

“CALL MY LAWYER”: STYLING A COMMUNITY BASED DEFENDER PROGRAM

Harold R. Washington* and Geraldine S. Hines**

I. INTRODUCTION

Larry P., 17 years old, with a criminal record two pages long, was arrested at 9:45 a.m. on a Saturday morning. The charge: attempted larceny of the personal property of another, to wit, two boxes of cookies valued at \$1.38 taken from a local supermarket.

Booker T., 37 years old, no prior criminal record, arrested on a Friday afternoon at 5:30 p.m.; charged with assault and battery with a dangerous weapon, to wit, a baseball bat. The victims: his estranged wife and her “African” boy friend who carved “tribal markings” on the faces of Booker’s three children.

Dannagchew A., African exchange student, arrested 2:00 a.m. Wednesday morning; charge: forcible rape and unnatural acts on a white Boston University student.

Sam W., Jeffrey T., Lewis J., and three others were arrested and charged with being disorderly in Dudley Station following a rock throwing confrontation between blacks and the Boston Police Department one warm September afternoon.

These criminal defendants have several things in common. They are all indigent, black residents of Roxbury, Massachusetts, who were back on the street within hours of their arrests. Ordinarily, these particular defendants would have remained in jail until arraignments at the next court session following their arrests, which in some cases could have been a matter of days.

The reason for the rather speedy releases of these individuals is that they all called their lawyer, Roxbury Defenders Committee (RDC), which responded in time to secure the release of these defendants.

Not all of the calls received by RDC attorneys are as pressing as those described. Some callers want to talk about their pending divorces, or about whether they can be arrested for not paying bills, or whether the landlord can evict them from the premises or whether RDC will represent defendants in other cities. Some of the latter queries can be answered by the lawyer on call, others, obviously cannot. But there is a feeling of satisfaction on the part of the community in knowing that there is some place to turn when legal questions are raised.

* Director, Roxbury Defenders Committee, 1974-1976; A.B., Johnson C. Smith Univ., J.D., New York University School of Law; LL.M., Harvard Law School. Presently, Howard University School of Law.

** Director, Roxbury Defenders Committee 1976-1978; A.B., Tougaloo College; J.D., University of Wisconsin Law School; M.A., Urban Studies, Massachusetts Institute of Technology. Presently, Private Practice, Boston, Massachusetts.

Chief among several features that renders RDC unique among indigent defender programs in the nation is the 24 hour answering service that the program maintains. An attorney from RDC is on call at all times. Other features of the Roxbury Defender Committee's community based defender program include a Prison Legal Services Project, a policy of interviewing all clients within 48 hours of arrest, a community newsletter service which disseminates commentary on legal rights, a community Board of Directors, legislative efforts directed toward changing laws that adversely affect indigent defendants, a community legal education program and a spirited commitment to law reform.

RDC has had its problems from phase one and continues to have problems, ranging from funding sources to confrontations with a myriad of detractors, most of whom speak of its "duplicative functions" that would best be addressed by the centralized Massachusetts Defenders Committee. (See "Formation of the Defender Unit," *infra*).

Public defenders often suffer from "bad press" among judges, the private bar and their constituents. Their constituents too often suffer from delusions concerning the adequacy of private counsel. Clients of public defenders invariably believe that if they only had the money to pay private counsel they would not have been convicted of the crime that was witnessed by 30 bishops and sundry other eyewitnesses at high noon on a bright, sunny day.

That the "bad press" is unwarranted is axiomatic. Judge David Nelson, of the United States District Court for the District of Mass., reported that public defenders often exhibited competence superior to that of private counsel who appear before him. The authors have experienced at least one occasion when an indigent defendant was advised by a sitting judge to seek probate counsel rather than trust the ability of a public defender. The defendant was legitimately surprised when a competent job of representation was provided by the defender.

"Bad press" from judges and the private bar is generally directed toward "too vigorous" advocacy as offered by defenders at RDC. Judges are often heard to say that many of the motions filed by RDC on behalf of clients are "frivolous"; yet these motions on occasion resulted in appellate court decisions which drastically altered lower court practices. (See *Britt v. Commonwealth* and *Commonwealth v. Myers*, *infra*).¹ These motions and decisions in turn have forced private counsel to a higher level of representation than they are accustomed to furnishing, thereby causing them to work harder to retain cases.

It is not unusual in the Roxbury District Court for defendants to request that private counsel be relieved from cases in order to have Roxbury Defenders appointed. The substitution of a public defender for private counsel is the result of a combination of unique factors that go into the chemistry of criminal representation of indigents and borderline indigents. The border-line indigent may overstate his resources to private counsel in order to entice him into the case. Or just as often, private counsel will gouge the borderline client for as much as he can possibly get, then when there is

1. *Britt v. Commonwealth*, 362 Mass. 325, 285 N.E.2d 780 (1972); *Commonwealth v. Myers*, 363 Mass. 843, 298 N.E.2d 819 (1973).

nothing further, advise that he seek a public defender. (In New York City, private counsel will often seek an adjournment in order to see "Mr Green," i.e., the client owes money.) The families of indigent defendants will often scrape together nickels in order to help a loved one get what they perceive to be "adequate counsel," then see both the precious nickels and the loved one go "down the drain."

II. FORMATION OF THE RDC DEFENDER UNIT

"[T]he accused is guaranteed that he need not stand alone against the State at any stage of the prosecution, formal or informal, in court or out, where counsel's absence might derogate from the accused's right to a fair trial."²

The U.S. Supreme Court's lofty pronouncement in *Wade* was just so much empty rhetoric for black indigent defendants in the Roxbury District Court until 1971. Until that time the Massachusetts Defenders Committee (MDC) represented indigents in Roxbury District Court, as well as other courts in the Commonwealth. The unfortunate reality was the representation was often shoddy and inadequate. Edgar Rimbold, then executive director of MDC, admitted that some of his staff attorneys handled upwards of one thousand cases a year.³ There was not much debate, even from Mr. Rimbold, that the caseload figure quoted indicated a built-in inability to provide adequate representation to indigents.

The concerns that led to the formation of the Roxbury Defenders Committee in 1971 centered on the lack of adequate legal representation being furnished to indigent clients in the Roxbury District Court. Roxbury is the predominantly black section in Boston.

In order to address the problem concerning perceived inadequacies in the representation of black defendants in Roxbury, a citizens committee was formed to seek funds, and establish an alternative defender program which would be responsive to community needs. The "Roxbury Defender Project" proposal was submitted in September, 1970 to the Governor's Committee on Law Enforcement and Administration of Criminal Justice (hereinafter, the Governor's Committee), the conduit for Federal Law Enforcement Assistance Administration funds. The proposed project had the approval and support of most of the community based organizations and had among its most active committee participants Hubie Jones, then Director of the Roxbury Multi Service Center, Judge David Nelson and Thomas Atkins, then City Councilman. The concerns of the citizens committee were expressed in the project proposal.⁴ That the proposed project represented a departure from traditional public defender approaches is pure understatement. For at least one year after establishment of the program, all of its concepts were considered "revolutionary" by court and MDC personnel alike. While there was nothing "revolutionary" per se about providing "vigorous and comprehensive service to clients by limiting caseload,"⁵ it was just

2. *United States v. Wade*, 388 U.S. 218 (1967).

3. Harris, *Annals of Law in Criminal Court*, NEW YORKER, Nov., 1973, at 59.

4. Governor's Committee on Criminal Justice. Project Application No. 71-42, Revised Application Approved Mar. 12, 1971. See *infra* note 5.

5. *Id.* at 1.

generally perceived as something radical that probably should not be done on behalf of clients who weren't "paying the freight."

These concerns were articulated in the first grant application submitted to the Governor's Committee. The objectives, as set forth in the original grant application, were to: "[c]reate an office that: (1) provides vigorous and comprehensive service to clients by limiting caseload; (2) is accessible to defendants; (3) provide legal services without first being appointed by the court; (4) provides related social services (5) has substantial community participation and involvement and; (6) makes complete use of existing legal resources."⁶

The grant application was submitted to the Governor's Committee. At the outset of program funding, only police projects were included among grant applications accepted. As conscience balm during the second funding cycle, the Governor's Committee included a defender program (RDC), a youthful offender diversion project, educational seminars for judges and program alternatives to juvenile sentencing facilities. Subsequent funding cycles have included these additional projects, but they always included greater amounts of funds for police related activities.⁷

RDC was funded in 1971 as an "experiment in legal representation" and given vague subcontractual status under MDC. The relationship to MDC was strained, to say the least, at the outset; the new program was viewed as a radical departure from the traditional notions espoused by MDC. The bottom line to the still incompletely defined relationship between RDC and MDC is that the latter has taken on some of the characteristics of the former; RDC ultimately became the catalyst for radical changes at MDC.

Members of the community Board of Directors were initially chosen from a variety of community organizations. Subsequent Board members were nominated and elected to the Board by participating members. There are presently 14 members of the community Board with responsibility for hiring the project director and setting general policy goals for the program. The Board has always operated independent of direction from MDC, although there is a "coordinating subcommittee" from each board to assess whether program goals are being met.

As priority in providing adequate, vigorous representation, the committee hired young attorneys who not only indicated a desire to provide aggressive representation, but were also willing to devote full-time to the job. The initial staff was criticized for overzealousness; a clue that in fact they were providing vigorous representation.

The present Board of Directors still comprises some of the original charter signing members and additional representatives from other community based organizations who are elected to the Board. The Board has the responsibility for setting broad policy guidelines and overseeing the thrust of the program in order to ascertain that programmatic objectives are continually being pursued. RDC staff consists of attorneys, law students, paralegal assistants, investigators, social workers and administrative personnel.

6. *Id.*

7. See generally, EXPENDITURE AND EMPLOYMENT DATA FOR THE CRIMINAL JUSTICE SYSTEM 1971-1972 U.S. DEPT. OF JUSTICE, LEAA (1974). (GSS No. 66.).

With an eye toward addressing one of its stated objectives, the offices for RDC are located in the heart of the black ghetto. The 24-hour answering service was initiated to further address the accessibility issue. Accessibility of lawyers to criminal defendants is always a great concern in indigent communities. As with most public defender offices, Massachusetts Defenders Committee offices are centrally located in the downtown business section of Boston. While there may be an argument made for efficiency of operation, it cannot be gainsaid that such a location adds nothing to the establishment of rapport between ghetto dwelling clients and lower to upper-middle class lawyers who are more often than not viewed by their clients as little more than cogs in a system designed to oppress. The community based office offers, at least, a mode of identification. The client need not go onto hostile "turf" to meet with his representative. The benefits of such an approach may not be readily quantifiable, but it is interesting to note that clients have a greater proclivity for defaulting on pre-trial interviews if the interview site is far removed from their residences. Inaccessibility of counsel for indigent defendants may often involve nothing more than lack of carfare downtown. If you do not have the quarter, you may not get a chance to see your attorney. The accessibility of the community based defender office also provides an opportunity for the indigent defendant to seek legal advice prior to arraignment, or as often happens, prior to arrest.

As indicated early on, all of the telephone calls received through the 24-hour answering service are not of monumental importance; however, the additional link of being able to call "your lawyer" is a dimension that is most obviously missing in centralized defender programs. This dimension further ties the program to the community.

One of the problems mentioned by Mr. Rimbold, of MDC, as one that plagues all public defender programs is the question of caseload. Public defender attorneys are always notoriously overloaded and are sometimes looked upon by indigent clients as nothing more than the grease used to make the system run smoothly. The Supreme Court's pronouncement in *Chambers v. Maroney*,⁸ still stands: "[t]he claim is that his Legal Aid counsel appearance for the petitioner was so belated five minutes before trial that he could not have furnished effective legal assistance . . . We are not disposed to fashion a per se rule requiring reversal of conviction following tardy appointment of counsel." As one wag pointed out, formerly indigent defendants were often run through the mill *without* a lawyer and convicted, now they are often run through the mill *with* a lawyer and convicted.

Roxbury Defenders Committee has addressed the caseload problem by limiting each staff attorney's open, active caseload to twenty. An RDC attorney will never handle 1000 cases per year with this policy, and he or she will certainly have the requisite amount of time to do proper interviewing and investigation and prepare research of case law on each case to which they happen to be assigned.

The caseload limitation has presented no problems with regard to either the clients or the courts. Sufficient explanation is made to clients who are

8. 399 U.S. 42, 53 (1970).

turned away on the basis of crowded caseload and the courts have never presented a problem of over-appointment.

Over-appointment by the courts never became a fact because of the court's initial resistance to RDC's policy of providing representation prior to court appointment. The resistance led to a lawsuit, which although entitled innocuously enough, was actually one involving a challenge to the power of judges to deny RDC the opportunity to represent indigent clients who sought the project out instead of waiting for the court to appoint counsel. The Supreme Judicial Court ordered "an investigation" of the refusal of certain judges to appoint RDC to felony cases and the practice abated (*In Re Justices of the Municipal Court of Roxbury*).⁹

With the exception of murder defendants, which public defender programs are precluded from handling by state law, RDC is appointed to all the more serious crimes (i.e., rape, robbery, assault and battery with a dangerous weapon, possession of narcotics with intent to distribute, etc.). Representation is provided by the staff attorneys, who are often assisted by third year law students in the district court probable cause hearings and on discovery motions before the court.

III. RDC'S EFFECT ON THE SYSTEM

The most far reaching effect that RDC has had upon the district court was the result of two law suits brought on behalf of indigent clients.¹⁰ Both suits involved district court practices in relation to probable cause hearings. The probable cause hearing in Massachusetts is usually the only form of discovery that a criminal defendant will get prior to trial. Prior to *Myers* and *Britt*, probable cause hearings were charades that had no semblance of a relationship to logic and/or justice. The *Myers* decision held that the probable cause hearing served a screening function and as such was a "critical stage" of the State's criminal justice process.¹¹ At the probable cause hearing in the *Myers* matter, the judge refused to permit defense counsel to cross-examine the complaining witness and refused to hear testimony offered by the defendant on the ground that he had heard enough from the complaining witness to find probable cause to bind the defendant over to the grand jury. The Massachusetts Supreme Judicial Court found that such practices violated the substantive rights of the criminal defendant to due process and that the defendant was entitled to a full adversary hearing on the issue of probable cause. This decision changed the probable cause hearings in the district courts from five minute farcical settings for pro forma bind-overs to full scale, meaningful discovery hearings, which sometimes resulted in dismissal of the charges.

The *Britt* decision involved the indigent defendant's rights to free transcripts of district court hearings. Prior to *Britt*, the district courts were not considered courts of record. If a criminal defendant had the wherewithal and his counsel filed timely motions, the district court proceedings could be either transcribed or recorded, but stenographic costs are out of reach for indigent defendants and portable tape recorders never preserve testimony

9. — Mass. —, S.J.C. 72-278 Law (Unreported).

10. *Britt*, 362 Mass. 325, 285 N.E.2d 780 (1972); *Myers*, 363 Mass. 843, 298 N.E.2d 819 (1973).

11. 363 Mass. 843, 298 N.E.2d 819, 821 (1973).

adequately. The Supreme Judicial Court held in *Britt*, that while indigent defendants were not entitled to free stenographic transcripts, *because of the prohibitive cost involved*, the Commonwealth had to provide an adequate electronic recording system and make those tape proceedings available to the defendant.¹²

While not at the millenium, district court proceedings, as a direct result of RDC efforts, at least are moving towards models of what tribunals of justice should resemble.

In addition to district court representation, RDC attorneys represent clients who have either been bound over or appeal to superior court. This "vertical representation" is also innovative among defender programs, although it is accepted practice for private counsel. As a result of the vertical representation model set by RDC, MDC has revamped its procedures to allow for vertical representation by some of its staff attorneys.

The community legal education program, staffed by RDC law students and operated out of a local experimental high school and a community center, and the community legal newsletter are but two of the attempts made by RDC to fulfill its obligation of maintaining "substantial community participation and involvement." Other activities in this realm include radio and television appearances by staff to assist in the dissemination of basic information concerning rights of citizens.

IV. RDC PRISON LEGAL SERVICES PROJECT

The duty to assist black people in their struggle against the inequities of the so-called criminal justice system encompasses more than representation of defendants in criminal courts. Legal assistance must also be provided to those black people who do not escape the peril of prison. Prisons, more than any other institution, keep alive the tradition of racist oppression of black people. In Massachusetts, where black people comprise only 3% of the state's total population,¹³ blacks represent nearly 34% of the total prison population.¹⁴ The RDC, through "vigorous representation" in criminal courts, attempts to soften the impact of prisons on the black community. Prison Legal Services Project (PLSP) carries that commitment beyond the prison walls.

Given the long history of prisons in this country, the notion of a prison legal services project is of relatively recent origin. Private counsel, reform-oriented groups like the NAACP Legal Defense and Education Fund, and most recently law school clinical programs provided legal services to prisoners. But none of these approaches assured prisoners of reasonable access to the legal process. Unless appointed by the courts, private counsel represented the small percentage of the prison population that could afford to pay for legal services. The reform-oriented groups, consistent with their stated purpose, accepted those cases that benefited the general prison population

12. 362 Mass. 325, 285 N.E.2d 780, 782 (1972).

13. U.S. BUREAU OF THE CENSUS, STATISTICAL ABSTRACT OF THE UNITED STATES: 1973 (94th edition) Washington, D.C., 1973, at 29.

14. A DESCRIPTION OF THE RESIDENTS OF MASSACHUSETTS CORRECTIONAL INSTITUTIONS ON JANUARY 1, 1974, DEPARTMENT OF CORRECTIONS, DIVISION OF RESEARCH AND PLANNING (June, 1974).

rather than individual clients. The law school clinical programs limited the scope of inmate representation to those problems that satisfied the educational needs of students participating in the programs.

To protect the prisoner's right of access to the courts, the Roxbury Defenders Committee developed a PLSP to provide "vigorous and comprehensive legal services."¹⁵ to indigent prison inmates at Massachusetts Correctional Institute, Concord and Massachusetts Correctional Institute, Norfolk. The Law Enforcement Assistance Administration funded PLSP in November, 1972 as part of the federal government's "war against crime."

With a staff consisting of four lawyers, two paralegal workers and law students, PLSP combines the functions of a civil legal aid office with that of a criminal defender unit. The cases handled by PLSP may be grouped in the following categories: criminal, institutional and civil.

A. *Criminal*

Included in this category are appeals, sentence reviews, claims for jail time credits, an assortment of post-conviction remedies¹⁶ and those criminal cases that arise out of incidents within the prison. Handling cases of this nature is perhaps the most important function of a prison legal services project that is designed primarily to provide individual legal assistance. Researchers, studying the problem of providing legal services to prisoners in Massachusetts, found that the bulk of inmate problems relate back to the fact of conviction.¹⁷ In 1974, the PLSP caseload reflected this finding: fifty-two percent of the total caseload consisted of problems in this category.

Appeals constitute only a small percentage of the total criminal caseload, even though the number of requests for assistance of these cases exceeds that of other matters in this category. The sheer volume of appeals preclude any significant level of representation by PLSP staff. But clients seeking appeals got the needed assistance. Except for a limited number of cases, appeals are referred to the MDC's appellate division.

Sentence reviews, claims for jail time credits, and post-conviction remedies predominate. Short of appeal, those devices are most often used to call the court's attention to error or to prevail upon the "good conscience" of the trial judge. Although the success rate is not high,¹⁸ PLSP accepts a significant number of these cases. For many clients, they are the only remedies available to challenge careless and arbitrary sentencing.

B. *Institutional*

After sentencing, the most important decisions concerning the inmate's life are made at disciplinary, classification, and parole hearings. For example, prison officials determine if an inmate is guilty of some institutional infraction after a disciplinary hearing. The consequence of a guilty finding

15. Roxbury Defenders Committee, Proposal for Prison Legal Services Project, February 14, 1972, at 1.

16. These include the Motion for New Trial, Writ of Error and Habeas Corpus.

17. Finkelstein, *Perspectives on Prison Legal Services*, Center for Criminal Justice, Boston University School of Law, ch. II, p. 29, Dec. 3, 1971.

18. See, for example, the statistical analysis of sentence reviews in Massachusetts since 1970. Volume 30, Mass. Practice, ch. 22, 1157.

goes far beyond the punishment of isolation or loss of "good time." If the inmate's record exhibits a pattern of disruptive behavior, it is difficult to persuade parole, classification, and furlough boards that he is "benefiting" from the prison experience. Consequently, he is often denied a furlough, reclassification to less restrictive confinement, and ultimately, parole. Legal representation will not completely discourage arbitrary actions but it will supply some degree of fairness.

C. *Civil*

Most inmate problems are related to the conviction. But some of the same problems that plague indigents on the streets follow them into the prisons. In fact, incarceration aggravates problems such as family relations, property and consumer matters. Most cases of this type are referred out to civil legal aid offices. In the limited number of instances where referral is not possible, PLSP accepts the cases. In most cases, PLSP staff was able to secure other representation for inmates with divorce cases. Where this was not possible, the case was assigned to PLSP staff.

Other cases in this category include those matters where the inmate complains about the conditions of confinement. Many of the reform issues are raised in this context. Although the PLSP and inmates jointly established a reform agenda, individual claims are pursued independently of this process.

The RDC-PLSP was intended as a model for other community sponsored projects of its kind. As such, it encountered threshold questions such as: 1) What is the nature of a community sponsored PLSP? 2) What problems arise when lawyers, as the backbone of a community sponsored prison legal services project, are introduced into the prison setting? 3) How can the quality of prison legal services be improved? Its experiences in resolving those issues are recounted here.

Beyond quality legal representation, the concept of a community prison legal services symbolizes the commitment to end the use of prisons as instruments of racist oppression of black people. A problem of this magnitude obviously cannot be solved by resort to a solution as simple as the provision of legal services. But the establishment of a prison legal services project effectively dispels the notion that the black community has no regard for what happens to black prisoners. By providing legal services to prisoners, the PLSP systematically scrutinizes the policies and practices of prison administrators. Where problems are not susceptible of legal solutions, PLSP staff, in conjunction with organized community prison groups, may develop and implement strategies for legislative or political solutions.

The RDC and other community groups involved in the planning of PLSP stipulated that inmates share in decisions on those matters of direct concern to them such as the agenda for reform litigation. The purposes of this shared responsibility were: 1) to avoid the "ivory towerism" that is common to reform efforts; 2) to secure the inmates' interest in effective use of legal resources. This policy of cooperation is not a token gesture of concern for inmates' views, it is intended to reprove the usual paternalistic attitudes of lawyers toward poor black clients. Too often lawyers, driven by the expected prestige of trying the "big" case, discard the concerns of poor cli-

ents in favor of their own ideas about which problems are more important. This monopoly of the decision-making process is usually justified by pointing out that the client lacks sophistication or familiarity with the law. But the days of the docile, ignorant prisoner are over.¹⁹ Prisoners deserve proper consideration of their assessment of problems of living in prisons.

The procedure for follow-through on this commitment is simple enough. It has been applied most successfully in the preparation of an agenda for reform litigation. At periodic intervals, PLSP staff meets with authorized representatives of the inmate population to discuss issues that should be raised in the courts. The decision on which cases should be pursued is made only after due consideration of the potential for favorable resolution and the impact of protracted litigation on continued individual representation. The PLSP accepts those cases which can be satisfactorily litigated within the constraints of time and personnel.

First, the dearth of lawyers committed to the survival of black people sentenced to prison threatened the identification of PLSP as a community oriented service. The experience of PLSP in recruiting lawyers indicates that most young black lawyers fresh from law schools are not inclined to accept lowpaying, low-prestige community jobs. Moreover, these young lawyers exhibited little vulnerability to the kind of conscience manipulation that prevailed during the 60's and early 70's. The pressure to perform the "trench" duty just doesn't exist anymore. The more experienced attorneys are at salary levels that community projects, dependent upon government subsidies, cannot possibly meet. This inability to maintain a full complement of community oriented lawyers unfortunately resulted in a more limited caseload than had been expected and a retreat from a planned liaison with community prison groups.

To maintain a credible level of inmate representation, PLSP developed an inmate self-help program, contemplated use of "jailhouse lawyers" and an inmate educational program. After consultation with PLSP staff, "jailhouse lawyers" represented inmates at institutional hearings, assisted in the screening of cases, and contributed research on a wide range of issues. It is not possible to evaluate fully the impact of legal services provided by "jailhouse lawyers" because no statistics exist on the number of cases they handle. But on matters such as institutional hearings, PLSP staff and the contingent of jailhouse lawyers provided representation in every case where an inmate requested assistance.

The inmates education program was planned to facilitate self-sufficiency in solving those problems that did not require the assistance of legal staff. A prisoners rights handbook, to be used in combination with structured discussions of specific legal problems, was drafted to serve this purpose. The rights handbook was funded, in part, by the National Conference of Black Lawyers.

Para-legal workers and law students have primary responsibility for cases that can be resolved through administrative channels. They handle all institutional hearings and problems with sentence computation, detainers and parole revocations. Lawyers are assigned to those cases only when more

19. See, Sostre, *The New Prisoner*, 4 N.C. CENT. L. REV., 242 (Spring) (1973).

expertise is required or when issues for prospective litigation are raised. In this way PLSP makes the most effective use of its legal resources.

Inmates are not shortchanged on the quality of legal services by use of para-legal workers and students. All cases assigned to para-legals and students are supervised by staff attorneys who insure that competent assistance is rendered. Moreover, PLSP requires participation in the staff training program which covers the range of problems presented by inmates. Para-legals and students are thereby prepared to perform their designated tasks as well as other functions that may be assigned to them.

Finally the design of adequate systems for delivery of legal services should include social services. At present the emphasis is on purely legal solutions to problems of inmates. But the most effective legal services take account of social factors in resolving client's problems. However, the peculiar need of inmates must be pointed out here because correctional officials claim credit for having already provided such services. Social services abound in the prisons; the question is whether those services are geared to the best interest of prisoners.

V. SOCIAL SERVICES COMPONENT

The unfortunate reality of defense in Roxbury District Court is that a disproportionately high number of criminal charges are directly related to social aberrations. Criminal acts are often generated not from any clearly perceived profit motive, but as a concomitant to drug or alcohol problems, neuroses having their foundations in inner-city existence or familial emotional stress. As part of its role as defender of indigents, RDC is called upon to address itself to providing total client services. There is often a conflict between advocacy of the legal rights of a defendant and channelling him or her into a program that may prove ultimately beneficial. Dispositional posturing becomes paramount in this context.

The Roxbury District Court has a court clinic as one of its units. The court clinic is staffed by psychiatrists, psychologists and social workers. Defendants are referred to the clinic by sitting judges for purposes of evaluation in relation to competency, drug dependency, etc. All reports on defendants are to be returned to the referring judge, although defense counsel receives advance copies of reports concerning his clients.

The incorporation of a social services component within RDC permits its use as an adjunct to advocacy. While the use of the personnel at the Roxbury District Court Clinic is of tremendous assistance in many instances, there is no obligation by court clinic personnel to serve the *defense* interests of the clients. As has been pointed out by the Director of the court clinic, its primary objection is to the court.

Traditional social work points of view are now always aligned with the defense posture. In those situations where the attorney's point of view differs from that of the social worker's, the former's should always prevail. In those circumstances where dependence is made upon out-of-house social workers, there is no handle for making certain that the attorney's balancing of the realities and judgment is foremost and one made in the interest of client defense.

RDC has maintained the social work component with these views in

mind. Social workers in the program have worked closely with clients not only in assigning the post-dispositional problems. RDC social workers have worked in conjunction with community based programs, local hospitals and clients and government agencies to construct possible remedies for any number of situations posed by client concerns. RDC's social work component can direct its attentions to acquiring individualized services for our clients; such individualization may well mean the difference between the defendant having a series of in depth psychiatric interviews before the court date, as opposed to his or her having one date because of the crowded nature of the clinic's schedule.

RCD continues to cooperate with the court clinic in many respects wherever there is an indication of benefit to its clients. The ultimate benefit to its clients, as defendants, can only come through an exercise of all resources for utilization from an advocacy posture.

VI. CONCLUSION

As stated at the outset, the Roxbury Defenders Committee continues to have its problems. The primary problem facing the project concerns the "drying up" of funding from its initial funding source. LEAA has been abolished, and RDC has been funded by the state legislature since LEAA's abolishment. One of the major tasks facing RDC is the seeking of alternative funding sources during a period of national austerity. The Massachusetts Governor's Committee has taken its first step toward programmed "drying up" of funds by cutting all programs under its aegis, with the exception of police or prosecution related projects, across the board. These cuts have meant losses of some existing personnel at RDC. While not totally crippling in nature, the funding cuts will obviously impair the effectiveness of representation provided by RDC. Block grants offer an alternative for additional funding sources so that Roxbury residents who find themselves in trouble will continue to have the option of saying "call my lawyer!"