



The Human Component

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Perspective

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Abstract

This contribution is written from the perspective of a trial attorney with more than 20 years of experience representing clients in the California criminal justice system. Proper representation of the accused often requires a multidisciplinary approach in which legal care, medical care and mental health care work in conjunction with one another.

Often, a client is laboring through layers of physical pain, fear, grief, and a possible myriad of mental health issues when his or her liberty is dependent on the ability to provide an accurate picture of their lives.

In order to assist the client in providing the most comprehensive description of himself or herself, the defense team requires an empathic approach; one that is respectful of boundaries; and one willing to explore the context of the information uncovered during the course of investigation and representation.

This contribution will detail the case of Marissa B , and how her investigation and advocacy wed her data to the context and circumstances surrounding her case to reveal information behind the human being in need of representation.

Marissa's Story

Data

Officers arrested Marissa after 10:00 p.m. after an allegation of domestic violence upon a co-habitant. Marissa and the complaining witness shared a single family, 4 bedrooms, two story suburban home. At the time of arrest, Marissa presented as clean, well groomed, and athletic/fit in build. Her speech was clear. Her gait was steady, and her demeanor was calm.

After arrest, Marissa calmly provided biological information; but she became decreasingly cooperative over the course of approximately an hour. Her demeanor fluctuated between uncooperative and detached. Over the course of two hours, she became argumentative but never physically aggressive. She remained in custody until arraignment.

At the time of arraignment, Marissa's posture was visibly protective. She folded her arms tightly across her chest and gripped at her elbows. Her speech was shaky at times. At

other times it was measured and curt.

Context

Before Marissa could provide context to her narrative, she had to overcome several factors that impeded her ability to communicate. An accurate narrative requires the interviewer to consider numerous sociological factors while interpreting the client's narrative.

The way that the client tells his or her story is as important as the story itself. Numerous factors including, age, heritage, race, language proficiency, education, socioeconomic status, cognitive ability, physical impairment, and mental health can hinder a professional's ability to provide the best available care.

Similarly, professionals have an obligation to be keenly aware of interviewer bias as they gather the clients narrative. A client may rely on a sense of humor while others become more agitated than they normally are in their daily lives. These factors should not lead to an AUTOMATIC suspicion of

delusion, depression, or anti-social disposition.

Grief: Most laypersons associate the traditional Kubler Ross Grief Cycle with the loss of a relative, friend, pet, or major asset such as housing or financial community. Criminal defendants are often crippled by the early stages of grief because they are grieving the loss of security and liberty.

Entrance into the criminal justice system may be due to a past unhealed trauma. Many may be stuck in the denial stage. Unfortunately, the investigation of the case and invasive questions from complete strangers forces the client to confront their losses on a timeline that is not their own. Grief attacks the criminal defendant on multiple levels. It challenges boundaries, privacy, and agency.

Furthermore if a person is accused of a crime of familiarity, the circumstances of the precipitating event may represent the loss of the relationship with a former major life figure who becomes immediately unavailable. Circumstances of the alleged offense sever the relationship.

Finally, for a grieving and incarcerated person struggling with substance abuse, the substance of choice is no longer available to provide habitual comfort. A chemically dependent person has a relationship with his or her substance of choice. They crave it, make plans to include it, and rely on it in the same way that non-dependent individual makes plans with a valued friend. Sudden severance of that relationship due to incarceration causes the same shock as the loss of a friend. This is distinct from the experience of a chronic user who chooses sobriety, because the incarcerated person is bereft of agency. The decision is made for him or her.

Acute withdrawal from Alcohol and Other Physical Pain: Marissa's acute withdrawal from alcohol originally impeded her ability to provide context to her narrative. Physical discomfort distracted her due to physical dependence. Furthermore, glutamate spikes in the early stages of acute withdrawal affected her facial muscles and hands in a manner that made it virtually impossible to engage in certain non-verbal communication such as smiling and socially appropriate eye contact.

Temporary loss of those small but important social skills was not hostile. It was not physically possible during acute

withdrawal. It was important to recognize the symptoms as physical rather than anti-social so that the defense team could insure that Marissa received medical care during the acute process and also to inquire further about substance dependence, the cause, and triggers.

Information Essential to the Defense Narrative

As Marissa's narrative emerged, so did mitigating factors in her case. Her substance abuse did not *fuel* the altercation. It became a key factor in her defense. Marissa was embedded in a repeatedly abusive situation in which she was the victim so often, that she was diagnosed with Post Traumatic Stress Disorder. Moreover, financial dependence on her partner served as a deterrent for her to seek care or assistance prior to her arrest. Her partner's repeated violence informed Marissa's life. While physical harm was inevitable within the relationship, financial ruin was a certainty without the relationship.

Marissa's abuse of alcohol started as an emotional coping mechanism. Over time, physical dependence made her fearful of experiencing severe withdrawal symptoms if she abstained. In fact, she was so unnerved on the night of the altercation that she immediately binged to calm herself. By the time that police arrived, her blood alcohol content was high enough for her to function. When Marissa did finally experience withdrawal symptoms, it was at a time when her success required her to communicate well, but her body would not allow it.

After treatment for acute withdrawal, grieving the loss of her relationship with alcohol and with an abusive partner, Marissa was in a position to provide context to her narrative and an accurate portrait of her emerged. She was able to actively participate in her own defense and create a new life for herself.

Conclusion

The manner in which any human being's data is presented as important at the story itself. Statistics, Data, and Cases represent a quest for health. Medical care, mental health care, and legal care are intertwined. An empathic approach focused on the human being behind the data is essential.

