

INTERDISCIPLINARY EDUCATION OF LAWYERS AND SOCIAL WORKERS
AS ADVOCATES FOR ABUSED CHILDREN AND THEIR FAMILIES

Donald N. Duquette, Law School
Carolyn Okell Jones, School of Social Work

University of Michigan

INTERDISCIPLINARY CHILD ADVOCACY PROJECT AT THE UNIVERSITY OF MICHIGAN

Working effectively with families who have abused or neglected their children demands enormous commitment and cooperation from a variety of disciplines and agencies. In recognition of this fact the Towsley Foundation funded in 1976 a three year project called the Interdisciplinary Project on Child Abuse and Neglect involving the Schools of Law, Medicine and Social Work at the University of Michigan. The Project's main goals are to develop models of interdisciplinary collaboration and training in child advocacy in the context of child abuse and neglect and to produce teaching materials that can be used by a variety of professionals in this field. In addition to a full-time administrative coordinator, the Project is staffed by professionals representing law, social work, pediatrics, child psychiatry and pediatric psychology. Three members (1 lawyer and 2 social workers) are employed by the Project full-time; the majority are engaged on a part-time basis to undertake clinical, academic and executive responsibilities.

Medical School

Part of the Project is located in Mott Children's Hospital at the University Medical Center. The Project staff participate in several facets of the medical education curriculum. Drawing on their clinical experience in the hospital, they teach students in the Law and Social Work Schools and train social workers in community agencies concerned with the protection of children.

Primarily, the staff serve as working members of the University Hospital Child Abuse or Neglect (SCAN) team providing consultation, assisting in the diagnosis and management of cases and cooperating with community agencies in developing a treatment plan for the abused or neglected child and his family.

School of Social Work

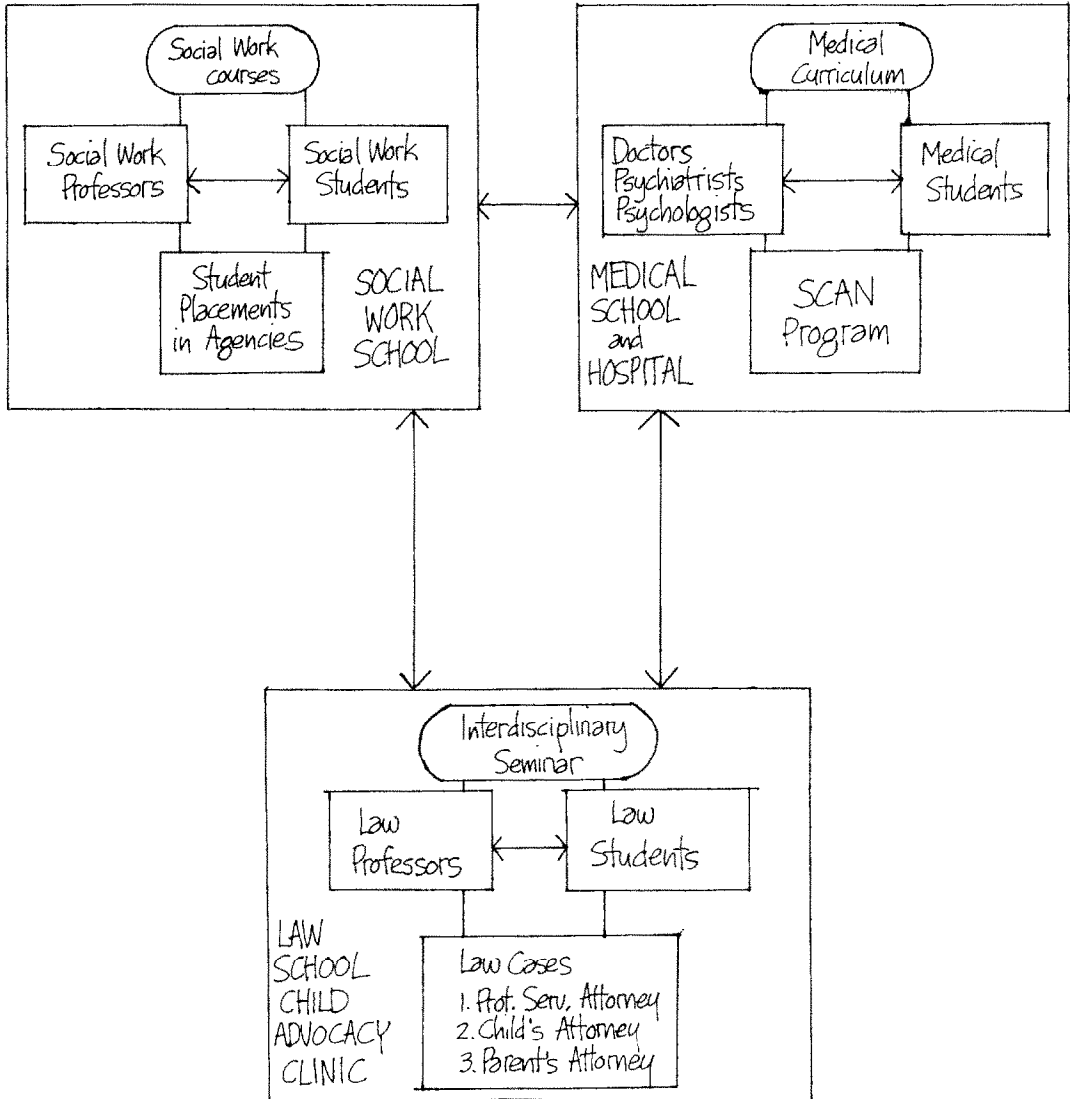
In the School of Social Work two faculty positions are funded by the Project. These faculty persons perform traditional clinical, in-service and teaching functions including offering graduate students two specialized courses in child abuse and neglect. Each semester several social work students have field placements with the SCAN team and work closely with law students from the Child Advocacy Law Clinic on cases of child abuse and neglect.

Law School

The other major component of the Project is the Child Advocacy Law Clinic whose activities will be cited in detail as an example of the way in which the goals of interdisciplinary education are pursued. In addition to the Child Advocacy Law Clinic, teaching is provided by the Project staff in the non-clinical law school curriculum focusing on legal, medical, psychiatric and social aspects of child abuse and neglect.

CHILD ADVOCACY LAW CLINIC

The Child Advocacy Law Clinic is a speciality clinical law experience offered by the University of Michigan Law School as part of the Interdisciplinary Project. An objective of the Child Advocacy Clinic is to provide eight law students per semester with a clinical



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Figure 1

experience handling actual child abuse and neglect cases in a setting of close collaboration with several different professions.

Actual case handling, under the supervision of a law faculty member and in consultation with social work, psychiatry, psychology and pediatric faculty, is the core of the Child Advocacy experience for law students. Recognizing that the lawyer responsibility in child protection cases in the American legal system cannot be examined or learned from a single perspective, and that child advocacy by necessity requires family advocacy, law students handle cases in three distinct legal roles in separate Michigan counties. In Washtenaw County (Ann Arbor and vicinity) the Clinic acts as attorney for the Child Protection Agency who is the petitioner (moving party) in child protection legal actions. In Wayne County (Detroit) the Clinic represents the child in abuse or neglect cases. In Jackson County, a mostly rural county to the west of Ann Arbor, the Clinic represents parents accused of child abuse or neglect.

Several advantages result from the different legal roles and geographical diversity of cases handled. First, both students and faculty experience the role demands and personal and interprofessional conflicts evoked by representation of the various parties. Second, the court and social service delivery systems in each county vary significantly in the amount of resources available and in their efficiency and effectiveness. Third, the community standards of child care vary appreciably among the counties. For example, a case that would not even be brought to the attention of the Court in one county may result in a child being removed from his home in another. A case that would prompt marshalling of extensive assessments and treatment resources in one county may receive only monitoring by a single caseworker in another county.

The Child Advocacy Clinic is offered cases by Court authorities in each county. Cases are screened by the supervising attorney for educational value and opportunity for interdisciplinary collaboration. Students' time commitments and existing caseload are also a consideration in the choice of cases.

The Clinic's interdisciplinary staff offer the law students traditional legal skills training as well as seminars in medical aspects of child abuse and neglect, child development, interpersonal and family dynamics, functioning of human service agencies, intervention strategies, interviewing and counseling. Each student is provided with a Child Advocacy Manual compiled by the interdisciplinary staff on the legal, medical and social-psychological aspects of child abuse and neglect. Through interacting with the interdisciplinary faculty and social work students in seminars and through consultation on cases, students gain an appreciation of the roles and functions of the other disciplines and begin to understand the legal role in relation to the other professions.

Attorney for Child Protection Agency

To prepare the law student for the role of Protective Services attorney, the Clinic simulates the development of a case early in each semester. Mock interviews between social work students and law students are conducted, sample petitions are drafted and courtroom advocacy is simulated. Student performances are video-taped for private review and for review with the faculty. Prior to actually handling a case, students see video-tapes of other students and of lawyers in courtroom settings. They also observe the supervising attorneys in court on cases with which they are already familiar.

In all the attorney roles, the Child Advocacy law students are encouraged to define their responsibilities more broadly than merely in-court advocacy. Client counseling, negotiation, case preparation, and social advocacy are just as important for the lawyer as is traditional trial advocacy. As attorney for the child protection agency, however, traditional trial advocacy skills are especially important. Child protection cases are often difficult to prove. The incidents often occur without witnesses. If a parent denies allegations of child abuse or neglect the agency attorney must marshal whatever evidence is available and organize and present it in a persuasive fashion to the Court. Proofs in such cases often require testimony from physicians, psychiatrists and psychologists. The social workers nearly always testify and are essential colleagues in developing the legal case.

The interface between the social agency and the Court must be explored and understood by both lawyers and social workers. In the Clinic the role of the Court in child protection

is placed in context for both social workers and lawyers.

Delivery of services to the dysfunctional family remains the duty of the social agency whether or not court action is taken. It is the social workers who have the mandate, the expertise and the resources to actually provide assistance to the children and their families. Legal action becomes necessary only when the intervention strategy of the agency infringes important personal liberties of the parents or the children. Essentially, the agency asks the Court to suspend parental rights and authorize coercive intervention in a particular family on behalf of the children. The Court's authorization may facilitate the agency intervention. The Court itself, however, has no treatment expertise nor should it be relied upon to develop a treatment plan.

The law student, when representing Protective Services should understand and appreciate the responsibilities, skills, available resources and even the limitations of the social workers with whom he is working. The lawyer for Protective Services should not view the social worker's goals only in terms of legal objectives, but should identify the social objectives of the agency as separate and distinct from immediate legal objectives. With the help of the social workers, the lawyer should identify the social goals of the agency with as much specificity as possible, and appraise what realistically can be expected to be achieved with a family and in what time span. Thereafter the lawyer or law student, by creative use of the court process, may be able to accomplish the social goals whether or not the most obvious legal goals are attainable. Knowing the social work plan and its bases the lawyer is better able to support it in court through expert and material witnesses.

The further challenge for the lawyer is to achieve the social results in an efficient, effective and direct way which avoids or minimizes the negative effects of the adversary process. The legal process itself may contribute to the family dysfunction and tension to which the social worker is trying to respond. A process of mediation or negotiation may provide an alternative to the adversary system in which family members must testify against family members; and helpers, such as social workers and physicians, must testify against the parents they are trying to assist. Skills and tactics in negotiation, mediation and pacing the litigation are stressed within the Child Advocacy Clinic in addition to traditional trial advocacy.

Through the clinic experience law and social work students come to recognize the mutual benefits that accrue through early consultation and collaboration on a case. Social workers discern with lawyers whether there are grounds and sufficient evidence to take a case before the Juvenile Court. The social workers obtain an informed opinion on the likely outcome if the decision is made to proceed to Court. Legal assistance is provided in petition drafting. Lawyers utilize the assistance of social workers in preparing a strong case by advising them on the exact nature of documentation and other evidence required, including focusing on hard facts and actual observations of behavior rather than relying on vague opinion.

In the Clinic, students are encouraged to reflect on the impact of legal and social work intervention on the families with which they deal. Potential role conflicts within and between the legal and social work professions are also explored. Lawyers learn to appreciate the difficulties that social workers encounter when trying to deal with and determine what is best for the whole family in contrast to the lawyer's role of representing one party as client. Social workers learn to understand the lawyer's role in protecting the due process rights of their particular client in the complex arena of child protection.

The Child's Attorney

The lawyer as child's attorney in Michigan, as in many other of the United States, is charged with representing the "best interests" of the child. The lawyer, then, must form an independent judgement and be an independent and objective advocate for the child. In preparation for and in support of the child's attorney role, law students in the Child Advocacy Law Clinic are introduced to the basics of child development, as well as to the family dynamics associated with abuse and neglect and the expectations and responsibilities of the various social and medical agencies involved. A child's need for secure attachment and the potential short and long term consequences of separation, foster placement and adoption subsequent to termination of parental rights are among the subjects examined.

Throughout their Clinic experience and in particular when preparing individual cases in

consultation with the interdisciplinary faculty, law and social work students are encouraged to reflect on what good professional practice in child abuse and neglect cases ought to be. Provided a model of good practice, the law and social work students are able to evaluate shortfalls when they occur; and conversely, appreciate good professional practice when they witness it.

The child's attorney role is introduced as a vigorous and active one. On some cases social work students work with law students. Students, with the advice and supervision of faculty, act as advocates within the social service delivery system as well as legal advocates. The child's attorney presses and persuades the responsible social agencies for services and attention which the client needs. Preferably such nudging is done in a collegial and non-accusatory manner and is often quite effective. If, however, a social worker or his agency is not fulfilling their responsibility to a particular child or parent, the Child Advocacy Law Clinic insists on a higher standard of service either by a direct request to the agency or by formally raising the issue before the Court.

Must the child's representative in child protection cases be a lawyer? This question is continually under consideration in the Clinic even though current Michigan law may limit what experimentation can be done. Many of the functions performed by the child's attorney could be done as well or better by social workers or other behavioral scientists; however, some responsibilities do require legal skills. Is the solution to have social workers represent children in child protection cases with lawyers' support as needed? Or is the solution representation by a team of social worker and lawyer?

Parents' Attorney

Representation of parents in cases of alleged child abuse and neglect requires certain skills and resources in addition to the ones discussed above. Lawyers and law students must first deal with their negative feelings toward the client parent accused of child abuse or neglect. The feelings toward a client parent, unless dealt with properly, can sabotage a lawyer's advocacy either consciously or unconsciously. These feelings are dealt with from the beginning of the Child Advocacy experience. At first through films and video-tapes of abusive parents, then through discussions of actual cases, the personal reactions of students surface and are dealt with. An intellectual understanding of the dynamics of abuse and neglect gained through seminar and case experiences also tends to soften the negative personal reaction to client parents.

Considerable attention is paid to family and personal dynamics associated with child abuse and neglect. Among the dynamics identified is that of parental ambivalence toward both their children and the helping personnel. Law students are warned about parental ambivalence so that they can identify and understand it and perhaps avoid parents' changing their positions at the last minute or sabotaging gains for which the lawyer has worked very hard.

Lawyers are counselors at law as well as advocates. In the agency attorney role the lawyer may advise a client social worker to pursue non-legal avenues in a case before taking legal action or to consult other professionals about treatment strategy before initiating court action.

The lawyer as counselor to parents must feel comfortable engaging the parent as a person. He must evaluate the parents' difficulties and their legal and social situation, and then provide legal counsel as to how to accomplish their goals. The lawyer may well explore with parents whether or not personal and family problems exist with which the social agencies may assist. He may counsel parents to accept certain services, seeking postponement of the Court process in the interim. As a result the parents may be willing to accept some limited assistance from an agency voluntarily. The parents may even be well-advised to forego immediate legal advantage in order to benefit from a social intervention that is calculated to prevent recurrence of abuse or neglect.

Where the client parents are willing to accept some services under the shadow of court action, the parents' lawyer should obtain from the social worker a detailed treatment plan for the family. The social worker should also make a contract with the parents defining in concrete terms the problems that are to be worked on, the obligations of the parents and of the agency, and what is expected to be achieved by the parents prior to return of the child or termination of intervention by the agency.

The counselor role is quite consistent with traditional lawyer functioning. It is based on trust and dealing with the client parents as important individuals. However, these non-adversarial tasks of the lawyer may be even more important in child protection than in other areas of the law. In exercising his counselor function the lawyer must be careful to establish whatever trust he can with the clients. When recommendations of cooperation with social agencies are made they should be made carefully so that the clients understand that if the suggestions of the lawyer are not accepted, the lawyer will stand by them as advocate of their position in subsequent proceedings.

After exercising his counselor function the lawyer may decide that vigorous advocacy to accomplish his clients' goals is necessary. This decision may be based on an appraisal that the case against the parents is weak or unfounded, or the agency response may seem unduly harsh or drastic in light of the problems identified by the agency or the parent. The decision may also be based on the clients' firm denial of the allegations in the petition and their instructions to contest the case. After fulfilling the counselor function, the lawyer must zealously advocate his client's position. It is recognized that others may believe that a child may be at grave risk, but it is the lawyer's duty to advocate for his client no matter the opinion of others and no matter his personal beliefs in the matter.

Other professionals often find the lawyer's role as zealous advocate for the parent in serious child abuse cases disquieting and difficult to understand. This issue is one raised regularly in the Child Advocacy Law Clinic.

The lawyer's advocacy should start in the agency itself. Some discussion and negotiation may lead to a resolution of the conflict between parents and agency. Law students are tutored in the important but little taught art of persuading a large bureaucracy, convinced of the inherent rightness of its position, to modify it. In spite of the desirability of non-judicial resolutions of disputes between the parent and the social agency it is often necessary to proceed to trial. The Child Advocacy students are first trained in traditional skills of trial advocacy and are ready to go to trial when necessary.

IMPLICATIONS FOR THE COMMUNITY

Participation in an interdisciplinary process involves continuous appraisal of the scope and limits of each profession's expertise and simultaneously promotes understanding of the interdependent roles. It becomes apparent that the quality of each profession's functioning is contingent on the performance of other members of the team. The realization that one's own professional performance depends on others creates a system of checks and balances.

Inevitably, at the interface between the different professions in an interdisciplinary team there is an overlap of skills. Team members have to establish mutual trust before they are in a position to negotiate how tasks should be allocated to avoid unnecessary duplication. However, the balance is delicate and care must be taken to avoid blurring of roles. For example, social workers trying to adopt a lawyer's role and vice versa.

A major pre-requisite for functioning well in an interdisciplinary team is that each member hold a strong sense of his/her own professional identity while being able to appreciate the views and practices of professionals coming from different conceptual orientations. Failure to recognize the part played by traditional professional systems and theoretical orientations of different professional groups in the diagnosis and treatment of child abuse and neglect is at the bottom of many professional disputes and misunderstandings.

By providing an interdisciplinary teaching and clinical experience for students before their professional stance becomes set and their belief systems entrenched, some of the problems in interdisciplinary collaboration can be ameliorated or at the very least aired and better understood. Interdisciplinary education also ensures that students from different disciplines gain a clearcut understanding of what the responsibilities of each discipline are in the management and treatment of child abuse and neglect. Expectations are thus created about standards of practice. Professionals are encouraged to hold each other and their different agencies accountable for their performance.

It is recognized that students who go through the clinic may not ultimately specialize in this field, but, as a result of the experiences to which they have been exposed, it is hoped that they will not lose their humanist "child advocacy" orientation. Having worked

cooperatively and fruitfully with other disciplines, the law students are more likely to seek out an interdisciplinary network of supportive expertise in whatever field of law they enter. Throughout their careers they are likely to use their influence to bring legal and political pressure to bear on other child and family issues.

Child abuse and neglect is an important field for the well-trained lawyer to enter. It is a field, along with much of family law, not traditionally considered important or prestigious within the Bar. The Child Advocacy Law Clinic, as a family law speciality clinic in a major law school, may help enhance the image and importance of child and family law.

It is hoped that well-trained social workers will be stimulated by the interdisciplinary educational experience in child abuse and neglect to become more involved in Child Protective Services and reaching out to unmotivated clients. Also as a result of their Child Advocacy experience they will be able to cooperate better with lawyers on all cases involving families.

In Social Work education generally there has been a marked reluctance to discard sentimental notions of the family and to consider the role which force and violence play in family life and the extent to which it may be a potentially endemic property of the family as a system. However, manifestations of family violence such as spouse assault and child abuse are commonplace in social work practice today and are cause for much anxiety within the profession. Hence, it is important that social work curricula include specialized courses on family violence and that the phenomenon be recognized as a complex legal - medical - social problem demanding serious scientific investigation, skilled intervention and the flexible provision of resources and interdisciplinary effort.

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