

A Law and Social Work Clinical Program for the Elderly and Disabled: Past and Future Challenges

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This Article tells the story of our effort to establish an interdisciplinary law and social work program at Cardozo Bet Tzedek Legal Services (“CBT”), a law clinic at Benjamin N. Cardozo School of Law. The program is predicated on the belief that law and social work collaboration will benefit clients as well as students. The Article is primarily descriptive—telling what we did, why we did it, why we were disappointed with it, and how we changed the program. The Article also attempts to continue a constructive critique, on the assumption that even if something is not broken, it can be made better.

I. A BRIEF HISTORY OF CBT: FOUNDERS OF THE PROGRAM

Since 1985, Cardozo Law School, located in New York City, has sponsored a clinic called “Cardozo Bet Tzedek Legal Services.”³ The program provides free legal services to elderly and disabled clients who are unable to afford private counsel. CBT is one of the larger clinics at the law school, staffed by three full-time lawyers on the clinical faculty. The clinic is in-house, with offices located at the law school in Manhattan.

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3. “Bet Tzedek” means House of Justice in Hebrew. Cardozo is the law school of Yeshiva University, which, although formally a secular institution, was founded under Orthodox Jewish auspices. The former Dean of the law school, Monroe Price, chose name Bet Tzedek to reflect the Jewish tradition of seeking justice, *see Deuteronomy* 16:20 (“Tzedek, Tzedek, Tirdoff”—“Justice, Justice, You Shall Pursue”), and, although there has never been a formal relationship between the programs, to pay homage to Bet Tzedek Legal Services of Los Angeles.

All of the attorneys are former legal aid or legal services employees, who believe the clinical program should instill not merely knowledge and skills, but also a commitment to social justice. Accordingly, the program looks and works like a neighborhood legal services office in many respects. In contrast to clinical or skills-training courses using simulations as the primary teaching material, the students represent real clients on real problems.⁴ Under a student practice order or rules of different administrative agencies, students under faculty supervision may appear in court and at administrative hearings on behalf of clients.⁵

The nature of the cases reflects our client population. Many cases involve government benefit issues, since almost all of our clients either receive or are eligible to receive Social Security or Supplemental Security Income, or both, as well as Medicaid, Medicare, or both. In the social security area, most cases involve disability denials or terminations, although we also have worked on cases involving proof of age or family relationship, and overpayments. In the Medicaid area, most of the cases we handle involve denials of services on grounds of medical necessity—most commonly home-care under New York State’s relatively generous program for personal needs care.⁶ For the last few years we have also added housing cases to our caseload in response to increased demand for this service,⁷ and a change in our view about the pedagogical usefulness of these cases.⁸

4. However, simulations are used with some frequency in the Social Welfare Advocacy Seminar, which is required of students participating in the Bet Tzedek clinic.

5. *See, e.g.*, N.Y. Jud. Law §§ 478, 484 (Mckinney 2002).

6. N.Y. Soc. Serv. Law § 365a.2(e).

7. In the first years of the clinic, we did not have many requests for housing court assistance. Perhaps elderly and disabled clients are more likely to be careful about paying their rent, and perhaps more likely to be “good” tenants, although we know of no studies on this. Even where the elderly had mental or health problems that prevented them from being “good tenants,” there was not much incentive for landlords to evict, as long as rent was paid. However, gentrification of many formerly poor neighborhoods seems to have led to an increase in landlord efforts to evict elderly tenants, many who pay far below market rents because of New York’s rent control and rent stabilization laws. Moreover, more affluent and higher-paying tenants are often less tolerant of other tenants with any kind of behavioral problem.

8. When the clinic was started, we justified a certain aversion to landlord-tenant court on the pedagogic grounds that housing cases (which New York classifies as “summary proceedings”) move too quickly to benefit student learning. As discussed later, we were incorrect with respect to our pedagogic considerations, although our aversion may have been

We started our experiment in adding social work services in the fall of 1999, with a small pilot program that began integrating social work services into the legal services clinic. The effort was expanded in the academic year of 2000-2001, when we hired a social worker to do on-site supervision, and again in 2001-2002, when we made the social work position full-time.

II. THE NEED FOR AN INTERDISCIPLINARY PROGRAM

The possibility for collaborative work between lawyers and social workers has long been recognized.⁹ Although there were earlier discussions about the value of such work, the notion of collaborative work flowered in the 1960s experiments in neighborhood legal services.¹⁰ These programs recognized that poor people tended to have multiple, often interrelated, problems, and that a holistic approach to service was likely to be more successful.¹¹

Toby Golick, one of the authors of this Article, began her career in one of the newly created neighborhood legal services offices. In those early optimistic days she shared in the hopes of many that legal and social services could win, if not the war on poverty, then at least some significant battles with a multi-pronged attack using dedicated professionals working together.¹²

The dream of true interdisciplinary work did not generally materialize. Part of the reason for this may have been the fact that salary scales for social workers were even lower than for lawyers,

justified on other grounds, including the unpleasant nature of the practice.

9. See Stein & Golick, *Public Legal Programs: A Team Approach*, in *A DESIGN FOR SOCIAL WORKER PRACTICE* (Felice Davidson Perlmutter ed., 1974).

10. For a review of some historical materials on the development of the neighborhood legal services concept, see Matthew Diller, *Poverty Lawyering in the Golden Age*, 93 MICH. L. REV. 1401, 1405 (1995) (reviewing MARTHA F. DAVIS, *BRUTAL NEED: LAWYERS AND THE WELFARE RIGHTS MOVEMENT, 1960-1973* (1993)).

11. See Jane Aiken & Stephen Wizner, *Law as Social Work*, 11 WASH. U. J.L. & POL'Y 63 (2003) (describing the ways that social work education, ethics, and practice can be of value to lawyers); see also Brigid Coleman, Note, *Lawyers Who Are Also Social Workers: How to Effectively Combine Two Different Disciplines to Better Serve Clients*, 7 WASH U. J.L. & POL'Y 131 (2001).

12. See Paula Galowitz, *Collaboration Between Lawyers and Social Workers: Re-Examining the Nature and Potential of the Relationship*, 67 FORDHAM L. REV. 2123, 2130-33 (1999) (discussing the social work and legal services relationship in the early days of poverty law).

and few offices could afford, or were willing to use scarce resources to hire, truly professional social workers. Instead, the tendency was to hire people from the neighborhood as social workers in the hope that their familiarity with the community would outweigh their lack of formal social work training. At the same time, all of the offices were swamped with cases. In most cases, the social workers inevitably tended to function as paralegals, representing clients at administrative hearings (where generally there is no requirement that representatives be members of the bar) and assisting in other advocacy endeavors. There is nothing bad about this—many such social workers have done wonderful advocacy work—but it is far from the original conception. We do not mean to suggest that real collaborative programs never happened; there are a number of legal services programs that do manage to provide genuine social work services without having the social work functions swamped by caseload demands for legal and paralegal services.¹³

A legal and social work partnership with social services as the host agency also seems to exist more as an ideal than a widespread model of practice. This is not to say that mutually beneficial collaborations do not exist, but the professions, even if housed at the same agency, often have difficulties in achieving a truly integrated practice. The more successful programs tend to be those that use their legal staff to provide advocacy materials and training.¹⁴ Sometimes the staff lawyers can provide some limited legal representation as well, although it is important that the sponsoring agency understand

13. When the authors looked at successful partnerships, they noted that one feature of them was the presence of at least one certified social worker.

14. For example, the Samuel Sadin Institute on Law, a division of the Brookdale Center on Aging of Hunter College, is an interdisciplinary law and social work program with a primary focus on education and training on legal issues involving the elderly. During most of its history, the Institute had a social worker as director, and for a number of years a lawyer and social worker co-directed. The program, founded in 1977, was a pioneer in recognizing the need for social workers to receive legal training to understand and deal with their clients' problems. Although the initial focus was on social worker education, the training and other materials the Institute developed are invaluable to lawyers as well. Their excellent training programs and materials, and their work in monitoring new legislative and administrative developments, inform advocates who provide direct service to older persons. In general, however, the Institute does not provide direct services to clients, and it does not litigate. For that reason, it was not a model for our project, notwithstanding its success at creating programs and services that both lawyers and social workers use.

how time-consuming and difficult individual cases can be.¹⁵ Some programs, like the “Community Guardian” programs in New York City,¹⁶ do not have lawyers on staff but contract out their legal work to private attorneys or legal service organizations. This model avoids the problem of the social service agency expecting a staff lawyer to manage an impossible number of cases, and allows the hiring of lawyers who specialize in the particular problem.¹⁷ Moreover, the very nature of guardianship lends itself to interdisciplinary collaboration because the problems presented almost always involve both social and legal issues.¹⁸ Janet Lessem, the co-author of this Article and a social worker, worked for over ten years directing a Community Guardian program. As a court-appointed decision maker for many incapacitated persons, she frequently retained lawyers for numerous matters, including almost all of the legal issues seen at CBT.¹⁹

15. Selfhelp Community Services, a multi-service program in New York City, recently hired a lawyer and paralegal to provide services to its hundreds of clients. The availability of internet research and other technological developments now make it more realistic for lawyers to function without law libraries or without colleagues in the next office. Still, it is understood that the lawyer, in what is essentially a solo practice, cannot realistically provide direct legal services to more than a handful of clients, if that. Rather, the lawyer functions more as an in-house expert to advise the social work staff about their clients’ legal problems, to make referrals to legal services, and to advocate with respect to recurrent and widespread issues, rather than individual cases.

16. In certain cases under Article 81 of New York’s Mental Hygiene Law, N.Y. Mental Hyg. § 81.19(a)(2) (Mckinney, 2002), the court appoints one of several not-for-profit agencies to act as the “Community Guardian.” Virtually all clients subject to guardianship proceedings have legal problems with housing, benefits, and any number of other issues. In New York City, all three of the not-for-profit agencies with Community Guardian programs contract out all of their legal work.

17. The use of private attorneys continues even though it would possibly be more cost-efficient to have in-house counsel. On the other hand, the agencies have worked out some volume discounts for certain routine, guardianship-related matters, and, as noted, they are able to seek specialists in other matters (i.e. attorneys familiar with housing matters or Medicaid planning). Though it is possible that the use of outside attorneys has developed circumstantially without any particular rationale, it might be indicative of a reluctance of social service agencies to hire lawyers for their clients.

18. Although fiduciary appointments, including guardianship, have traditionally been the territory of lawyers, lawyers are not necessarily best suited to deal with the problems of at-risk clients, especially those residing in the community. The immediate and emergency problems that arise in these situations tend to be practical (a home attendant who fails to show up, for example) rather than legal—the kind of problems that social workers can often handle more nimbly than lawyers.

19. Lawyers were absolutely essential, not only for clients’ legal matters and the

As we saw it, the main problem in the social service agencies that added lawyers was that the agencies did not sufficiently understand how lawyers work. Many agencies assumed that if they only had a lawyer on site for their clients, the lawyer could handle most of the legal problems of all the clients. Agencies had insufficient appreciation that lawyers need research and support resources, or that individual cases can be very time-consuming. The problems of being a solo practitioner were also seldom appreciated. As a result, successful joint programs, like Brookdale and Selfhelp, do not even try to have lawyers doing direct representation of clients. We thought that the legal services offices that added social workers to their staff provided a better model, but still tended to provide social and legal services separately.

III. OUR EFFORTS TO ADD AN INTERDISCIPLINARY COMPONENT

When the attorneys at Bet Tzedek resolved to add a social work component to the program, we believed they could avoid some of the problems that had prevented other programs from fulfilling their potential. The clinical faculty was aware that lawyers and law students are not always equipped to seek out appropriate social services for those clients who need more than legal help.²⁰ We were also aware that some clients had social and personality issues that interfered with their ability to avail themselves fully of the legal services we offered. The clinical faculty thought we knew enough about what legal services entailed to avoid the issues that had caused problems for the social services agencies, particularly the naive

guardianship issues, but also as educators for the community guardian program directed by the co-author. Not surprisingly, the private practice lawyers most frequently retained had the ability to communicate with social workers. In some cases, they were former social workers; in others, the attorneys had a long history of collaboration with social workers or were former city lawyers accustomed to guardianship matters. Lawyers without any of those qualifications were sometimes used if they had special skills such as landlord-tenant experience.

20. Galowitz writes, "What drove me to write this Article is the notion that, if a paper of this sort had been available to the students . . . [who had worked on the example of a difficult case used in the opening section], we might have had a clearer idea of when to seek mental health assistance. It might have also helped us deal with our distress over our inability to provide the client with what he needed." Galowitz, *supra* note 12, at 2125.

about what lawyers could accomplish and what lawyers needed to do their jobs.²¹

A. Year One: An Experiment

Initially unable to secure any funding to hire a social worker, we did an experiment that we could probably never exactly replicate because it depended on a number of lucky coincidences. A faculty member teaching at Wurzweiler School of Social Work, also part of Yeshiva University, agreed to supervise a social work intern who would work in the clinic. While this would not provide on-site social work supervision, it was a start.²²

Other than cases where we had a vague idea that the client might need more than legal work, we did not have a particularly clear idea of what cases our social work intern should work on. Nevertheless, we were happy with the results. For example, we assigned the social work student to work on an apparently routine social security disability case after discovering that the client was using drugs. The drug use jeopardized the client's case because disability based on substance abuse may not justify an award of benefits and, even more importantly, it jeopardized the client's health and life. The social work student was able to take the time to form an ongoing relationship with the client and to learn of other problems the client had hidden (including that she was in a physically abusive romantic relationship). The student helped the client locate and use substance abuse and family violence programs in the community. The story had a happy ending: a client who got appropriate treatment, as well as a disability benefit award, including a retroactive award that she wisely used to relocate to a safer community. Possibly a law student could have accomplished all of this without a social worker's help; there is even a small chance the client could have somehow, without any

21. Of course it did not occur to us that we were just as ill-informed about what social workers could realistically do.

22. First, Vicki Lens, a certified social worker and doctoral candidate teaching at Wurzweiler, was formerly a legal aid attorney with many years experience in providing civil legal services in New York City. Second, Professor Lens was interested in the possibility of a collaboration and agreed to supervise a social work intern. Third, the social work student selected for the program turned out to be a young woman of extraordinary energy and ability.

assistance, managed to get her act together sufficiently. However, it was clear that the set of skills brought by the social work student to the job made the successful outcome more likely.

As another example, the social work intern worked with a learning disabled client for whom the clinic had won a supplemental security income benefits case. The social work student helped the client establish a bank account so she could write checks rather than use costly check cashing services. This was not a simple matter because the client was frightened of banks and needed instruction on how to use a bank account. The social worker worked with the client on other money management skills as well, so that the increased financial benefits would, in fact, help in improving the client's life.

Over the course of the year, the clinical faculty's enthusiasm for expanding the program increased. We were convinced that we had significantly improved the quality of the representation we provided to clients. We congratulated ourselves on how seamlessly we integrated the social work student into our program, and that we had enriched all of the students' education by exposing them to different norms and techniques for reaching shared goals.²³ We began to work hard to find a source of funds to expand the program, and we ultimately were successful when the Tuttle Fund,²⁴ a philanthropic foundation, agreed to provide two years of funding.

23. Judge Jack B. Weinstein of the United States District Court for the Eastern District of New York described the frequent need for social work students in the cases that come before the court. Jack B. Weinstein, *Legal Ethics: When Is a Social Worker as well as a Lawyer Needed*, 2 J. INST. STUDY LEGAL ETHICS 391 (1999). Judge Weinstein described the differences in approaches taken by lawyers and social workers as follows:

The social worker tends to expand an inquiry when a social problem is presented to get to the root causes, to solve related difficulties of the whole person, and to stay with the case with continuing help. The lawyer tends to narrow the question, to address and solve the present issue, and then to close the case . . . This fundamental difference between the two professions may be summed up as "tell me more" versus "get to the point."

Id. at 391.

24. The Isaac H. Tuttle Fund provides direct financial support to individuals and not-for-profit organizations serving the elderly in Manhattan, New York.

B. Year Two: An “Expanded” Program Proves Disappointing

We used our new funding to hire an experienced, certified social worker on a part-time basis. The Wurzweiler School of Social Work also assigned four social work students. We began the program with high hopes.

While there were certainly some notable successes, the year was disappointing in terms of the interdisciplinary collaboration. From the start, the social work students seemed dissatisfied with their assignments. They had difficulty understanding why they had been assigned to a law office. They complained that the law students were arrogant. For their part, the law students sometimes complained that the social work students were useless and often ignored them.²⁵ While the faculty all believed that the social work services being provided were in fact valuable, we rarely saw any sense of teamwork or understanding of the different, but complementary, roles of the legal and social work professions.

A great beauty of the clinical method is that there are no truly bad experiences; everything is a learning opportunity! Our year was by no means a “bad” experience, but it certainly was a disappointing one. Reflecting on what happened, we identified a number of factors that may have caused or added to the problems we had.

1. The Fact that the Social Work Supervision Was Part Time

We have always known that the fact that the law students are part time (our students work twenty hours weekly) creates case handling problems. Cases and clients sometimes require attention at times when the students on the case are unavailable. But the law faculty,

25. Most of the literature discussing the conflicts between legal and social work professionals address the ethical conflicts. See Lisa A. Stanger, *Conflicts Between Attorneys and Social Workers Representing Children in Delinquency Proceedings*, 65 *FORDHAM L. REV.* 1123 (1996) (addressing the dilemmas faced by the interdisciplinary team in regard to a “pure advocate” model required of attorneys under MODEL CODE OF PROF’L RESPONSIBILITY, EC 7-1 (1981) and a “best interest” model as developed by the CODE OF ETHICS R.1.01 (Nat’l Ass’n of Social Workers), which forms the non-binding professional code commonly used by professional social workers). In our experience, perhaps reflecting our client population, there were almost no ethical conflicts between the lawyers and social workers. The conflicts tended to be about role and status.

the counsel of record on the cases, are full-time and they follow every case closely. The clients have always met with the supervising attorney, even if they primarily deal with the student. Accordingly, when matters come up when the law student is unavailable, the supervising attorney can take care of anything needing urgent attention.

The part-time social worker handled things differently. Her time was spent on supervisory meetings with the social work students, and she was not directly involved with any of the clients. While this model may be justifiable,²⁶ the fact that we had one model of supervision/participation for the lawyers and law students and a different model for the social workers was probably one of the factors that made it hard to instill a sense that we were a team. Additionally, the law faculty were not happy about undertaking a substantial piece of the supervision of the social work students, nor were they especially well-qualified to do so.

Scheduling problems also arose from the part-time nature of the social work supervisor. Because all the students work part-time, we always have some scheduling problems, particularly when more than one student is involved. But having the social work supervisor also unavailable for part of every week added to these difficulties and to the disappointing year.

2. The Fact that the Supervisor's Interests were Primarily Clinical

The social work supervisor was primarily interested in doing clinical work with individual clients, as were all of the social work students assigned during that year. The most valuable work that was done, therefore, consisted of one-on-one meetings, often on a weekly basis, with a number of the clinic's clients. While this work was

26. Indeed there are law school clinics where there is little faculty involvement in the cases (for example, in some clinics, students are placed in legal services programs outside of the school, and the faculty does not provide direct supervision). Social work placements in which the supervisor has had little or no client involvement are not altogether uncommon. At some of the New York legal services programs that have social work students, there is only an off-site social work supervisor who does not have direct involvement in the cases. In fact, this was the model in our program in its first experimental year, in which the program was successful despite no actual case involvement of the social work field instructor.

useful (and has continued as part of what we do), it tended to proceed on a different track than the legal representation being provided. The social work students did their thing; the law students did their thing.

It was hard to get the students to move beyond the roles they had decided were what “lawyers” do and what “social workers” do. For example, in a case where a client faced eviction because of a long-history of financial mismanagement and who urgently needed to obtain funds to keep her apartment, the social work student assigned to the case resisted making applications to the department of social services and other sources for emergency funds because she saw that kind of advocacy work as the law student’s job. But faced with the emergency, the lawyers wanted to know about community resources and alternatives, not the social work student’s diagnosis of the client’s psychological problems that had led to the emergency.

3. The Difference in the Selection Process for Social Work Students

Traditionally, social work students are assigned to placements by the social work school without regard to the student’s background or interest in the particular population served by the agency. The view is that students will learn as long as they have an opportunity to work with a variety of clients on a range of matters. Engagement, contracting, and assessment skills can, in theory, be taught in almost any setting that provides assistance to clients who are experiencing life problems.

In contrast to the selection process for social workers, the law students all applied for this particular clinic, choosing it from a number of alternative clinics and internships available at the law school. They were selected by the clinical faculty from a large pool of applicants, and so within the culture of the law school they saw themselves as an elite, selected group. Many of the law students had articulated a wish to work with poor people or the elderly—not the case with the particular group of social work students we had.

We asked whether the differences in the selection process could account for the fact that the law students seemed more motivated in year two than the social work students. Our answer was “maybe.” The fact that none of the social work students had indicated any

particular interest in working with the elderly or the disabled should not necessarily have adversely affected their ability to successfully function in this interdisciplinary setting. Almost by definition, the social work students have embarked on careers for which helping others is a central goal. On the other hand, the majority of the law students have career plans where the “help” that they provide will only be in advancing their client’s financial interests and do not involve working with poor people.

In retrospect, we think a more important factor was the smaller number of social work students. In the past, law students who resist supervision or who dislike being in the clinic have always been a distinct minority; peer pressure usually improves the situation. In year two, we had only four social work students (and then three after one student left), and they bonded with each other, not the law students. As a result, they seemed less affected by peer pressure from the law students to join in team efforts.

4. The Number of Cases Handled

Most social work students not fully engaged with a sufficient number of clients and with work that does not seem meaningful are disgruntled and unhappy with their learning experience.²⁷ During the first year there were a number of problems getting a sufficient number of clients for the social workers to feel that the placement was valuable for them. While the clinic’s caseload is on the high side for law school clinics, the total number of cases and clients is small. Compared with social work clinics, law students are generally paired

27. While this may not be documented in the social work education literature, it is a frequently heard complaint about placements. First-year social work students seem particularly inclined to compare placements early in the school year. A placement with a great deal of client contact is initially seen as a more valuable learning experience. Obviously, there exists a point of diminishing return as the student overloaded with clients realizes the equal importance of time set aside for supervision (both individual and peer group), process recording, research, reflection, and other important activities. For example, in the *Master of Social Work Field Learning Manual* the requirement for student assignments is: “[S]tudents should have a range of assignments reflecting professional social work practice with different systems for approximately fifty percent of their time.” SHIRLEY M. EHRENKRANZ SCH. SOC. WORK, N.Y. UNIV., MASTER OF SOCIAL WORK FIELD WORK MANUAL 13 (2003), available at <http://www.nyu.edu/socialwork/field%20work%20manual/fwmanual.final.pdf>. This can be interpreted to mean ten and one-half hours per week of direct client contact.

on cases, and each pair handles three or four cases at a time, so the clinic's active caseload hovers at about fifty to sixty active cases at any one time. Because clients were referred for social work services only by the clinic lawyers, there was not a steady stream of clients for the social work students to work with. Moreover, as the lawyers encountered frustrations in dealing with the social work students (by perceiving that they were not doing much of anything on the cases they had), the lawyers tended not to ask for social work help in additional cases.

At one point, the school of social work considered pulling students out of the placement. However, the school was dissuaded from this radical action because the social work supervisor was highly skilled and could help the social work students glean a great deal from the limited caseload. The students continued, but an undercurrent of dissatisfaction with the placement continued.

5. The Nature of the Caseload

Fund-raising brochures periodically produced for the clinic show kindly, wrinkled old people smiling at earnest law students in their neat interviewing suits. While we have many such clients, we also have clients who are angry, demented, who have overwhelming problems, or all of the above. The nature of a live-client clinic, even with some effort to select cases that are "appropriate" for students²⁸ inevitably results in some number of clients who are exceedingly difficult to serve.

It may be easier for law students to deal with difficult clients. They get to identify discrete legal problems, draft legal papers and briefs, request and attend hearings, and otherwise do legal work. But social work students—particularly those who have decided to do clinical work with the client—are more dependent on the client's cooperation. In addition, they work on the social and personal problems which are often far messier and more complex than the

28. Cases are selected by the faculty from among the many individuals who telephone or visit the clinic for assistance. We consider whether the case will present a good learning opportunity for the student—which includes consideration of what needs to be done, when it will need to be done, and how difficult the case will be.

client's legal problems. Certainly some of the problems we had during this first year may have resulted from the challenging personalities of many of our clients and our failure to provide sufficient assistance to the students in coping with such clients.

6. In Summary: 20/20 Hindsight?

The relative contribution of each of the factors to year two's disappointing outcome will probably never be clear. To the credit of all involved with the project, efforts were made to re-tool the program rather than just to plug along for the final year of funding. We thought that, notwithstanding the frustrations, the students had accomplished some useful work, and that we could improve things.

Work to improve the design began immediately. The students were asked to provide recommendations to improve the collaborative effort.²⁹ They suggested better orientation to the clinic, more efforts to foster communication among the interns, and additional educational opportunities. Decisions about the orientation and scope of the social work supervision were made.³⁰ Most importantly, we made a significant increase in resources to the program that increased the social work supervisor position from 3/5 time to full-time.

On reflection, the clinical orientation of the social work supervisor would not have made so much difference if she had worked with us full-time, or even for more than one year. There probably would have been more opportunity for us to learn from each other. The lawyers, by virtue of their background and politics, probably overly minimized the psychological component in the client's problems; the social workers may have missed the point that the client's urgent needs had to be addressed first. Nonetheless, when we decided to change the position to full-time, we also specifically searched for a social work supervisor whose interest was more community oriented, and who

29. Michelle P. Maidenberg & Toby Golick, *Developing or Enhancing Interdisciplinary Programs: A Model for Teaching Collaboration*, INT'L J. CONTINUING SOC. WORK EDUC. 15-24 (2001).

30. We decided we needed a supervisor who concentrated less on the psychotherapeutic aspects of social work practice and more on the needs of the client for advocacy and services in the community.

had some knowledge about the government benefit programs that affect our clients.

C. Year Three: Changes, New Challenges and Increased Satisfaction

With great optimism, a new beginning was made starting September 1, 2001. Wurzweiler School of Social Work, albeit somewhat reluctantly, assigned three first-year graduate social work students to our clinic. Two were Canadians, a year or so out of college, with some social work experience; the other was a career-change student. They began field work on Monday, September 10, 2001 and eagerly arrived for their second day on the morning of September 11th. Perhaps the events of that day helped bond the students to each other and to social work. Fortunately, it did not prevent them from continuing (though the Canadian parents may have had other thoughts). Some of the changes we made are described below.

1. Adjustments in Caseload

Since one of the major issues in year two was caseload, extra effort was given to developing the caseload. As always in the fall, a number of new cases are accepted for the law student interns, and this time we tried to assign social work interns at the start of the case. In addition, a few clients from prior years either continued with social work services from the previous years or called regarding problems that were more social than legal. Some of these cases would not have been accepted in the past. By the end of September, 2001, each social work intern had about five clients, which seemed to be a good size for these beginning students. Clients were added during the year; some received limited assistance and others discontinued service. The caseload of each social work intern averaged between six and eight clients by the end of the academic year. For the most part, it was sufficient, though one excellent social work student, through no apparent fault of her own, had difficulty in developing a full caseload.³¹

31. We occasionally have this problem with the law students as well, and it perhaps is

Many of the cases developed into excellent collaborative endeavors in which the legal and social work interns formed an effective partnership. For example, Ms. G. was referred by a social service agency for legal representation involving an eviction proceeding due to hoarding behavior. The legal intern worked to successfully negotiate a settlement of the court proceeding, which required the client to remove clutter from her apartment. The social work intern was able to work with the client in a supportive way to keep her on track during the long process of removing books, clothes, and junk (to which the client was attached) from the apartment, as well as to help the client deal with any number of practical problems in connection with the process. The fact that social work assistance was being provided made the legal case easier to resolve. Similarly, the fact that the client was facing severe legal sanctions (an eviction) made the client more willing to accept the social work help.

In another case, Ms. H. was unable to leave a nursing home to return to her home in the community because of Medicaid's refusal to approve sufficient home care. The law and social work students worked as a team to develop the facts necessary to prevail in the administrative proceedings. The fact development required getting information from the nursing home's social worker and medical and nursing staff. It was also necessary to persuade the nursing home to support the home-care plan, or at least to be neutral. Working together on the process, the students put together a case that resulted in home care being approved on a new application before the decision in the formal administrative hearing was even issued. And once the client returned home, the social work student worked with the client's family on many issues to get the client adjusted to living at home, rather than in an institution, and in finding services such as adult day care.

unavoidable in a clinical program with real clients, where what will be required is often unpredictable at the outset of services. And of course clients die, get too sick to proceed with their cases, move, or change their minds about accepting services. Like airlines, we try to predict, based on our experience, how many cases to accept, but sometimes we guess wrong.

2. Better Use of Computerized Case Management

In year two, the clinic had started using a computerized case management system³² that permits, among other things, the students and faculty to record all transactions and events relating to each case on our networked computer system. Since case partners are not often here at the same time, the computerized case management system facilitates communication about what is going on and what they have done. Because the system was new in year two, the faculty was no more skilled than the students in using it, and the use of the system varied. The social work students from year two all felt that it was difficult to use, and they tended not to use it.

Year three social work interns received training, along with the legal interns, in the use of the system, and, more importantly, the faculty now understood the system and insisted on its use. The social work students became as diligent as the legal interns in making entries to record all client contacts, and they used the system to inform themselves and to communicate with the entire team of interns and supervisors. This dramatically improved some of the communication problems that had occurred in year two.

3. Simpler “Assessment Forms” for the Social Work Students

Assessment is an essential part of social work education. There probably is no real parallel in legal education, though the legal interns often keep detailed notes for tracking and control purposes. In year two, a rather detailed package of forms were used, consisting of a client face sheet, a pre-admission screening, a functional assessment, a treatment plan, a treatment plan review, and a discharge summary. While these forms, when skillfully completed, might provide a wealth of information, completion seemed to be beyond the scope of first-year students in an interdisciplinary setting.

In order to assist the social work student in gathering useful and appropriate information, a much simpler package was developed in year three. The package consisted of forms on social history, physical assessment, emotional health, functional capacity/self care, cognitive

32. The clinic uses Amicus Attorney software for its case management.

status, services in place, observation of client during the interview, and a brief case plan. Social work interns were asked to complete these forms within a month of seeing clients, to update them as new information became available, to review them with the supervisor, and to place a hard copy in the clinic's client folder and a computerized version in the client's confidential computer file. We cannot fully assess the benefit of collecting this information in every case, but in many kinds of cases the information is potentially critical to providing the best possible services to our clients.

4. Other Factors

An element that is difficult to define but nonetheless important is the personalities and "fit" of the social work interns in this interdisciplinary setting. The students in year three were eager to learn and willing to help. They all grasped the potential of social work to improve the lives of their clients. They worked comfortably along side the legal interns—sometimes serving as sounding boards for the pressured law students. We wonder whether this success was merely the luck of the draw, or whether it was the result of changes in the operation of the interdisciplinary program. Most likely, it was some of both.

Finally, it is hard to assess the impact of September 11th. While it certainly disrupted our lives and distracted us from our work at hand, it also served as a bonding experience that brought together our students and staff.

D. Year Four: Continuing to Address the Challenges and Refine the Model

The success of year three increased our confidence. Had we managed to breath new life into a faltering program? In our fourth year, we continued to refine our model, sometimes by design and sometimes by necessity.

1. Using Social Work Students from Different Schools

For reasons of internal university politics, primarily involving on-going efforts to encourage more collaboration among the graduate

schools of our university, as well as for administrative convenience, we had only used social work students from our university's social work school. In September 2002, three eager social work students arrived, joining the law students who had begun in late August. We felt the clinic was off to a wonderful start. Though the social work interns were young, they appeared to be poised, ready to learn, and reasonably well-prepared. We had arranged for a nice mix of cases and, because we had resolved to put a social worker on every new case, anticipated adding more cases as new intakes came in.

The bubble soon burst when one of the three social work students announced that, for reasons unrelated to her placement, she was dropping out of social work school. Though glad the decision was made early in the semester, it was extremely frustrating to reduce social work services by one-third. The social work school was contacted immediately for a replacement, but we did not learn for several more weeks that there were no prospects of getting another student. We contacted other graduate social work institutions. New York University's school of social work finally assigned a first-year student whose prior placement had not been working out. This student began working with the clinic in mid-October. The late start did not make things impossible, but it certainly created problems at the beginning.

Subsequently, Columbia University School of Social Work contacted us about taking a student who would start in January and work until August. We agreed to try this, although we had some concerns about adding a student in the second semester of a full-year program. As always in the fall, a number of new cases are accepted for the law student interns, and this time we tried to assign social work interns at the start of each case. However, we knew we would be accepting many new cases at the start of the spring semester. In addition, since the clinic runs all year, we liked the idea of continuing to offer social work services in the summer.

These additional students meant that we now had four first-year graduate students from three different graduate schools of social work. The experience of having students from different schools of social work was interesting for us and for them, as they brought different insights to the clinic from their different schools. We were certainly glad to have four rather than three students. Apart from

making it easier to handle the social work caseload, four social work students are simply a stronger and more visible presence among the twenty-four legal interns. As described later, however, there were additional scheduling and administrative problems resulting from the students' different schools.

2. Continuing to Modify the Contents of Our Seminar

From the inception of the clinic, the law students were required to attend a weekly two (or sometimes three) hour seminar called "Social Welfare Advocacy." The course was based loosely on the Bellow "Lawyering Process" book³³ and course. While it has evolved over the years, and changes somewhat every year, the seminar was completely designed for the law students. Evaluating the success of the seminar for the law students is beyond the scope of this Article, but at a minimum the seminar does serve as a way for all the law students to engage in a common enterprise and to share a common experience, even as their work on individual cases will vary.

In years one and two, the scheduling of the seminar prevented the social work students from attending because it conflicted with a required course. We thought we could improve the program by including the social work students in the seminar. Accordingly, in year three we rescheduled the seminar so the social work students could attend.

We continued to work on the seminar in year four. We did not—perhaps we still do not—have a good idea of how to make the seminar an attractive use of time for the social work students. In year three, some classes worked better than others; certainly, the law students would agree. Similarly, some social work students enjoyed and valued the seminar more than others; again, the same is true of the law students. It is clear that some classes—client interviewing and counseling classes, for example—were naturally a good fit for both groups of students. Other classes—discovery planning, for example—were of less interest to the social work students, and we did not require them to go, although some chose to do so.

33. BELLOW & MOULTON, *THE LAWYERING PROCESS: MATERIALS FOR CLINICAL INSTRUCTION IN ADVOCACY* (1978).

We do a number of simulations in our seminar, and we have experimented with using the social work students in these (sometimes playing social workers, sometimes playing clients or other witnesses). While we use the law students in the same way (playing both lawyer and non-lawyer roles), it is not clear whether the social work students significantly benefit from playing non-social worker roles.

3. Better Understanding of the Role the Social Students Could Play

As time went on, and primarily through trial-and-error, we learned more about how to use social work students effectively. First, we learned how helpful social work students can be during the initial client interview. When we directed the law and social work students to both meet with the client during the first interview, our primary goal was to foster a sense of teamwork among the students. In fact, it turned out that the social work students, by inclination and training, tended to be better at understanding client concerns and problems; problems that were not initially identified as legal by the client, but where legal intervention could, in fact, be helpful. Apart from improving representation to the clients, both the law and the social work students tended to learn from each others' approaches to interviewing.³⁴

Second, we learned more about the difficulties of using social work students to find community resources. One of the announced goals of our joint program was to use the social work students to find such resources for our clients and make appropriate referrals. However, it emerged that the clinic's lawyers may have had the same kind of inflated expectations about what social workers could do that social workers sometimes have about lawyers. The reality is that

34. In our view, the value of the joint interview outweighs the potential problems that could result from forcing a client to confront a team of up to three students (two law students and one social work student is a typical pattern). We have had almost no client complaints about this process. In contrast, when the law students and social work students met with clients separately, the clients sometimes complained about being asked about matters they had already explained. Nor have we detected any increase in the reluctance of clients to provide information. The situation could be different, however, in cases, rare in our practice, that involve highly personal and sensitive matters (for example, sex abuse cases).

services are very limited and often unavailable. Further, clients sometimes refuse to participate in, or take advantage of, community programs, notwithstanding their need for them. The social work students have proved resourceful and energetic at the task of finding other resources. But it is important to be realistic about the difficulties of finding services, and of convincing individuals, especially those with mental illness and a long history of isolation, to participate.

Third, we learned that the social work students could play a significant role in relieving client anxiety. Lawyers, and even law students, quickly become desensitized to the violence of our adversary process; they easily overlook how traumatic involvement in litigation can be for clients. Similarly, lawyers and law students sometimes assume that steps in a case that are easy and routine will seem easy and routine to clients.³⁵ Social workers, precisely because they are not lawyers, are often better able to translate and demystify the proceeding in which the client is involved. We have found the social work students to be especially useful in court when they attend with the clients. The law students tend to be preoccupied with the case, and the presence of the social work student, often sitting with the client, can be very reassuring to the client. Social work students also have been helpful with clients who have difficulty remembering instructions. In one recent case, we represented a client whose landlord wanted to evict her based on a claim that she bothered her adjacent neighbor by making excessive noise. While our client had a good case, her hatred of the neighbor was so intense that she would go off in tirades at the neighbor's behavior. We were concerned that such an outburst at trial would damage her case. We had repeatedly instructed the client to stick to the facts of the case against her, and to be quiet in court except when it was her turn to testify. Despite this, it was only the presence of the social worker at the trial that prevented our client from leaping up to argue during the neighbor's testimony.

35. One of the authors, Toby Golick, recalls a case in which a client in an eviction action was told by a student that his case was adjourned. He was bewildered and frightened, even after the concept of "adjournment" was explained because he did not understand that he could not be evicted before the adjourned court date—a proposition so obvious to the student that she failed to explain it.

Fourth, we learned that the social work students could play a critically important role after the legal case was completed: providing a variety of follow-up services to the client. These services vary depending on the case. For a number of clients who have received benefits or money as a result of their legal case, the social workers have done things like help clients set up bank accounts and otherwise manage their money. For clients who have had behavioral problems which were a factor in their legal cases (for example, clients who faced eviction because their apartments were filled with garbage) the social workers have provided follow-up services to prevent the client from resuming behavior that is dysfunctional. In other cases where clients were able to return home from institutional settings like nursing homes as a result of their court cases, the social work students have been able to provide ongoing advice and assistance to help solve problems that could have derailed the entire home-care plan.

We also learned, as we expected, that law students and social work students could do many of the same things, sometimes in barely distinguishable ways. Lawyers can do social work things; social workers can identify legal problems and solutions and can advocate effectively in the many non-court arenas for advocacy.³⁶ Both professions can support each other as they cope with difficult situations and difficult clients.

E. Continuing Issues and Problems

Though we are proud of the program's impact, and of the success of our changes, many problems remain. Some should be addressed as soon as possible, others may find resolution over time, and some may be unfixable despite our best efforts.

36. See Aiken & Wizner, *supra* note 11, at 76 (writing, "Social work identifies client empowerment and client investment in problem solving as one of the primary goals of the social worker/client relationship. There is no reason why this should not also be true of the lawyer/client relationship").

1. Creating a True Interdisciplinary Seminar

As discussed above, the seminar part of the program still needs work to help it address the educational needs of both the law and social work students. Even before the social work program started, the seminar presented challenging issues for the faculty because there were so many more things we wanted to teach than could be realistically included in a weekly two- or three-hour class. Over the years, and largely in response to law student demand, the seminar evolved from a class that emphasized discussions of public benefit and poverty law to a class where there was a greater emphasis on teaching lawyering skills, albeit in the context of a public interest “poverty law” practice. The earlier versions of the seminar would probably have been of more interest to the social work students, who tend to find the lawyering-skills classes irrelevant to their work. While we currently excuse the social work students from attending certain seminar sessions they claim to be completely uninterested in (such as a series of classes on depositions), we should do a better job of explaining how the techniques taught in these classes have relevance to what social workers do.³⁷ We are considering adding some classes for the social work students on basic legal process and benefits issues. We are trying to increase “social work” roles in the simulations. It is clear that we cannot please all of the students all of the time, but we need to continue experimenting to find ways to make the seminar more useful for all students.

2. Continued Refinement and Articulation of Roles

The roles of lawyers and social workers in an interdisciplinary practice is clearly a work in progress. There is not a fixed body of knowledge on this to impart to our students. We recognize that we

37. Lyn Slater, a social worker at Fordham University School of Law Interdisciplinary Family and Child Advocacy Clinic, made this point during a conference at Washington University. She observed that a class in cross-examination skills, for example, could be quite instructive to social work students, in that cross-examination techniques can add—or detract—from the fact-finding, truth-seeking processes in which social workers, as well as lawyers, engage. Lyn Slater, Presentation at the Washington University School of Law Conference on Promoting Justice Through Interdisciplinary Teaching, Practice, and Scholarship (Mar. 15, 2003).

must continue to teach in a way that will keep students asking questions about their roles, and the limits, if any, to what both lawyers and social workers should do in representing and helping clients.

3. Practical Problems

As our clinic, and other clinics, has expanded, our formerly wonderful clinical space has become tighter. There is a continuing need for more space, more support, more computer capacity, and the like. Scheduling problems will always be a headache when using students with different schedules to handle client cases where problems often develop in unscheduled ways.

4. Continued Funding

A final and extremely important problem is the funding of such a program. Philanthropic and foundational funding are essential for our project to continue. There are no other realistic sources of support, at least in the immediate future. Government funding, once the major source of support for the clinic, evaporated with the repeal of provisions of the U.S. Department of Education and the Legal Services Corporation laws and regulations that provided funding to law school clinical programs. Although the law school provides extensive financial and other support to Bet Tzedek—including space, equipment, and legal and support staff—there has not been a comparable institutional commitment to the “social work” component of the program.

While the law school administration certainly supports the social justice mission of the clinic, the law school justifies the “hard money” provided the clinic by its usefulness in providing “legal” education. While learning to work collaboratively with other disciplines is surely an appropriate subject of study for law students, the social work program—and the education of social work students—is seen as less critical than many other law school programs and projects competing for institutional funds. By the same token, social work schools have no tradition of paying for the field work instruction provided by agencies in which their students are placed. Accordingly, while we continue to work on educating the

institution about the value of the project, realistically we are not likely to see significant institutional financial support for the social work positions.

The law school and university will continue to support most of the other costs of the clinic, including the major portion of attorney salaries. The university will also continue to provide space for the program in the law school building and other in-kind support, such as library, computers, and computer support. The law school's fund raising staff is also committed to assist us in raising funds, although they of course have dozens of other projects needing funds, to say nothing of the ongoing capital and general needs of the school.

Given this background, the law and social work project needs to continue its work to diversify and solidify its funding. It is necessary to identify funders who see that the education of law and social work students is an investment in the future. Family foundations have been receptive, although the amounts received to date have not been large. We remain hopeful that we will not be one of those programs that gets established with philanthropic support, establishes its value, and then withers away. Instead, we hope to continue to improve our program, to develop more and more useful models of providing services, to do excellent work for our current and future clients, and to educate new generations of law and social work students on the legal and social challenges faced by disadvantaged, aged, and disabled individuals.