

Client-Centered Lawyering and the Redefining of Professional Roles Among Appellate Public Defenders

Jonah A. Siegel*
Jeanette M. Hussemann**
Dawn Van Hoek***

Abstract

While client-centered lawyering has gained traction among trial-level public defenders over the last decade, appellate public defenders have just recently begun to explore the use of this approach in their work. With appellate representation traditionally more “hands off” than trial-level defense, the shift to client-centered lawyering has transformed appellate defense into an increasingly front-line profession, in which lawyers interact directly and meaningfully with clients. This paper uses a combination of focus groups and interviews with stakeholders in one state-level appellate system to examine how public defenders perceive the shift to client-centered lawyering and, in response, are re-conceptualizing their professional roles and orientations. Our results suggest that while there may be variation in the meaning of client-centered lawyering between trial and appellate defense offices, appellate lawyers experience similar ambiguity in their professional goals and responsibilities to other front-line workers. They operate within a similarly broad context of bureaucratic constraints but exercise considerable decision-making power on a daily basis, which they use to simultaneously attend to client needs, meet institutional mandates, and achieve the goals they identify as most important. The findings portray a team of public defenders who use the discretion afforded to them by the increasingly front-line nature of their work to expand the boundaries of justice for appellate clients.

* Michigan Indigent Defense Commission.

** Urban Institute.

*** State Appellate Defender Office.

I. INTRODUCTION

In 1963, the United States Supreme Court ruled in *Gideon v. Wainwright* that criminal defendants facing felony charges, regardless of their ability to pay, have a right to counsel.¹ This right was extended to any defendant facing imprisonment in a series of subsequent decisions.² With 82% of felony defendants in state courts requiring publicly funded lawyers,³ the Supreme Court rulings resulted in the creation of massive networks of public defense agencies and lawyers at the local and national levels.⁴ However, as a result of pervasive resource shortages, high caseloads, and a lack of political support for public defense, the ability of public defenders to effectively advocate for their clients has been rife with challenges.⁵ Fueled by the frequency with which highly vulnerable indigent clients cycle through the revolving door of the criminal justice system, scholars and practitioners have started to forgo traditional models of indigent defense that focus on the case and the charge for emerging client-centered models of indigent defense that focus on the lives attached to a case.⁶

Although client-centered lawyering has gained enormous popularity in trial-level public defender offices across the United States, appellate-level defender offices have been slower to embrace the shift. Traditionally conceptualized as legal technicians focused on identifying errors in the trial phase, appellate lawyers have historically been discouraged from addressing issues outside of the case record. In recent years, forward-thinking appellate offices and defenders have begun to reconsider this approach. Subsequently, appellate defenders are now spending more time assessing and addressing a broad scope of client needs, such as mental and physical health, employment, and immigration status. In this regard, client-centered models of lawyering have begun to move appellate lawyers to the front lines of public service, altering attorney-client relationships and broadening

¹ *Gideon v. Wainwright*, 372 U.S. 335, 343 (1963).

² *Argersinger v. Hamlin*, 407 U.S. 25, 37 (1972); *Douglas v. California*, 372 U.S. 353, 355–58 (1963); NAT'L RIGHT TO COUNSEL COMM., THE CONSTITUTION PROJECT, JUSTICE DENIED: AMERICA'S CONTINUING NEGLECT OF OUR CONSTITUTIONAL RIGHT TO COUNSEL 18–25 (2009), <http://www.constitutionproject.org/manage/file/139.pdf> [<https://perma.cc/G67S-RLB6>] [hereinafter JUSTICE DENIED].

³ CAROLINE W. HARLOW, BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, DEFENSE COUNSEL IN CRIMINAL CASES 1 (2000).

⁴ See, e.g., Sara Mayeux, *What Gideon Did*, 116 COLUM. L. REV. 15 (2016).

⁵ JUSTICE DENIED, *supra* note 2, at 91.

⁶ Cynthia G. Lee, Brian J. Ostrom & Matthew Kleiman, *The Measure of Good Lawyering: Evaluating Holistic Defense in Practice*, 78 ALB. L. REV. 1215, 1216 (2014/2015); Janet Moore, Marla Sandys & Raj Jayadev, *Make Them Hear You: Participatory Defense and the Struggle for Criminal Justice Reform*, 78 ALB. L. REV. 1281 (2014/2015); Robin G. Steinberg, *Heeding Gideon's Call in the Twenty-First Century: Holistic Defense and the New Public Defense Paradigm*, 70 WASH. & LEE L. REV. 961, 962–63 (2013).

the goals of appellate defense.

In the following pages, we focus on the introduction of client-centered lawyering in one appellate public defender office in the state of Michigan. In particular, we focus on how the public defenders in this office are reforming the objectives of appellate defense and re-conceptualizing their roles in clients' lives as a result of client-centered lawyering. In Part II, we review the basic tenets of appellate defense and the diffusion of client-centered principles of lawyering into the appellate field. In Part III, we offer a theoretical orientation to interpret how appellate lawyers are managing changes in professional roles and responsibilities by describing the liminal role of front-line workers in other agencies. In Part IV, we describe the study site, research methods, and analytic approach. In Part V, we present our findings, including how the lawyers in this research are achieving the goals of client-centered lawyering and reconstructing professional identities that allow them to simultaneously attend to client needs, meet institutional mandates, and achieve legal goals. In Part VI, we summarize and discuss how the introduction of client-centered lawyering into appellate agencies can shift the goals of appellate work. In Part VII, we discuss future research and policy goals for appellate public defense along with concluding remarks.

II. APPELLATE PUBLIC DEFENSE: BACKGROUND AND EVOLUTION

A. *The Nuts and Bolts of Appellate Defense*

At sentencing, defendants are advised of their right to appeal their conviction and sentence. They are also advised that if they cannot afford to hire retained counsel, they have the right to be represented by a lawyer who is appointed by the court.⁷ Once a lawyer is assigned, appellate defenders review trial court records, consult with their clients, and determine the best course of action.⁸ In every appeal, attention is paid to both the conviction and the imposed sentence to ensure that it was accurate and uniquely tailored to the offense and offender.⁹ Appellate public defenders are tasked with achieving justice for individual clients while keeping the system honest and fair.

Appellate defense is crucial because trial-level defense systems tend to be highly under-resourced and chaotic, resulting in unwarranted and unjust sentences for many defendants.¹⁰ Although the specifics vary across states and local

⁷ Appellate Defender Act, MICH. COMP. LAWS § 780 (1978).

⁸ *Id.* § 780.716.

⁹ *Id.*

¹⁰ JUSTICE DENIED, *supra* note 2, at 50–52; JON B. GOULD ET AL., PREDICTING ERRONEOUS CONVICTIONS: A SOCIAL SCIENCE APPROACH TO MISCARRIAGES OF JUSTICE 81 (2012), <http://www.american.edu/spa/jlc/prevent/upload/Predicting-Erroneous-Convictions.pdf> [<https://perma.cc/UYF7-K45J>].

jurisdictions, there exist pervasive and consistent systemic limitations largely related to inadequate funding.¹¹ Courts often contract with local firms or individual lawyers, and few contracts have caseload limits, performance standards, or any quality control provisions.¹² Assigned counsel often maintain their own private practices such that time spent on an assigned case is time away from paying clients. Jurisdictions that compensate attorneys by case events frequently incentivize efficiency over quality representation;¹³ for instance, trial defenders may be paid the same amount for a guilty plea that they are paid for a full day of trial. In addition, assigned counsel are rarely granted requests for additional funds for investigation or expert witnesses,¹⁴ meaning that lawyers are not able to provide their clients with the strongest possible defenses. As a result, many defendants are wrongfully convicted or given overly punitive sentences.¹⁵

A well-resourced appellate defender can address trial-level errors and omissions, generally by arguing that counsel was ineffective or that newly discovered evidence warrants a different outcome. Appellate counsel carefully reviews the record and, in some states,¹⁶ non-record material as well. He or she consults with the client, listening to claims of innocence and insufficient communications with trial counsel. These steps may reveal, for example, that an alibi was not pursued, a sentence was calculated incorrectly, or expert prosecution witnesses misrepresented the results of forensic testing. Through appeal, appellate counsel holds the system accountable for mistakes that occurred in individual cases as well as widespread injustices that are common practice.

B. *The Evolution of Appellate Lawyering*

Despite the vital role of the appellate process, only a small body of literature exists on the theory and practice of appellate defense, and it has been focused more

¹¹ ROBERT C. BORUCHOWITZ ET AL., NAT'L ASS'N OF CRIMINAL DEF. LAWYERS, *MINOR CRIMES, MASSIVE WASTE: THE TERRIBLE TOLL OF AMERICA'S BROKEN MISDEMEANOR COURTS* 14 (2009), <https://www.nacdl.org/WorkArea/DownloadAsset.aspx?id=20808> [<https://perma.cc/8H2H-7E74?type=pdf>]; NAT'L LEGAL AID & DEF. ASS'N, *A RACE TO THE BOTTOM: SPEED & SAVINGS OVER DUE PROCESS: A CONSTITUTIONAL CRISIS* (2008); SIXTH AMENDMENT CTR., *JUSTICE SHORTCHANGED: ASSIGNED COUNSEL COMPENSATION IN WISCONSIN* (2015), http://sixthamendment.org/wp-content/uploads/2015/04/6AC_wijusticeshortchanged_2015.pdf [<https://perma.cc/8V73-3RL4>]; JUSTICE DENIED, *supra* note 2, at 52.

¹² JUSTICE DENIED, *supra* note 2, at 52, 65.

¹³ *Id.* at 50; BENJAMIN SCHWALL, *HIGH-POWERED ATTORNEY INCENTIVES: A LOOK AT THE NEW INDIGENT DEFENSE SYSTEM IN SOUTH CAROLINA* 19–20 (2015), <http://ssrn.com/abstract=2623202>.

¹⁴ JUSTICE DENIED, *supra* note 2, at 93.

¹⁵ *See* GOULD ET AL., *supra* note 10, at 1.

¹⁶ Michigan, for instance, permits development of non-record issues on appeal. Appellate Defender Act, MICH. COMP. LAWS § 780.716.

on recommendations for specific appellate legal strategies than the role of the appellate lawyer. This trend is not surprising, as appellate defense has historically been thought of as a “four corners of ‘the record’” practice, an idiom that refers to a narrowly circumscribed approach in which appellate lawyers and judges are legal technicians responsible only for reviewing the facts of the case as discussed in trial court and reversible legal error.¹⁷ One widely used set of guidelines, for instance, warns lawyers against departing from the record and reprimands those who do so.¹⁸ Popular training materials for appellate lawyers focus heavily on legal strategy and only fleetingly mention attorney-client relationships or client contact.¹⁹ The long-standing tradition captured by the “four corners” idiom is one that urges appellate defenders to focus solely on evaluating the criminal case as presented in the trial record rather than more comprehensively assessing the case or the needs of the client.

In recent years, however, client-centered approaches to indigent defense have gained traction among trial-level public defenders,²⁰ and this movement has started to seep into appellate representation. Although not yet widespread or officially documented, some innovative appellate agencies have either initiated informal discussions or formally incorporated client-centered principles into their practice.²¹ While the function of the appellate defender continues to give primacy to lower-court case review, the concept of client-directed relief and the pursuit of non-legal goals are slowly gaining support among appellate stakeholders, challenging traditional conceptions of appellate lawyering as a “hands-off” profession.²²

Client-centered lawyering first grew out of an inter-disciplinary collaboration in the 1970s between David Binder, a law professor frustrated with the dominating role of lawyers in practice, and Susan Price, a psychologist. In 1977, they published the first edition of *Legal Interviewing and Counseling: A Client-Centered Approach*,²³ which offered lawyers techniques to motivate client

¹⁷ Frederick Schauer, *The Decline of “The Record”*: A Comment on Posner, 51 DUQ. L. REV. 51, 52 (2013).

¹⁸ FREDERICK B. WIENER, BRIEFING AND ARGUING FEDERAL APPEALS 252 (1961).

¹⁹ See N.C. OFFICE OF INDIGENT DEF. SERVS., *Training and Reference Materials Index: Appeals*, <http://www.ncids.org/Defender%20Training/Training%20Index.htm> [https://perma.cc/9NK R-2GFG].

²⁰ Robert D. Dinerstein, *Client-Centered Counseling: Reappraisal and Refinement*, 32 ARIZ. L. REV. 501, 502 (1990); Steinberg, *supra* note 6, at 975–78.

²¹ In addition to the statewide appellate defender office in Michigan discussed in this paper, offices in New York and Washington also report implementing client-centered approaches. Personal communication with R. Gerson, Director, Quality Enhancement for Appellate and Post-Conviction Representation, New York State Office of Indigent Legal Services (July 27, 2016); personal communication with Travis Stearns, Training Director, Washington Appellate Project (July 27, 2016).

²² *Id.*

²³ DAVID A. BINDER & SUSAN C. PRICE, *LEGAL INTERVIEWING AND COUNSELING: A CLIENT-CENTERED APPROACH* (1st ed. 1977).

participation. Initially presented under the rubric of interviewing and counseling techniques, the publication had the much larger effect of advocating for changes in lawyering and generating discussion of how lawyering can be re-conceptualized as a problem-solving profession that provides defendants with increased decision-making authority. Although the approach was met with controversy in some circles,²⁴ it is in this context that client-centered lawyering was first introduced to students in legal clinics and, over time, adopted as a routine approach to attorney-client relationships.

The foundation of client-centered lawyering is built upon four overarching goals. These goals include: (1) recognizing the importance of non-legal aspects of the client's case, (2) limiting the role of lawyers' professional expertise, (3) giving primacy to client decision-making, and (4) understanding the client's perspective and values.²⁵ The first goal argues that public defenders can best serve clients when they begin to take into consideration the non-legal issues in cases, including the social, psychological, economic, and moral circumstances that affect the client.²⁶ Advocates of client-centered approaches argue that a failure to consider a client's non-legal problems may actually leave clients worse off than they were before legal representation began; given the interrelationship between the legal and non-legal aspects of clients' lives, a lawyer who does not consider the implications of non-legal issues may, at best, only partially address a client's problems by focusing attention only to legal factors.²⁷

The second and third goals advocate for increased client participation in the decisions made in their case. While lawyers unequivocally possess considerable knowledge of the law and legal consequences, clients are in the best position to understand how their lives will be affected by legal outcomes.²⁸ For this reason, proponents of client-centered lawyering maintain that defenders ought not over-

²⁴ When first introduced, critics argued that traditional models of legal representation were already client-centered in nature and that further increasing client participation and decision-making would impede the ability of lawyers to obtain the most favorable legal outcomes. More recently, critics have pointed out instances in which the pillars of client-centered representation conflict with one another, such as cases where the over-involvement of a lawyer in a client's life prevents the lawyer from acting ethically or providing the best legal representation. There is also concern with regard to whether lawyers are actually able to avoid influencing client decision-making and maintain neutrality, particularly in cases in which lawyer opinions and behaviors are strongly shaped by their own biases. Michelle S. Jacobs, *People from the Footnotes: The Missing Element in Client-Centered Counseling*, 27 GOLDEN GATE U. L. REV. 345 (1997); Katherine R. Kruse, *Fortress in the Sand: The Plural Values of Client-Centered Representation*, 12 CLINICAL L. REV. 369, 372-73 (2006); Dinerstein, *supra* note 20, at 556.

²⁵ Dinerstein, *supra* note 20, at 506; Kruse, *supra* note 24, at 376; Katherine R. Kruse, *Engaged Client-Centered Representation and the Moral Foundations of the Lawyer-Client Relationship*, 39 HOFSTRA L. REV. 577, 586-88 (2011).

²⁶ Kruse, *supra* note 25, at 584-85.

²⁷ *Id.*

²⁸ *Id.* at 584.

rely on their legal expertise, but rather, show humility in their understanding of a client's non-legal circumstances, allowing clients to reach final decisions for themselves.²⁹

The final goal of client-centered lawyering asserts that lawyers should be focused on increasing their understanding of client experiences, perspectives, emotions, and values.³⁰ Viewing clients holistically places clients at the center of the decision-making process and thereby facilitates a legal process that has greater potential to serve the needs of the client and increase the likelihood of future successes. For example, a client may express a preference for an outcome that the lawyer views as less legally desirable. However, when placed in the context of the client's life circumstances—perhaps reliance on public benefits or concern over the threat of deportation—the client's choices may make more sense and even provide additional material to defenders in building their case. Client-centered lawyering, then, shifts the focus from cases to clients, emphasizing clients' stories and encouraging lawyers to assess clients' legal needs within the broader context of their lives.

III. CLIENT-CENTERED LAWYERING AS FRONT-LINE SERVICE WORK

This paper aims to understand how appellate defenders incorporate what has previously been a trial-level approach to lawyering into their practices and subsequently redefine their professional roles and responsibilities. Because appellate lawyers have only recently begun to move away from traditional approaches to client representation, there has been no inquiry into how they cope with the changes in their professional lives or how the transition has impacted their understanding of the goals and responsibilities of appellate defense. However, since client-centered lawyering has the potential to transform appellate representation into a more front-line practice, explorations of other types of front-line workers can provide a theoretical framework for how lawyers interpret their experiences and redefine their identities as client-centered defenders.

Front-line workers have been the subject of a substantial body of literature on public service organizations and the delivery of services to clients. Defined as employees in human service organizations who work directly with clients,³¹ often dispensing or enforcing access to government rights and benefits, front-line workers include police officers, teachers, judges, welfare caseworkers, and health workers. Although the types of services provided by these workers range from education to law enforcement to healthcare and beyond, prior research has considered them together because of the substantial overlap in how they serve

²⁹ See generally BINDER & PRICE, *supra* note 23.

³⁰ Kruse, *supra* note 25, at 587.

³¹ MICHAEL LIPSKY, STREET-LEVEL BUREAUCRACY: DILEMMAS OF THE INDIVIDUAL IN PUBLIC SERVICE 3 (1980).

clients within procedure-laden, resource-poor, politically-driven organizations.³² Understanding the experiences of front-line workers is critical due to the sheer number of people working on the front-lines, the amount of government money spent on delivery of such public services, and the impact of front-line decision-making on the lives of clients.³³ Social justice advocates have been particularly concerned with front-line work since public services are largely utilized by disadvantaged, vulnerable clients, who cannot afford to pay for services in the private sector.

Prior research has demonstrated that front-line work is characterized by goals that are simultaneously conflicting and ambiguous. In front-line agencies such as welfare offices, schools, courts, and law enforcement departments, front-line workers often experience confusion as to the nature of their job responsibilities and the best means of achieving the amorphous objectives laid out for them.³⁴ The confusion can be so severe that it has been described in previous research as a state of anomie.³⁵ As Michael Lipsky explains:

Is the role of the police to maintain order or to enforce the law? Is the role of public education to communicate social values, teach basic skills, or meet the needs of employers for a trained work force? Are the goals of public welfare to provide income support or decrease dependency?³⁶

Researchers have attributed much of this confusion to the ways in which public service missions are idealized by public service agencies. Goals such as equal justice, client self-sufficiency, or good health, while providing overarching principles, do not offer frameworks around which front-line workers can build clear job descriptions or identify clear tasks. Ambiguity also results from a combination of organizational and systemic resource shortages, contentious political disagreements, and conflicting stakeholder needs.³⁷

The combination of idealization and goal ambiguity can create tension in the development of professional roles and identities. Research has documented this role tension in front-line professions such as community corrections, welfare work, and law, in which workers commonly juggle client advocacy with some form of law enforcement, surveillance, or regulated dispensing of benefits. Through

³² STEVEN W. MAYNARD-MOODY & MICHAEL C. MUSHENO, *COPS, TEACHERS, COUNSELORS: STORIES FROM THE FRONT LINES OF PUBLIC SERVICE* 9–24 (2003).

³³ CELESTE WATKINS-HAYES, *THE NEW WELFARE BUREAUCRATS: ENTANGLEMENTS OF RACE, CLASS, AND POLICY REFORM* (2009); LIPSKY, *supra* note 31, at 3.

³⁴ LIPSKY, *supra* note 31, at 40–53; WATKINS-HAYES, *supra* note 33, at 49–81.

³⁵ Joel M. Caplan, *Parole System Anomie: Conflicting Models of Casework and Surveillance*, 70 *FED. PROB.* 32, 32 (2006).

³⁶ LIPSKY, *supra* note 31, at 40.

³⁷ *Id.* at 40–53.

ethnographic examination of welfare offices, for instance, Celeste Watkins-Hayes examined the complex identity negotiation of welfare workers as they simultaneously tracked client rule compliance and eligibility, performed case management, provided employment counseling, and advocated for clients.³⁸ In a study of probation and parole officers in two Midwestern states, officers were asked to describe the differences between “casework” and “surveillance” approaches to supervision and then rank where they perceived themselves on a casework to surveillance continuum.³⁹ In a series of articles from the legal profession, Jane Aiken and Stephen Wizner,⁴⁰ Abbe Smith,⁴¹ and Katherine Kruse⁴² contentiously debated the proper role of social work within trial-level criminal defense: how much attention should defenders pay to issues of public service and social justice? All of these inquiries illustrate the existence of role tension experienced by front-line workers as they attempt to perform the multiple and sometimes conflicting roles expected of them.

Although they operate within a broad context of bureaucratic constraints and regulations, front-line workers exercise a great deal of discretion and independence as they negotiate this ambiguity.⁴³ Research suggests that workers develop professional orientations, self-conceptualizations of one’s professional identity and purpose, to provide themselves with a framework for the exercise of this discretion and subsequent resolution of their job ambiguity.⁴⁴ The identification of a professional orientation helps workers integrate potentially conflicting roles in order to reduce confusion and improve job performance.⁴⁵ Watkins-Hayes⁴⁶ has documented two overarching categories of professional orientations among front-line workers. First, some workers build their professional identities around meeting client needs. These workers describe themselves as client-focused advocates and argue that client needs are more important than the bureaucratic

³⁸ WATKINS-HAYES, *supra* note 33 at 82–122.

³⁹ Angela D. West & Richard P. Seiter, *Social Worker or Cop? Measuring the Supervision Styles of Probation & Parole Officers in Kentucky and Missouri*, 27 J. CRIME & JUST. 27, 29 (2004).

⁴⁰ Jane Aiken & Stephen Wizner, *Law as Social Work*, 11 WASH. U. J.L. & POL’Y 63 (2003).

⁴¹ Abbe Smith, *The Difference in Criminal Defense and the Difference It Makes*, 11 WASH. U. J.L. & POL’Y 83 (2003).

⁴² Katherine R. Kruse, *Lawyers Should Be Lawyers, But What Does That Mean?: A Response to Aiken & Wizner and Smith*, 14 WASH. U. J.L. & POL’Y 49 (2004).

⁴³ Evelyn Z. Brodtkin, *Inside the Welfare Contract: Discretion and Accountability in State Welfare Administration*, 71 SOC. SERV. REV. 1, 3 (1997); Sarah K.S. Shannon & Joshua Page, *Bureaucrats on the Cell Block: Prison Officers’ Perceptions of Work Environment and Attitudes Toward Prisoners*, 88 SOC. SERV. REV. 630 (2014).

⁴⁴ Todd R. Clear & Edward J. Latessa, *Probation Officers’ Roles in Intensive Supervision: Surveillance Versus Treatment*, 10 JUST. Q. 441 (1993); Jay Whetzel et al., *Goodbye to a Worn-Out Dichotomy: Law Enforcement, Social Work, and a Balanced Approach*, 75 FED. PROB. 7, 7 (2011).

⁴⁵ WATKINS-HAYES, *supra* note 33, at 82–122.

⁴⁶ *Id.*

mission or systemic interests. Job duties are thus focused on social-work-like case management such as providing motivation and connecting clients with resources. A slight variation of the client advocate is the worker who prioritizes only certain selected clients. Recognizing that resource shortages and organizational policies only allow them to truly advocate for a portion of their overall caseload, these caseworkers tend to stratify their clients into categories of “worthy” and “unworthy”—subjective determinations based on how much sympathy or hostility clients evoke—and then utilize the rules of the system to either advance client progress or enact punishment.⁴⁷

A second category of workers, labeled by one researcher as “efficiency engineers,”⁴⁸ prioritized organizational and administrative responsibilities, arguing that they ultimately have to care for the organization rather than for clients. These workers are driven largely by caseload size and resource shortages and describe having to turn off their emotions to fulfill bureaucratic mandates.⁴⁹ One welfare worker articulates this sentiment in the following quote:

At the end of twenty-four months, some [clients] come very motivated, but sometimes you have to close your eyes and push the paperwork and say “if you don’t do this, your benefits are going to end.” It’s kind of hard to do at times. . . . Nevertheless, I have to keep a job so I close my heart down and say, “Sorry, Ms. Jones, this is what will happen in a month or two.”⁵⁰

Depending on the type of front-line agency in question, efficiency engineers typically emphasize regulation and surveillance, carefully attending to administrative measures of success such as completed paperwork and efficient processing of cases. With front-line workers reporting that paperwork and other administrative responsibilities take a considerable amount of their time on the job,⁵¹ it is not surprising that many see themselves simply as “claims processors.”⁵²

Even when workers do not fall neatly into one of these two primary camps, the typology offers a framework for understanding how workers creatively blend

⁴⁷ MAYNARD-MOODY & MUSHENO, *supra* note 32, at 97–106.

⁴⁸ WATKINS-HAYES, *supra* note 33, at 61.

⁴⁹ See Alex Van Brunt, *Poor People Rely on Public Defenders who are Too Overworked to Defend Them*, GUARDIAN (June 17, 2015), <http://www.theguardian.com/commentisfree/2015/jun/17/poor-rely-public-defenders-too-overworked> [https://perma.cc/MSQ7-HNSV].

⁵⁰ WATKINS-HAYES, *supra* note 33, at 115.

⁵¹ West & Seiter, *supra* note 39, at 37.

⁵² WATKINS-HAYES, *supra* note 33, at 113. It should be noted that Watkins-Hayes identifies a third front-line worker orientation in her study of welfare workers. “Survivalists” are workers who have disengaged from both client needs and bureaucratic demands in order to complete their work effectively but with minimal investment. Workers with this orientation often overlap significantly with efficiency engineers. See *id.* at 118–20.

themes of the client advocate and efficiency engineer in an effort to reconcile competing interests. Studies of a variety of front-line bureaucrats working in the criminal justice system including parole officers,⁵³ probation officers⁵⁴ and trial-level public defense lawyers⁵⁵ illustrate workers' attempts to develop balanced approaches to simultaneously meeting client needs and organizational needs. We anticipate that as appellate defender offices become increasingly client-centered, appellate defenders will face many of the same challenges encountered by more traditional front-line workers and thus rely on similar strategies to define their professional roles and responsibilities.

IV. METHODOLOGY

A. Study Site

To explore how the introduction of client-centered lawyering impacts the professional identities of appellate defenders, this project examines the shift to client-centered public defense in an appellate agency in the state of Michigan.⁵⁶ In Michigan, the right to appeal a felony conviction and be represented in the appeal is of relatively recent provenance. The state mandated the provision of legal services to indigent criminal appellants in its 1963 Constitution⁵⁷ and, soon after, established the State Appellate Defender Office (SADO) to represent clients in post-conviction matters.⁵⁸ The state of Michigan permits unified appeals that examine not only the record, but also any non-record issues that may be developed.⁵⁹ Michigan Court Rule 7.211(C) authorizes the filing of a motion to remand to the trial court, where "development of a factual record is required for appellate consideration of the issue." SADO is the state's only funded public defense agency providing direct service to clients and, according to the agency's

⁵³ Mona Lynch, *Waste Managers? The New Penology, Crime Fighting, and Parole Agent Identity*, 32 *LAW & SOC'Y REV.* 839, 844 (1998); Mario A. Paparozzi & Paul Gendreau, *An Intensive Supervision Program That Worked: Service Delivery, Professional Orientation, and Organizational Supportiveness*, 85 *PRISON J.* 445 (2005).

⁵⁴ Clear & Latessa, *supra* note 44, at 441; Whetzel et al., *supra* note 44, at 7.

⁵⁵ Robin G. Steinberg, *Beyond Lawyering: How Holistic Representation Makes for Good Policy, Better Lawyers, and More Satisfied Clients*, 30 *N.Y.U. REV. L. & SOC. CHANGE* 625 (2006).

⁵⁶ This article focuses on the experiences of public defenders and is part of a larger study that included data collection with appellate clients and judges. See JONAH A. SIEGEL, *STATE APPELLATE DEFENDER OFFICE EVALUATION REPORT, NARRATIVES OF POST-CONVICTION PUBLIC DEFENSE: HOW ATTORNEYS, CLIENTS, AND JUDGES EXPERIENCE THE INDIGENT CRIMINAL APPELLATE PROCESS* (2015).

⁵⁷ MICH. CONST. art. 1, § 20.

⁵⁸ MICH. COMP. LAWS § 780.712.

⁵⁹ Minimum Standards for Indigent Criminal Appellate Defense Services, Mich. Admin. Ord. 2004-6, Standard 3 (2005), http://www.sado.org/content/commission/documents/maacs_minimum_standards.pdf [<https://perma.cc/WWN9-XN4W>].

mission statement, is charged with providing “high-quality, holistic, timely, and effective assistance of appellate counsel” and seeking “improvement in the administration of criminal justice.”⁶⁰

Statutorily, SADO is responsible for handling no less than 25% of the statewide appellate caseload, while the remaining cases are assigned to private lawyers on local lists.⁶¹ In 2014, the agency was assigned 887 of the system’s total 3,203 cases while the remaining cases were assigned to private lawyers on local lists.⁶² Operating from two offices in the southeast region of the state, SADO employs twenty-five full-time lawyers, two managers, one training/support manager, one investigator, one social worker, and approximately fifteen support personnel.⁶³

B. Data Collection⁶⁴

This research incorporates a combination of qualitative methods to assess the impact of the introduction of client-centered lawyering on the delivery of appellate services. Data collection began with three focus groups designed to elicit staff perceptions of: (1) best practices and common challenges in appellate representation, (2) the introduction and implementation of client-centered advocacy at the agency, and (3) narratives on professional roles and responsibilities among lawyers. Appellate lawyers and managers were placed in separate focus groups to allow each to explore their own experiences in an informal and comfortable setting. The two lawyer focus groups were composed of seven and six lawyers, respectively, who were randomly selected from the office’s roster of staff lawyers; in total, fifteen randomly identified lawyers were invited and thirteen were able to attend. All four staff members that compose the agency’s managerial team attended the manager focus group. Focus groups were led by the project’s Principal Investigator and, in some cases, an additional researcher. They

⁶⁰ *History and Governance*, MICH. STATE APPELLATE DEF. OFFICE & CRIMINAL DEF. RES. CTR., <http://www.sado.org/Page/3/SADO-History-and-Governance> [<https://perma.cc/N8YG-TDD2>]; *Mission*, MICH. STATE APPELLATE DEF. OFFICE & CRIMINAL DEF. RES. CTR., <http://www.sado.org/Page/1/SADO-Mission-Statement> [<https://perma.cc/LWU5-MKXR>].

⁶¹ MICH. COMP. LAWS § 780.716(c); MICH. COMP. LAWS § 780.712(6).

⁶² Administrative totals received directly from SADO Office Manager during the course of fieldwork.

⁶³ *Id.*

⁶⁴ Note on confidentiality: all research subjects signed consent forms that discussed confidentiality. No research subjects are identified by name in this article. Identifying information for SADO public defenders and appellate judges has been removed. However, public defenders were informed that if they hold less common positions in the agency, such as managerial or social work positions, their perspectives may be more easily identifiable in study findings than that of other employees. Outside readers will not be able to infer the identity of any clients, although SADO employees and appellate judges may recognize the details of cases in which they were previously involved.

consisted of a series of semi-directed, open-ended questions that allowed the public defenders to identify and explore issues that felt most salient to their work as legal advocates. Each of the three focus groups lasted approximately 90 minutes.

In-depth interviews were completed with six defenders and three additional staff members (SADO's social worker, SADO's investigator, and one SADO paralegal) to further explore topics of interest that emerged during focus groups and site observation. Interviews were semi-structured and included questions about staff members' professional scope of responsibility and self-care practices, preparation of appellate cases, and relationships between public defenders and clients. Each interview covered these identified topics; however, the unique direction of each interview was shaped by the staff member's respective role in the agency as well as the specific themes that emerged during the course of each conversation. Two of the nine staff members who were interviewed had also participated in one of the focus groups. Interviews ranged from approximately thirty minutes to two hours. Seven were conducted in person at SADO and two were conducted by phone. All focus groups and interviews were audio recorded on a digital recorder and transcribed verbatim by a member of the research team. Four additional lawyers who worked out of SADO's satellite office participated in the study over email through a series of directed writing prompts that allowed them to elaborate on central themes that had emerged through the course of earlier focus groups and interviews. All full-time SADO managers and lawyers participated in this research via focus group, interview, or written prompts; several participated through multiple forums.

Site observations were also conducted over the course of the study. Site observation is a helpful qualitative method for gathering information about social environments and phenomena.⁶⁵ In an agency setting, it can offer insight into staff interactions, dynamics, and organizational norms that may not be otherwise observable in more formal settings. Site observation in this study was unstructured and included: attendance at staff meetings, managerial meetings, and attorney working sessions; casual lunches and conversation in common spaces; and observation of interactions between public defenders and clients at court proceedings. The researchers conducted approximately twenty-five hours of observation outside of formal focus groups and interviews during the study.

C. Data Analysis

All transcripts, written prompts, and field notes (collectively referred to as "research data") from interviews, focus groups, and site observation, were analyzed using an iterative qualitative content analysis approach as described by

⁶⁵ MICHAEL Q. PATTON, *QUALITATIVE RESEARCH & EVALUATION METHODS* 54 (4th ed. 2015).

Margarete Sandelowski⁶⁶ and Klaus Krippendorff.⁶⁷ Content analysis is an analytic method that allows for the evaluation of written materials through the categorization of similarly themed ideas and patterns.⁶⁸ Data coding involved both inductive and deductive analysis, which allow theory development and empirical evidence to mutually inform one another.⁶⁹ After the completion of the first three focus groups, the research team analyzed the research data by taking notes while reading and identifying emerging themes. Using inductive analysis, the research team observed patterns in the focus groups and then stepped back to draw broader conclusions about the appellate process; in turn, the research team utilized deductive analysis to shape the direction of interview scripts and site observation. Identified themes were informed both by the data as well as prior literature on front-line bureaucrats and legal representation. The research team repeated the same process after approximately 50% of research data had been collected from participant interviews. The researchers continued to observe and extract themes from the data in a process that was dynamic and iterative until all data had been collected and coded. The research team engaged in ongoing discussion of the identification and coding of themes to reduce potential bias in the selection of categories and classification of data.

V. RESULTS

A. *Introducing Client-Centered Lawyering*

SADO's managerial team has recently embraced an enhanced client focus, echoing the national shift within trial-level public defense agencies toward client-centered models of representation. The move from "four corners" to more comprehensive advocacy has always been legally possible, as the unified appeals outlined by the Michigan Code of Law allow for examination of the record as well as development of non-record issues.⁷⁰ While this unique concurrent jurisdiction has been part of the jurisprudence for years, SADO's director Dawn Van Hoek explains that both cultural and resource issues previously stood in the way of robust pursuit of post-conviction litigation. SADO's culture and access to a staff

⁶⁶ Margarete Sandelowski, *Whatever Happened to Qualitative Description?*, 23 RES. NURSING & HEALTH 334 (2000).

⁶⁷ KLAUS KRIPPENDORFF, *CONTENT ANALYSIS: AN INTRODUCTION TO ITS METHODOLOGY* 81 (3d ed. 2013).

⁶⁸ Francesca Moretti et al., *A Standardized Approach to Qualitative Content Analysis of Focus Group Discussions from Different Countries*, 82 PATIENT EDUC. & COUNSELING 420, 421–22 (2011).

⁶⁹ Philipp Mayring, *Qualitative Content Analysis*, 1 FORUM: QUALITATIVE SOC. RES. 1, 1 (2000); Ji Young Cho & Eun-Hee Lee, *Reducing Confusion About Grounded Theory and Qualitative Content Analysis: Similarities and Differences*, 19 QUALITATIVE REP. 1, 4 (2014).

⁷⁰ MICH. COMP. LAWS § 780.716.

investigator made it possible to pursue non-record issues, but it has never been mandated by office policy. In 2011, the arrival of a new director brought about the gradual introduction of client-centered lawyering to the agency. Observation of SADO's resentencing advocacy for clients revealed that outcomes could potentially be improved with help from sentencing mitigation specialists. The new director subsequently implemented a social worker program, in which a staff social worker would investigate a wide variety of mitigating and reentry factors, including job and educational opportunities, family history and support, mental health needs, and more. Over time, staff attorneys became increasingly convinced that clients benefited from this examination of social needs and, in turn, began incorporating client-centered principles into their representation.

Management has encouraged the practice of client-centered lawyering through a variety of avenues. Staff attorneys receive training on post-conviction advocacy and participate in work-groups led by attorneys who have successfully litigated post-conviction matters. Leadership makes a concerted effort to encourage client-centered lawyering through discussions at staff meetings, retreats, and performance reviews. Agency resources such as checklists and manuals have been revised to prioritize client-centered lawyering through discussions of client-led decision-making and non-legal advocacy. Through the creation of a Community Outreach Committee, attorneys lead formal trainings for friends and family of inmates on appellate practices, as well as ways to address problems that arise during incarceration. The same Committee developed online reentry resources, organized geographically, that are available to staff and outside attorneys to help with both resentencing to community release and parole. All services have been confirmed as available, and cover education, food services, housing, transportation, and drug/alcohol treatment, among others. SADO has also developed several publications that address client needs beyond purely legal appellate representation, which are distributed to clients and family members during and after the appellate process.

With the introduction of client-centered lawyering into staff trainings and recently implemented protocol, references to appellate attorneys as advocates rather than legal technicians are frequently heard in conversation in the office among lawyers and non-lawyers alike. The managerial team expresses a great deal of excitement about the office's increased commitment to placing clients at the center of representation. One of the managers explains that in previous years, the office utilized more of a "four corners of the record kind of approach to cases, you know, get the case done, look at the record, are the issues preserved." She contrasts this with SADO's current approach.

Manager: We have, in recent years, broadened that, kind of blew out the walls from that tunnel and are now looking at the clients in a different way. It's a popular, client-centered culture sort of movement that we're all very familiar with now. But it pays off. Looking at the client differently, interacting with them differently.

Researcher: How were they looked at before?

Manager: Sometimes as obstacles to getting work done. You know, people who would slow you down a little bit. . . We respected our clients but we didn't listen to them as well, and I think the representation suffered a little bit as a result. And I feel that now we are really paying more attention to the client.

Management at SADO reports that the introduction of client-centered lawyering has changed attorneys' general approaches to cases, particularly as it relates to the increased discussion of, and advocacy for, non-legal issues. With regards to client-led decision-making, the new approach has largely changed representation in trial appeals. In plea appeals, SADO attorneys have historically listened to and implemented client desires, once the client is informed of the risks. As a result, client-centered lawyering has not resulted in much change in the rate of plea dismissals. In trial appeals, on the other hand, SADO attorneys are making a new and concerted effort to follow the lead of clients. Although the number of pro per briefs filed by clients⁷¹ has remained relatively constant before and after the implementation of client-centered lawyering, the office has seen a post-implementation increase in the number of trial court post-conviction filings.⁷² This increase reflects a shift in which lawyers are giving more weight to clients' opinions and personal expertise regarding non-record issues, and developing them through hearings, ultimately empowering clients to lead their appeals.

Reactions to the agency's emerging model of representation among staff have been mixed. While some defenders, particularly those who are newer to the job, whole-heartedly support the shift, others feel that the shift is really just a "rebranding" of the work in which they have engaged throughout their careers:

It makes people who have been here more than a couple years think that we're being essentially criticized, I think, for what we have been doing. And the suggestion that we're supposed to be doing something different

⁷¹ Once an attorney decides which issues to raise on appeal, the client has the right to file a brief adding his or her own issues. The Minimum Standards for Indigent Criminal Appellate Defense Services, adopted by the Michigan Supreme Court in 2005, authorizes pro per filings within 84 days of when the appellant's brief is filed by his or her attorney. *See* Minimum Standards for Indigent Criminal Appellate Defense Services, Mich. Admin. Ord. 2004-6 (2005), http://www.sado.org/content/commission/documents/maacs_minimum_standards.pdf [<https://perma.cc/WWN9-XN4W>].

⁷² According to SADO administrative records, pro per filings have remained constant while the percentage of major trial court filings increased 10% between 2009 and 2015, the time period during which client-centered lawyering was implemented at SADO. This research does not include causal testing of the relationship between the implementation of the new approach and the increase, but both management and staff attribute the rise to the new office philosophy.

and more than what we have been doing, where we already, many of us, feel like, how many more hours do I have to give to this?

Other defenders express concern that there is a potential for “mission drift” as managers ask them to take on tasks outside of their primary aim of seeking legal relief. Indeed, there is underlying but widespread apprehension among some defenders in the office that managers “want us to be social workers.” Yet, even these lawyers concede that the extent to which the criminal justice system fails to meet the needs of their clients creates confusion about their professional responsibilities. “There are such deficiencies in the system” and, as a result, “we do want to provide things for them that other social programs can’t provide.”

This final quote epitomizes the tension that exists for appellate defenders as they shift to client-centered methods of representation. On one hand, they are steadfast in their commitment to obtaining legal relief for their clients and have found it relatively straightforward to incorporate client-centeredness into the “legal technician” aspect of their representation. On the other hand, as their work shifts from a focus on cases to a focus on clients, defenders are uncertain about their obligation and capacity to provide broader forms of relief. In-depth conversations with lawyers revealed that they navigate this professional ambiguity by establishing complex and nuanced interpretations of client advocacy and the more discretionary aspects of their job responsibilities.

B. Supporting Client Decision-Making

Client-centered lawyering promotes client participation and decision-making while recognizing the limited role of lawyers’ professional expertise. SADO defenders are clear that their pursuit of legal relief must be client-centered, meaning that they place clients’ individualized perspectives and goals at the heart of representation. Lawyers explain that their job is to provide the most effective legal representation for their clients, but when clients and defenders disagree on the best course of action, clients are always in charge. From a legal perspective, defenders feel that this approach is what defines client-centered defense: “It’s their case, not mine. If I’ve done everything I can do to advise them, and they make their own decision, that’s all I can do.” When clients want to pursue a direction that seems ill-advised, lawyers try to explain and re-explain the risk, but ultimately they “follow” the client. As one defender concludes: “You do your best to make sure they know everything they can know about risks and benefits, et cetera, and then be able to let go of what you might think the best thing is.”

Learning to follow clients can be a developmental process for appellate defenders. One junior attorney reflects on this evolution in her thinking:

Being client-centered takes more time and patience. I think sometimes that the attorneys that have been doing it longer get a little jaded. And I think that there are some young attorneys that get so, like, “But that’s not

good for you! You're making a bad decision!" And then they get really frustrated because they know, like a parent, it's like when your kid makes a bad decision. You want your kid to do well, you're looking out for your client, your kid, but in this case, your kid is your client who is an adult. And sometimes they make bad choices but if they are making a choice that's good for them and it's informed, they know all the risks, they know all the benefits, and that's the decision they make? They are the client.

While it can be a challenge, SADO defenders characterize client-centered lawyering as the best course of action: "If it's [the client's] decision and he got there on his own, he's gonna feel much better about it down the road." Defenders report that "there is more of a sense of acceptance and closure" for clients who have chosen the direction of their own appeal. One lawyer describes this dynamic in a recent trial appeal where no legal relief was obtained: "We pursued appeal, we fought, but he was thrilled that I had fought for him. He felt that was a successful appeal. And I felt good at the end because he felt so good."

C. Considering the Non-Legal Aspects of a Case

Another key component of client-centered lawyering is an increased focus on the non-legal aspects of clients and cases. Thinking more holistically about clients provides appellate defenders with the opportunity to consider how non-legal circumstances may influence and limit positive outcomes for clients who are, by definition, vulnerable.⁷³ Appellate defenders are therefore increasingly focused on "meeting clients where they are." For example, under SADO's new client-centered model, defenders are encouraged to work on client-identified goals such as reestablishing contact with loved ones. In one interview, a manager described a recent case in which a client was not able to raise any legal issues but desperately wanted to be able to see her children while in prison. Because the mother did not have their birth certificates, the Department of Corrections would not allow visitation. Her lawyer helped secure the children's birth certificates and facilitate regular visits. Although the client did not obtain any legal relief in the appeal, the lawyer was able to assist in, what the manager called, a "really meaningful way" that brought a distinct but perhaps equally essential form of relief to the client.

Given that appellate defenders have historically viewed themselves as legal technicians whose sole responsibility is to review the legal facts of post-conviction cases, client-centered models are, in the words of one manager, asking lawyers to "open [their] minds to a different approach to lawyering." Like the objectives of other forms of front-line work, however, the objectives of this new client-centered

⁷³ For a general discussion of the vulnerability of clients in front-line work, see WATKINS-HAYES, *supra* note 33, at 31.

approach are amorphous and fuzzy around the edges. Lawyers express confusion about the role of non-legal issues in cases and how to make decisions about which issues to address, if any. The lawyers are clear that they appreciate the goals of client-centered lawyering—“focusing on the client as a person and what is good for the client and what the client wants”—but that these goals are “incredibly vague.”

D. Professional Orientations

In summarizing the shift to client-centered lawyering, appellate defenders at SADO report that they view themselves increasingly broadly as “client advocates” but experience quite a bit of ambiguity as to how they should enact this role. Like other front-line workers, they rely on the principles of their profession for direction—in this case, the four goals of client-centered lawyering, among other professional standards and managerial guidance—but still find that interpreting how to engage with clients as advocates is largely left to individual discretion. Lawyers find that client advocacy frequently occurs in the field (in prisons, courtrooms, and communities) and thus is rarely under the lens of management, further enhancing their exercise of discretion. Subsequently, appellate defenders have developed individualized understandings of how to implement the concept of client advocacy. As a newer lawyer explains, all defenders in the office advocate in a client-centered manner, but “it’s just a matter of how you are client-centered.”

In light of the ambiguous nature of client-centered lawyering and the discretion afforded to defenders, there is great variation in how appellate lawyers translate the ideals of client-centered lawyering to identify, prioritize, and meet client needs. While they unanimously agree on the importance of pursuing legal relief for their clients, the choice of whether and how to engage in additional forms of advocacy differs across staff. Interviews and focus groups reveal that lawyers conceptualize their professional roles as client advocates based on one of the following three priorities: case outcomes, personal values, or available time. Defenders within each group describe strategically setting firm boundaries for themselves and with clients around the help that they are willing and able to provide.

The first group of lawyers focuses almost exclusively on case outcomes, describing their willingness to “do more”—*i.e.*, address non-legal issues—as contingent on how each action will directly or indirectly shape the eventual case outcome. Such activities might include mailing explanatory case law to clients, taking phone calls from family members, or advocating for clients around prison conditions. As one lawyer explains simply: “I draw the distinction around whether it has a substantive legal impact.” For example:

If there’s something I have to do in a case cause it’s going to make our relationship better. . . I’ll do that with a particular client if it helps me to

represent them. Not so much because I feel bad. . . but because it makes my job as their lawyer easier and more effective.

When asked to define their job scope, these lawyers consistently fall back on statements that emphasize legal relief. As one lawyer explains: "It might be beneficial to the client to talk to a psychologist, but we're not sending them to talk to a psychologist for their mental problems; we're sending them to a psychologist to tell the court something that is beneficial to our client through the psychologist." The following quote from a lawyer who carries himself with a self-described "no nonsense" attitude epitomizes this particular professional orientation: "I tell my clients, I say, 'Look, I'm not here to be your friend, I'm not here to be your relative, I'm not here to be your protector, I'm here to be your lawyer. But sometimes being your lawyer means you have to do the other things.'" For this group of lawyers, then, client centeredness is not distinct from the technical aspects of their work; rather, their role as legal technicians is an inherent form of client advocacy.

In contrast to the first group of lawyers, the second and third groups of lawyers have broader definitions of their roles and thus are more willing to engage in activities not directly related to obtaining legal relief. Lawyers falling into the second group rely on personal principles or philosophies to guide them in setting boundaries around the types of tasks in which they will and will not participate. They describe making decisions around their job roles based on their personal values of "what makes sense or doesn't make sense" and "if it feels like my job and not the job of a social worker." These boundaries differ across lawyers and can seem arbitrary on the surface, but they are central in the lawyers' efforts to identify their professional responsibilities and thus shape how they engage in client-centered lawyering. For example, a lawyer in one focus group wants to "make the client feel heard" and will "talk to the family as necessary" but will not "help the client get moved to another [prison] facility." Other lawyers state they help with transfers at times but try to limit the amount of time they spend speaking to family members. Another veteran lawyer mentions that she knows she has to "be a social worker" with her juvenile clients: "I'm out there every month, feeding them cheeseburgers." She goes on to describe an old case in which she had never asked her client how he was doing, focusing instead solely on the details of his legal case. She later found out that he had been the victim of repeated episodes of violence in prison, and as a result, now pays much more attention to clients' state of well-being. Two lawyers who fall into the "case outcomes" category scoff at this, retorting: "I've never given them a nickel" and "I choose not to spend my time being an unpaid social worker to my clients."

Other lawyers in this category differentiate between what they refer to as emotional versus physical needs. Some lawyers feel that meeting clients' emotional needs is a critical component of client-centered lawyering, even though it can be difficult to pay attention to client satisfaction in the midst of deadlines and legal arguments: "I think of that as a function, you know, of giving somebody

hope even though realistically they're not gonna get a benefit from [the appeal]. But it's still, like you say, part of the support system." The example offered above by a SADO manager about the lawyer securing visitation for a client's children falls into this category of meeting emotional needs. In contrast, another lawyer says she only intervenes if a client has safety issues or is not being adequately treated for an illness while in custody. Still, a third lawyer explains that if the issues are severe enough, he will consider contacting a civil lawyer, but otherwise such issues fall outside of the realm of his responsibility, even as a client-centered legal advocate. Although these lawyers struggle to put into words the logic behind their personal definitions of client advocacy, they all reference abstract notions of right and wrong or reasonable and unreasonable in their descriptions.

Finally, a small group of lawyers, primarily junior defenders, identify time as the most important factor in shaping their approach to client centeredness. They explain that they might agree to help clients with needs that are outside of the legal realm but only when it does not detract from their legal work:

Yes, we can respond and pay attention to clients. But ultimately, our mission is to represent them in the legal forum. . . . It's hard not to want to [help with other needs] but there has to be a recognition that we are lawyers and want to advance their legal positions first.

A newer lawyer explains that she is willing to discuss client needs that are not directly pertinent to the appeal but:

There is a line you have to draw, which is where spending time on social-worky things for one person will jeopardize your representation of others. For example, if I have six hours to work on a client's case and I have no issues, then I might help with something social-worky.

Most SADO defenders, however, laugh at the notion of having extra time to help: "I already work nights and weekends, holidays."

VI. DISCUSSION

The shift to client-centered lawyering has been widespread at trial-level public defender offices across the U.S., but has only recently begun to emerge in appellate public defender offices. In this paper, we examined the transition from traditional to client-centered lawyering in one appellate public defense office. Through focus groups, interviews, and site observation of the state-level appellate defender office in Michigan, we found evidence that all of the goals of client-centered lawyering are being either directly or indirectly implemented in the site of study. First, the lawyers are including clients in conversations about the processes and decisions of their cases, as lawyers increasingly recognize that their own legal knowledge is limited in relationship to client outcomes. Albeit to differing

degrees, lawyers are also beginning to recognize that non-legal aspects of the client's case can play an important role in confirming positive case outcomes. In giving primacy to client decision-making and attending to client-identified non-legal outcomes, lawyers are arguably taking more interest in understanding the client's lives and perspectives.

Yet, while we found that most attorneys were practicing some form of client-centered lawyering, there was nuance in individual approaches and orientations. Like other front-line work, the goals of client-centered lawyering at the appellate-level are idyllic but not straightforward. To make sense of this ambiguity, defenders use the discretion afforded to them to create unique interpretations of their roles and responsibilities, which sometimes include focusing on clients' needs and other times include focusing on organizational needs. As a result, client advocacy takes many different forms, as lawyers pursue innovative combinations of legal and non-legal relief based on their professional priorities and orientations.

The traditional goal of appellate representation has not changed: defenders still work hard to identify errors in court proceedings and assess whether trial counsel provided sufficient representation. However, these goals are increasingly paired with attention to clients' objectives for case resolution. For instance, a lawyer and a client may disagree on the best course of action following acceptance of a plea deal, with the client hoping to withdraw his plea and the lawyer recommending against this risky plan. After making certain that the client understands all of the risks and benefits, a client-centered appellate lawyer would follow the client's desire to withdraw the plea. The defenders at the appellate office in Michigan have worked hard to integrate client-centered goals into their appellate practices, arguing that clients will ultimately be most satisfied with outcomes that they themselves have shaped.

The new non-legal forms of advocacy in which appellate defenders in this study currently engage range from helping clients avoid deportation to facilitating prison transfers to improving medical treatment in correctional facilities. For some lawyers, non-legal advocacy is a means to achieving better case outcomes; for instance, a lawyer may foster communication between clients and their family members in order to gain access to relatives and obtain crucial case information. For other lawyers, non-legal advocacy is an end in itself aimed at improving client well-being. With the introduction of client-centered lawyering, appellate representation more closely resembles other forms of front-line work, and like other front-line workers, appellate defenders use their discretion to shape the meaning of client-centered advocacy in their everyday practice.

VII. DEVELOPING AN APPELLATE RESEARCH AND POLICY AGENDA

The data collected and reported on in this paper indicate that client-centered lawyering at the appellate level is possible to achieve; however, it may take longer to implement and look different than client-centered lawyering at the trial-level. This research does not compare trial- and appellate-level reforms in public

defender lawyering, but we suspect that, because the role of traditional appellate lawyering has been so rigidly subscribed as a hands-off practice, the experiences and outcomes of implementing a new model of lawyering at the appellate level looks much different than at the trial-level. And it may be the case that initiating office discussion of client-centered lawyering is a reform in and of itself.

Continued and expanded examination of the appellate process and the work of appellate public defenders is sorely needed. This research offers one step toward better understanding the perceptions of appellate defense as an emerging form of front-line work, and offers critical insight into both the practice of legal representation as well as a broader theoretical understanding of how front-line workers navigate bureaucratic uncertainties and complexities. From an applied perspective, the introduction of client-centered lawyering has reformed the appellate scope of practice in one office in Michigan to include a wider range of client-focused goals that, in turn, can more broadly transform the roles and objectives of appellate defenders. From a theoretical standpoint, the examination of this shift expands prior explorations of how front-line workers conceptualize their responsibilities. In contrast to many other front-line professions documented in the literature, appellate practice is only recently embracing client-centered lawyering as a standard model. As a result, lawyers find themselves navigating new aspirations and challenges. Their experiences during this transformation closely mirror those of long-standing front-line agents, demonstrating the robust relationship between client-based service positions and the development of professional roles and responsibilities among workers.

Yet, a discussion of public defense is not complete without mention of how access to resources shapes models of representation. Like trial-level public defender offices, appellate public defender offices are typically massively underfunded, such that lawyers are forced to provide representation under tight timelines with little access to the experts and evidence that could drastically improve their cases. Future research should more closely examine how variation in available resources impacts whether and how defenders choose to practice client-centered lawyering. Although caseload sizes at SADO are higher than would be ideal, and lawyers struggle to obtain the materials that they need to prepare adequate defenses, anecdotally the agency is relatively well-funded compared to other appellate defender offices. In less-resourced offices, some of the forms of client-centered lawyering practiced at SADO may be considered a luxury rather than an option. To inform policy and funding decisions, future explorations should also evaluate whether the impact of client-centered lawyering differs based on available resources.

Finally, future research should move beyond focusing primarily on the perspective of the appellate worker to consider the defendant's understanding, expectations, and perceptions of appellate defense. As a society, we are generally uninformed as to what appellate work entails and how it unfolds in real cases; however, we would hypothesize that differing models of appellate lawyering influence positive and negative defendant perspectives of their experiences and the

outcomes of their case. Advocates of procedural justice, for example, argue that clients who experience increased involvement in case processing and decision-making at the trial level (for example, the decision to accept or reject a plea offer) are more likely to report greater satisfaction with both the procedures and outcomes of their case.⁷⁴ Moreover, clients who perceive the procedures and outcomes of their case as fair are more likely to trust legal authorities and processes and more likely to obey the law in the future.⁷⁵ While these findings are limited to citizen interactions with police and trial-level courts, they may suggest that the expansion of client-centered lawyering into appellate practice may cause a similar shift for appellate clients, with increased participation leading to increased satisfaction.⁷⁶

This research project has articulated how attorneys in one appellate office navigate the introduction of client-centered principles of lawyering into their practice by re-conceptualizing their roles as client advocates. Using their discretion, the public defenders have developed individualized approaches to client-centered lawyering that address the shifting priorities of their agency while maintaining their personal boundaries and values. As they strive to improve outcomes for indigent individuals, the defenders have transformed their relationships with clients, with the objectives of appellate defense, and with justice.

⁷⁴ E. ALLAN LIND & TOM R. TYLER, *THE SOCIAL PSYCHOLOGY OF PROCEDURAL JUSTICE* 1 (1988); Jonathan D. Casper, Tom Tyler & Bonnie Fisher, *Procedural Justice in Felony Cases*, 22 *LAW & SOC'Y REV.* 483 (1988).

⁷⁵ See Tom R. Tyler, *Procedural Justice, Legitimacy, and the Effective Rule of Law*, 30 *CRIME & JUST.* 283 (2003); TOM R. TYLER, *WHY PEOPLE OBEY THE LAW* (2006); TOM R. TYLER & YUEN J. HUO, *TRUST IN THE LAW: ENCOURAGING PUBLIC COOPERATION WITH THE POLICE AND COURTS* (2002); Christopher Campbell et al., *Unnoticed, Untapped and Underappreciated: Clients' Perceptions of Their Public Defenders*, 33 *BEHAV. SCI. & L.* 751 (2015); Devon Johnson, Edward R. Maguire & Joseph B. Kuhns, *Public Perceptions of the Legitimacy of the Law and Legal Authorities: Evidence from the Caribbean*, 48 *LAW & SOC'Y REV.* 947 (2014); Moore et al., *supra* note 6.

⁷⁶ While beyond the scope of this paper, there is a general consensus that altering attorney-client relations by increasing client participation may have an effect on the interactions that clients have with other bureaucratic agencies. Clients who increasingly feel empowered in their relationships with legal practitioners may, in turn, expect more from interactions with other front-line organizations by way of respect, participation in decision-making, and the opportunity to express themselves. See Dinerstein, *supra* note 20, at 511–23.