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Santa Barbara Legal Collective

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IS ANYBODY THERE?
NOTES ON COLLECTIVE PRACTICE
BY THE SANTA BARBARA LEGAL COLLECTIVE*

INTRODUCTION

Law communes and collective law practices have been labeled interesting and exciting experiments. They are experiments in the delivery of legal services to people whose lack of money and power severely limit their access to any form of legal assistance. As a law collective, however, we are something far different from a poverty-oriented, socially-conscious law firm. We are instead an association of lawyers and legal workers whose primary goal is social and political reform both within the contemporary legal system, and within a legal system we envision for the future. Because of the nature and goals of our practice, we have faced unique financial, organizational, and attitudinal problems. This article explores many of these problems and describes our solutions to them.

Writing an article such as this is not easy. Reaching out to so many unknown people to explain who we are and what we do presents serious problems. We do not want to emphasize the trivial or uninteresting, but issues of real concern to a collective practice include many mundane details. It is with these trepidations that we embark on a discussion of how our office actually functions and how we hope to implement our plans for political, social, and legal reform.

I. STARTING OUR PRACTICE: THE PROBLEM OF ATTITUDE

The Santa Barbara Legal Collective has been in existence for 2 years.¹ During that time, we have struggled much, learned a great deal, and drastically altered our modes of thinking and methods of practice. Throughout this process we have maintained and refined our perceptions of the goals and principles which originally brought us together.

Our decision to practice law collectively was not made over-

*At the time of this writing, the members of the collective include: Warren Adler, attorney; Karen Blasingame, attorney; Emily DeFalla, legal worker; Richard Eiden, attorney; Jo Anne Frankfurt, legal worker; Norman Roberts, legal worker; Jeannie Rucci, legal worker; and Richard Solomon, attorney.

¹Most of the collective's members first met during the arson trial stemming from the burning of the Isla Vista branch of the Bank of America. At that trial some of us were defense attorneys and some were defendants.

night. Meeting for several months prior to opening our doors, we decided upon common goals and the methods for attaining them. Time and experience have greatly improved our practice. We have found it is possible, with our structure, to operate an office efficiently, to perform competent legal work, and to combine legal with political work in an environment which is nonalienating for ourselves and our clients. Our practice provides us with an income without charging high fees, and permits us to grow steadily toward becoming the kinds of people we envision building and populating a new society.

Politics and social change are our motivating forces. Essential to our politics is the concept that possessing legal skills makes us no better and no different from all other people. We are not entitled to take their hard-earned money in the name of professionalism. That is not to say that we do not charge fees. But our fees are set as low as possible, yet high enough to pay our overhead expenses, and salaries of from \$210 to \$275 per month. Additionally, we view our clients as our brothers and sisters. We attempt to demystify the law so that when they come to us for help, they not only have their specific problems resolved, but they also learn something about the operation of the "system" and what they might do the next time a problem arises. This occurs not only in our one-to-one encounters with people in the office, but also in our lectures and other outreach programs in the community. This fall we are organizing a "people's law school."

In order to accomplish our ideals, it was first necessary to change our own attitudes. It was essential for us to discuss and agree that money does not play as large a role in happiness as we had been taught. We must continually discuss the "professional" attitude that is developed in law school, as it separates legal people from other people and fosters an unhealthy and overlarge ego in lawyers. Self-confidence and the knowledge that we provide competent legal assistance, coupled with the support and criticism of comrades in and out of the office, take the place of the traditional "lawyer's ego" and provide us with the security and aggressiveness necessary to effective lawyering.

Attitude changes do not come from a mere theoretical or intellectual understanding of what might be a more desirable attitude. Collective practice means supporting each other in our individual struggles to overcome personal ties to elitism, sexism, and professionalism. Various other faults like personal insecurity and occasional obnoxiousness are often dealt with as group prob-

lems. We meet often in "criticism meetings" to formulate policies and programs to correct these faults. We feel criticism should be carefully considered and thought out before it is voiced. We try to be gentle and objective, rather than abrasive, and we attempt to avoid personal attacks. In receiving criticism, we strive to consider each statement carefully, regardless of its nature or source. We find it better to make criticisms when the situation warrants, rather than to allow problems to go unresolved while resentments build. By using these guidelines, we have improved both our practice and our ways of relating to other people.

II. DAY-TO-DAY OPERATIONS

Our office is open from 9:00 a.m. until 5:00 p.m., five days a week. The week is divided into 10 half-day reception shifts. Since there are presently eight collective members, five of us do two shifts each week for one month, while three members have a month free from reception duty. We change the schedule at the first business meeting of each month. The receptionist answers phones, greets people when they come in, and is also responsible for such tasks as keeping the reception area neat.

We have a regular business meeting every Monday in the late afternoon. Cases which have come into the office the previous week are discussed, and an attorney and a legal worker are assigned to each case. A person may be assigned to a case because she or he is familiar with that area of law, or for the opposite reason—so that the member may learn that subject area. Working in pairs affords an opportunity for members to educate each other in specific areas of law. General business takes up the remainder of the agenda. This includes such items as vacation schedules, new membership applications, office purchases, and seminars that members might attend. By utilizing self-discipline, we have learned to cover an amazing amount of material in a brief and relatively painless meeting once each week.

Every Tuesday evening we hold a "study meeting." The format is loosely structured around topical units lasting 6 to 10 weeks. Every other week we discuss a reading chosen to illuminate a particular point or area of interest, and, generally, for each meeting one person is assigned to select and provide the reading and lead the discussion. On alternate Tuesdays, we discuss whatever seems important. At one meeting we discussed this article. Sometimes it is a local political issue; at other times our Tuesday meeting is a "criticism meeting." We have just completed a unit on introductory economic theory and are about to begin a unit on

women's issues—sexism, feminism, working women, and other experiences of women in a sexist society.

Perhaps a few more details would help clarify the way the collective supports us as members. As mentioned earlier, our salaries are all below \$300, with the exception of one member who has a family and receives additional money when needed. While we all have a commitment to live on low salaries, our general policy is to allocate money according to needs. And since it is hard to exist for long periods on such low incomes, we have arranged to provide some necessities at collective expense. Gas is charged at a local station, and the collective pays for all repairs on cars. In return, cars are treated as quasi-collective, which means that while one or two individuals may have primary access to and responsibility for a vehicle, all cars are subject to appropriation by a transportation-needy individual at an ad hoc "car conference." We are building up a supply of automobiles so that soon there will be one for each member; however, in the past we have had access to only one or two vehicles. Consideration was given first to those whose needs were greatest, and the sharing worked relatively well. Medical bills are sometimes paid, and loans or special grants are given when the need arises. Everyone decides whether extra money should be appropriated. Food is purchased and kept in the office refrigerator, eliminating the need to go out for lunches which might otherwise be a drain upon our scarce time and money.

III. DIVISION OF LABOR

One aspect of our practice which is necessary to an understanding of the collective's operation is the concept of legal workers. These are people who have had little or no formal training in law, and who became interested in doing this type of work for political or practical reasons. After short periods of time in our office, all legal workers are able to fulfill most of the functions of practicing attorneys (with the notable exceptions of those functions legally prohibited, such as appearing in court, giving legal advice, and visiting individuals in prison). An example of this is a woman in our office who, after having done legal work for less than a month, prepared a writ of mandate to the California Supreme Court which overturned Santa Barbara's residency requirement for city council candidates.

Admittedly, our biggest fear of an office without traditional divisions of labor was that the work would not be done as quickly or as well as necessary. Since attorneys do their own typing, some

individual pleadings take twice as long to prepare. But having nonattorneys in the office who also prepare pleadings helps to offset this time loss. The overall effect, we feel, is that everyone develops his or her legal skills, and as a group we become more effective and efficient than if the more menial jobs were left to the nonlawyers, as occurs in the traditional mode of practice. Working together and learning from each other has proven that an equitable allocation and sharing of the work produces a much more successful collective effort.

Often the legal workers are asked questions such as: "Why are you not in law school?" or "Do you plan to attend law school?" There are obvious advantages to a bar card; however, since the legal workers are already doing productive work without one, it is difficult to stop for three years to attend law school. But we do have an arrangement that promises to solve the dilemma. There is a program in California whereby students can qualify for the bar by studying under any attorney who has actively practiced in the state for the past five years. This program includes in-office work, the reading of law, discussions, examinations, and reports. Luckily, one of our attorneys qualifies as such a mentor, and he can assume the responsibility of training and supervising the study of those members of the collective who want to participate in this program. Thus, a legal worker may obtain a bar card without leaving the collective.

IV. POLITICS AND LEGAL PRACTICE

Since all collective members share a strong belief in the necessity for restructuring society, we devote all of our abilities and legal skills to that end. Specifically, this means we support the liberation struggles of Third World people, of insurgent unionists and farmworkers, of women, children, prisoners, student radicals, and anti-war protestors. In short, we support all people who are oppressed because they were not born with money and power. This support manifests itself in many ways, and we often represent clients in political cases for reduced fees or totally without compensation.

Relating our politics to our legal practice is a constant concern. Like every other decision made in the office, questions of legal tactics in specific cases are examined in light of our commitment to advance the causes of justice and social change. This commitment requires, among other things, that we devote considerable energy not only to decisionmaking but also to refining our political goals, and to working toward their fulfillment.

Besides our own study meetings, we maintain extensive correspondence with other like-minded collectives and law offices, in part through our active membership in the National Lawyers Guild, an association of leftist legal workers, law students, and lawyers. If our structure has developed largely from internal, organic needs and intuitions, our substantive practice has thrived on advice and support from, and the exchange of experiences with, our comrades in other parts of the country. Additionally, we depend on friendly local attorneys for answers to questions that occasionally arise, and their experience and support have been invaluable.

Finally, our roots and contacts in the community are crucial to the effective integration of our politics and our legal practices. It is fundamental to our notion of serving the people that we keep the needs of the people foremost in our work. There seems to be little need, at least in our practice, to define "the people" with analytical precision. We maintain a relationship of trust and cooperation with those elements in the community which we believe to be vital and progressive. Many of our decisions are made with their input, and our relationship with them has been generally productive.

Although our political consciousness is the distinguishing characteristic of our legal practice, we must still fulfill the obligation to advance the best interests of our clients. This is implicit in any law office subject to the economic and ethical constraints of our present legal system. We have eliminated some of the areas where these obligations conflict by categorically refusing to accept certain types of cases. For example, since a prime defense tactic in rape cases is to attack the integrity of the prosecutrix, we will not represent accused rapists. No matter how persuasive the defendant might be in protesting his innocence, we refuse to assume his defense since it might require harassment of a woman and implicitly contribute our support to a system which often punishes the victim before the rapist.

More difficult problems arise in the areas where the legal system forces us to advise clients to compromise their own interests. The most common instances involve the criminal defendant who must be told that taking a case to trial may cost three times more in legal fees than will pleading guilty to a lesser charge. We are taught in school that the defendant is offered more protections in the criminal justice system of America than in that of any other country. Not until entering legal practice did we learn that

these "paper protections" often exist only to the extent that the defendant can afford to buy them.

Equally significant, and perhaps more interesting than the strictures placed upon the criminal defendant, are those imposed upon the insurgent unionist. Our labor practice is by no means extensive enough to qualify us as experts in the field. We do, however, have some experience in representing wildcat strikers. Emotionally and politically, wildcatters are close to our hearts—as working people with real and immediate grievances, and as rebels with powerful feelings of solidarity and class loyalty. In two recent instances, we have faced irreconcilable contradictions between the short term interests of our clients in accepting tentative concessions and returning to work, and their long term interest in controlling their own lives. Ethical dilemmas compounded themselves like figures in an accountant's nightmare. The decisions, of course, were left to our clients, but as their legal advisors, we could not ignore the fact that wildcatters have no place in the rigid structure of labor law. In its application, federal labor law has its main effect in encouraging the petrification of major labor unions—all in the name of promoting "industrial peace." Its ritualistic formulas of "fair" and "unfair" labor practices, its penalties against unions that step out of line, and the power given to established unions all serve to retard the development of truly independent and representative labor organizations. However, as our practice in this area expands, we hope to develop a fuller understanding of this area of law to meet the needs of our clients and at the same time to contribute to an ultimate political solution of their plight.

V. PERSONAL AND SOCIAL PROBLEMS IN THE COLLECTIVE

A pervasive factor of our experience in the collective is its intensity. Trying to improve our legal work, our politics, and ourselves, as well as assuming the responsibilities of operating an efficient law office are not tasks undertaken lightly. Perhaps at first we underestimated the amount of work required by these tasks, but our desire and optimism gave us the courage to begin, and our successes the energy to continue.

Although it may seem incongruous with what has been said about the amount and intensity of our work, we feel the need to do even more. As mentioned earlier, we have followed a program of relating to individuals and groups in the community that we feel are progressive and whose politics we support. We do legal work for these people, and we also support them in other ways.

In essence we see our goal and theirs as one and the same.

Long hours are not uncommon. Weekly evening meetings and occasional weekend meetings mean that we see each other a great deal under the pressure conditions of our work. Often, we are unable to spend as much time with each other socially as we wish. This loss is felt strongly. We have found that setting aside time to meet socially is necessary if we are to work together comfortably.

Were we to single out the largest problem we have encountered, perhaps it would be the enormous amount of responsibility required to keep the office running smoothly. Many times a problem will be resolved with a decision that begins with, "Well then, everybody will do the following," and the success of that solution depends on everyone doing just that. With no management and no supervising bureaucracy, we must depend on our own self-discipline to assure that each and every thing gets done properly. After so many years of mother and father, teacher, professor, boss, or sergeant telling us exactly what to do every hour of the day and night, it takes time and effort to learn to work for ourselves as individuals and as a group.

One of the most critical personal and social problems we face in the collective is combatting sexism. Sexism is as oppressive in a law office as it is in any other setting. In our case, outsiders generally assume that all the women in the office are clerical help, and all the men are professionals. Regularly, people call when one of the women is on phone duty, and upon hearing a female voice ask, "Is anybody there?" Originally, some of the nonprofessional men seemed to enjoy this, but discussions resulted in an understanding that this confusion was misleading our clients and perpetuating unwarranted stereotypes.

At present, there are a number of ways we combat sexism internally. First, of course, there is our method of practice. Everyone in the office is equal in all matters; no one person does more typing or answering of phones. We are all conscious of the gaps between us in some fields of expertise, and strive, by learning and teaching, to close them. We also meet regularly in groups to study, criticize, and support each other in overcoming deep-seated personal biases. All of us are aware of the differences in the socialization processes that men and women undergo. Overcoming the effects of differing socialization requires our unending attention. These problems and others have confronted us and continue to confront us. We deal with each one individually, but

we have learned that a principled discussion which formulates guidelines for dealing with a problem helps reduce its adverse effects.

CONCLUSION

One of our concerns in writing this article is frankly propagandistic: we want to persuade at least some lawyers to try the collective form of practice. We think the American legal profession would benefit from more practitioners working in egalitarian, nonsexist environments.

What does a collective offer the card-carrying lawyer? Admittedly, most lawyers find it difficult to sacrifice those peripheral privileges earned by hard work and pain in law school. Even the most sympathetic young lawyers are sometimes put off by the prospect of spending time typing and sweeping an office floor at the cost of producing more cerebral legal work.

When all is said and done, collectives have only one advantage over traditional forms of practice: in many ways, they permit practitioners to be more *human*. One of the most dread afflictions of the legal trade—"lawyers' ego"—cannot survive in a collective atmosphere. The constant struggle against sexism has served to improve our feelings toward members of the opposite sex—a benefit which pervades our entire lives. Finally, the feelings of comradeship cultivated through hard work are of incalculable value. And most importantly, the opportunity to take only those cases which our consciences can tolerate enables us to face the world a bit more joyfully than is too often true among our brothers and sisters working their ways to partnerships.

Ultimately, though, the benefits to lawyers are only by-products of the main purpose of collective practice. Without a commitment to thoroughgoing social change in America, sooner or later more lawyers will find the sacrifices of collective practice too great to bear, and the opportunities elsewhere in the profession too tempting to resist. We have found that our political perspective—which has been developing continuously over the years—has played a major role in shaping our success. We only hope that others will share our concerns for justice and change within the legal system, and that they too will consider collective practice.

