

Transforming Justice, Lawyers and the Practice of Law

Edited by

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Chapter 2

The Georgia Justice Project: Reimagining the Lawyer/Client Relationship

*Douglas B. Ammar**

“I have come to believe that it is important to look at the way justice is dispensed in our criminal courts from a faith perspective, and not from just a systems view, because a faith perspective brings into the system a sensitivity that fosters compassion, reconciliation, understanding, truth, relatedness and an end to oppression.”

—John Pickens, 1986

Introduction

Georgia Justice Project’s story began almost 30 years ago, the brainchild of our founder, John Pickens. Pickens was a successful corporate litigator who had worked at some of Atlanta’s largest and most prestigious law firms. Outside of his professional career, Pickens volunteered his time at a local homeless shelter operated by his church. As people at the shelter found out he was a lawyer, they constantly asked him for legal advice. One man whom Pickens encountered

* Executive Director of the Georgia Justice Project in Atlanta, Georgia. I owe a significant debt of gratitude to a Davidson Impact Fellow who worked on this chapter — Kenneth Westberry. I am also thankful for all of the help from other GJP staff members who helped in a number of ways. In addition, I would like to thank Marjorie Silver for her incredible patience, Luann Dallojacono for her editing prowess, and Ben Jernigan (another Davidson Impact Fellow) for his help with citing issues. Lastly, I would like to thank all of the clients, the board of directors, the donors, the volunteers, and the interns who make GJP’s work possible.

was an alcohol and drug addict who had abandoned his family and was living homeless on Atlanta's streets until he was arrested and incarcerated. Endeavoring to fight for this man as much as he fought for his high-paying corporate clients, Pickens represented the man in court. He stood by him even after the conclusion of the case by helping him seek addiction treatment, secure employment and housing, and, ultimately, reunite with his family.

Clients like that man helped Pickens realize that the criminal justice system was seriously flawed. However, Pickens saw these flaws as an opportunity to provide people without the means to pay for legal counsel with the same level of thorough litigation he provided to his corporate clients. He recognized that focusing solely on a client's legal problem would not get to the root of the issue. His goal was to provide social support for those he represented in hopes that they would not return to the system. This approach was rooted in relationship-building, and it grounded individual transformation through mutual recognition and support.

Moving out of the private sector, Pickens founded the Atlanta Criminal Defense & Justice Project, which later became the Georgia Justice Project (GJP). GJP was established on three foundational principles:

- (1) Justice should not be determined by how much money you have;
- (2) Nobody is beyond rehabilitation and redemption; and
- (3) The entire community benefits when clients address issues underlying their arrest.

After initially operating out of his home, Pickens in 1988 moved the Project offices to its current downtown neighborhood, directly behind The King Center and Dr. Martin Luther King, Jr.'s resting place. With his one-room office readily accessible to the people who needed it most, Pickens had effectively weaved the Project into the fabric of what had once been one of Atlanta's toughest neighborhoods.

I have been associated with GJP since its inception, serving first as a volunteer, then as a staff lawyer in 1990, and, since 1995, as its executive director. In the past twenty-nine years, GJP has shifted to larger premises, a renovated former gas station/garage only a few doors down from its earlier location. It has grown to employ a staff of more than fifteen, including lawyers, social workers, paralegals, and development staff. In addition, the organization works with more than 100 volunteers and interns annually.

GJP has also continued to explore ways to grow its impact. Not all of these efforts have been successful, but each endeavor has taught us new ways to

leverage our clients' experiences and our lessons from serving them into making a broader impact.

For instance, from 1993 to 2010, GJP operated a social venture called New Horizon Landscaping Company, which employed clients who had been recently released from jail and prison. In the same spirit of removing barriers people with criminal records face upon reentering society, GJP launched our policy work in 2008 to promote advanced systemic change. Additionally, GJP in 2014 launched a volunteer lawyer program, which trains volunteer lawyers and pairs them with GJP criminal records clients. GJP also expanded its geographical reach by supporting the Athens Justice Project, an effort to independently replicate GJP's work in Athens, Ga.,¹ and by operating an office in Macon, Ga., in partnership with Mercer University School of Law and primarily supported through an Equal Justice Works fellowship, to bring GJP's criminal records work to middle Georgia.²

GJP's systemic impact work is inextricably linked to our direct client service in that it is tethered to what we see every day in the experiences and needs of our clients. Though GJP's policy and education efforts are growing and successful, serving clients is the heart of our operation. GJP's core competency—the central benefit offered to the community—is free legal assistance, which is why potential clients and their family members constantly seek out GJP's expertise.

In addition to not charging for our services, a number of other factors differentiate GJP from other legal service providers. The factor most significant for this discussion, however, is our deeper engagement with our clients. GJP employs a long-term relational approach coupled with social service support. We help our clients identify their goals and then support them as they strive to reach them.

1. The Athens Justice Project (AJP) was founded, primarily, by professors at the University of Georgia in Athens, Ga. AJP was an independent organization vis-à-vis GJP. AJP operated for about ten years before closing its doors in 2014.

2. Macon is about eighty miles south of Atlanta. The office emerged from a number of catalytic forces, including a strong relationship with Mercer University's School of Law, seed funding from the Equal Justice Works fellowship program as well as a number of other foundations, and the amazing commitment of a young law student named Ashley Deadwyler. The office operated from 2010–2012; unfortunately, funding to maintain the office after the fellowship ended was not sufficient. GJP, however, remains involved with Mercer Law School, the Bibb County Public Defender's office, and other community groups in Macon, such as the Macon Reentry Coalition.

It would be easy to measure the help GJP provides its clients solely on a surface level by simply considering that the client's legal problem gets resolved. However, our commitment—our long-term, multi-faceted engagement—suggests something much greater and much more significant. I believe we are living out a deeply spiritual reality. We seek to create The Beloved Community by demonstrating mutual concern, mutual recognition, and love. We are using the law as a beginning, as a tool, but the fulfillment is community, acceptance, and love. Justice might be the beginning of our journey with clients, but it is love and acceptance that complete it.

The focus of the Project for Integrating Spirituality, Law and Politics (PISLAP), and the purpose of this book, is to explore ways to integrate law, spirituality, and politics. It is about lifting up examples of where these worlds intersect, providing opportunity for a productive collision. I believe that GJP's work and commitment are living examples of PISLAP's values and beliefs. I also believe that it is the reason I continue to work at the GJP.

In many ways, the PISLAP intellectual framework is the perfect backdrop for understanding GJP's work and approach. As evidenced in the many writings of Peter Gabel,³ PISLAP recognizes how the law and legal institutions—even those established to protect and assist vulnerable and disenfranchised portions of our community—inadvertently dehumanize those they intend to serve. The area of criminal law offers fertile ground for this analysis.

Though there is currently in American culture a willingness to question our collective “law-and-order” policies—an approach that has, unfortunately, led to America being the world's leader in incarceration⁴—there has yet to be a significant analysis of legal standards and practice in this journey towards mass incarceration. More specifically, many of us concerned about the plight of those arrested thought the war was over once the Supreme Court granted criminal defendants the right to a lawyer in the famous case of *Gideon v. Wainwright*.⁵ To be sure, it is certainly more humane to guarantee this right. One could argue

3. See, e.g., PETER GABEL, *THE BANK TELLER AND OTHER ESSAYS ON THE POLITICS OF MEANING* (2000); PETER GABEL, *ANOTHER WAY OF SEEING: ESSAYS ON TRANSFORMING LAW, POLITICS, AND CULTURE* (2013).

4. The widespread statistic often quoted is that the United States is home to five percent of the global population, yet it also has nearly twenty-five percent of the world's prisoners. See Lorna Collier, *Incarceration Nation*, AMERICAN PSYCHOLOGICAL ASSOCIATION, <http://www.apa.org/monitor/2014/10/incarceration.aspx> (last visited Apr. 29, 2016).

5. 372 U.S. 335 (1963).

that with this legal advance, American culture overall and its people's understanding of justice improved as well. We moved forward under the schema of a rights-based approach, an Enlightenment-influenced notion supporting an individual rights analysis.

However, as encouraging as this was, it has not manifested as many had hoped. The law is a structure of minimalist expectations. It cannot, almost by definition, be the full embodiment of our society's aspiration. Granted, laws are often inspired by society's noble commitments, even spiritual commitments like respecting the worth and dignity of others. Yet law and its institutions often create a dehumanized delivery mechanism, even when society's highest aspirational commitment inspired the very law in question. Law creates the vessel, the structure for society's aspirations. The law often points to and outlines society's spiritual commitment (perhaps even our collective soul). But law's limitation is that it cannot embody spirituality. How can this vessel express our collective aspirations, our hopes, our longings, our soul? The conundrum is: How can the law—particularly the practices and institutions created to fulfill law's mandates—embrace and further spiritual principles?

GJP's legal representation of the most disenfranchised members of our community, along with our concomitant commitment to form supportive long-term relationships with clients, suggests one possible answer to the above question.

For me, the discerning issue regarding a spiritual analysis is power. The law is often about power: who has it, how to channel it, and how to protect it. Spirituality, however, asks different questions of power, primarily: How are those with power treating those without power? Is power being used to serve those without it, or are those with power fiercely protecting it and using it for their own personal advancement?

GJP's approach of affirming the personhood, inherent worth, and potential of individuals affected by the criminal justice system aligns with PISLAP's philosophy, but it is GJP's use of and understanding of power that avoids a turgid tendency among lawyers seeking to infuse their work with spirituality—that is, the tendency solely to feel better about themselves and their work. The sacrificial nature of GJP's work creates an undertow, an unconscious spiritual pull. By serving the poor, the marginalized, those who have gone to jail or prison, GJP is surely fulfilling a legal ethical commitment. But by supporting our clients, by forming community with our clients, and by embracing those without power on a personal as well as a professional level, GJP's work elevates beyond the dictates of legal professionalism and reinforces a spiritual commitment.

Making the world better for those without power is, in my opinion, a most spiritual calling. This is what GJP seeks to do.

What follows next is an overview of our work, our programs, and our approach. I will address some of our successes and some of our failures. After that, the focus of this chapter will be on our clients' stories—our stories—as well as why I do this work and what I have learned over my quarter-of-a-century at GJP.

Service Areas

GJP's service areas are extensive and include local criminal defense, criminal records representation, and statewide policy and education work. Our programming seeks to address the economic barriers imposed upon the criminally accused as well as other issues. People with criminal records usually face barriers to employment,⁶ housing,⁷ public assistance,⁸ and even voting.⁹ This is significant considering that one out of every four people in the United States has a criminal record.¹⁰ The number is even more astonishing in Georgia, where a third of all residents have criminal records.¹¹ Many of these individuals, especially those with convictions, often see no alternative and easily fall back into a cycle of poverty and crime.

We provide a unique service to the Atlanta community and to Georgia.

Holistic Criminal Defense

Though our prison visitation program takes us all over the state of Georgia, our criminal defense practice is limited to Fulton and DeKalb counties

6. See Amy L. Solomon, *In Search of a Job: Criminal Records as Barriers to Employment*, NATIONAL INSTITUTE OF JUSTICE (Jun. 15, 2012), <http://www.nij.gov/journals/270/pages/criminal-records.aspx>.

7. *Id.*

8. *Id.*

9. *Id.*

10. See Michelle Natividad Rodriguez & Maurice Emsellem, *65 Million "Need Not Apply": The Case for Reforming Criminal Background Checks for Employment*, THE NATIONAL EMPLOYMENT LAW PROJECT, http://www.nelp.org/content/uploads/2015/03/65_Million_Need_Not_Apply.pdf (last visited Apr. 29, 2016).

11. See *Problem: High Crime*, NEWLIFE-SECOND CHANCE OUTREACH, <http://www.nlscoinc.org/crime-in-columbus/> (last visited Apr. 29, 2016).

(i.e. Metro-Atlanta). Our goal is to ensure that the criminal justice system functions properly and our clients are afforded due process and high-quality legal defense at no charge. We couple our legal services with social services and employment support. This helps to address the underlying issues that led to our clients' initial legal troubles. Through this model, we strive for healthy, productive individual lives and, by extension, stronger families and safer communities.

Our criminal defense attorneys focus on providing quality legal services and ensuring that their involvement with each client is deep and meaningful. GJP's approach is relational—going beyond the transactional. Pickens' vision was to form the types of relationships with clients that go beyond the boundaries of a typical lawyer-client agreement and that defy normal legal constructs. Neither the time limits nor the subject matter of the legal case defines the limits of GJP's involvement with clients. We address more than the legal issues, and we remain connected to our clients (and their families) for decades beyond the resolution of the case. It is our faith that motivates this relational and multifaceted client focus, which in turn affirms both the clients' and the lawyers' humanity.

We assign each client a member of our social work staff who offers a range of counseling, job training, and referral services. Our goal is to ensure that the client's life circumstances change so living a crime-free life is not only possible but also actively supported. If our client has to serve time in prison, we do not abandon him or her. Rather, we communicate regularly and visit several times a year. We also help arrange for families to visit to maintain support networks.

For those coming out of jail or prison, the opportunity for employment is essential to a successful reentry. Our social workers guide clients in their job search efforts, connecting them with leads and following up with both clients and employers. In addition, we build relationships with employers for further job development.¹²

12. From 1993 to 2010, in response to the difficult journeys of reentry, particularly regarding employment, that so many of our clients were experiencing after being released from prison, we ran New Horizon Landscaping (NHL), a landscaping company that offered employment to clients of the GJP. Our goal was to create an employment opportunity for these clients, helping them obtain a positive work experience as they returned to society. At its height in 2007, NHL had \$500,000 in sales and employed forty individuals. Unfortunately, the recession of 2008–2009 caused a tremendous shift in the landscaping industry and forced us to shut the business down.

One of the ways GJP lives out the commitment to fostering community is through biannual gatherings. Twice a year, GJP hosts community events for our former clients. Typically, each event draws about 300–400 folks. The first, usually held in July, is a back-to-school festival. At this half-day event for both adults and children, we fill and distribute backpacks with school supplies and provide lunch. A large law firm staffs a snow cone machine, a former client brings his DJ equipment for dancing, and families enjoy tons of games.

The second annual event is a Christmas party. We initially conceived it to provide presents to our incarcerated clients' children. Twenty years after launching, this event is now more than presents. We invite all former clients and their children to enjoy a roasted turkey and Christmas carols. At the end, Santa appears with presents for all the children. Nearly 100 volunteers help pull off this three-hour event.

Why do we it? Why have we, for nearly twenty-five years, created a place for us to break bread with clients? These events are efforts to stay connected; to demonstrate our commitment to and continued interest in our clients. These events are about creating and maintaining community. We don't gather to talk about legal cases; those matters are long over. We gather to celebrate each other. We gather to form a bond beyond "attorney-client." We gather to show love and strengthen the community.

Criminal Records Representation

Many individuals do not fully understand what is on their criminal records or even what has happened to a case from years past. The Criminal Records/Coming Home Program was launched in 2008 to help remove legal barriers to self-sufficiency that arise from having a criminal record. Our counseling services include expungement, first offender and other record corrections, and advocacy with employers and housing authorities.

The program began to take shape in 2004, when the Annie E. Casey Foundation asked GJP to screen and represent hundreds of families who were being denied their re-certification for a public housing voucher due to a criminal arrest or conviction in their family. Then in late 2006, a local Atlanta foundation asked GJP to do similar work for more than 200 additional families. GJP's staff and other volunteer lawyers were incredibly successful in representing these families and overcoming the denial of vouchers.

Our experiences and successes at that time illustrated to us an opportunity for a larger impact. We realized that our core competency in criminal law

offered a huge benefit in translating and correcting the inaccuracies of many criminal records. Empowered by this realization, GJP decided to leverage its collective criminal expertise and use that knowledge to make an even bigger impact. And so, the Criminal Records/Coming Home project was born.

Since 2008, the program has helped more than 3,000 individuals become more employable by expunging and correcting their criminal records. The goal of the program, then and now, is to open up our criminal history direct service program for community referrals while simultaneously working to change laws in Georgia that limit opportunities for those with criminal records.

Statewide Policy and Education Efforts

We recognized early on that the laws in Georgia would continue to present a significant challenge. Until the legislative schema was changed, too many people with criminal records would continue to suffer. Our plan was to launch not only a service for the broader community but also to seek to change the law. Because we have provided direct service to thousands of people, we have a unique lens through which we can view opportunities for systemic change. We use our expertise to educate legislators and our community alike on the lasting impacts of a criminal record. We advocate for specific changes to the law around collateral consequences.

Since GJP started its policy work in 2008, there has been a tremendous amount of momentum in Georgia regarding criminal justice reform. For more than three decades, the United States has been on an incarceration binge.¹³ Today, America incarcerates more of its population per capita than any other country on Earth. As of 2015, the country is at a high watermark in our willingness to engage in meaningful criminal justice reform. Most of these reforms are

13. Over the past thirty years, America's prison population has skyrocketed, increasing by over 600%. See *Trends in U.S. Corrections*, THE SENTENCING PROJECT, <http://sentencingproject.org/wp-content/uploads/2016/01/Trends-in-US-Corrections.pdf> (last visited Apr. 29, 2016); See also MARC MAUER, RACE TO INCARCERATE (2006); *Incarceration*, THE SENTENCING PROJECT, <http://www.sentencingproject.org/issues/incarceration> (last visited Apr. 29, 2016); E. Ann Carson, *Prisoners in 2013*, U.S. DEPARTMENT OF JUSTICE, <http://www.bjs.gov/content/pub/pdf/p13.pdf> (last visited Apr. 29, 2016); E. Ann Carson, *Prisoners in 2014*, U.S. DEPARTMENT OF JUSTICE, <http://www.bjs.gov/content/pub/pdf/p14.pdf> (last visited Apr. 29, 2016); *Prison Population Counts*, BUREAU OF JUSTICE STATISTICS, <http://www.bjs.gov/index.cfm?ty=tp&tid=131> (last visited Apr. 29, 2016).

taking place at the state level—and Georgia has been leading the way. We are proud, and at the same time, humbled, that GJP has been at the table for these historic changes.

Recent changes in Georgia law have been momentous. Passed in 2012, the Record Restriction Law¹⁴ expanded access to expungement from official criminal history for non-conviction, allows for restriction of certain misdemeanor convictions for youthful offenders, and allows restricted charges to be sealed so that private background-check companies cannot report them. The following year, a new law gave judges the discretion to reinstate driver's licenses for certain individuals charged with drug offenses not related to the direct operation of a motor vehicle.¹⁵ Laws passed in 2013 and 2014 limited the proliferation of mugshots: one requires mugshot companies to remove photos when the charge is eligible for restriction, while another¹⁶ prohibits law enforcement from publishing mugshots online.¹⁷ A 2014 law targeted employment struggles by providing some protection from negligent hiring liability claims for employers who hire workers who have been pardoned or issued a certificate of rehabilitation by the Department of Corrections.¹⁸

Laws that came in 2015 were perhaps some of the most significant. The “Ban the Box” order signed in February 2015 was a fair hiring initiative that removed questions about criminal history from the original employment application for state employment and postponed the background check until the interview stage.¹⁹ Employers now may only screen for relevant criminal records.²⁰ Another 2015 law mandated that eligible individuals be informed about their first offender eligibility either by their attorney or the court.²¹ If individuals who would have been eligible for first offender status at the time of their sentencing were not aware of their eligibility, another law allows them to be retroactively sentenced as a first offender.²² Finally, the Georgia Fair Business

14. GA. CODE ANN. § 35-3-37 (2015).

15. GA. CODE ANN. § 40-5-76(b) (2015).

16. GA. CODE ANN. § 35-1-19 (2015).

17. GA. CODE ANN. §10-1-393.5 (2015).

18. GA. CODE ANN. § 51-1-54 (2015).

19. Ga. Exec. Order No. 114 (2015).

20. *Id.*

21. GA. CODE ANN. § 42-8-61 (2015).

22. GA. CODE ANN. § 42-8-66 (2015).

Practices Act²³ requires that individuals be informed if their criminal history is going to be used to deny them employment. The act also allows individuals to dispute incorrect information reported by a Consumer Reporting Agency and creates a state cause of action against agencies that fail to comply.²⁴

Many of these changes may be the result of the Criminal Justice & Reform Council, initiated by Georgia's governor in 2010.²⁵ That body has led the way for legislative and policy change. In 2013, Georgia's governor formed a special office, the Governor's Office of Transition, Support and Reentry (GOTSR), to focus on reentry issues.²⁶ Over the last five years, GJP has worked closely with both the Reform Council and GOTSR.

Finally, GJP engages a broad range of stakeholders in advocating for change, including likely and unlikely allies such as district attorneys and public defenders, judges, attorneys in the private bar (particularly employment lawyers), legislators, nonprofit caseworkers and reentry advocates who work with formerly incarcerated persons.

In addition to legislative changes, GJP also launched an education/implementation strategy. We learned that changing a law is often not enough. A new law that grants more opportunity to those affected is only effective if its beneficiaries make use of it. We learned that directly affected folks and the groups that work with them needed and wanted to know how to take advantage of the wins we helped secure at the State House. Lawyers and judges also wanted to learn about these changes, so we began offering trainings and Continuing Legal Education classes all over the state.

The scope and breadth of this education/implementation work continues to grow. For instance, in 2014, GJP staff delivered more than sixty presentations that reached nearly 4,000 individuals. We also learned that this work indirectly has become a strategy for supporting even more policy change.

23. GA. CODE ANN. § 10-1-393.14 (2015).

24. *Id.*

25. *Georgia Council on Criminal Reform*, DEPARTMENT OF COMMUNITY SUPERVISION, <http://dcs.georgia.gov/georgia-council-criminal-justice-reform> (last visited May 1, 2016).

26. *Governor's Office of Transition, Support and Reentry*, DEPARTMENT OF COMMUNITY SUPERVISION, <https://dcs.georgia.gov/governors-office-transition-support-and-reentry> (last visited May 1, 2016).

GJP's Three-Dimensional Approach

“A client’s relationship with the Georgia Justice Project is a relationship for life. You are like one big family. You are creating pockets of the Beloved Community.”

U.S. Congressman John Lewis²⁷

Without diminishing the impact or poignancy of GJP’s criminal records or policy work, it is our front-end holistic representation that best reflects and amplifies PISLAP’s philosophy. It is this unique and long-term approach to those facing criminal charges that sets us apart from most other legal practices. It is this approach that led Congressman John Lewis (Ga.) to compare our work to the notion of the Beloved Community. And it is this aspect of our work that will be the focus of this section.

One way of understanding GJP’s holistic representation is to think of it in three dimensions. The first dimension is the attorney-client relationship: We become someone’s lawyer in a pending legal matter. Though traditional in many respects, GJP approaches this relationship with a few twists. The second dimension is our social service involvement with clients, an involvement that begins from case selection. The third dimension is time: We work to maintain relationships with our clients well past the time that the legal matter has ended.

There is great leverage and opportunity in the combination of these dimensions. There is also something deeply spiritual about this combination. To open ourselves up to long-term relationships with clients—clients who have often broken the law, who are poor, who are shunned by others in society—goes beyond justice. Using our power as lawyers to initially invest in clients and create trust establishes the foundation for something greater than mere enhanced legal outcomes.

The First Dimension: Attorney-Client Relationship

The indigent criminal defense system is broken; there are too many cases for too few lawyers. We believe that this is the main problem with our current public defense system. Therefore, GJP intentionally keeps our lawyers’ caseloads small. True justice requires zealous representation. If our caseloads are too high, we are unable to investigate for our clients properly or form lasting relationships.

27. Congressperson John Lewis, Address at the GJP’s donor reception (Mar. 21, 2003).

Yet, GJP envisions more than zealous advocacy and constitutional protection. We also seek to create lasting relationships. The goal is to establish a supportive and trusting relationship so that our social service support will get traction. We could not establish these types of relationships without providing thorough and aggressive criminal defense representation. That initial dimension, that initial relationship, is the bedrock upon which all of our other work hinges.

This attorney-client relationship is not merely a transactional encounter but is rather a relational encounter. Despite winning or losing, we work to maintain a relationship with our clients.

In many respects, this first tier reflects a traditional model of lawyering, meaning that we try to focus on our client's case and deliver quality criminal defense representation. Some have referred to it as providing the kind of representation anyone with means would receive—a Cadillac service, if you will—the kind of service that anyone would expect for themselves or someone they cared about.

Is this different from the norm? Yes. Most folks who are poor and who are engaged with the criminal justice system don't get that kind of service. For the most part, public defense is underfunded, leaving too few defenders with too many cases and few additional resources. In many ways, GJP's front-end legal work is the way it should be for everyone.

There are other differences from the norm in this first dimension. During our interview process, we don't ask our clients whether or not they are guilty of the crime, but we also don't shy away from asking about the case. GJP believes in asking clients, "What happened?" or "What do you know about the case?"

This is not the way most criminal defense lawyers are trained. Defense lawyers are typically trained not to ask clients about the case. Why? The most common rationale is that the client's answer will limit the lawyer. For instance, if the client in any way indicates that he or she plans on lying on the stand, the lawyer cannot be part of that testimony because it would be perpetrating a fraud on the court.²⁸ By not asking, the lawyer leaves more options open.

We at GJP, however, believe that we can honor our clients by engaging them in the process of their representation. We don't approach this conversation with clients naively. By that I mean that we don't accept all stories told to us by

28. MODEL RULES OF PROF'L CONDUCT R. 3.3 (AM. BAR ASS'N 2016).

our clients as truth *per se*, but we move forward as if our clients have told us the truth. Our investigation seeks to affirm their version of events. We believe this is one way of valuing a client versus ignoring the issue entirely.

If we later find out, often after investigating the case ourselves, that a client has not told us the truth (and of course, this happens), we are not crestfallen. We are not shocked. We have not lost all confidence in the client. Instead, we use the opportunity to forge a deeper relationship. By not backing away, by not accusing the client of lying, we invite the client to tell us the truth. We say, “We are still your lawyer. We’re with you for the long haul.” My experience is that when we don’t allow this angling by our client to push us away, when their manipulative approach to the truth has been revealed and we still remain by their side, a bridge is built; a deeper layer of connective tissue is formed.

And what occurs when there is no defense? When a trial is out of the question because being found guilty is inevitable? When we are looking at making the best plea bargain possible?

This is when we work to incorporate principles of restorative justice.²⁹ Acknowledging guilt is a fundamental step in restorative justice, so where appropriate (i.e., without prejudicing our clients and without giving up their rights), we encourage our clients to take responsibility for their actions.³⁰ This runs counter to a traditional criminal defense approach, whereby criminal defense lawyers are primarily trained to fight the state’s accusations against their client.

Admitting to the accusation may appear to be antithetical to the role of a criminal defense lawyer, obviating the lawyer’s role in a criminal case. However,

29. “Restorative justice is a theory of justice that emphasizes repairing the harm caused by criminal behaviour. It is best accomplished through cooperative processes that include all stakeholders. This can lead to transformation of people, relationships and communities.” *Restorative Justice*, CENTRE FOR JUSTICE AND RECONCILIATION, <http://restorativejustice.org/restorative-justice/about-restorative-justice/tutorial-intro-to-I-justice/> (last visited May 30, 2016).

30. For instance, when a client has given a confession or some other inculpatory statement to the police, then admitting guilt and pursuing a restorative justice path is not inconsistent with the evidence and is not inconsistent with our client’s statements. Even without confessions, there are many cases where evidence of guilt is overwhelming. In those cases, cases likely to be resolved with a guilty plea, pursuing a restorative justice outcome is often consistent with a client’s best interests. See *What is the probability of conviction for felony defendants?*, BUREAU OF JUSTICE STATISTICS, <http://www.bjs.gov/index.cfm?ty=qa&iid=403> (last visited May 2, 2016).

our nation's current high conviction rates are primarily due to defendants pleading guilty.³¹ It appears that criminal defense lawyers more often than not are having their clients acknowledge their culpability anyway. Thus, practically speaking, as long as admitting guilt isn't done in a way that sacrifices a client's rights and position, taking a restorative justice approach is not on its face inconsistent with how the majority of criminal cases are resolved.

Applying a restorative justice approach in defending a client facing criminal charges is more than just a tactic. Our lens into the "criminal justice transaction" often meshes with the ideals undergirding restorative justice, as they align deeply with GJP's social services efforts. Our goal is for clients to improve their condition, for them to take charge of their lives, and for them to become productive citizens. Accepting responsibility, if guilty, for their misdeeds can be a powerful step along the road to rehabilitation.

Below is a story about two former GJP clients that reflects how we used restorative justice principles to successfully resolve a difficult case. These cases—these real, personal stories—illustrate the way that my GJP colleagues and I apply restorative principles in investigating and resolving serious criminal cases facing GJP clients.

The Cordial Robbers: A Redemptive Approach

They weren't hard to miss. Two black males, one 6'5", the other 5'2", walking in a secluded area off campus where robberies typically occur. Al and Dan had never gotten in trouble before, but on this day, under the influence of drugs, alcohol, and peer pressure from a tough kid with a gun, they had taken the road so many inner-city kids follow—the road where making the wrong choice is the easiest path in a world where all other paths seem unnecessarily paved with struggle and difficulty.

It started around noon. Al and Dan skipped school with some classmates. Everyone was stoned. Liquor and beer flowed freely in the backseat of the car. The drugs and alcohol were easy to get . . . until the money ran

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31. Jed S. Rakoff, *Why Innocent People Plead Guilty*, THE NEW YORK REVIEW OF BOOKS (Nov. 20, 2014), <http://www.nybooks.com/articles/2014/11/20/why-innocent-people-plead-guilty/> (explaining that ninety-seven percent of federal charges that were not dismissed in 2013 resulted in plea deals, and that at least ninety-five percent of non-dismissed felony cases are resolved through plea deals in most states).

out by dusk. Rod, the ringleader of the truant partiers, turned to Al and Dan. “I bought the first round; now it’s your turn.” When the two explained they didn’t have any money, Rod pulled a silver 32-caliber pistol from beneath the seat. “Then it’s your turn to rob somebody.”

Rod dropped them off near the local university with the pistol. Drunk, high, threatened, and pressured to pull their weight, Al and Dan got out and held up the first three students they saw, gaining sixteen dollars in loot. The police arrested them a few minutes later for armed robbery. They both confessed.

Al and Dan lived in the Techwood housing project—the first housing project in the nation. Both were good kids who had participated in both Christian and secular youth development programs that required commitment and dedication.

We decided to represent Al.³² This case was not about guilt or innocence, considering he confessed as soon as he was arrested. The only issue left was sentencing.³³ My plan was to create a sentencing alternative—a non-prison alternative—that would deal with the underlying causes. I wanted to present the district attorney and the court with an option that could stand in place of sending him to prison.

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32. We could not represent both defendants. Due to ethical guidelines, it is the accepted safest practice in a criminal case that each defendant should have his or her own lawyer. Conflicts of interest often arise during the course of multiple defendant cases—conflicts that preclude the option of one lawyer representing both defendants. *See* MODEL RULES OF PROF’L CONDUCT R. 1.7 (AM. BAR ASS’N 2016).

33. There are two phases to a criminal case. The first is the guilt/innocence phase and the second is the sentencing phase. Both are equally important despite the fact that many criminal defense lawyers concern themselves with only the first phase because at times it seems that the sentencing is predetermined. In many cases, they are correct; many criminal charges carry mandatory minimums. That means that if a defendant is found guilty of the charge, a judge cannot deviate below the mandatory minimum. In Georgia, armed robbery carries a mandatory minimum of 10 years in prison, no parole. *See* GA. CODE ANN. § 16-8-41(b) (2015) (focusing on the guilt/innocence phase of a case is particularly important when there is a substantial mandatory minimum sentence).

I have had conversations with many lawyers who believe that they have no significant impact on sentencing. Yet, as the prisons fill at astonishing rates, everyone in the court system should be looking for practical alternatives.

Al was blessed to have caring and concerned people willing to be involved. We put together a team of folks who knew Al from the programs he participated in — mainly youth workers and ministers — and a GJP counselor regularly visited him in jail while we put together a plan. First, we knew that we needed to secure a drug program for Al. After months of interviews and phone calls, we located an in-patient, long-term drug program that agreed to admit him. Second, we lined up two employment readiness programs that Al would be required to attend after his drug program. Third, I interviewed the victims, who were all young, international college students. They mentioned that Al and Dan appeared to be more frightened than they were even though Al and Dan were the ones with the weapon. They chuckled when they mentioned that after the robberies, Al and Dan shook their hands, told them thanks, and wished them a goodnight. I told Al to write the victims and ask for their forgiveness.

Finally, after months of prayer, phone calls, and letters, the DA agreed to back the plan, and we presented it to the judge. One of the victims even came to court to support us. After hearing all this support and our specific sentencing plan, the judge accepted it.

After spending nearly a year in jail awaiting trial, Al was sentenced to five years of probation with strict conditions to complete the drug program, maintain employment, and obtain his GED. He successfully complied with all of the provisions of his probation.³⁴

The Second Dimension: Beyond the Law — Social Service Support

One of my law professors used to say, “The law is a tool. Don’t let it become your master.” I think of this quote often when I think about GJP’s approach. Those accused of a crime need a lawyer, but in and of itself, being a lawyer for a poor person facing criminal charges is not enough. The law is not enough.

34. This incident and case took place more than fifteen years ago. In the years following, Al did well. He did not get rearrested. He held a job with a moving company, received his GED, and got his own apartment. Tragically, he was murdered in his home one evening. He was found shot to death, attacked from behind, at his kitchen table. No arrest was ever made.

I am not advocating for abandoning the law or not providing appropriate counsel. Instead, I think there is plenty of room for the law to be a beginning and not an end. It can be a tool for a greater purpose.

More often than not, the reason that someone is arrested and faces prosecution is connected to deeper issues—issues such as poor education, drug and alcohol addiction, lack of employment, mental health issues, or family dysfunction. GJP does not charge money to represent our clients. Instead, we ask our clients to commit to a path that will help them achieve their goals as well as diminish the obstacles standing in their way. The social service team constructs this commitment—this contract—based on the client’s goals and on the social worker’s assessment. Their “payment” to us is to lean into that commitment, whether that means attending counseling, getting their GED, completing drug treatment, or continuing to look for a job.

Interestingly, “accountability courts”³⁵ are based on the premise that the most effective way to reduce crime, reduce recidivism, and enable offenders to become constructive members of society is to address these underlying problems. This approach is similar to GJP’s approach, although one significant difference exists. The courts use the power of coercion under threat of incarceration to “encourage” participation. The power they use to elicit change is from a judge’s gavel or a bailiff’s gun. Conversely, GJP’s “power” comes through invitation. In reality, it isn’t our power at all—it is our client’s power, power we encourage them to find and use. One of GJP’s social workers put it this way: instead of our clients being “scared straight,” GJP’s approach is “cared straight.” We use the power of concern and compassion instead of the power of fear.

Years ago, I heard someone characterize GJP’s approach this way: most agencies offer services that clients need, though many are not taking advantage of those services. GJP’s approach is to offer something that clients want and surround it with what they need.

35. I am using the term “accountability courts” synonymously with problem-solving courts. Accountability courts is the term of preference in Georgia. These include drug courts, mental health courts, veteran courts, DUI courts, etc. See, e.g., *Standards for Accountability Courts*, JUDICIAL COUNCIL OF GEORGIA, <http://www.georgiacourts.org/sites/default/files/Accountability%20Courts/Standards/JC%20Standards%20for%20Accountability%20Courts%202nd%20Oct.%202013%20Revision.pdf> (last visited May 5, 2016).

The following two stories reflect GJP's commitment to something greater than a legal outcome and demonstrate the difficulty in trying to combine both legal and social services.

When Innocence Is Not Enough: Matthew's Story

Four young children. Married at seventeen. One-hundred-twenty-eight hospital visits in a few short years. The family knew, the police knew, and the neighbors knew. This is why it was to nobody's surprise that one day this long, tumultuous relationship, spent under the cruel, powerful hand of an abusive husband, suddenly terminated in death.

The marriage was breaking up; in fact, Tom and Jennifer had recently separated. However, the restraining order was ineffective and neither Jennifer—nor her children—could flee this abysmal situation. Tom had stopped by after work to deliver part of his paycheck to support his family. Traditionally, Jennifer would ride with him to the local store to cash the check with him and receive her portion. This day was different. On the way back from cashing the check, Tom began to beat her and partially succeeded in throwing her from the car, only to follow up with an attempt to run her over. He missed. When they both were in front of their house, Tom continued the onslaught, hitting Jennifer repeatedly across the face with his fists as their children and their neighbors watched. Then a gun appeared. Before Tom could fire, Matt—his eighteen-year-old stepson whom Tom had raised as his son—wrestled the gun away. With Matt securing the gun, Tom sprinted toward him. "I'm going to kill you!" Tom yelled. Without hesitation, Matt lifted, pointed, and pulled the trigger, finally ending the seventeen years of torment.

Matt immediately ran to a neighborhood friend's house to turn himself in. The police charged him with murder even though no one disputed that Tom was, in fact, the aggressor.

When we took Matt's case, we immediately began to build his defense while trying our hardest to provide for some of the needs of his then income-less family. We counseled his mother as she internalized the pressures surrounding her. We spoke with his eight-year-old brother, who had become so distraught at school that he had wet his pants. We interacted with the youngest sister, a three-year-old whose first memories we feared

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might be of an abusive father and a family in turmoil. After coming in for multiple counseling sessions, she, too, seemed to find solace in GJP's staff.

We learned that the police knew the family on a first-name basis due to the overwhelming number of domestic violence calls. We got police records and community testimony that all pointed toward the same repetitive abuse. We mentioned all of these things in the package that we put together for the DA and the grand jury, detailing the facts.

Nearly two months after the incident, it took the grand jury three days to do the right thing. They decided not to indict Matt. For most law firms, this would have been the end of the story; a good end, at that. Matt was free. The charges were dismissed. For GJP however, though one battle had been won, our work wasn't finished.

When Matt was released from jail, he moved to Atlanta to live with his grandmother to escape his hometown, where he had received death threats from his stepfather's family. He planned to work with our landscaping company, but he only came to work one day. Shortly afterwards, he stopped coming to the office altogether. We went to his grandmother's house looking for him. We wanted him to know that we were still there for him. We got involved with his family by offering counseling to his mom, his grandmother, and his girlfriend. But despite our efforts, we never saw him again.

As far as we know, Matt isn't in trouble with the law. But without a job, without dealing with the complex combination of guilt and anger over killing one's father figure, we fear it's just a matter of time until we lose him to the drug-infested streets of his grandmother's neighborhood. We saw a chance to do more than have a good legal result. We saw and felt the brokenness in his family. We were excited about helping Matt build a new life, but this is the nature of relationships. We cannot force ourselves on our clients, especially after the case is finished. We extend to them the invitation, and sometimes that invitation remains untouched.

Even though we have not closed the door to Matt, there is a collective sadness in our office when we speak his name. We feel like we won the battle but lost the war. In most law offices, getting an innocent eighteen-year-old with no criminal history out of jail and having the murder charge dropped would be enough. Most law offices would be jubilant. Not GJP. It can often be frustrating, but we can only continue to offer ourselves and our services to those most in need.

From Hood to Prison to Hope: Donald's Story

“Fighting was my peace. It brought sanity to me.”

—Donald

The beginning was a struggle, and there is no doubt the rest of his life will be as well. It wasn't like Donald didn't have enough reason to be angry in the beginning. His abusive, crack-addicted mother tried to drown him in the tub when he was eight years old, explaining that he was too similar to his father. As the oldest of eight children living with the mother, he had to steal to feed his brothers and sisters, and he had to do their hair and wash their clothes to keep them at least presentable. With utilities bills going unpaid and little food in the house, Donald was forced to take care of his siblings.

By age ten, Donald had decided he was never going to let anyone touch him again. “If anyone tried, I'd tear them apart. If you said anything to me, I was going to hurt you,” he recalled. He started selling drugs for money and fighting for credibility. By fourteen, he was making nearly \$10,000 a week on the streets. By fifteen, Donald had been arrested for murder.

We represented Donald at trial. His case was not winnable. Though Donald claimed self-defense, it was a triple shooting that left one person dead and plenty of eyewitnesses who did not support his version of events.

At seventeen, he was sentenced to life plus forty years.

“All of my hopes and dreams were killed,” he explained, “and I felt hopeless and truly defeated.” As he grew angrier, he made a name for himself in prison, roughing up guards and his peers. He became a predator.

Things started to change as GJP stuck with him after the trial. “I met Doug and Julie and Mrs. Poole and built a relationship,” he explained. We promised that we wouldn't let him slip through the cracks of the system, ensuring him that despite his existence behind bars, a good legacy would live outside of the walls of the prison. But he needed to build that legacy on his own.

“Julie would come see me in prison, and she was so calm and easygoing, not critical. She has such a nurturing spirit; she melted my heart like the mom I never had. And Mrs. Poole, she's high class, but gangsta. She understands the streets and can relate to where I came from. I felt like there was nothing I couldn't tell her. They sent cards and wrote me every week and did everything to elevate me.”

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During the appeals process, we asked to court to appoint another lawyer. We worked with the court-appointed appellate lawyer and “fell on our sword” by offering evidence of our ineffectiveness.³⁶ As the judge threatened to grant a new trial, the prosecutor negotiated a compromise: twelve years to serve, eight years following on probation. Donald took the deal.

When Donald got out, he did well for a number of years. I would see him in our office. We helped him get a job as a forklift operator. He then was promoted to supervisor. He became a father and struggled to build strong, loving relationships with his two sons. His siblings called him regularly seeking his advice.

But sadly, after about five years, his hold on his burgeoning “normal” life fell apart. After two arrests for domestic violence, his probation was revoked. He returned to prison.

Donald’s story reminds me of how hard it is for many of our clients to overcome and succeed despite the tools before them. We haven’t given up on Donald. I just hope that he hasn’t given up on himself.

The Third Dimension: Lasting Commitment

The third dimension in our three-pronged approach is time. GJP’s relationship with our clients is not limited by the timeframe of the case. The legal matter is only the beginning. As one GJP supporter said it so well: “Most people see an arrest as an end, but GJP sees it as a beginning.” Our hope is to forge the type of relationship whereby our clients feel comfortable turning to us years after the case is over.

36. Over my twenty-five years of practicing law, I have witnessed a change in how criminal defense lawyers understand ineffective assistance claims brought during the appeals process. After losing a trial, the intuitive response from most lawyers would be to become defensive to the claim that they were ineffective in representing their client. However, a shift began years ago, at least here in Georgia, to think about how a criminal defense lawyer can continue to advocate for their client both after a loss as well as after the client has new appellate representation. This shift, “falling on your sword,” focuses on helping the new appellate lawyer make the case in which you (the trial lawyer) made mistakes. In essence, the trial lawyer and the appellate lawyer work together for the best interests of their client by advancing and supporting an ineffective assistance of counsel claim. This change in the thinking in the culture of criminal defense practice has been slow but deliberate.

How does this commitment play out? What does having a long-term relationship look like? Some ways we create, maintain, and reinforce this aspect include:

- *Prison Visitation:* Though few of our criminal clients go to prison, if they do, or if they receive any additional jail time as a result of their case, we stick with them throughout their incarceration. We visit our imprisoned clients at least twice a year. We correspond regularly. We advocate on their behalf with the parole board. We put money into their prison spending accounts. We send care packages. We continue to visit to encourage and support them—to let them know that someone still cares about them.
- *Family Visitation:* GJP partners with two churches that take a client's family to visit them in prison monthly.
- *Post-Release Support:* The transition from prison into the free world is beyond difficult. From GJP's beginnings, we have been committed to supporting clients who make this transition. We offer job, housing, and financial assistance to help ensure a positive and productive reentry.
- *Annual Back-to-School Festival*
- *Annual Christmas Party*
- *Social Service Support:* As illustrated a bit in Beth's story below, clients can and do return to GJP to seek support, guidance, or just someone to help them navigate the struggle of life.

Below I offer two stories of clients who have been involved with GJP for years after their case was resolved. These stories reflect how GJP's initial legal representation is only a beginning, not an end.

Beth's First Offense

It happened on a beautiful May day a handful of years ago. Beth had never been in trouble before and was two weeks away from her high school graduation. Growing up with a single mother in Atlanta's inner city, she was one of the first in her family to accomplish such a feat. And then, this May day, she made a mistake.

After school, she was in a car with three other classmates. One of them had a gun. Her classmates had planned a robbery and coaxed her into playing a role in it. Now, Beth was in for much more than a ride.

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She was arrested—along with the others—and charged with armed robbery. Under Georgia law, she was looking at a minimum of ten years in prison³⁷—ten years door-to-door for a seventeen-year-old girl.

Her family contacted us and asked us to represent her. After three interviews with lawyers and social workers, we decided to take her case.

When we told Beth that we would handle her case, she asked how much we charge. “There is no fee,” I told her. There would be no charge—only a commitment; a commitment to herself. We needed her commitment to work with our social worker, to deal with what caused her to end up in such trouble.

Faced with the certainty that the public defender assigned to her would be overburdened, and the prospect of ten years to life in prison, she agreed.

At an early hearing in the case, the judge—a judge with a reputation for tough sentencing—asked, “Is she ready to take her plea? Because I am ready to send her to ten years in prison. Can we do it today?”

As all good trial lawyers faced with the unexpected and confronting a difficult situation, I did what I was trained to do: I stammered and stalled.

The judge interrupted me and called me to the bench. Knowing a bit about GJP’s work, he asked, “Why are you helping her? Aren’t you wasting your time with her?”

The judge knew we weren’t there because we being paid to be there, and since we don’t take court appointments, he knew we weren’t there because of him or the court.

“I am here,” I said calmly, regaining my composure and pointing to the social worker with me, “because we believe in Beth. We are here because we believe in her potential.”

Over the course of the next year, we worked on her case—and Beth worked on herself. We got her bond reduced and got her out of jail. She began counseling with a social worker. We helped her get a job.

After a good bit of investigation, motions practice, and negotiation, we were able to secure a plea to a lesser charge—a plea that carried no jail or prison time (a result we are able to achieve in nearly 95 percent of our caseload every year). She got probation, and first offender probation at that. She will have no criminal record.

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37. GA. CODE ANN. § 16-8-41 (2015).

We know it is not enough to be someone's lawyer. It is not enough just to get a good result. People need help on so many fronts—substance abuse, poverty, poor education, broken families—and they need someone to stand with them as they put the pieces of their life together.

It has been more than a decade since we first met Beth, and we have maintained a relationship with her and her family. She stopped by the office the other day with a smile as wide as the Hudson (I was going to say the Chattahoochee, but not all of you would know what I mean). She was talking with her counselor, who was helping her update her resume as she looks for a better job.

The journey towards a productive life is a long one, but Beth knows that GJP is and has been more than her lawyers. GJP will always be with her as her journey continues.

Lee's story below is a wonderful illustration of GJP's three-dimensional approach.

Lawyering as Leverage: Lee's First Family

"When I didn't love myself, they loved me, and I didn't understand that. They sent me to school and used the resources they had for me. They show you like it is—they show you love, but it's also tough love. They set you up with all the resources, but it's up to the individual to take advantage of the opportunity. So I went to rehab and never looked back."

—Lee

Three teenage boys were horsing around upstairs while Lee and the boys' mother were downstairs. As the boys got ready to go to the mall, the oldest, Ed, who was sixteen years old, found a gun. Pointing it around the room, they played, they hid, they jumped around . . . and then, it fired, accidentally killing the fourteen-year-old brother, Kevin.

It took a clear Sunday afternoon and a tragic and senseless death in an Atlanta housing project to bring Lee and GJP together.

The police charged Ed with murder and his mother with reckless conduct. GJP represented them both. It took nearly a year before the court and the prosecutors agreed to send Ed's case back to juvenile court and drop the murder charge. His mother's charges were eventually dropped

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after months of counseling, which helped her address her feelings of guilt and grief in ways prison never could. However, as we were attempting to finalize the dismissal of Ed's charges in juvenile court, our journey with Lee was just beginning.

Within a few months of Kevin's death, Lee was arrested after a domestic argument took a turn for the worse. Turmoil, confusion, and pain had replaced his lost family member. We successfully resolved Lee's charge, but he violated parole and was sent back to prison. We maintained our relationship with Lee by visiting him in prison.

After a year in prison, Lee was released, and in early 1999 he came to work with GJP's social venture, New Horizon Landscaping.³⁸ Within a few weeks, we noticed some problems: sporadic attendance, foggy conversations, and a poor attitude. A resulting drug screen told us what we needed to know: Prison had kept Lee off the streets, but addiction was the root of his problems, and incarceration had not addressed it. Within a few days of his positive drug screen, Lee was arrested again.

Four GJP staff members visited Lee in jail. We had been his lawyers, his employer, and his counselors. Our frustration indicated that it was time to give him an ultimatum. We explained to him that he needed to enter a treatment facility; otherwise, GJP's help would end. He agreed. We received the approval of a sympathetic judge to enlist the support of a church-based, long-term residential drug program to help Lee confront his demons.

After monitoring Lee's progress for several months, the judge dismissed the new charge. Lee turned a corner. Having been once hesitant about dealing with his past, his pain, and his addiction, he started confiding in his "new" recovery network as well as GJP's staff.

At Lee's "one-year clean 'birthday' party," he asked me to give him his "chip" — his medallion commemorating a year of sobriety. With most of the staff in attendance, Lee mentioned that GJP was his *first family* and had weathered many storms with him: two cases, one parole revocation, prison time, addiction, the death of a stepson, working with GJP's business, encouraging him to confront his past, holding his hand, and loving him all the while. We had been up and down with Lee. That night was a time to celebrate our journey together.³⁹

38. See *supra*, note [12].

39. Today Lee is doing well. Still clean and sober, he owns his own small landscaping company. Lee is a charter member of GJP's Community Advisory Board, a board made up

A Personal Journey: Why I Do This Work

Thus far, this chapter has explored the history and services of the GJP. Now, I want to close with something a bit more personal: the story of why I do this work.

During my senior year of high school, I was elected “Most Likely to Succeed.” The photo that appears in my yearbook is one of me and my co-winner, Lisa, dressed up like mini-executives in suits, counting money, with bills stuffed in our pockets. We are laughing in the picture—she more than I—because it was my idea. Not only did I orchestrate the photo, I didn’t tell Lisa any details, other than to wear a suit, until we arrived to take the picture.

Looking back at this picture, there is nothing that uncommon about it. Success in America is equated with money, wealth, and power. How better to visually represent the future our classmates envisioned for us? But the photo represents my vision of success at the time, a vision congruent with the socially-constructed world’s version of success.

Today I am a bit embarrassed by this photo—not for the reality it reflects in society; that reality has not changed, and probably never will. What is embarrassing is how I defined success, how I envisioned my future. Truth be told, that is what I wanted for myself when I was eighteen years old. I thought I wanted power, wealth, and social mobility, but what I really wanted was to escape poverty.

Looking back thirty-five years ago, I can’t say that I imagined myself being a nonprofit lawyer. I did not imagine that I would commit myself to serving the poorest of the poor. But then again, poverty is something I knew a lot about.

I am a lawyer today for a number of reasons. For one, being a lawyer was a way out of poverty. (Lawyers are rich, right?) For another, my father wasn’t a lawyer, although he tried to become one. And finally, I didn’t feel called by God to attend seminary.

I was raised in Charleston, West Virginia. My father and mother divorced when I was one year old. Initially, my brother, sister, and I lived with my mother and her family. By the time I was six years old, my father had custody of us. In April 1968, my mother and her family shipped us “down river” (as they say in mountain country) to live with Dad. He was unemployed. He

of former GJP clients. That board offers input into GJP’s strategic direction and volunteers at GJP events. I see Lee at least once a week.

didn't have a place of his own. Nonetheless, we were sent from a house with four adults who all had jobs to live with one adult who didn't have a job. For the first few months, we lived in the basement of one of my father's friends, and for the next twelve years, we would endure tumultuous times living under a series of roofs that my father somehow arranged.

My father was a first-generation Lebanese-American. He was born and raised in Charleston, a place that he often told me had one of the highest per capita concentrations of Lebanese folks in America. My father was a bright guy. He was nineteen years old when World War II (WWII) broke out, and he and two of his brothers promptly enlisted in the Navy. Years later, the GI Bill paid for him to go to college. He was the only one in his family to graduate from college. He said he attended law school for a few semesters before a lack of funds caused him to quit. He was a tremendous cook. A great storyteller. A "devout" antitheist (according to him). A communist (according to some). And a raging alcoholic (according to everyone).

Years after WWII, I learned the significance of the places my father had been, the names he often mentioned to me late at night while he devoured bottles of Jim Beam on the front porch. I would find myself imagining the carnage he witnessed. Saipan.⁴⁰ Guadalcanal.⁴¹ Okinawa.⁴² Iwo Jima.⁴³ He served on a ship that supported the invasions. He watched his comrades die. His ship was preparing for the invasion of Japan when the atomic bomb was dropped.⁴⁴ Before returning to the United States, he was stationed in China for a few months.

Like so many children of alcoholics, I have tried to understand my father's addiction. Perhaps that is why I focus on his experience in WWII. Perhaps I am forever looking for an excuse for the man that raised me and loved me. Perhaps I am looking for an explanation for the poverty, the violence, and the

40. *Battle of Saipan*, HISTORY, <http://www.history.com/topics/world-war-ii/battle-of-saipan> (last visited May 13, 2016).

41. *Battle of Guadalcanal*, HISTORY, <http://www.history.com/topics/world-war-ii/battle-of-guadalcanal> (last visited May 13, 2016).

42. *Battle of Okinawa*, HISTORY, <http://www.history.com/topics/world-war-ii/battle-of-okinawa> (last visited May 13, 2016).

43. *Battle of Iwo Jima*, HISTORY, <http://www.history.com/topics/world-war-ii/battle-of-iwo-jima> (last visited May 13, 2016).

44. Atomic Bomb, HISTORY, <http://www.history.co.uk/study-topics/history-of-ww2/atomic-bomb> (last visited May 13, 2016).

chaos that frames my childhood. Whatever the cause, whatever the roots of my father's losing battle with the demons that pursued him, I have come to accept that these are answers I will never know.

But what is clear is that my father's relationship with alcohol created many layers of hell—one for him, the other for his children. We moved around a good bit, mostly within the Charleston area. We stayed with relatives and some of his friends. Regularly our water or gas or power was shut off, and but for the concern and compassion of one of his brothers, Woody, we certainly would have been homeless, hungry, and naked.

My dad could never hold a job longer than a few months. Though we grew up in poverty, my father offered intermittent wisdom to me. He shared his love of learning and his belief that education created power. He talked about principles that outweighed materialism and worldly gain. He loved Ludwig van Beethoven, and we often had Beethoven birthday parties (Dec. 16, if you're wondering).⁴⁵ He made sure all of his kids could read music and play an instrument. He often quoted Gandhi, Martin Luther King, Confucius, and Thoreau. He encouraged me to find something I loved in life, and not pursue a career simply for the promise of wealth. ("If you love something, you'll be good at it. And there are never enough people who are good at what they do," he would say.) For a man who denied the existence of God, he spoke of and encouraged me to live by spiritual principles. And in so many ways, he gave me the tools to not only escape poverty, but also to search for and find meaning in the world and in my vocation.

By the time I was in high school, I was committed to three things: the belief that I was an athlete and the dream of playing professional football; the belief that education could get me out of my (then) present condition; and a commitment to God and my faith as a Christian.

For most of my childhood, I had a plan. That plan was premised, in part, on my growing to be at least 6'4". My idea was simple: become the best football player that I could, eventually play for the Minnesota Vikings, and then go to law school. Though I loved football (my nickname on the sandlot fields where I cut my teeth was "the Tank"), that plan never really panned out. It wasn't simply because I never broke the 6' mark (according to my listing in my high

45. *Ludwig van Beethoven*, BIOGRAPHY, <http://www.biography.com/people/ludwig-van-beethoven-9204862#losing-hearing> (last visited May 13, 2016).

school football roster, I was ¼ of an inch shy). It was a sad awakening for me to realize the difference between being “athletic” and being an “athlete.” I was the former, but I was not the latter, no matter how much I fancied myself as such.

Academics, then, became my primary escape hatch, with the dream of becoming a lawyer. Though my father encouraged me to pursue whatever career aspirations I felt connected to, I am sure that my desire to become a lawyer was in some way fulfilling his dream for himself.

But there was a competing vocational nudge at the edge of my consciousness. Throughout most of my teenage years, faith was integral to my life. I read the Bible regularly. I was involved in prayer groups. I was an altar boy. I even taught Sunday school in junior high.

By the time I went to college, I wasn’t sure if I should pursue the ministry or law. I asked God for direction. My choice of colleges was even premised on this split opportunity. I attended Davidson College in North Carolina⁴⁶ in large part due to its strength in preparing students for either field.

At the end of football season of my freshman year, I believe that God answered my question about my calling. It arrived at the football stadium, during the game, as I watched the crowd and the cheerleaders. Davidson is a small college. As such, the football stadium held a few thousand folks—smaller than my high school stadium. The barrier between the stands and the field was a small wall, about four feet high and eight feet above the running track that circled the football field. The cheerleaders stood on the track, probably no more than twenty feet away from the bleachers.

It was a custom then, as it probably still is, for bold and rambunctious students to stand on the wall and attempt to lead cheers. The unspoken challenge was who could lead the silliest cheers and still convince the crowd to participate. After standing on the wall, the student (usually a freshman) would return to the crowd and sit in the bleachers. During the games, I began to notice a pattern: the crowd (full of parents, professors and students) rarely followed the cheers initiated and performed by the cheerleaders, yet would almost always follow the cheers performed on that four-foot wall.

This became the message I was looking for: Go to law school, not to seminary, because many times, those who have the uniform and who have a

46. *About Davidson*, DAVIDSON, <http://www.davidson.edu/about> (last visited May 13, 2016).

designated place to stand and choreographed performances do not actually have sway over their audience. Sometimes, someone from the crowd, someone like “us,” stands in the gap and attempts to lead the crowd, and the crowd follows. I began to see law as an opportunity to communicate a truth and a reality that might resonate and gain traction in ways that the ministry might miss. That same truth, when delivered from the pulpit, might not gain as much traction.

This is not meant, in any way, to minimize the roll of the church or of organized religion. Instead, it is meant to underscore the opportunity to use existing professions to achieve a higher purpose. Perhaps my revelation during that fall in 1980 was exactly what our PISLAP movement hopes to encourage: to envision ways that the law can incorporate and operate on a higher level; to ground law as more than a utilitarian vehicle; to use the law to pull our culture to a higher level of consciousness. Perhaps I was a PISLAP adherent long before there was a PISLAP.⁴⁷

My dad died of alcohol withdrawal in 1984, within months of my college graduation. He was sixty-one years old.

One of my last interactions with him was at that graduation. He was in pretty bad shape then. Bloating and red-faced. Terrible DTs shakes (Delirium tremens⁴⁸) if he didn't have a drink. Urinating on himself without control. He was a mess.

My brother, who himself was to receive his Ph.D. a few weeks later, drove my father to North Carolina for my ceremony.

It was a gorgeous spring day. As was the custom, the graduation was being held on the campus's front lawn. As was also the custom, the students and faculty entered the ceremony in a long, single-file procession. Because I was asked to give the invocation, I was at the very end of the line, behind the professors, separated from my classmates.

As the line slowly crept forward, and just before we entered the area set up with thousands of chairs and the dais, I saw my dad. He was shuffling around, not seated with the rest of the families and guests. He was out of

47. See Nanette Schorr, *Community Lawyering, Legal Services Work, and Social Healing*, *infra*, ch. [13], pp. [417]-[20] (describing the history of PISLAP).

48. Laura J. Martin, MD et al. *Delirium tremens*, MEDLINEPLUS (last updated Feb. 8, 2015), <https://www.nlm.nih.gov/medlineplus/ency/article/000766.htm>.

place—lost, almost. He was watching the procession of students pass. He was looking for me.

When he saw me, an enormous grin emerged on his face. He stumbled over to me, grabbed my face with his hands, and planted a sloppy, wet kiss on my cheek. Through the musky smell of whatever alcohol he had been able to find, I heard him say, “I love you and I am so proud of you.” He was crying.

I barely remember the rest of the day. Even though I was on the stage twice—once for the invocation and the other when I won an award (one of only two given at graduation)—I don’t remember it because of the image of my father: his body out of control and failing; his mental facility losing the battle to decades of addiction. Through all of that, he was looking for me, loving me, affirming me. That will probably be the way I remember my father. Though trapped in a losing battle with alcohol, he was still letting me know he loved me.

After college, I needed a break. Instead of going directly to law school, I decided to take a few years off. I landed a sales job with Procter & Gamble, and they sent me to Birmingham, Alabama, where I worked for two years.

In my last year in Birmingham, I was gearing up for law school. My days were filled with LSAT preparation, visiting law schools, and talking with lawyers about the process and where I might end up in the legal field. To the extent that I had a vision for being a lawyer, it included an idea of starting a small firm where we would donate significant time to interesting pro bono causes. However, it also included making decent money; it did *not* include becoming a nonprofit lawyer. After all, my prime motivation was to escape poverty—not to be continually surrounded by it.

It is worth mentioning that at that time in my life, I was at a spiritual peak. I had joined a small African-American Episcopal church. This mainline church and its parishioners were on fire. I was in Bible studies and city-wide prayer groups. I attended church retreats. The church also took to heart the calling for social justice. I spent time in housing projects and food pantries, and helping a wide variety of folks living on the edges of society.

It was the early winter when I sat down to write my law school admissions essay. That evening, I was alone in the apartment I shared with a college friend. The story I told was one not too different than the above paragraphs. Starting with a quote from Gandhi about suffering and learning, I was describing how pain and suffering had shaped my life. As I hovered over the keys of the electric typewriter, I heard something—someone, rather, speaking to me. I

stopped, straightened out my back, and looked over my left shoulder. *Go back to the places and the people you are escaping.*

The message seemed clear to me. And the sender was also not in doubt. I felt God telling me to return to what I was trying to escape. Go to law school to serve.

I didn't miss a beat before I tore out the piece of paper in my old typewriter. I began as before, with a quote from Gandhi ("All learning comes through suffering"). But in this version, I wrote, "I am being called to law by Jesus Christ to serve the poor." This is the version I sent to a dozen or so law schools.

Looking back, I am surprised by a number of things: (1) that I even got into law school; (2) that I listened to that voice, God's voice, and was present enough to honor the message; and (3) that I took for granted that I was in such a strong place of spiritual groundedness.

In many ways, God had been preparing me for this; preparing me for a vocation of service. Though I had spent years preparing myself for a career that would remove me from pain and suffering, I had also spent years in service. The combination of my faith, my aspirations, my poverty, and the empathy that God gave me were coming to a unifying vector: becoming a lawyer to serve those from whom I was trying to escape.

Seven months after that winter evening, I met John Pickens and was volunteering with his newly-founded organization. Four years later, I came on staff with GJP. And now, it is more than a quarter of a century later.

Race and Justice

Before I address issues of race in the criminal justice system and in GJP's work, let me be fully transparent. I am (considered) white. My wife is a woman of color. We met in college. We have been together for over thirty years. We have two teenage boys.

I cannot write about the larger justice system, its problems, and its failings and not address race. I cannot write about GJP's work and not address race. Nor can I write about my life—my motivations, my family—and not address race. Race is inextricably tethered to all of the above.

The American criminal justice system adversely and disproportionately impacts African-Americans. This is, of course, a terrible vestige of our

country's racist past.⁴⁹ In disproportionate numbers per the population, folks of color are arrested more often, punished more harshly, and even face more negative collateral consequences than similarly-situated whites. This has been well-documented in books like *The New Jim Crow*,⁵⁰ *Slavery by Another Name*,⁵¹ and many others.

When I think about race, it is more than a professional or philosophical observation. It is more than a cause or an exercise in ensuring correct constitutional adherence. It stretches beyond a conceptual commitment. Race relations are something about which I care deeply. My family's future and well-being are directly tied to how well America lives out its commitment to fairness and justice vis-à-vis race.

Prejudice and racism are all around us. But nowhere, I believe, is its presence more deleterious than in the criminal justice system. Why? Because it is the only state system that can take away your freedom. It is the only arm of the government that can take away your life. That system, I contend, has more power over its denizens than any other. Racism often shows up in the courts, via a prosecutor's or a judge's use of discretion. It shows up in the legislatures that pass laws that disproportionately punish drug users based on the type of drug.⁵² Therefore, it matters most if prejudice or differential treatment based on the accused's skin color—intentional or unintentional—impacts that system.

I believe that the criminal justice system and race, particularly in the South, are inexorably connected. Doing criminal justice work in the South brings you face-to-face with the history of slavery, segregation, and bigotry. It obliges you to confront issues of race—forces that civil rights advocate Michele

49. See generally Fania Davis & Jonathan Scharer, *Reimagining and Restoring Justice: Toward A Truth and Reconciliation Process to Transform Violence Against African-Americans in the United States*, *infra* ch. 3.

50. MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* (2012).

51. DOUGLAS A. BLACKMON, *SLAVERY BY ANOTHER NAME: THE RE-ENSLAVEMENT OF BLACK AMERICANS FROM THE CIVIL WAR TO WORLD WAR II* (2009).

52. See Fair Sentencing Act, Pub. L. No. 111–220 (2010); see also *The Crack Sentencing Disparity and the Road to 1:1*, UNITED STATES SENTENCING COMMISSION, http://www.ussc.gov/sites/default/files/pdf/training/annual-national-training-seminar/2009/016b_Road_to_1_to_1.pdf (last visited May 13, 2016).

Alexander⁵³ and others convincingly contend are behind America's status of being the world's leader in incarceration.

I believe that at its core, GJP's work is about undoing racism in the criminal justice system—both individually and collectively. GJP challenges the way racial unfairness (too often) plays out in our justice system—from how an individual defendant is treated in court to changing laws that have a disparate impact on African-Americans who have been touched by the system.

I would like to believe that I don't do this work out of any selfish motive. I'd like to contend that the composition of my multi-ethnic family offers me limited motivation to pursue the path I've chosen. But I can't escape the fact that I am the father of two teenage boys of color. I have had “the talk”⁵⁴ with my boys. “The talk” isn't about sex—it is about police; it is about fear. It is about my sons' survival. “The talk” is about how to talk with a police officer and how to avoid escalating an encounter with law enforcement. Because my sons will likely be seen as a threat based on the color of their skin, they need to understand and anticipate incredibly difficult scenarios.

Without a doubt, my particular family situation grounds me more deeply into criminal justice work.

Social Blame and Gain: Systemic and Individual Efforts

Most social change efforts focus on either systemic issues or individual accountability. Put most simply: Either the system is unfair and biased and has produced the negative outcomes, or the problems are directly and solely the result of poor choices individuals make. Of course, this division of approach mirrors our country's dualistic political reality—conservative or liberal? Republican or Democrat? Unfair systemic conditions or individual responsibility? This polarizing perspective and argument plays out in the criminal justice system.⁵⁵

53. Alexander, *supra* at note [50].

54. See, e.g., Cate Matthews, *What These Families Reveal When They Have ‘The Talk’ With Their Sons Will Break Your Heart into Bits*, A PLUS (Dec. 30, 2014), <http://aplus.com/a/talkaboutthetalk-police-brutality-racism>; Michael Martinez et al., *Within Black Families, Hard Truths Told to Sons Amid Ferguson Unrest*, CNN (Aug. 21, 2014), <http://www.cnn.com/2014/08/15/living/parenting-black-sons-ferguson-missouri/>.

55. Sylvia Clute discusses a similar dichotomy. See Sylvia Clute, *Creating A Parallel Model of Justice: Unitive, Not Punitive, infra*, ch. 4, p. 150.

What makes GJP's work unusual is that we simultaneously hold two often-competing notions— notions that many treat as mutually antagonistic.

The system is broken. Individuals make bad decisions.

We believe both are true and that to get the best results, we must work on both ends of the problem: systemic and individual. For the bulk of GJP's history, we have been unusual in that we have supporters from both political extremes. Conservatives like our work, in part, because we acknowledge and address individual accountability. Liberals support us, in part, because we acknowledge a broken criminal justice system and work to make it fairer. For a group working in the criminal justice space, to have conservatives and liberals supporting one organization is unusual. GJP does not work, *per se*, to maintain and nurture this “in-between” space. It is who we are. It is what we are committed to. Our balanced approach is core to what we have experienced in the criminal justice system for decades.

GJP works for justice in the courtroom and in the legislature. We also work to confront our clients with their challenges, their choices, and their needs. The system, without a doubt, can be terribly unfair. But individual responsibility requires more than political rhetoric—it is a path to individual recovery and change. GJP is committed to addressing as many factors—individual and systemic—as we possibly can in order for our clients to be better off after we have used our power to serve their needs.

“The test of a first-rate intelligence is the ability to hold two opposed ideas in mind at the same time and still retain the ability to function.”

F. Scott Fitzgerald⁵⁶

When it comes to criminal justice, for too long, too many of us have not exhibited the above quality. GJP is committed to coupling these two countervailing forces—systemic injustice and the need for reform along with individual responsibility and rehabilitation. Addressing both the systemic failings as well as helping clients work on their issues has made GJP a stronger, more effective, and a more resilient organization.

56. F. Scott Fitzgerald, *F. Scott Fitzgerald Quotes*, BRAINY QUOTES, <http://www.brainyquote.com/quotes/quotes/f/fscottfit100572.html> (last visited May 22, 2016).

Final Reflections

Years ago, as a way of creating community and reinforcing connections with our clients, we held monthly dinners, usually on Saturday evenings. The staff would cook the food, and although we would remind our clients and their families that they didn't need to bring anything, some folks would regularly bring their favorite dishes. Marge was one of those folks.

Marge was the wife of our client, Bill.⁵⁷ Marge had worked for years doing domestic work in the wealthiest part of Atlanta. She was known for making amazing potato salad. Despite our gentle discouragement—the staff didn't want our clients to be burdened—Marge would regularly prepare and bring her potato salad to our dinners.

One fall Saturday evening at our dinner, I happened to be sitting beside Marge. I noticed that she had a large portion of her salad on her plate. Then I heard her murmur—"Mmm, Mmm Mmm." I looked over. She had just taken a bite of her salad. A moment later, she again murmured—almost a moan by this point, rising in volume. "Mmm, Mmm, Mmmm!" I glanced over again; she was still eating her salad. A moment or two later, she let loose another sound, similar to the two previous ones, but this time, it was louder, longer, and even more exaggerated. "MMM, MMMM, MMMM!" It was the sound one would make when they are extraordinarily pleased or satisfied—the sound that every chef wants to hear from those tasting their cooking. And as I glanced again at Marge, she was again eating her potato salad. I decided to say something.

"Marge, your potato salad is good But it's not that good, is it?"

She didn't skip a beat.

"No, honey. It's not the potato salad." She paused. "I'm having dinner with a lawyer!"

For everything lawyers do, for all of the ways we serve the needs of others, it is easy to think that the primary value we bring is in the courtroom, in the advice we give, in the problems we solve. But GJP lawyers bring so much more to the table. Many times, we don't think of ourselves as powerful. We don't view our position in the world as something that in and of itself has value.

57. Bill had been convicted and sentenced to seven years in prison for a violent dispute with a drug dealer. While Bill was incarcerated, we continued our relationship with him. By the time the dinners started, Bill was out of prison, had secured a good job, and had even purchased a house.

Marge reminded me that night. She reminded me that for those with little access to power and privilege, being connected with a lawyer is significant. She and I weren't together to work on a case. Our role as "lawyer" and "client" had ended a decade ago. Our connection was now human. It was grounded in compassion and mutual recognition. We were together to affirm each other's dignity and value.

Marge reminded me that sharing a human connection is one of the greatest gifts we can give to others. But she also reinforced the significance of laying down our power and position as lawyers. She reminded me that being a lawyer is connected to having power. She reminded me that it is not only important how we use that power, but also that in laying down that power, the most significant opportunity we have is to be present to those around us—especially to those we serve.