason why mentors and who you select as mentors are so important.

I've got two daughters and they're both unfortunately at Clemson. I went to Carolina, but their mother went to Clemson, so it's okay. One is a senior and one is a freshman, and we've got rules in our house as it applies to both daughters. They have two rules: no motorcycles and no