

COMPONENTS OF PARTICIPATORY DEFENCE



Ways individual lawyers can incorporate participatory defence principles into their own practices.



Follow up resource from Parnell's CPD, 'Turning the tables: Participatory defence and everything your clients never told you', 5 March 2024.

Participatory defence is described by the Participatory Defense Network as 'a community organizing model for people facing charges, their families, and communities to impact the outcomes of cases and transform the landscape of power in the court system'.

It is the practice of bringing a person facing criminal charges, and their community, into the process and making them part of the defence team so that the lawyer is walking alongside and working with them, rather than lawyering being a service done for/to the person.

It is a person-centred approach that acknowledges the person facing charges is the expert in their own lives. It seeks to give the person agency in the court process, as the person most affected by it.

Below are some suggestions on how individual lawyers can incorporate the components of participatory defence into their practice every day:

COMPONENT

WHAT CAN YOU DO FOR YOUR PERSON FACING CHARGES

1. Community organising



- Decentre the focus on you and the criminal legal system and prioritise the person facing charges
- Discuss what supports the person facing charges has in the community and whether there are any organisations they can be referred to for further support
- Encourage the person facing charges to involve friends and family in their legal process and explain why that is important
- Discuss what information and evidence would be useful and why
- Discuss whether supporters are able to attend court in support and what their role and purpose is

2. Storytelling



- Decentre the focus on you and the criminal legal system and prioritise the person facing charges
- Ask for character reference and other background material about the person facing charges that really demonstrates who they are
- Discuss the rules of evidence and sentencing principles relevant to the person facing charges' character and personal history to develop understanding of the type of material that would be of most benefit
- Gather information to be able to tell a complete story of the person from an early stage in the proceeding (e.g. for bail – consider s 3AAA)

3. Courtroom advocacy



- Decentre the focus on you and the criminal legal system and prioritise the person facing charges
- Present the whole person
- Consider calling evidence from family members and friends as the starting position, rather than simply relying on written references
- Provide the person facing charges and their supporters with a proper understanding of processes and procedures both before and after court
- Refrain from using descriptors such as 'my client' and 'the accused'
- Consider language that can be stigmatising and alienating (e.g. 'offender' and 'drug user/addict')

4. Community healing



- Decentre the focus on you and the criminal legal system and prioritise the person facing charges
- Discuss court outcomes with the person facing charges and their supporters
- Consider whether appeals process have been properly explained and understood
- Discuss post-court supports and services and provide clear information about the role of the lawyer once the formal legal process has concluded