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# PARKDALE COMMUNITY LEGAL SERVICES: COMMUNITY LAW OFFICE, OR LAW OFFICE IN A COMMUNITY?©

BY DOUG EWART\*

Page 8—OBITER DICTA—September 30, 1971

On September 1st, 1971, Osgoode Hall Law School opened a free legal services clinic in the Parkdale area of Toronto. Located on Queen Street, two blocks west of Dufferin, the office is the first in Ontario to utilize the neighbourhood-law-office model to deliver legal services. This model, adopted almost universally in the United States, emphasizes decentralization, specialization, and demystification in the delivery of legal services to poor communities.

The clinical training program of the law school, which operates the office, has two basic functions. First, to provide without charge, first rate legal services (defined in a new and specialized way) to citizens of a designated area. Second, to give second and third year law students exposure to, and training in, the practical side of law. (My choice of priorities). Whether these two goals can co-exist is a question receiving considerable debate at the moment. Hopefully, the ensuing months will provide the answer.

The project is funded by the Health and Welfare Department of the federal government, and by the Council on Legal Education for Professional Responsibility, a division of the Ford Foundation. They have provided funds for the first two years of operation, after which the law school and York University will share financial responsibility. At present the paid staff includes the director, Fred Zemans, formerly of Goodman and Goodman, now a professor at Osgoode Hall, social worker Joan Williams, and secretaries Maggie Melvin and Halina

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Ambrozy. Working on a volunteer basis as student supervisors are Brian Bellmore, of Osler, Hoskins, and Professor Simon Fodden of Osgoode Hall.

Sixteen students are involved in the program this semester, with enrolment expected to rise in the spring. Students in the program receive four course credits for their work, and thus are required to take one additional course at law school during their clinical semester. This has created serious difficulties with office scheduling and the allocation of student time; hopefully the requirement will be dropped before the second year of the program.

Within the office, the students perform, under close supervision, the entire range of legal services for their clients. They are involved in interviewing, case analysis, negotiation, court work and dispensing advice. There are only two basic limitations on the student activities. First, no cases are taken by the office where the client is eligible for a legal aid certificate. If eligibility comes into question, the client is asked to first make an application for legal aid. In some cases, the student will take the client to the legal aid office to help him to present his case. If the certificate is granted, the office will make referrals to competent attorneys if the client so requests. It is hoped that in these cases the student will be allowed to remain on the case, thus increasing the breadth of his experience.

The second limitation is placed on the student by the limited range of courts in which he can appear. At present, students are authorized to appear as agents in the criminal division of provincial court in summary conviction matters, in family court, and in division court [now small claims court]. There appear to be no restrictions against students appearing in front of administrative agencies, such as the Welfare Appeal Board, the Workmen's Compensation Board or the Immigration Appeal Board.

#### TRADITIONAL METHODS UNSUCCESSFUL

Thus, even within the parameters of a traditional approach to law, the student is able to gain a great deal of knowledge and experience. However, as will be discussed later, it is clear that the first goal of this project—to provide legal services to the Parkdale area—cannot be accomplished through traditional means. In the words of Larry Taman and Ian McDougall, it is essential that the office “generate jurisdiction.” Thus students in the office are becoming involved in The Single Parents' Family Association, The Youth Board, The Tenants Committee, The

Atlantic Centre, and other existent Parkdale organizations. The role of the office in Parkdale's organizational development, as advisor or instigator, is currently being debated in the office.

As well, community education into legal rights and responsibilities, unknown to most in the area, is essential if equal access is to be approximated. This can be accomplished by speaking to existing organizations, or by calling special meetings for that purpose. As well, it is hoped that students and staff will become involved in the day to day life of the community. Over time, a sense of trust and accessibility can be built up, enabling the office to engage in preventative law rather than crisis resolution.

All of this, of course, must be tailored to the needs of the community in which the office functions. One of the most difficult choices made by those of us who were involved in the organizing of the project this summer was choosing the physical location of the office. A number of likely areas were surveyed, including Riverdale, South St. James Town, Rexdale, Alexandria Park—Kensington Market, York Borough, and of course, Parkdale. All these communities had a need for this type of program, and expressed a desire that the office locate there. Being unable to utilize need as a criterion, the group fell back on considerations such as language barriers, predominant problems, organizational sophistication, size, and proximity to the law school. After six weeks of extensive investigation, analysis and debate, Parkdale was selected.

Two and one-half months later, the office opened at the corner of Queen Street and Elm Grove Avenue. Occupying nearly 3,000 square feet, the office was designed on an open floor plan. The only completely enclosed space is the director's office. While function defines the remaining space, an attempt was made to make the workings of the office highly visible to prospective clients. While the waiting area provides privacy from Queen Street, it does not isolate clients from other people in the office. Hopefully they will soon feel sufficiently secure that they shun this area for a stroll about the office. Every effort will be made to break the professional-suppliant relationship that so often pervades delivery of services to the poor.

#### UNQUALIFIED ENTHUSIASM FROM ALL

What remains to be seen is the reaction of the Parkdale Community. To date, the office has met with unqualified enthusiasm from residents, businessmen, and organizations. Local solicitors, who in

other cities offered strong resistance, have welcomed the office. The only grumblings of discontent have come from the organizations which represent the property owners and middle class residents of the area. However, even they have not mounted any serious opposition.

In choosing the Parkdale area, full account was taken of its amorphous character. For it is in this regard, in its refusal to submit to definition, that Parkdale is unique. During the flapper era, Parkdale ranked with Rosedale as one of Toronto's most fashionable residential neighbourhoods. The large three-story detached houses south of King Street along the Lakeshore were single family homes, well kept up on wide, tree-shaded streets.

Then the Gardiner Expressway cut a swath across the southern end of Parkdale. Developers began to speculate on the high rise community which could be raised to house Bay Street employees. Many old families moved out. Jameson became three long blocks of wall to wall high rise. Some property owners sold to the developers; others retained their holdings, splitting up the floors, adding kitchens, and renting out rooms and flats. "Tourist" signs blossomed. Transients entered the community. The businessmen along Queen Street, Parkdale's main street, began to suffer because the transients who could barely pay rent could not afford their wares. When the subway was run along Bloor instead of Queen, even the speculators fled.

Today the majority of large homes are rooming houses, with as many as fourteen unrelated persons living in each one. The two movie theatres are empty and gutted. The only businesses which prosper are the three beer parlours and two billiard halls. Home owners who wish to remain face the tempting offers of the developers, who have reinfiltated the area, and see the welfare community rising up around them. The third welfare generation is born. Teenagers lounge in doorways and play the unending game with the police. "Move on," "Where's your I.D.?" The homeowners used to think the transients would eventually leave. Now, even they have nowhere else to go.

Not surprisingly, this community has an extremely low level of organizational development. Even the businessmen's association is dead. The ministers, having lost their middle class congregations, are attempting to organize the community. The CYC placed four volunteers in the area, but still the community is slow to respond. This is important, because without community consciousness, there can be no community control of the law office, a concept that will be discussed later. In Parkdale, it will be difficult to avoid foisting on the poor "a legal system which the middle class has rejected as obsolete, cumbersome, and too expensive in money, psychological strain and investment of time."

Without strong and active community organizations, the office will be forced to police its own community responsiveness.

None of the few organizations that do exist can be considered indigenous. The Atlantic Centre, which provides employment and housing counselling to transient Maritimers, was set up by a Jesuit brother. The Parkdale Community Coalition, which attempts to bring together the Parkdale organizations that do exist, was begun by one local minister and is currently headed by another. The Single Parent Family Association and the Tenants Committee were set up by CYC workers. The Youth Board is headed up by a community cop, and includes representatives from the Addiction Research Foundation, the YMCA and the CYC. The Community Health Clinic is the product of Dr. Monkman of Toronto Western Hospital. Only the Drop In Centre, organized by Parkdale resident Norm Smith, and the two middle class organizations grew up without outside instigation.

## HEROIN TRAFFICKING HEADQUARTERS

One of the reasons behind this lack of organizing to fix common problems is the highly transient nature of the community. While few move out of Parkdale, they are constantly moving from one part to another, in search of a cheaper room, trying to avoid the cockroaches, or endeavouring to get closer to their favourite bar. Additionally, the existence of a diverse mix of immigrants obstructs the organizational process. Added to the once dominant Anglo-Saxon property owners are Ukrainians, Pakistanis, West Indians, Greeks, Germans, Chinese and others.

Wandering the streets of Parkdale, one is immediately struck by the rapidity with which squalor gives way to middle class housing. Every city block has its individual human characteristics. For example, Elm Grove, north of King Street, is run down, but relatively peaceful, south of King it has a high percentage of resident criminals. Spencer and Tyndall see heavy trafficking of drugs, particularly heroin, while immediately to the west are located a number of fine large owner-occupied houses. Employment possibilities are almost non-existent within the Parkdale area. For most working residents, Parkdale is just a dormitory suburb. Those without jobs drink or take drugs to forget their inability to leave. The word for Parkdale is "tired." If the law office can work here, if it can deliver legal services to this divided, diverse community, if it can engender some spirit of cooperation and mutual help, if it can help the community organize itself into a functioning,

vibrant, strong community, then the model will have proven itself beyond question.

## LEGAL AID OBVIOUS FAILURE

For it is because Parkdale is such a fragmented and tired community that it is particularly appropriate that the office be there. It is in this type of community that the failure of the Ontario Legal Aid Plan is most obvious, and the need for the Neighbourhood Law Office concept made clear.

Judicare schemes, of which the Ontario Legal Aid Plan is a good example, cannot begin to meet the needs of the poor. Numerous studies have shown that the poor do not recognize a problem as being legal. To them, the law is the cop at the door or the collection agency in division court. They never realize that the law can work for them, as well as against them. Yet legal aid relies entirely on client-initiation.

Studies have shown that the poor are reticent to approach a lawyer, even after they have recognized the problem as being legal. Yet legal aid exacerbates this by forcing those who apply to travel considerable distances, at inconvenient hours, face the chance that their problem does not fall within an area for which legal aid is granted, submit to a needs test, then, if successful, venture out to find a lawyer on their own.

Legal aid makes no provision for the practice of preventative law. Advice certificates are rarely granted. Legal services are not recognized as a right, but rather as a privilege, to be dispensed at the discretion of those operating the plan. Particularly, certificates will not issue as of right for any summary conviction offence, Juvenile or Family Court matter, Division Court action, or proceeding before an administrative board (Welfare Appeal Board, Immigration Appeal Board, Workmen's Compensation Board, etc.). Yet these are the very matters which effect the poor most often and most disastrously!

Then there are the myriad of deficiencies incorporated in the use of the entire bar to dispense legal services to the poor. The vast majority of lawyers have no knowledge of the law as it affects the poor. Receiving only a few indigents' cases a year, they devote an insufficient amount of time to them to be able to appreciate the basic problems, much less develop an expertise in handling them. They lack sufficient exposure to observe developing patterns of abuse that demand reform. Further, they make no efforts to inform the poor of their rights and encourage their exploitation.

More generally, there are the problems associated with the lack of uniformity of services, the total absence of participation by the poor in the decision-making process, the absence of combined efforts with other social agencies, the deficiency of research and reform efforts, the failure to provide any assistance to organizational efforts, and the failure to dispense preventative law.

#### SOLUTION FOUND IN N.L.O.

While the Neighbourhood Law Office is in no sense the ultimate solution to the problem of equal access to legal services, it can meet all the aforementioned shortcomings of legal aid.

The Neighbourhood Law Office (NLO) by definition is located where it is easily accessible to residents of a poor community. The use of a small number of specialized lawyers to deliver these legal services ensures a certain basic level of expertise in areas of the law that most often affect the poor. The fact that lawyers in the offices are encouraged to become part of the community, to respond to its needs and requests, breaks down many of the psychological barriers that the poor feel between themselves and lawyers.

The NLO lawyer does more than break down the physical and psychological barriers between the poor and the law. He educates community members into their collective rights and helps them organize to enforce these rights. He is available to answer questions in an informal setting. He will provide advice to existing community organizations, and help individuals to form new ones.

The NLO is easily made a part of a social service complex, including social workers, public health nurses, doctors, dentists, welfare workers, youth workers, community cops, housing inspectors, and the like. This is of particular importance to the poor whose problems are often characterized by their multi-faceted nature.

#### PATTERNS OF ABUSE REVEALED

The NLO has the ability to dispense both representative and service functions. The NLO lawyer delivers better case-by-case service because he has an expertise in the legal problems of the poor. However, he is also in a position to observe related patterns of abuse, and to do something about them. Whether the NLO adopts the test case, law

reform, or organizational model, it can see that the law is changed to be less discriminatory against the poor.

Finally, the NLO, is by its nature, amenable to community control. Existing only to serve a given community, it can respond to that community's particular needs and desires, something no broad-based plan could do. If our goal is equal access, then there is no reason why the poor should not exercise the same control over their lawyers that the middle class has always had. The need for community control was perhaps most aptly phrased by the Cahns:

The denial of effective censorial power to the poor regarding the most fundamental conditions of their existence—their needs and aspirations—is a denial of their own worth and a confirmation of their impotency and subservience.

Additionally, community control increases two-way communications, keeps the program from becoming devitalized, and ensures its responsiveness to the community.

It must be remembered that the NLO is not the ultimate solution to the problem of delivering legal services to poor people: Concepts such as group legal services, lay advocates, and neighbourhood court systems must be investigated. Beyond these we have the Wexlerian model of the lawyer as organizer, ending the dependency-creation inherent in all "delivery" models. Law communes, groups of lawyers dedicated to radical social change (which is, of course, the only long range solution to the problem of unequal access), are increasing in numbers in the United States.

Nevertheless, the NLO model provides an excellent base for almost all these operations. The question facing the Parkdale office is, of course, what direction to take? Will the office involve the community in the operation of the program, responding to the community's needs and desires? Or will it submit to pressure from the Law Society and elements within Osgoode itself and simply dispense services in the traditional manner? Will Osgoode operate a community law office, or will Parkdale Community Legal Services simply be another law office in the community?

The importance of the decision cannot be over-emphasized. The office should represent far more than another Osgoode innovation in legal education: it should stand as evidence that the law school has begun to take seriously its obligation to society to utilize its vast resources of time, talent and money to push for the radical social change needed by our country today. Obviously, one community law office on Queen Street West will not effect this change. But if it leads to a re-evaluation of legal aid, and to the re-allocation of the vast sums of

money now devoted to that scheme into projects which are designed to raise the consciousness of the poor, then Osgoode's project will have been an unqualified success.

