

**Jeanne Charn**  
**Executive Director**  
**Hale and Dorr Legal Clinic**

### **Background of the project**

The Hale and Dorr Legal Clinic is a law office that functions with a singularly strong commitment to quality legal work that produces high level results for its clients. The clinic is sponsored by Harvard Law School and operates in the Jamaica Plains section of Boston. It stands out in its self-conscious devotion to quality work and to raising the bar on what can be done for clients in “garden-variety” legal services cases.

The clinic was founded by Gary Bellow and Jeanne Charn, its current Director. From its inception, the clinic has sought to set a standard for performance in individual cases that far exceeds the norm in legal services.<sup>8</sup> An underlying premise of the clinic is that the common denominators in legal services work are typically very low, not because legal services advocates are not dedicated, but rather because of institutional and structural pressures that increasingly lower expectations for the work. Jeanne observes: “From the beginning and now, we have self consciously looked at what we are doing and worked to mitigate the pressures toward mediocrity with conscious strategies to counter them.”

According to Jeanne, the clinic has two concurrent missions. The first is to give students a quality experience of the practice of law at the highest level and to teach law students that legal services work is not “drudge work.” Jeanne describes the approach as a “medical model” in which there are student trainees who work with an “attending attorney.” A staff of 15½ attorneys work with approximately 75 students each semester.<sup>9</sup>

The second objective is to push the quality of work done on “the easy to moderately complicated case” to the highest level. “We are interested not so much in the big case, but in the ordinary case” Jeanne notes. “Our basic tenet is: ‘Don’t miss the opportunity to use the ordinary case to make change.’”

What working at the highest level means will be clearer when this article discusses benchmarks. A teaser now should suffice: the expected outcome in housing cases is *never* to have the client lose possession. And, one year, the clinic had 100% success in meeting that benchmark –not a single housing client lost possession in an eviction proceeding.

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<sup>8</sup> The critique of legal services on which this commitment is based goes back many years and is reflected in the seminal article written by Gary Bellow in 1977, *Turning Solutions Into Problems: The Legal Aid Experience*, 34 **NLADA Briefcase** 106, August, 1977, available on-line at <http://www.garybellow.org/garywords/solutions.html>.

<sup>9</sup> The clinic operates with 15½ full time equivalent attorneys, plus 4 staff funded for a Ryan White project, 3 full time Fellows, an office manager and a receptionist..

Jeanne is deeply committed to a model that does not sacrifice quality at the expense of high service numbers. She notes that the standard of the clinic is not one that everybody is able meet. But she states her view that “we hold this money in trust for our clients and our students.”

Jeanne acknowledges that the clinic has two advantages that most legal services offices do not. The first is “secure funding with consistent, slow growth.” The clinic is fully funded by Harvard Law School, so that none of Jeanne’s time has to be devoted to fund raising. The second advantage is that the organization has no restrictions on its work, other than those which pertain to all non-profits. She observes, “We are really not accountable to anyone.” But she goes on to note: “That’s a problem. We do want to have these [high standards] be a part of the program’s mission, but we also do need a common basis for knowing how we are doing in comparison to others.”

The way that the program holds itself accountable to such high expectations for its staff and its students is by a series of internal mechanisms and self evaluative techniques. The infrastructure underlying the office’s support for quality includes what Jeanne refers to as “Practice Systems.”<sup>10</sup> Many of the practice systems she lists are present in most legal services programs, but at the clinic there is a consciousness of the close connection between system design and the capacity to maintain quality. In a written description of the clinic’s approach to quality, Jeanne observes: “...careless design of office systems and inadequate practice support run the risk of reinforcing the dynamics that undermine quality.”<sup>11</sup>

The practice systems that Jeanne cites that specifically aim at supporting high quality, effective representation are:

- A case management system for recording and tracking cases and clients;<sup>12</sup>
- Systems that maintain an updated record of all open cases in the office, their status and identification of responsible advocates;
- Practice standards that provide clear guidance regarding how key aspects of representation are expected to be conducted. (In many legal services programs, standards are relatively general, often based on the ABA, *Standards for Providers of Civil Legal Services to the Poor* (1986). At the clinic, they are “guides or ‘To Do’ lists applicable to

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<sup>10</sup> The following discussion of “Practice systems” is drawn in part from a paper that Jeanne wrote describing their system. Charn, Jeanne, *Quality Assurance at the Provider Level: Integrating Law Office Approaches with Funder Need*, **DISCUSSION DRAFT**, Legal Services Research Centre, International Research Conference, March 20 and 21, 2002, Oxford, England Revised: September 12, 2002.

<sup>11</sup> *Ibid.* at page 12.

<sup>12</sup> A case management system should facilitate advocates:

- completing required file forms and recording pertinent client information;
- maintaining a docket of legally relevant events;
- filing and tracking critical or original documents;
- entering file notes for every important event, strategy and decision;
- documenting the resolution of the matter and the reasons for the outcome;
- completing closing documents and transferring the case for storage.

*Ibid.*, p. 13.

specific tasks,” such a standard governing what should and what should not be recorded in case files.);<sup>13</sup>

- Performance reviews;
- Technology that provides desktop access to on-line legal research, Internet access, e-mail and basic office software, form files, model pleadings, standard case documents, standard letters, information sheets, and the like;
- regularly updated form and brief banks;
- a law library and on line research tools.<sup>14</sup>

In addition to these practice systems, the clinic has instituted several practices that stand apart and that contribute significantly to the high level of quality of work produced. Those include:

- *Benchmarks* which state outcome goals that advocates should aim for in their cases. *Qualitative benchmarks* are keyed to the best outcomes that are obtained in the office or known to the office in each substantive area. *Quantitative benchmarks* relate to the number of cases that advocates are expected to close in a year.
- *Casework Protocols* that set out strategies and tactics that have proved effective in similar cases. In a written description of the procedure, Jeanne characterizes protocols this way: “Ideally, protocols are to the formal rules and procedure of a case what a detailed set of directions from an experienced guide is to a mass produced map of a terrain.”<sup>15</sup>
- *The Quality/Quantity Committee* in which members discuss productivity and outcome results at least quarterly, and review and make changes in various practice supports and systems. Jeanne sees the “Q&Q Committee” as “key to continued innovation and improvement in the clinic.”<sup>16</sup>

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<sup>13</sup> *Ibid.* p. 17.

<sup>14</sup> Other “practice systems” are part of the infrastructure to support effective work for clients, including:

- ✓ a litigation fund for discovery, expert witnesses, filing fees and other needs of proper case handling;
- ✓ a system for checking conflicts;
- ✓ a system for keeping and retrieving closed case files;
- ✓ reliable process servers, stenographers and commonly used experts;
- ✓ translators, if the client population is multi-lingual;
- ✓ client trust accounts and procedures for documenting and handling all funds expended on a case, and all funds received from or on behalf of a client;
- ✓ time-keeping systems;
- ✓ runners, clerks and couriers to assure timely court filings, service on opponents and other important errands.

*Ibid.*, p. 12.

<sup>15</sup> *Ibid.*, p. 16..

<sup>16</sup> *Ibid.*, at p. 15.

## **The clinic uses benchmarks to hold staff to the highest standard in terms of what they accomplish for clients**

Jeanne describes the clinic's use of benchmarks as "critical" to its success meeting the clinic's high standard. She notes that "the range of what is possible is only what we think it is, and what is possible is generally much higher than what is first assumed." Jeanne observes that one of the challenges is setting the proper benchmark when there is not a shared standard already in place, or the standard has sunk over time because of constantly lowering expectations .

"We are venturing into an indeterminate area," Jeanne says. "One of the needed features, therefore, is to have someone who pushes the envelope on what we think is an achievable benchmark." For many years, before his untimely death, Gary Bellow did that for the clinic. "He would take 3 cases and work with people on them and that would set the benchmark."<sup>17</sup> The resulting benchmarks were very high, indeed. As noted earlier, in housing, one benchmark is that no one represented by the clinic should lose possession involuntarily. Another benchmark is that the client should get compensatory damages for conditions and that the apartment should be in better condition after the client is represented. Jeanne's description of that particular benchmark is simple: "Our objectives are that nobody ever involuntarily moves and we expect a cash return to the client based on conditions and that the conditions are repaired. ...It's not about whether you won in court," she notes. "It's about 'What did the tenant get?'"

The clinic and Jeanne, as Director, take the benchmarks very seriously. She notes, as others have who use benchmarks, that they tend to rise over time. At one time, it was standard that everybody represented in an eviction proceeding moved out. The benchmark has evolved significantly to the high expectation that now prevails.

Jeanne says that for benchmarks to work, "they have to be explicit and the expected results have to be knowable and intelligible." And the organization needs to be able to measure if the benchmarks have been met. At the clinic, each case is closed with a form that captures detailed outcomes that reflect the benchmarks. In housing, for instance, the form asks for information regarding 1) the client's objective, 2) if the client retained possession of the premises, 3) money damages, 4) attorneys fees, 5) repairs completed and 6) in the event that the tenant moved, what the circumstances are in the new apartment. The latter information requires the attorney to follow up with the client. See Attachment A.

In divorce cases, the closing form asks for similarly detailed information that is tied to expected benchmarks related to support, alimony, health insurance, custody and visitation and division of family assets. See Attachment B. Other sample case closing forms are also attached.

Perhaps the most notable impact of the benchmarks is the simple fact that they are met in high percentage of the cases. In the housing area, for instance, the clinic obtains money damages in

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<sup>17</sup> For those who did not have the good fortune to know Gary, for more than 3 decades he set the mark for high quality and effective legal services representation in the country. A website dedicated to Gary can be found at <http://www.garybellow.org/>.

almost all cases and often gets \$5,000 or more in monetary damages. As noted earlier, one year, the clinic did not lose possession a single time – a remarkable achievement as anyone who has practiced housing law can attest.

Jeanne notes that they are able to set such a high standard in housing, because they work with clients who are in extremely poor housing. There is only very old housing stock and virtually no new low income housing. As a result, there is always an issue with conditions that are substantively important in a case.

### **Case protocols guide advocates toward best practices in the handling of every case**

Casework Protocols as used at the clinic differ from protocols as they are defined in some legal services programs. In other programs, protocols are often checklists that track the filing deadlines and the stages a case should follow. Jeanne describes protocols at the clinic as setting out “strategies and tactics that have proved effective in other cases or that save time or conserve costs. They direct attention to opportunities to benefit a client and warn of pitfalls.”<sup>18</sup> “They are *not* checklists,” she emphasizes, “but rather are aimed at upping quality in cases by suggesting strategies that have worked in similar cases.” Thus, for example, in housing the clinic has developed a standard settlement agreement with the Housing Authority that links clients’ agreeing to move out with their finding other affordable housing. If no other housing can be found, an agreement to vacate is no longer effective. Through repetitive use, the clinic has succeeded on having the settlement agreement become routine in many housing cases with the result that clients are always kept in affordable housing.

Jeanne notes that there is not a formal process for adopting and writing up a protocol. Rather, because each year, clinic staff teach new students how to handle cases, the approaches become memorialized informally. She does, however, see them as a key ingredient of the process for accomplishing the very high standards of practice in the organization and for meeting the high benchmarks that have been set.

### **A strong system of accountability underlies how the self evaluation techniques are used**

Jeanne is very clear that a strong system of accountability is key to the success of the various self evaluation methods that have evolved. She considers the benchmarks as an absolute guide to what the staff should accomplish. The case closing data is regularly and carefully reviewed, and annually, the senior attorney of each unit writes a detailed report summarizing the results of the unit’s work for that year.

A committee called the *Quality/Quantity Committee*, made up of the managers of the office, meets at least quarterly to review the clinic’s productivity and the outcome results reported from the case closing forms. The Q&Q Committee, as it is called, recommends changes in clinic operation to increase its capacity to meet and raise the organization’s high standards. Jeanne

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<sup>18</sup> Charn, p. 16.

says of the committee that “in all respects it leads the office in continued innovation and improvement.”

Accountability is direct at a personal level as well. Jeanne observes, “We have a very strong system of accountability that is face-to-face. The Unit Managers are responsible for what happens in their unit and if people are not able to accomplish the substantive expectations of the clinic, they are asked to leave.” The Clinic conducts regular case reviews, but Jeanne notes that they look at the work “based on the standard of quality and benchmarks. It is not just a process review.” Staff members know that they are expected to meet the benchmarks and to follow case protocols and the case review is approached from that perspective. Jeanne’s written description of the clinic’s case review process sets out the standard: “In reviewing the case, the skilled practitioner looks for the discrepancies and convergences between (i) what he or she would have obtained as a result in the case and what the advocate achieved, and (ii) what he or she would have done in the case and what the advocate did. More convergence indicates better work while significant divergence may indicate weaker work.”<sup>19</sup>

“We do keep close eye on people,” Jeanne observes. Accordingly, 6 people have been asked to leave in the past year based on their failure to perform at the expected level of the organization. Failure to meet benchmarks is not dispositive of whether an advocate is considered adequate to continue working with the clinic. Jeanne notes that “aggregated data only raises questions,” but it is a basis for further inquiry about an advocate’s performance. “The fact that we were willing to let people go who weren’t reaching the standards of the office lets people [who are here] know that they are really good.”

### **Other contemplated approaches to performance improvement**

The clinic is considering another interesting way to measure its effectiveness in serving its clients, using a client follow-up technique. What Jeanne conceptualizes, she calls “after care service,” which is a way to measure longer-term outcomes for clients. In writing about it, Jeanne notes, “Certainly ‘winning’ the case –i.e., obtaining disability benefits, retaining possession in an eviction, averting a mortgage foreclosure –can be understood as a good result. More telling, however, might be measures such as:

- Was the client able to retain disability benefits for at least a year or through the next agency review?
- Was the tenant able to remain stably housed at least one year after resolution of the eviction?”

To accomplish an after care service capacity involves several steps. First, is to develop what are really long-term benchmarks; that is, an outcome or set of outcomes that the clinic would expect to accomplish in representation that would hold after six months or a year. The clinic is engaged in initial discussions to identify such longer-term outcomes. Addressing long-term outcomes involves identification of likely actions that will be necessary to help the client retain the benefits

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<sup>19</sup> *Ibid.*, p. 23.

of the representation, such as a new disability review and maximizing the likelihood that the client will avoid the crisis again.

The second is to develop a culture that sees such long-term follow-up to be a part of the representation of a client. Not only does the office need to see it as part of the professional responsibility of the organization, but the client needs to know as well that there will be follow-up contact after their case is closed.

Finally, the capacity has to be staffed and an office system created to track clients for whom follow-up is indicated. The nature of necessary staffing will vary depending on the type of follow-up expected. If the follow-up is just a call to warn the client to expect a notice of review, then the caller does not have to be a lawyer. Similarly, if it is just to check on the individual's current circumstance, the caller does not need to be an attorney. At present, the clinic envisions a small staff being assigned the task of follow-up and that the individual will not be a lawyer.

Two different objectives may be served by the after care unit. First, is to warn clients of predictable actions that may affect their circumstance. The second is to identify whether the short-term outcomes obtained for clients are holding (*e.g.*, Is the person still safely housed? Is the client still employed?). "If they are not," Jeanne observes, "the clinic needs to find out why. What intervention would have made a difference?"

### **Endnote**

Jeanne made a closing observation about the efforts of the clinic to develop the self-conscious system of self-evaluation and internal accountability that it relies on to maintain such a high level of quality in its work. The experience confirms for her the "need to create a way to communicate about what people are doing with quality control and self-evaluation to increase performance." She notes that to draw on the learnings of others she had to go to other places than the legal services community to get guidance and learn from others. We need to fix that.