

# The Effective Roles of a Social Worker in a Clinical Legal Education Practice\*

---

S U S A N   N O A K E S \* \*

## I. INTRODUCTION

To have a social worker on staff in a clinical legal setting (The Law Centre through the Faculty of Law, University of Victoria, British Columbia)<sup>1</sup> is a unique opportunity not only for the client to benefit from two disciplines working for his case but also for the law student to learn in an interdisciplinary setting.<sup>2</sup> The elements of social work practice can provide effective ways to help the client – by assisting the law student individually and by working with the social worker. I have based this observation on an analysis and reflection of my social work practice and anecdotal experiences employed as a social worker at The Law Centre.

I have identified four practice components of the social work role in this clinical legal educational setting. These components are: 1) case manager (which includes the roles of counsellor and advocate); 2) educator; 3) social worker for law students; and 4) community developer. Through examples and

---

\* Further discussion on the material presented under the "Summary Offences" portion of this paper can be found in Susan Noakes, "Transformative Social Work in the Criminal Justice Field" (2014) 23 JL & Soc Pol'y, online: <<http://digitalcommons.osgoode.yorku.ca/jlsp/>>.

\*\* B.A. (Hons), B.SW., M.SW. (Victoria). Susan Noakes is the staff social worker at the University of Victoria Law Centre. She provides social work services to clients, and educates law students about working in an interdisciplinary setting.

<sup>1</sup> This clinic is a full time course with 14 law students per term with 3 terms per year. It is regarded as a holistic lawyering practice with a Director, 2 staff lawyers, social worker and administrator. The types of legal representation provided includes the following: summary offences, human rights, small claims, uncontested family matters, and administrative tribunals.

<sup>2</sup> In The Law Centre, the practice of two professions working together is referred to as a holistic practice. The terms holistic and interdisciplinary are used interchangeably in this paper.

description of case and service processes, I will describe how these roles can enhance the effectiveness of a clinical legal education experience for the law student and benefit the client and community. I essentially speak to what I identify as the "effective roles of a social worker in a clinical legal education practice."

## II. CASE MANAGER

The role of case manager is often synonymous with the title of social worker. This role, however, includes several other facets that encompass social work knowledge and practice. The role within the context of this clinical legal education experience includes counsellor, referral agent, educator and advocate. The social work services provided can include: short-term counselling; welfare advocacy; legal aid submissions; advocacy navigating health care systems; advocacy with different agencies; referrals and follow-up.

Although the presence of the social work service in the clinic is brought to the attention of the law students at the beginning of the term and is taught on an ongoing basis, the students may be so focussed on learning the necessary legal processes that knowing when and how to refer a client to the social worker may not be a priority. As a result, I found it necessary to develop a process within the clinic in order to obtain referrals from the law students.

### A. How Social Work Files are Opened

There are several ways in which referrals for social work files are obtained. A request for social work service can be made directly by a law student, staff lawyer, or the clinic administrator. Referrals for service may also come from professionals in the community as well as self referrals from clients.

The request for service may be made during or after an intake or a later scheduled interview conducted by a law student. As part of my practice, I will review each new file opened by a law student in order to assess the possibility of social work involvement. In each of these situations, I will discuss, review and strategize with the law student about how either initial or ongoing social work involvement could occur.

By examining two specific types of legal files opened in the clinic, I will demonstrate the referral process, and also provide an explanation of the case manager role and the components of that role. The criminal (summary offence) and human rights files serve as good examples of this process.

## **B. Summary Offences**

The majority of the social work files are referrals for clients charged with summary offences (primarily assault, uttering threats, impaired, theft under). These social work files, labelled as “support/referrals”, are opened to provide social work assessment as to the type of services and resources that would assist the client, as well as to provide support and follow-up to address the underlying behaviours surrounding the charge(s).

At first, the social work service might have several facets. The role of counsellor might be necessary to give the client the opportunity to talk about the particulars of his life situation and history; essentially a chance to speak and be listened to. I would also make suggestions as to what steps the client could follow in order to help himself and improve how he could be presented to the Crown and/or the Court.

The roles of counsellor and referral agent are often of greatest significance to the client. For instance, a client struggling with substance abuse, may identify previous physical and/or sexual abuse. A supportive role combined with social work knowledge (of addictions or historical abuse) can provide the understanding and encouragement the client may need to enrol in a program, such as one to one counselling for addictions, abuse and/or trauma counselling. I also help explore possibilities regarding financial access to the programs needed.

As part of the case manager role, I will bring forward a social work file to “check in” with the client. I will contact the client to see how he is progressing regarding the suggested referral(s) and/or whether there is a continued need for service through emotional support and follow up.

The role of advocate can come into play in the social work relationship for the client in several ways. The client may feel disempowered by the system, lacking the confidence or fearful to take that first step and phone an agency to ask for help. I can assist the client by making that phone call to an agency. Moreover, in a community challenged by cutbacks and waitlists, I may call on behalf of the client, depending on the urgency of the client’s need, to advocate for him and explain his need and situation.

In the role of case manager, the advocate role is needed to encourage the client to follow up in order to help himself personally and legally. I remind clients that if there is no defence to a charge and therefore a guilty plea is going to be entered that it would be in the client’s best interest to demonstrate a change of behaviours to the Court. The advocate role includes

explaining to the client how the law student would like to present the client to the Crown and the Court in a more favourable light.

I also advocate for the client to the law student. The commitment and passion demonstrated by a law student in one term with respect to a client may not be replicated by a law student in a subsequent term. Because the clinical legal program "employs" the law student for one of three terms per year, a client would most likely start with one student in one term and may have his case finalized several terms later. I would have worked with the client from the beginning.

Having the information and witnessing the client's progression encourages me to advocate for the client. The subsequent student, not having seen the change in the client, may not have the same "investment". As a result, I will advocate for the client with the next law student by sharing how far the client has progressed.

Because law students do not share equal levels of knowledge regarding individuals with mental illness, addictions, and poverty related issues, the social worker has a role in advocating for the client. For instance, the law student may lose patience if the client does not return the student's calls, not realizing perhaps the client is "couch surfing" (transient). Knowing the client and his challenging circumstances, I may advocate by encouraging the law student to keep trying to contact the client.

The law student may not be able to recognize that the change the client has made in between the terms is significant. In the advocate role, I might remind the law student that changing one's life does not happen immediately and that even a small change for the client is significant considering, perhaps, a history of addictions or abuse. Thus, advocating for the client also involves educating the law student about some issues of the psychology of addictions and the debilitating conditions of poverty.

In the role of advocate, I can assist both the client and the law student by joining the law student in the client interview. The law student may stress to the client the importance of addressing the underlying issues of his behaviour that led to the offence in order to present the client's case favourably to the Crown/Court. The client may be somewhat sceptical as to the importance of preparing himself for presentation to the court, especially when a trial is booked. Having worked with the client, I may be able to support the student's presentation by addressing the client's fears of the process and/or pointing to the importance of addressing some personal issues based on social work

knowledge and experience. The law student may be able to obtain the words and script necessary, and be able to utilize them in a future interview.

I help the law student focus on the legal issues of a case by assisting the client with "parking" his emotions. The client may be "carrying" many emotions associated with the aftermath of being charged with an offence. The law student may find that she has to allocate her time effectively between addressing the emotional needs of the client and focussing on the legal research and preparation for the case. As a result, she is very open to having a social worker in the office to whom she can refer her client for short-term counselling and support. The law student is also made confident by knowing that the social worker will already be apprised of the resources in the community, and the student does not have the added stress of having to know the available community resources to be effective in their assigned legal role.

The client may feel more comfortable disclosing more of his personal history to the social worker as a result of the professional role established, as well as because the social worker remains constant with the file over several terms. With the understanding that all members of the firm are working toward the benefit of the client, I would share, with the client's knowledge, information that would present as helpful for the client's case particularly to the Crown/Court. In this manner, I would be of assistance to both the law student and the client.

### **C. Human Rights**

If a client files a human rights complaint, in particular based on grounds of sexual harassment or disability, the social worker can play a significant role. Within this case manager role, the social worker can provide a counselling role predominantly in the form of support for the client as well as support for the law student.

The complainant may experience a variety of feelings and responses to the situation – reoccurrence of childhood issues of physical or sexual abuse, post traumatic feelings, confusion and self-doubt about other employment situations or opportunities. Working with the law student to collect the details for the human rights complaint, the client may feel further traumatized in reliving the events. In the counsellor role, I can meet with the client separately from the law student interview process, and provide the client with the opportunity to talk about any ongoing and past experiences. Because the human rights process can take several months, I can also provide

follow-up support through office appointments and/or phone "check-ins", providing some emotional consistency for the client.

By understanding the human rights process, within the case manager role, I can also be an educator. During the appointments or calls, any anxiety about the process can be addressed and reviewed as to what to expect. I can provide some basic information about the process because the steps, although they may have been explained initially, may not have been heard by the client. When meeting with the law student, I can also help the client to focus in the interview if he or she is feeling overwhelmed by the details of the case.

In the counsellor role, I can also provide support for the law student during the legal interviews for the human rights files. As noted above, I can meet with the client separately from the law student as well as meet with both together. During these interviews, the client is often distraught from having to repeat the information. I can assist the client's focus by providing support and affirmations for the client when telling his story. The law student, particularly if she does not have experience in human rights interviews, may benefit from the support role of the social worker in helping the client maintain focus by acknowledging the client's feelings and experiences.

I have also sat with the client, law student and supervising lawyer during early settlement meetings (mediation) in the human rights process. Having previously provided support to the client, I may have an additional perspective on some of the competing emotional issues for the client that may arise during the mediation process, and may be able to articulate those issues to the law student. During the early settlement meeting, I can be in tune with the client's emotional stress, and address those issues to allow the client to stay focused on the other issues in the meeting. I can also provide debriefing for the client after the meeting.

#### **D. Other related areas**

In the role of case manager, the social worker may open a social work file where the law student is assisting the client in other types of legal matters such as debt/bankruptcy, tenancy, welfare, child support, uncontested divorce, or wills. I can open a file to provide support and short-term counselling to address the client's anxiety arising from the legal process. The client's problems in navigating some life issues can derail "fixing" the legal issues. I can also advocate for the client in the welfare and health care systems, and in other non-legal issues. The law student may not have the time, or may not see her role as one of assisting the client with these 'other'

matters. By helping the client with these issues, the law student has more freedom to focus on the legal issue(s).

### III. EDUCATOR

The social worker can act in the role of the educator in a number of ways. I have identified several opportunities that I embrace. First, I speak directly to the law students at the beginning of their term. I will attend the law school on the second day of term and speak briefly to the students on the afternoon that the Clinical Director presents the seminar on conducting speak to sentence presentations. I use the chance for two purposes: to introduce the concept of working in a holistic setting – working with the social worker, and to address specifically how the social worker can work alongside the legal professional in preparing for the client's disposition ("speak to").

The Director presents a video of a previous student presenting a "speak to sentence". The law student advises the court how her client has attempted to address the underlying behaviours that brought him into the criminal justice system. I will explain at what point in the process I can intervene with social work services.

When the law students arrive in the clinic 5 weeks later, I have a second opportunity to address the group. I explain in more detail the interdisciplinary role, and explore ways and strategies that I, as a social worker, can become involved with the files. I ask the law students to think about the following questions when interviewing a client: 1) are there areas of assistance apart from the legal issues that could be of help to the client?; 2) would the client benefit by speaking about his experience with someone other than a lawyer?; 3) does the client require assistance in order to promote his case that I cannot offer?

I tell the law students that the scope of social work practice is far more extensive than what is presented in the media (i.e. child protection), and discuss how social workers practice with other professionals in hospitals, educational institutions, non-governmental agencies, and correctional settings. I also point to the many shared values between the professions of social work and law: equality, social justice, human rights. I focus on sharing the same practice values, such as placing the client first and advocating for the client, and also on how both professions are regulated to protect the public.

Providing an introduction to holistic practice in the first week allows the law student to start to think about how it would be to practice with another

profession in the law firm (clinic). And as a member of the clinical team, I will continue to demonstrate, through practice, the concept of holistic lawyering (more on this process is discussed below). I also take other 'teachable moments' such as discussing poverty issues and observing law student/client interviews.

### **A. Holistic practice – how the practice starts**

While the client is seen at intake, the law student confirms with a staff lawyer whether a file will be opened. After the file is opened, I will review the summary of interview memo and provide my assessment for social work involvement. If I have assessed that social work involvement would be beneficial, I will describe the service and encourage the law student to speak to me about the file. I will also make note of the list of names that I had recommended for social work service, and connect with the law student if the student did not follow up with me as per the recommendations in the file.

### **B. File Reviews**

To maintain contact regarding shared files, I will complete individual file reviews with each of the law students at the beginning, middle, and end of the term. This format follows the staff lawyers' process. The law student at the beginning of the term will review her files and then have a full file review with an assigned staff lawyer. I will then meet with each of the students and review the case lists, pointing to the files that we have in common, and providing some background information and updates. I will ask the student about her assessment of social work involvement. Often the law student may seem overwhelmed trying to determine the legal role with the file, so I will make some suggestions as to how social work service might take place that term.

I will also take the opportunity to meet with each of the students shortly after their midterm file reviews for a brief review of the clients that we have in common. Moreover, four weeks before the end of the term, at several of the planning meetings, I will discuss the importance of reflecting on any possible work that I could be doing for the clients in the interim period (the beginning of the term when the law students are in seminars at the university and not yet in the clinic). It is during this interim period of 7 weeks that it is beneficial to follow up with clients. I will then meet briefly with each of the law students before the end of term to specify the names of those clients.

### **C. Areas of interdisciplinary (holistic) practice**

The law students have files in some of the following areas: summary offence; human rights complaint; variation and/or request for child support; uncontested divorce; bankruptcy/debt; wills; welfare appeal; tenancy issues; and other related issues pertaining to the need for advocacy. These types of files would remain solely with the law student. I may open a separate social work file alongside the student file to address specific areas of social work practice. I may also become involved in situations where the law student feels that a client with a mental health issue would benefit from meeting with the social worker. In this situation, I may open a social work file even if there is no open student file.

Where both the social worker and law student each have a file open for the same client, the law student has the opportunity to focus on the legal issues. The law student sees and experiences a variety of practice situations where two professions can bring together their respective bodies of knowledge to assist the client with the common goals of providing advocacy and support.

I maintain continued contact with the law student, not only to demonstrate good case management, but to demonstrate how one can work in an interdisciplinary setting. If I open a social work file with an open law student file, I will regularly connect with the law student to provide updates or to see if there are any updates that I need to have. If I have met with the client, I will provide a copy of the memo for the student file as well. I convey to the law student the importance of reciprocal communication to keep both professionals apprised of any developments regarding the client during the term outside of the file reviews.

### **D. Poverty issues**

In addition to obtaining court experience, many of the law students view the clinical legal education experience as a "bonus" in that they are contributing to a valuable and unique service to the community. Although working in a poverty law office may first feel quite "noble", the law student may not have the life or professional experience to understand the full impact of poverty that the clients endure. Although the law student may have an academic background in the social sciences, any understanding of poverty issues may be limited to textbook knowledge.

Lack of understanding of the client's experience can grow into frustration. A law student, as a result, may get annoyed with clients "not

getting back to them” (clients not having a phone, having to leave a message with a friend, not having enough minutes on their cell phone, couch surfing). Moments of frustrations about clients may include clients missing appointments and having letters returned.

I will introduce some of these scenarios and discussions about the client’s experiences of living in poverty in the first lectures. As well, I regard educating the law students about these issues as ongoing moments in which to teach and reflect. I will present some clients’ realities regarding the lack of resources such as the income assistance rates in the context of rental costs as well as the difficulty of the application process for subsidized housing - in particular the 5 to 10 year the waitlist. I have the law student consider why the client might not share the same sense of priority about the file given the client’s pressure to find a meal and a place to sleep.

### **E. Client Interviews**

In the role of educator, sitting with the law student in a client interview can provide two purposes. The law student can, through practice and instruction, learn how another profession can work alongside the legal profession. Secondly, the social worker experienced as an interviewer can provide feedback and instruction to the law student regarding her interviewing skills.

As part of an interdisciplinary approach, there is a focus on working as a team for the goal of meeting the client’s needs. The need for both professionals working for the client may be necessary for part of the interview, particularly if the client is in the office for example regarding a criminal matter. Before the interview, I will discuss with the law student what I would like to present to the client. Likewise, the law student would briefly explain her purpose for the interview and we would determine how we could proceed in the interview so that both of our roles work to benefit the client’s needs. To continue with this learning opportunity, I could ask the law student to review the strengths and goals that each of us bring to the interview.

### **F. As an observer**

One of the primary goals of the clinical setting is education. Enrolling in the clinical legal education program, the law student has the opportunity to analyze and reflect on one’s own practice, and examining one’s methods of legal interviewing is part of that process.

Although there may be differences regarding the information sought, there are similarities between the legal and social work professions regarding interviewing. The social worker has acquired the skills necessary to conduct an interview – to be able to obtain information to make assessments, present information to the courts, and advocate for the client.

In this educator role, I will randomly choose an intake interview to sit in with the law student. This approach provides the opportunity for the law student to practice having an observer when interviewing - to give her the chance to learn how to focus on the interview and to address the nervousness of being observed. I also provide feedback about the interview which includes addressing the physical aspects of the interview such as posture, or engaging with the client. I address how to manage the time allotted to the interview, maintain and/or adjust the focus of the interview, and discuss counselling skills (summarizing, reflecting).

Part of the feedback process includes the law student's opportunity to reflect on her experience in the interview that I observed and compare it to previous interviews. By this method, I am able to build on the student's strengths and address some of the interviewing methods that may not have been helpful.

In an educational environment such as a clinical law setting, the social worker plays several roles – teaching about direct practice through feedback and providing a mentorship about how the two professions can work together for the benefit of the client. But, as in many educational settings, stressors can arise for the student. The social worker can also act in a direct professional role for the law students.

#### **IV. SOCIAL WORKER FOR THE LAW STUDENTS**

The experience of working in a poverty law office might be the first time that the law student has been confronted with poverty and other traumatic related issues. She may also be interviewing and counselling individuals for the first time who have been diagnosed with serious health conditions, including mental illness, as well as being victims of physical and/or sexual abuse. Hearing these experiences for the first time may raise feelings of shock, anger, sadness, hopelessness, and injustice, as well as feelings of ineffectiveness for the client.

The law student needs to have a sense of safety and know that she will not be "marked" or viewed as incompetent for expressing such emotions. She

must feel ensured that she will not be judged by possible future legal peers. As the social worker, I am the person most likely to be approached with these feelings. While it is made known to the law student that I would not act as therapist, an exploration from where these feelings arise is discussed. It is a valuable opportunity for the law student to discuss her experiences in the clinic.

Through the course of listening to clients' grief and trauma, the law student may have had her own emotions "triggered". She may have identified her own challenges for example as a victim of abuse, having an eating disorder, or struggling with an addictions issue. The law student in confidence will request social work assistance – to talk about her situation and determine the next step in addressing her own emotional issues.

## V. COMMUNITY DEVELOPER

The role of the social worker does not have to be restricted to working within the agency itself. The social worker in the role of "community developer" can help to broaden the scope of the agency's service to the greater community, as well as provide opportunities for the law students to work with other agencies. The community developer role within the clinic has had three transition phases: 1) looking for resource involvement; 2) responding to a request for resource development; and 3) addressing a needed gap in resources.

### A. Looking for resource involvement

Part of the mandate of the social work position has been to start or enhance areas of service outside of the agency. Because many of the clients are homeless or struggle with inadequate housing, contributing toward the community's effort to address the issue of homelessness seemed like a logical direction in which to focus my efforts. However, after weighing possible options for involvement, it seemed that the amount of effort needed to be devoted to it would reduce the amount of individual casework that would be done and thus negatively impact the work done with the clients and students.

My search continued for ways in which the social work role could contribute to benefit the community as well as the agency. Determining where to focus was a continuous process of speaking to other agency directors, listening to clients, and identifying the law students' frustrations regarding lack of resources for the clients.

## **B. Responding to a request for the resource development**

The clinic (The Law Centre) has an established reputation in the community; the expertise and service is highly regarded. Some agencies in the community have requested that The Law Centre provide similar service out of their respective offices – what one might refer to as a satellite office of The Law Centre. These requests have come from individuals working and/or volunteering in other agencies who have previously been associated with The Law Centre as a student or staff member. In one situation, we were asked by a local agency to provide legal services at one of their shelters.

As part of this process, we considered the following issues: 1) would providing our services at this shelter on a periodic basis enhance the lives of their clients?; 2) what 'other' or 'extra' types of services and/or resources would be required from the shelter and/or The Law Centre?; and 3) would our agency benefit from this experience?

To further explore these questions, it was agreed that a law student and I would provide services from the shelter one morning every two weeks. Two spare offices were provided and a sign was posted the morning of the clinic at the shelter indicating in which room the service would be provided.

There were obstacles encountered which were not assessed before providing this "satellite" service. We had not considered, for instance, how a conflict check would be completed. We could not always assess whether we could open a file for the client without consulting a staff lawyer. Because the client may have required some summary advice, depending on my knowledge and the law student's knowledge, the summary advice was limited.

Because of the client's homeless status, accessing the client at a later date to update summary advice that was given to the client, or providing a decision as to whether a file would be opened, was very challenging. We had to place the onus on the client to contact the office to follow up. As a result, many files would be closed due to not being able to follow up with the client. The majority of the clients who requested service happened to be "hanging about" in the foyer and saw the sign. Many of the issues were what could be referred to as "aged issues" – questions unresolved from several years ago. Ultimately, we decided that our resources would be better utilized if we focussed our intake services at The Law Centre office.

Wanting to contribute to community service outside of the agency, I continued to look for other possibilities. I wanted to find an opportunity that would not only serve the larger community, but directly assist the clients

coming into the clinic. Being open to various possibilities, the next phase presented itself.

### **C. Helping to fill the resource gap**

In the clinical legal setting, the practice of referring clients to resources takes on a specific focus because the law student would like to see the client involved in services that can "help the file". If the client, for instance, is charged with assault or uttering threats, the law student might be anxious to have the client enrol in an anger management program. The challenge is not only to find a resource appropriate to the needs of the client but a resource that has minimal to no cost.

If a resource is needed or requires support, it is best to focus energies in that direction. I had referred several clients to a local resource that facilitated a five week anger management course when the agency had the professionals available to conduct it. The facilitator of the program, with his other duties in the agency, found that he could not commit the time necessary to conducting anger management programs on an ongoing basis. Seeing an opportunity for development, and to ensure a continued resource for the community as well as our agency's clients, I volunteered to co-facilitate the group.

At this time there are three anger management groups running per year. The impetus to support the continuance of three groups annually has been to allow the concurrence of an anger management group with each of the three clinical terms. The program accepts referrals from agencies throughout the Victoria area with a maximum of 10 to 12 participants admitted per group. While several of the participants are referred from The Law Centre, clients from other community agencies are served as well.

As can be seen from above, it took several phases to determine how the social worker could not only provide social work services that would benefit The Law Centre's clients, but also benefit those from other community agencies, in addition to addressing the law students' wishes.

## **VI. CONCLUSION**

The social worker has a definite place working as a colleague in a law firm. In a clinical legal education setting, that role can move beyond solely benefiting clients. Not only can the social worker provide service as a case manager but the role can also include that of an educator to law students. The social worker can moreover provide social work services to these same

students, as well as move beyond the social work role in the clinic by providing resource development to the community.