Ultimate Advocacy:
A Defender’s Guide to Reflective Practice
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About the Ultimate Advocacy series

A Defender’s Guide to Reflective Practice is the second booklet in the National Defender Leadership Project’s Ultimate Advocacy series. The first booklet, A Defender’s Guide to Strategic Management, introduces the concept of strategic management and explains how defender leaders can use its principles to improve the effectiveness of their agencies and increase public support for their work. Using the framework of the strategic triangle, it highlights the three issues defender leaders should consider when developing an initiative: What is its value? Who will support it? and Is it doable?

A Defender’s Guide to Strategic Management offers guidance on describing the benefits defender agencies provide to the public, identifying and securing support from the many parties with a stake in effective indigent defense, and finding resources to help defenders accomplish their mission. It is tied closely to the defender experience, discussing common issues defenders face and profiling five defenders who have put its principles into practice.

About the National Defender Leadership Project

The National Defender Leadership Project (NDLP) provides training, produces publications, and fosters discussion, all with the aim of helping defender managers fully realize their leadership roles in the criminal justice system. It brings together defender managers from across the country to share ideas and explore ways to shape criminal justice policy.

The project is a joint effort of the Bureau of Justice Assistance (BJA), United States Department of Justice and the Vera Institute of Justice. The Bureau of Justice Assistance is an agency within the United States Department of Justice. Its mission is to provide leadership and assistance in support of local criminal justice strategies to achieve safe communities. BJA’s overall goals are to reduce and prevent crime, violence, and drug abuse, and to improve the functioning of the criminal justice system. To achieve these goals, BJA programs emphasize enhanced coordination and cooperation of federal, state, and local efforts.

The Vera Institute of Justice is a private nonprofit organization dedicated to making government policies fairer, more humane, and more efficient. Working in collaboration with public officials, Vera designs and implements innovative programs that expand the practice of justice and improve the quality of urban life. Vera operates demonstration projects in partnership with government and conducts original research. Through its National Associates Programs—including NDLP—the Institute also provides technical assistance to public officials and communities in New York and throughout the world.

For more information, contact NDLP@vera.org or BJA at www.ojp.usdoj.gov/BJA.
Clara Darrow, public defender of Thurgood County, is furious. When the police chief scheduled a community meeting in response to some well-publicized crimes in downtown Miranda City, Darrow immediately requested a chance to speak. It took real persistence – the chief hadn’t planned to have additional speakers – but in the end Darrow got her spot on the dais.

Local merchants were calling for a vastly increased police presence in the neighborhood, and their demands were receiving a lot of attention. Darrow wanted to show that the public’s fears were exaggerated – to explain that no crime wave threatened the city’s business district, and that crime rates had actually been declining over the last few years. It would be easy, she thought, because the statistics were so clear. She had an intern pull the numbers together, and her statement had practically written itself.

As she waited to speak, Darrow congratulated herself for muscling her way onto the schedule. The mayor was pandering to the crowd, but she was going to set the record straight.

When her turn came, she read her statement and looked up – into a sea of hostile faces. An elderly woman immediately recounted the details of a single, particularly violent mugging, then asked how Darrow could minimize the “crime epidemic” that plagued downtown. A restaurant owner demanded to know how he could do business with “those predators” roaming the streets. As the police chief looked on – no one asked him a thing – Darrow struggled to steer the discussion back to her statistics, growing more combative with every failed attempt. The interrogation continued until the meeting ended. Darrow, exhausted and irate, stormed off the stage.

What could Darrow have done differently?

Clara Darrow is a fictional character, but she has made a common real-life mistake: she has approached an important leadership challenge with little planning or reflection. This program brief suggests an alternative approach to defender leadership, reflective practice. Reflective practice, as we use the term here, is a structured process of thinking about your experiences, drawing lessons from them, and using what you learn to increase your effectiveness. It challenges you to treat management as a subject that merits study and hard work. It also asks you to be more aware of how your perceptions of others – and their views of you – can influence your interactions.

Reflective practice is not merely common sense. It’s a practical approach that draws on skills you developed as a trial lawyer and in other roles, and it gets results. This guide will show you how reflective practice can make you a better leader and help you adapt its methods to the problems your own office confronts.
Reflective practice for defenders
A new view of leadership

Adjusting to her role as chief of Thurgood County’s defender office has been a struggle for Darrow. As a trial lawyer, she had felt sure of her skills and her judgment. But in her new position, she feels much less confident. She has found it hard to translate the enthusiasm that marked her trial work to the realm of leadership, where her responsibilities have multiplied so quickly. Her years in the courtroom, she often thinks, left her unprepared for the difficulties of running the agency.

Yet when Darrow looks back on those years, she focuses on only part of her experience: the rush of a court battle, of fighting for the disadvantaged against terrible odds. She tends to forget that passion was only one ingredient of her success. Another was her methodical approach to each case.

Darrow always researched the law and the facts, prepared her client, and tried to anticipate the prosecutor’s strategy. She thought carefully about how the jury would view her and used different styles with different witnesses. Above all, she recalled her past experiences with similar cases, the particular judge, and the opposing attorney and considered how to use what she had already learned.

Unfortunately, Darrow hasn’t retained these habits of reflection and preparation in her role as defender leader. That’s why, for the community meeting, she merely cobbled together a statement. She assumed the facts would speak for themselves—something she would never have done in court. She failed to consider the backgrounds, values, or beliefs of her audience—a mistake she would never have made with a jury or witness. In short, she barely planned for this public appearance, while for a court appearance she would have orchestrated every possible detail.

Unlike Darrow, you may still carry a caseload. Or you may have been agency chief for so long that the role no longer seems strange to you. Either way, it’s important to remember that running a defender office demands the attentiveness and thoroughness you brought to trial work.

This kind of thoughtfulness—considering your experiences, examining your assumptions, taking account of others’ views—is the hallmark of reflective practice. You already have these skills. The task now is to adapt them to a new context, leadership.
Beyond war stories

Thinking more about your work might strike you as strange advice. In fact, it might sometimes feel as if work is all you think about. But with reflective practice, that process takes a particular form: not a war story, but a critical analysis geared to change.

To see the difference, compare two versions of how Darrow might describe the community meeting to her colleagues.

The war story

I was armed with all those great statistics, but nobody paid attention to a thing I said. They just went on and on about criminals and "those people," and asked the same old questions. At least I had a great comeback for that reporter who asked about the "escalating pattern of criminal activity." Of course, that stuff never gets in the papers. Instead, it's going to be another piece on how I'm soft on crime... .

The reflective approach

I really thought those statistics would end the whole debate. They are so compelling to me. But that angry restaurant owner said it was arrogant to belittle people's fears with a bunch of numbers. I hadn't looked at it that way. Maybe I would have sounded less dismissive if I had started out by telling them that my own son's soccer team plays on a field near the site of that mugging and that I was concerned too.

And I just got so angry at that reporter! I had a great comeback, but that stuff never gets in the papers. Then again, maybe that's not so bad – it would have seemed too heartless in print. How else could I have conveyed the information the statistics showed? I wonder if I should have tried a different approach... .

War stories are important. They help the teller let off steam, and they build camaraderie among defenders, whose best efforts so often go unrecognized. Still, war stories have limits. Consider Darrow's first description of the meeting. Although it makes her feel better, it doesn't elicit ideas about how to handle future community events, or provide insights on presenting her perspective on crime to the public.

The second style of storytelling takes her much further. Darrow is not just unloading, she is analyzing: thinking about what she did and about different options she might have pursued. This approach – thoughtful, critical, willing to question assumptions and consider other viewpoints – is the essence of reflective practice. It may seem obvious, but when was the last time you approached a frustrating encounter this way?

Navigating the swamp

Your funding comes under fire. A draconian crime bill is moving through the legislature. The public is demanding a crackdown on crime. These are the kinds of problems you face as a defender leader: complicated, messy, rarely amenable to clear-cut solutions. Donald Schon, who, along with Chris Argyris, introduced the notion of reflective practice, has a metaphor for these complex issues: the swamp.

Swamp problems are the tough ones. They are likely to emerge when values or interests conflict – when your
desire to provide zealous representation, for instance, clashes with the public’s desire to limit defendants’ rights. You can’t solve them by applying existing knowledge.

With swamp issues, you need to plunge in and muck around. Each one presents unique considerations, and you need to treat it as a new problem. That doesn’t mean ignoring your past experiences. In fact, it means the opposite: drawing on those experiences to help you make sense of the one you’re immersed in — to help you get your bearings, figure out what’s at stake, and develop a strategy.

Trial lawyers do this all the time. Consider jury selection. Although you can draw on a few established procedures, most of your decisions depend on a range of complex, shifting, sometimes unpredictable factors, from the nature of the charge to your sense of how potential jurors will respond to you and the prosecutor. No set rules exist — or could exist — to cover all these factors. You take a fresh approach to jury selection each time, with the help of general wisdom, lessons you’ve learned, and instincts you’ve built up.

But now that you’re a defender leader, can you draw on similar stores of knowledge? You can stride confidently into a difficult trial, but in the swampy realm of leadership, you may find yourself mired. “Trials are stylized, there are rules, you know from experience what works for you in the courtroom,” says Brant McGee, Alaska’s public advocate. “But in management, it’s free form. The rules are gone, the rules are less clear, you’re not always sure of the agenda. There is rarely an established process. You must make it up as you go along.”

Yet instead of taking the time to map out a strategy — to figure out which areas of the swamp pose the most dangers, and how best to wade through — many defender leaders just plunge in. All too often, they apply a stock approach to difficult situations. If it fails, they just try it again. That’s what Darrow did at the community meeting. In preparing, she failed to consider whether her approach was right. When it didn’t work, she stuck with it anyway.

Reflective practice will help you build up a broader repertoire of responses so that you won’t be tempted to fall back on the familiar ones. By encouraging you to think critically about your work and your role as leader, it will help you see a range of possible responses and choose the ones that work best for you.

Learning from reflection
How do you make thinking about your work a regular part of doing your work? What should you reflect on? You might reflect on a single event that turned out differently than you’d expected. Or you might examine patterns: a series of unproductive meetings, settings you find difficult, types of problems you find challenging. The third possibility is to reflect on a structure, perhaps the bureaucracy that gives you and your staff so many headaches.

But no matter the subject, the learning process involves four steps: diagnosis (figuring out what the problem is), invention (devising a strategy to address it), production (enacting that strategy), and reflection (considering what did or didn’t work, drawing lessons, making generalizations).

How might this process play out? Imagine Darrow, in reflective mode, looking back at an event – the community meeting – and trying to understand what she’d done wrong.

Diagnosis: figuring out the problem
I focused my energy on getting a spot at the meeting, but didn’t think much about what I’d say when I got there. I didn’t account for the emotional pull of the crime issue.

Invention: devising a strategy
Because I misdiagnosed the problem, I came up with a strategy that didn’t fit: presenting facts about crime rates, as though a small amount of information would magically dissolve people’s fears. I didn’t give much thought to what I wanted them to do with the information. I should have found a way to acknowledge their feelings from the start. And an emotional venue like the community meeting probably wasn’t a good forum for advancing statistical arguments.

Production: enacting the strategy
All I did was get up and recite statistics, which infuriated the audience. When they got mad, I got mad too – I dug in my heels instead of trying a different way to make my point.

Reflection: drawing lessons, making generalizations
In the future, I’ll think more carefully about which messages make most sense at which events. Then I’ll figure out how to tailor my message to the audience so they’ll actually listen to it – but without pandering. And I can’t let my anger get the best of me and prevent me from being flexible. Instead, I need to pay more attention to how the situation is unfolding and adjust my approach when I see it’s not working. But for now, I’d better figure out a way to mend fences. I’m going to have to get out and talk to some of these people in the audience. They need to see me, up close, and I need to convince them that I’m not indifferent to crime.

Of course, real-life reflective practice rarely takes so simple or direct a course. For instance, many situations are so murky it’s hard to even diagnose what the problem is – or sometimes to recognize that a problem exists. You may know the official agenda of
a meeting, but do you know the real reasons it’s been called or why you’ve been asked to attend? Why is the district attorney so hostile to a proposal you consider innocuous? Why has the police department organized a community meeting? The world of criminal justice is polarized, and defenders, like their counterparts elsewhere in the system, have strong views that can color their diagnoses. You need to be careful, because it’s easy to make a mistake at this stage – a mistake, like Darrow’s, that can lead to a faulty strategy or inappropriate actions.

As a result, the fourth step, reflection, takes on a special importance. Most people, when they reflect at all, do it retrospectively. But while it’s crucial to reflect after the fact, as Darrow does with the community meeting, it’s equally important to reflect ahead of time, so you will be better prepared.

It’s also critical to reflect as a situation progresses. You need to be attentive to new developments and flexible in responding. You did this as a trial lawyer. When you had a surprise or a setback, you were able to think on your feet – to come up with a new line of questioning when a judge forbad the inquiry you had planned, or to rehabilitate a witness whose credibility had been damaged. This ability to improvise – to continually evaluate and refine your responses as you go along – is equally important in your role as defender leader. As a situation unfolds, keep asking yourself, Is my diagnosis correct? Is my strategy working? If you answer no, you need to make changes midcourse.

If Darrow had done this during the community meeting, she might have realized why her audience objected to her reliance on statistics and found a way to put her numbers in context, or to soften her approach. Could she have fully recovered from her initial missteps? Probably not. As she later came to realize, rectifying statistics at a community meeting was a bad idea. But had she been more flexible, she might have done less damage to her office’s standing in the community.

Looking through different lenses

As a defender, you are no doubt proud to fight for equal protection and fairness, for individual rights and democratic ideals. But as you know all too well, most people have a different view of your work. They identify you with your clients. In their eyes, because you represent accused criminals, you are suspect too.

This kind of stereotyping happens all the time, for different reasons and on different scales. The general public may overwhelmingly feel negative about your role, or a particular person might judge your work in light of his or her own biases. But it’s not only a matter of prejudice. Different life experiences naturally affect people’s views. How they were raised, where they grew up, what religion they practice – these and many other factors inevitably shape their opinions, their interactions, their responses to problems.
Diagnosis, prevention, invention, reflection: questions to guide you

Here are some questions to guide your thinking about past, present, or future leadership issues.

Diagnosing the issue

- What is going on? What is the real issue?
- Have you talked to anyone else (inside or outside your office) about this issue?
- What do you know about the other people involved?
- How do you think they would describe the issue? Would they agree with your diagnosis?
- Is there any other controversy or problem (inside or outside your office) that might influence the issue at hand?
- Does this kind of issue occur often?
- Are there considerations of race, gender, or class that shape the way this issue can be understood or resolved?
- Are there seemingly competing values involved (for instance, zealous representation versus cost effectiveness)?

Inventing a response

- What do you want to achieve?
- Can you achieve it by yourself?
- Given your understanding of what's going on (your diagnosis), what's the best way to get where you want to go?
- What alternatives exist?
- Who else cares about this issue? How strongly? Are they on your side or not?

Producing the response

- Are there steps you need to take before you move?
- Have you sought feedback?
- Have you considered all possible forums in which to act?
- Which forum makes the most sense?
- Who should speak? Who should speak first?
- Which of your various styles – formal, casual, friendly, aggressive – will be most useful for this particular audience?

Reflecting

- Does your diagnosis seem correct?
- Is your strategy working?
- Do you need to adjust your plans?
- What lessons can you draw from your experience? What worked? What didn't?
- What generalizations can you make?
Very often, gender and race (your own or other people’s) are part of the equation. It makes sense to pay extra attention to them. Remembering that others’ gender or race may affect their views can help you avoid or clear up misunderstandings. Or it can help you negotiate your way through sticky situations.

It’s equally important to consider the impact of your own race and gender – not only on how you see things, but on how others see you. For example, as a female lawyer – for many years, one of the few in her office – Darrow often faced doubts about her ability to stand up for her clients. But because she knew she was being stereotyped, she took steps to establish her authority. On the other hand, a white male defender might de-emphasize the authority he is naturally accorded, if his presence seems to silence others.

Keep these issues in mind as you reflect on your own leadership. When you diagnose a problem, ask yourself if the various parties are seeing the issue in the same way. When you develop a solution, consider whether you need to account for gender or race – or for age, class, or any other factor. Think of it as trying on different lenses that will help you see issues from other points of view – and help you see beyond your own assumptions.

**Bringing others on board**

“I get in trouble when the only person I consult is myself,” says Ed Monahan, deputy public advocate of the Kentucky Department of Public Advocacy. “The problems are too complex to address alone, based only on my own experience and viewpoint.”

Self-diagnosis is crucial, but it can only take you so far. You need to supplement it with interaction and feedback. The thinking is simply richer, and more productive, when it draws on multiple perspectives. “We know this as litigators,” Monahan points out. “Persuasive litigators think like jurors, judges, prosecutors, and the public. Defender leaders who access perspectives within their organization and outside – the public, funders, adversaries – will have the ingredients for understanding and persuading.”

Imagine that Darrow had sought feedback about the community meeting ahead of time. Maybe one of her attorneys, fresh from an encounter with an angry crime victim, would have reminded her to be better prepared for hostile questions. But it’s not only her lawyers who could have helped. Other members of her staff – investigators, assistants, fiscal officers – might have had good advice about how to handle a public meeting. Perhaps some of them would have noticed her statement’s emphasis on numbers and suggested ways she could better acknowledge the audience’s concerns.

Now imagine that Darrow had sought input from a wider field – not just from members of her staff, but also from people outside her agency. Instead of simply pressing the police chief for a spot at the meeting, what if she had engaged him in a discussion, to get a better sense of his intentions and the direction the meeting was likely to take? She could have consulted one of her counterparts from elsewhere in
the criminal justice system, who might have been better able to see the danger signs she was overlooking. What if she had spoken to someone involved with victims’ rights, or, given the business community’s concerns, a representative of the chamber of commerce?

But remember: gaining access to multiple perspectives means overcoming the tendency to seek advice only from friends, or from associates whose backgrounds are similar to your own. Although you feel most comfortable with these people, and they may have experienced similar problems, they also tend to mirror your views. By seeking input from a more diverse group, you’ll be more likely to see issues from a point of view you hadn’t previously considered.

A special tool: the critical incident

Seeking feedback can be as simple as popping in to someone’s office or picking up the phone. There are many options, but it’s important to make your interaction count – to make it an opportunity for reflection, not just a chance to trade war stories.

To keep your reflection on track, you may want to engage in a more formal process. One of the most effective ways to structure your reflection is to use critical incidents.

The exercise begins with writing a description of an event, the critical incident, that didn’t go as you had planned. The act of writing pushes you to reflect on your original diagnosis, invention, and production in a disciplined way. It also provides the material for the exercise’s second part, the role play.

Many people are able to design sophisticated strategies but have trouble implementing them under the stress of a real encounter. Role playing gives you practice in this difficult task. Enacting a strategy is more effective than merely discussing its pros and cons, because you can see how it might unfold. Viewers of the role play are better able to judge whether or not a strategy works, because watching how people actually interact is more revealing than reading or talking about it.

Critical incidents are not confessions. Role plays are not group therapy, nor do they require acting skills. What critical incidents offer is a way to learn more about other perspectives and your reactions to them. They shed light on the perceptions and motivations of the writer and the other parties involved in the original situation. By helping the group make sense of confusing situations, they also suggest alternative approaches and prepare members to handle similar situations in the future.


3 Much of this material on critical incidents is drawn from Using Critical Incidents to Develop Leadership Skills by the Center for Applied Research (Philadelphia: 1994). To order copies, contact the center’s librarian at 3600 Market Street, Suite 501, Philadelphia, PA 19104.
Writing a critical incident

In choosing subjects for critical incidents, stick with situations that turned out badly, or at least differently from what you would have liked. It’s even better if you were surprised by the outcome. As Donald Schön points out, these situations—the ones that make people uncomfortable—are often the best opportunities for learning. If you got what you wanted, you won’t learn much by exploring why: it’s either a matter of your own skills or of luck. If you didn’t get what you wanted, but didn’t expect to anyway, you’re likely to attribute the outcome to external factors like a budget shortfall or politics. Darrow’s community meeting is a perfect topic because she had a bad experience and is still not completely sure why.

The write-up follows a simple formula: first comes an overview of the situation, followed by descriptions of your strategy, the results, and the sources of your frustration. This sample shows what Darrow’s write-up might look like:

**Overview**

There’s been a lot of concern about rising crime rates in my jurisdiction, but it’s unjustified—crime is actually dropping. The false impression is fueled by extensive coverage of a few muggings. When I heard that the police chief was planning a community meeting to discuss the “rise” in crime, I convinced him—after quite a struggle—to let me speak. I wanted to set the record straight.

**Strategy**

I wrote a statement with statistics that clearly showed that crime had been going down over the last few years. I thought the statistics were so compelling that nothing more was needed.

**Results**

My plan collapsed. Instead of calming people’s fears, my statement seemed to make them madder. I was bombarded by hostile, uninformed questions, but nothing I did moved the discussion back to the facts. Then I started to get really mad about the audience’s unwillingness to listen.

**Sources of frustration**

It was like reading my statement to a brick wall. No one seemed to hear what I was saying, even though I presented crystal-clear evidence that crime had dropped. I lost all control of the discussion, and I didn’t know how to get it back on track. I not only blew an opportunity to educate the public, but I also worsened my relations with the police chief and with certain members of the community, who felt my statement showed I didn’t care about their fears.

Role-playing a critical incident

There are many ways to act out and learn from critical incidents. One of the most useful approaches is to consider the writer’s options at various points in the episode. For instance, what could Darrow have done differently before the community meeting? What other ways might she have responded to the belligerent questioning her statement provoked? What might she do now to recover from her setback?
Most groups assign a facilitator, who decides how long to let the role play last, when to interrupt, and whether (and how often) to reassign roles. The following brief sample is designed to give you a general sense of how participants might interpret their roles and how they might discuss what the role play reveals. This group has chosen to locate the role play midstream, during the meeting itself. The group could have started earlier in the life of the incident, perhaps with Darrow’s discussions with the police chief, or a consultation with colleagues about the substance of the statement. Another option would have been to role-play conversations with community members after the meeting.

The facilitator (F) has assigned two roles: an audience member (AM) and Clara Darrow (played by two people).

AM: How can you tell me to relax about crime when there have been all these terrible muggings in my neighborhood? That assault case that nearly killed the woman – that was just down the street from my store!

CD: Of course you should be concerned. But what I’m trying to tell you is that over all, crime is down, and that we should –

AM: Who cares about “over all”? How does that make my street any safer?

CD: But that’s what I’m trying to show you: your street isn’t as dangerous as you think it is. You’re actually safer now than –

AM: Don’t tell me how I should feel! Why don’t you tell that poor woman who got beaten up how little crime there is on her street?

F: Let’s freeze. [To the person playing the audience member:] What were you trying to convey?

AM: I figured the guy felt Clara was glossing over his fears, just like in her speech. He didn’t like how Clara kept saying “I’m trying to tell you, I’m trying to show you,” as though she were the smart professor lecturing some dumb student.

F: [To the person playing Darrow:] What were you thinking?

CD: I was trying to reassure him, but he kept getting angrier and cutting me off. I can really appreciate how Clara must have felt. I could feel myself getting mad too – I just wanted to make him listen, but he wouldn’t.

F: Let’s try again: same audience member, new Clara.
AM: How can you tell me to relax about crime? That assault case was just down the street from my store!

CD: I don’t think any of us can relax about crime. Do you have kids? I do – in fact, my son often visits a park near the spot where one of the muggings happened. So of course I’m concerned too. I don’t want the statistics to imply that we should stop worrying. But I do think they tell us some important things — including that beefing up the police presence in this neighborhood might not be what we need. If there are fewer crimes, we probably don’t need more cops. We need to look at other approaches to the crimes that are still happening.

AM: But I want those people off the street. I want my customers to feel safe.

CD: I think it’s possible to keep your street safe without increasing the police presence. Most of the crimes you’re worried about are related to drug abuse. So why not increase resources for substance abusers? That would get users off the street and help them solve their problems — instead of just sending them off to prison and having them come back to your neighborhood with the same drug dependency.

F: Let’s stop again. [To the audience member:] Do you feel more positive about Clara’s approach this time, or more convinced that she’s concerned about crime? [To the entire group:] Was this second version more effective? Why?

Using the critical incident exercise

There are many ways to make the critical incident exercise part of your office routine. Your staff is probably already in the habit of debriefing after a meeting, or doing a postmortem of a trial. So you could introduce the exercise as a new approach to these processes. You could also use critical incidents as a training method at staff meetings. Many problems are so complex or persistent that it pays to revisit them periodically. And making the critical incident exercise a recurring, expected part of office life would encourage your staff to apply reflective practice to a wide range of issues, not just the ones being dissected at meetings.

There are also a number of less formal ways to use the exercise. Ideally, you would always use both parts – the written description and the role play – because they complement each other. But that’s not always practical, or even possible. So while it’s a good idea to set aside specific occasions for the full process, it’s also useful to adapt the exercise.

The process of writing about a critical incident is helpful because it forces you to think about the episode in a structured way. You can imagine a response and how you might produce it. Visualizing this process won’t give you the same benefits as enacting it through a role play, but it will encourage you to take a more thorough approach to the problem and prepare you for similar situations in the future.
Using critical incidents

Are you interested in using critical incidents, but not sure how? Here are some suggestions to help everyone involved: organizers, facilitators, and participants.

Organizing a critical incident session

- Decide who should attend and personally invite them to the session.
- Decide how you will handle issues of confidentiality. Be sensitive to personalities, relationships, and histories, especially when people are from the same office.
- Assign the write-ups. Give a strict due date (before the session) and send instructions or samples.
- Choose facilitators. Do you want staff members or people from outside your office?
- Send the write-ups to facilitators and participants before the session.
- Look for themes in the write-ups and use them to assign people to small groups for role playing and discussion.

Facilitating a role play

- Move to the reenactment quickly. Don’t let the writer spend too much time explaining the situation.
- Keep people in role. During the role play, insist that participants act out – not describe – their comments or suggestions.
- Involve as many people as you can. Consider assigning roles, instead of asking for volunteers. If someone offers an observation, have that person take a role.
- Interrupt. Freeze the dialogue to have new players demonstrate how they would have acted or to redirect a role play that has gone off track.

Writing a critical incident

The write-up should have four parts:
- Overview of the situation
- Description of your strategy
- Results of the encounter
- Explanation of your frustration or disappointment

Analyzing a critical incident

In thinking about the critical incident, consider these questions:
- What are the issues from the writer’s point of view?
- Are there other issues at play?
- What implicit and explicit choices has the writer made?
- At what stages could the writer have taken different actions that might have altered the course of events?
The written descriptions can also help other people. If your staff does the critical incident exercise regularly, your office will build up a collection of cases that could be very helpful to new employees. You might give them some of the write-ups, to help them better understand and prepare for common situations they might face on the job.

Role plays can help you plan for difficult encounters. Perhaps your funders have called a meeting that you expect to be contentious. The most effective role play would be based on similar meetings from the past, because you learn more from deciphering a situation you actually experienced. But even if you haven’t had a similar encounter, you can still use a role play to rehearse, in much the same way you might moot your approach to a trial. A role play, in other words, can help you develop a “theory of the encounter” analogous to a theory of the case.

**Making it stick**

When they first use critical incidents, defender leaders are often enthusiastic. They like the exercise and learn from it – then never do it again. In fact, defender leaders often take a similar view of reflective practice as a whole. They think of it as something interesting to try once or twice, not as a practical approach they can use over and over.

That’s not enough. Learning reflective practice is like learning a foreign language. You need to practice it frequently – both the introspection and the interaction – to develop and maintain your fluency.

Nashville’s Metro Public Defender Office has adopted the reflective approach, holding regular meetings to enact critical incidents. In many ways, it’s an obvious process. “Everybody goes through the cycle of analyzing problems, making decisions about them, and acting on those decisions,” Public Defender Karl Dean says. “But then you need to go back to evaluate what happened and see how you could do it better next time. And it’s hard to do that unless you set up a structure.”

Reflective practice provides that structure. By cultivating a reflective approach, you’ll continue to improve your ability to tackle the many complicated, difficult challenges you face. You’ll be better able to navigate your way through the swampy realm of defender leadership, and you’ll be a better advocate for your clients, your office, and the cause of indigent defense.
Can I use this approach in real life?
Reflective practice can take some getting used to. Here are several common concerns, as well as suggestions for overcoming them.

It sounds like you want to change me into a kinder, gentler defender. That's not my style. You don't need to be soft to be a reflective practitioner. But you do need to be interested in effective leadership, and willing to take a hard look at yourself.

As you know from your trial days, information is power. Information about your own talents and biases – and about others, and how they view you – will help you better handle the difficult situations you routinely face. And a strategic approach to planning for and dealing with these situations – instead of just showing up for them, unprepared – will help you be far more effective. Reflective practice helps you on both fronts.

I think about my work all the time. How is reflective practice different from what I already do? The question is, Are you thinking about your work in a critical, useful way? Reflective practice structures your thinking. It helps you learn from your past experiences and better handle future ones, and it alerts you to the often unconscious – but always powerful – biases and perceptions all parties bring to the table. If you're going to spend so much time thinking about your work, isn't it better to make that process productive – to focus it, so that your thinking will lead to solutions and help you avoid some of the pitfalls you now encounter?

How can I find the time for all this reflection? It's not necessarily a matter of carving out additional time for reflection, but of using the time you already spend more productively. You can make your interactions more reflective and productive without making them longer. For instance, you can use many of the issues and events you already discuss at staff meetings as critical incidents. Or, the next time you're tempted to swap war stories with your colleagues, you might work on making the exchange more reflective.
By using your time to go beyond venting about problems and toward developing solutions, you'll accomplish more.

Still, if reflective practice is new for you, in the beginning it might be slow going. But take heart: you'll get used to it, and as you gain fluency, you'll find it less time consuming.

I see the need to be more reflective, but I have a hard time imagining my staff or people at other agencies wanting to practice with me. How do I pitch reflective practice to them? A real-life success story can be a good way to convince others to try reflective practice. Perhaps you can point to a time that reflecting helped you (or someone you know) recover from a bad situation. Or you might describe how a role play helped you avoid a pitfall you hadn't noticed.

For fellow lawyers, you might also try an analogy to mooting a case. Lawyers are familiar with using different techniques to prepare for trial, and reflective practice draws on skills they've already acquired through this process. Just as they developed a theory of the case for trial, they must create a “theory of the meeting” – or a negotiation, or a presentation, or a funding request. And just as they profiled the prosecutor and judges before stepping into court, they must profile the people who will be at the meeting.

But sometimes you might have to set up a critical incident session, for example, and simply require staff to attend. Reflective practice can be hard to appreciate intellectually; it’s through experiencing it that many people are convinced. People who are unmoved by the description of a role play are often won over once they participate in one. Will you persuade everyone? No. But often, all it takes is a push to sway many doubters.

I'm not sure about how to introduce reflective practice in my office. What's the best way to get started? There are a lot of different ways to be more reflective. Some, like the critical incident, are relatively formal and structured. You might introduce them at weekly staff or senior management...
meetings, or at training sessions or conferences.

But if you prefer a more informal approach, you still have many options. For instance, you could set up a discussion group composed of senior staff, defender leaders from nearby jurisdictions, leaders of other parts of the criminal justice system - any combination could work. Or you might prefer the simplest approach of all: pairing up with a trusted colleague to share advice. You could also brainstorm ways to prepare for a situation, or to deconstruct and learn from one.

I'm interested in setting up a critical incident session, but worried about being the facilitator. There is definitely an art to facilitating a role play, but you can learn it fairly easily with some preparation and practice. You might also consider whether someone else on your staff can handle this role. Or perhaps you'd prefer someone from outside your office: a colleague well versed in the process, perhaps, or a consultant.

But no matter who handles this task, the same basic rules apply. First, it's essential to be thoroughly familiar with the write-ups. A good facilitator will know the details of the individual incidents and will have found common themes or problems.

Facilitators also need to make some advance decisions. For instance, do you want to choose who plays the roles or ask for volunteers? If a role play goes off track, will you try again with the same players, reassign the roles, or move to a different part of the incident? How you handle these questions will vary from group to group, but it's helpful to have some general ideas ahead of time.

Facilitators should also be sensitive to group dynamics and such issues as race or gender. You should pay attention to how these factors affect the role play, or might have affected the actual incident. Consider which members of the group (including yourself) automatically command authority, which seem reluctant to speak up, and whether their race, gender, or any other factor seems to be involved. It's often useful to ask men to play women, or a white person to play a person of color.
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