

## Perspective

# What I Wish I Knew Then: Twyla Carter

BY STEVE COHEN

Twyla Carter is the Attorney-in-Chief and Chief Executive Officer of The Legal Aid Society. She is the first Black woman and first Asian-American to lead the organization in its 147-year history. Prior to joining Legal Aid, Carter was the National Director of Legal and Policy at The Bail Project and spent 10 years as a public defender. She received an associate degree from Seattle Central Community College, a bachelor's degree from Seattle University, summa cum laude, and a J.D. from the Seattle University School of Law.

The Legal Aid Society handles nearly 200,000 individual legal matters every year. We work in all five boroughs, and what is often a surprise to people is that we help people not only in criminal matters but in about 20 different civil lanes everything from immigration to tax to public benefits to employment. We work not just in the criminal and civil parts but in juvenile and family courts as well. Much of our public defense



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work—and especially our juvenile family work—is constitutionally mandated.

We currently employ about 1,100 attorneys and another 1,100 in support staff, but we are facing a real staffing crisis. Our attrition is unprecedented because New York City's cost of living outpaces the salaries we are able to pay. I'm not comparing what we pay to the private sector; the salaries for our people are not even on par with the government lawyers they sit

across from in the courtroom. I've got lawyers that have been here for 10 years who are serving food at night, who are driving Ubers at night. I've got folks who, if they were to get arrested, would qualify for our services.

The source of the problem is very simple: we are woefully underfunded. Our funding comes primarily from New York City, but there is some funding from New York State. We get some foundation support, and we are very grateful to the law firms that participate in our sustaining program. Let me put this in perspective: the point of arrest, handled by the New York City Police Department, has a budget of about \$11 billion this year, and that doesn't include the budgets for the prosecutors, courts, or correction. Our budget for last year was approximately \$380 million. That is a fundamental inequity that harms our workforce of dedicated attorneys, social workers, and investigators and, more importantly, undermines New

Yorkers' Sixth Amendment right to zealous representation in criminal cases.

### **Advice to Young Lawyers Who Want to Make Change**

My first piece of advice to a young lawyer intent on making a social impact is to manage your expectations; to learn to be comfortable with the complexities of what it means to be a public defender or civil legal services provider. People come to the non-profit world, especially to the public defender's office, because they are on the side of the community and the accused person. Too often people come into this world thinking that with serious effort they'll be able to tear down an unfair system because that's how it should be and you're doing the right thing.

But to be comfortable in this system is not to say to accept it. As a career defender, I know it is extremely disheartening to suddenly recognize—and finally understand—that with every bit of reform and progress you make, the empire always strikes back. It is designed to oppress, control, and surveil. So, you will be disheartened, disillusioned, and upset if you do not recognize that incremental change is slow. But, it can also be very powerful and very impactful.

The second thing that I've learned as an experienced lawyer is that blind ideology without a strategy is foolish. Values, and the emotions driven by our values, certainly drive our actions. But if you don't have a plan, it doesn't mean a damn thing; you

accomplish very little. I wish I realized earlier in my career how the system really worked, how the structures that are designed and have been in place forever exist for a reason. To think that you are going to come in and do all these things—and then run up against how the system really works—can be very disheartening.

### **The Importance of Reaching Out to Those Who Think Differently**

What I would have done differently starting out in my career is I would have taken myself deliberately out of my echo chamber. I would have purposefully put myself in positions where I would be around people who don't like the clients that I have, who don't understand the work that I'm doing, and who only see things as a public safety, pro law enforcement approach.

I would have made myself grapple with the hard issues of recognizing I had to be able to have the right answer when somebody who says, "I agree, people shouldn't be in jail; and I understand that cash bail is bad. But I'm tired of everybody stealing toothpaste out of my CVS over and over and over again." It is not enough to simply say, "Let them out. Cash bail is inherently unfair."

I wish that I would have started out much earlier grappling with those issues, so that I could have been thoughtfully, strategically aligning myself with people who are willing to actually dig in, lean in, and solve that problem. Most people released from jail or prison actually just go to work, go

to school, and go home to their families and they don't make the news. We need to stop engaging in the rhetoric and the things that led to mass incarceration. Even though crime is down, people don't feel safer. There's both a perception problem and a narrative problem.

### **The Difference between Lawyers and Advocates**

I always talk to our folks here about how there is a big difference between being a lawyer and being an advocate. I'm looking for advocates. Advocates are people who know that they have to go into court to argue race and culture and data; they need to put it in the larger context. It is not just about this particular client that's in front of you but puts the alleged offense into the larger context of public policy. An advocate will actually articulate ADA requirements and violations that have nothing to do with state law or the case but actually advocate for the needs of a human being.

To do this work, we need advocates. We need folks who can explain the issues and policy, providing the context of why my client is accused of selling drugs. People who can articulate why my client has had so many warrants, why they keep missing appearances: it's because they must choose between their minimum wage job or coming to court. Your Honor, the lawyers have asked for eight different continuances. That means my client has to arrange for a ride eight different times; he has to get out of work eight times; arrange for childcare eight times.

For a low-income person, it's a whole different level of burden than it is for the lawyer who's just coming to work every day. That is why I really try to explain that we are looking for advocates here, not just lawyers.

### **On Understanding Our Clients' Reality**

Whenever I talk with young new lawyers, I always say that your law degree doesn't make you an expert, it makes you a lawyer. Our expertise as defenders and civil legal service providers comes from our ability to understand the lived experiences of the people we serve. It is essential to remember that as you advocate on behalf of other people. It's not your bat and ball, it's not your game. You can provide the counseling, the guidance, the law, and the options. But unless you are living their life, you cannot really understand their realities, their pressures, their choices.

I try to share with young lawyers how many times I've had clients to whom I've said, "Just do the 180 hours of community service, and you can avoid jail time." And they've said to me, "No, I'm not doing 180 hours of community service. I'd rather do the week in jail." I've thought to myself, "Oh my gosh, that's ridiculous and crazy." They know they're not going to be able to do 180 hours of community service and they'll get violated. That means they'll end up doing three weeks of jail time, and they'll keep getting in trouble over and over again. But, at the end of the day, it's not our decision.

### **On Owning Your Mistakes**

I guess the best advice that I was ever given was to own my own mistakes. Don't justify them, don't make excuses for them. Many of us—and I am particularly guilty of this hubris—is that I assume that I know best because I am the lawyer. Something I need to remind myself of regularly is that I need to recognize that my view of the world is not always right. Which leads me to two of my guiding principles in life, which is that no human being should be defined by their worst decision, and that we judge other people's decisions without knowing what their choices were.

Early in my career, I was talking to a client, and I gave him bad information. I think I had wrong information. Thankfully, it wasn't the difference between jail time and no jail time. But it mattered because this was their life. I had to go back to the whole family and say, "I screwed up; I am so sorry."

Own your mistakes. Face the disappointment, the anger. My client and his family needed to know what was actually happening so that they could make the right decisions for themselves. The first time that happened, I had great supervisors who said "Yeah, not good, but learn from your mistakes. This will happen again; you're not perfect. Make new mistakes."

We need to recognize, yet again, that as a lawyer, there are real consequences to your choices, your actions, your communication with the people whom you serve. They're coming to you for

the purpose of getting guidance, and more importantly, as a public defender, they did not choose you. I repeat this to young lawyers all the time: they did not choose you. So, you have an additional obligation of high integrity, honesty, transparency, and making sure that that relationship is cared for very, very carefully.

### **Last Thoughts**

I wish I would have started out much earlier on sitting with small business owners, sitting with victim advocate groups, sitting with police officers, and really challenging not just them but myself. I wish I had started earlier saying to them, "We're coming from our respective places, experiences, and perspectives. Let's work together towards a solution." If I had done that earlier, I think I could have been much further. Not in my own my professional career—I'm doing great. But towards the goals that I had to save the world. And I'm still working on that.

