

The Beginnings of Community Legal Services - 1969 – 2019

by John Eberhard, Q.C., LL.B. '69

The first dean of our Western Law was Justice Ivan Rand. He set the bar for excellence. Justice Rand retired from Western at age 80 and moved back to New Brunswick. His legacy is enormous. He had decided many constitutional cases in the Supreme Court of Canada and his “Rand formula” had become an important component of labour law. He was succeeded as dean by Fred Carruthers in 1965, a law professor from British Columbia who injected youth into the law school and a love for labour and contract law.

It was Justice Thomas Berger (a member of the UBC class of 1956) who also remembers Dean Carruthers thus:

“I do remember one day in labour law, Fred Carruthers’s class, and we were discussing a case and one of my fellow students said, ‘Well, the workers are under the thumb of the union.’ And I remember him replying, ‘Better to be under the thumb of the union than under the heel of the employers!’”

The class of 1969 remembers him well as one of our first year (contracts) professors. Indeed, it is not a stretch to say that he was the inspiration for Community Legal Services. By coincidence when he came to Western from UBC, he brought curricula of mandatory programs for second and third year based on a well developed UBC structure. This allowed for the possibility of student migration from Western to UBC and back. I took advantage of this in 1967-8. On a lark, I had summer jobs in the lower mainland (not that far from where Dick Boris ('69) was setting off dynamite in a BC dam construction project). I entered second year at UBC in the fall of 1967 returning to Western for my last year in 1968-9 from where I graduated with the class of 1969.

The year in the west provided a break in the tedium of law school and a different law school experience. The classes were all held in tin Quonset huts. When it rained (which it often did on Point Grey that winter), it roared. Today, the Peter A. Allard School of Law attracts bright minds from across the country and around the globe. One of the students who I came to know there was the future Premier of the Province – Mike Harcourt. For a socialist, he was known for his capitalistic innovations at the school. He created and marketed the canned notes for the mandatory Carruthers courses. I was able to bring them back to Western Law the next year for those who needed a work-around for the tough slugging in some of those courses. I also brought back something else: the Student Defender Program.

The Student Defender program has morphed into something much larger. Today, at UBC, the Community Legal Clinic (ULC and ICLC) provides the Allard School of Law students, who are temporary articulated students under the Law Society of British Columbia, with experience-based clinical legal education in community lawyering. Students are trained and supervised in the conduct of legal matters by the Legal Services Director and also complete an academic course in tandem with their clinical experience. Students have the opportunity to meet with and learn from other members of the legal profession and community, including judges, lawyers, and

community advocates and service providers. The Indigenous Community Legal Clinic provides free legal representation for those persons who qualify for legal assistance and have a legal issue that falls under the jurisdiction of the British Columbia provincial courts. Examples of cases dealt with at the ICLC include:

- criminal matters
- family law matters
- human rights complaints
- civil disputes in small claims court
- wills and estates
- hearings before administrative tribunals dealing with matters such as: employment insurance; welfare; landlord and tenant dispute; and Canada Pension Plan
- Indian Status applications
- Aboriginal legal issues
- limited assistance with some divorce cases

The evolution of today's program at Western is similar.

Convincing Dean Carruthers to let the second and third year students start such a program

While at UBC, I participated in what was called the Student Defender program. It was in its early days there, but was growing into a very popular student run initiative. It provided an opportunity for students to undertake pro bono legal work for students on campus. It was good experience!

Coming back to London in the summer of 1968, one of my first trips to the law school was to speak with Dean Carruthers. The conversation led to a proposal to transplant the Student Defender program to Western Law. It didn't take much to convince him that this was a program that would appeal to 2nd and 3rd year law students at Western.

When I brought the Student Defender program back from UBC in 1968-9, I had no idea it would expand and flourish as it has. It created good memories and the precursor to the much larger program it is today! It is a credit to its current leadership that it offers so much to so many!

The canvassing of the classes to gauge the level of interest

In the fall of 1968 I gathered a small group of law school class-mates together and formed a nucleus of 3rd year students who agreed to volunteer their time to the project. We developed an administrative strategy and then focused on enlarging the group by inviting fellow students who we knew had interests in the kinds of cases we would take on. That involved general consultations and the triage of issues brought to us by students from across campus.

Working with Wes Rayner and George Thompson in setting up some ground rules

The Dean readily agreed to appoint professors Wes Rayner and George Thompson to provide faculty oversight. Those issues that we could address with any confidence stayed “in-house”. More often, our advice was to “go find a real lawyer” or go to the newly opened London Legal Aid clinic and talk to Mrs. Grant. She was the first provincially appointed Legal Aid Director for the County (and mother of well known criminal lawyer and baseball player, George Grant). The matters we could typically handle as students included non-indictable (or hybrid) offences and summary conviction matters like actions under the Landlord and Tenant or Highway Traffic Act.

By 1967, the *Legal Aid Act* was passed, dividing responsibility of operating the legal aid plan between the province and the [Law Society of Upper Canada](#) (LSUC). Legal help was to be provided through two methods: in-court duty counsel lawyers and the certificate program where recipients would be given a “voucher” that could be used to hire a lawyer to represent them for a certain number of hours. Legal services were limited to criminal matters where the accused faced a serious risk of going to jail and family matters heard in the [Ontario Superior Court of Justice](#). We had to find a way to fit into that new system of providing services to impecunious clients.

Acquiring a meeting office to take names of interested law students

The first stop in any law office start-up was finding a place to hang out a shingle. We found and were authorized to use a broom closet on the third floor that accommodated a small desk and two chairs. It was enough. We advertised for interested law students on the bulletin boards at the school. I went the second year class and sought out students who would guarantee continuity into the second year of operation. We eventually managed to attract about 20 students who were willing to give up some study and CEEPs time to do some Pro Bono work. We were in business.

Working out policy issues on what kinds of cases we would look to do

Wes and George were very accessible and I had the feeling that they rather enjoyed babysitting us. They too gave up valuable time in the lounge where we often gathered in those days to play “Diplomacy”. This strategic game of international intrigue and alliances had replaced bridge for many of us as we waited for “clients” to arrive at the Student Defender office. Future Dean, Wes and future Jurist, George were very helpful and became good friends. The collegiality of the arrangement was very satisfying and a welcome diversion from the academic minefields of our regular classes.

Working and negotiating with Greta Grant

In 1968, the Ontario Legal Aid Plan establishes community legal clinics to address the needs of low-income and disadvantaged Ontarians. It seemed important to find out what territory we could cover in representing our “clients” in various courts. Things were different in those days. There was a certain level of jurisdictional haggling. We had to figure out and negotiate with the Director of Legal Aid on allowing students do some kinds of summery conviction defence work (a tough sell). Eventually the turf was identified that we could occupy. It was not long before we had our first clients. We were right in speculating that liquor licence and driving offenses would occupy much of our time. It was a learning experience just finding the court house that handled these matters. Once there, we felt like real lawyers leading our prey to meet justice. Negotiating with landlords on disputes ranging from allegations of trashing to the legality of deposits (a big issue of the day) occupied much of our time.

One of the interesting issues that arose was the complaint by Legal Aid that we were not allowed to represent anyone in summery conviction matters. The legendary Provincial Court Judge D.B Menzies set us straight and became a supporter of the project. So, traffic court was on and we got lots experience with the court at this level.

Looking for clients through the Gazette

We were organized and felt the confidence of all third year students who “knew everything” about the law. The confidence will ill-placed but we were not about to admit this to students from the main campus. We were overwhelmed by the number of campus students who wanted help with traffic tickets, landlords, getting caught at the Ceeps for under aged drinking – all the usual stress issues for students! It did not take long for the Gazette reporter to take an interest and some laudatory articles generated a stream of student traffic into the broom closet.

Working with second year students to formalize the program

Second year students were particularly keen. We organized a cadre of 2nd year students and thereby providing the continuity to ensure the continuation of the program after the first year of operation. I have great memories of some of the early cases we took on. I particularly remember the ground rules that had to be established both with faculty, the student defenders and the courts. We took sage advice from our future 1969 Honourary Class President: W.R. Poole QC (our first year criminal law professor and life-long mentor). He offered the most practical advice as to how to approach the courts, administration and prosecutors. Most of all, I remember how the law students got engaged because they wanted to do some “real law” and participate in something with very practical applications.

Memorable Wins and Losses

Some of my class-mates will have much better memories than me but here are two that spring to my mind:

- One of my DU Fraternity Brothers, the late Alan Thicke (yup, the same one) took my girl Judy to the Ceeps where I was to meet them later one night. Sure enough, I get to the women and escorts (as it was called) section to find it is chaos. A number of men in blue were checking IDs. I checked out (coward!). The next week, I attended with Judy at the Court house at 19 King Street where she was appropriately reprimanded for underage drinking. My eloquence in speaking to sentence could not move the Judge off the mandatory \$27.50 monetary penalty. So much for that relationship!
- A student was coming back from Kitchener in his American Motors Ambassador (the one that had reclining seats that became a bed – perfect for campus life). He was speeding. He caught up to a black and white and had to slow down. But the OPP vehicle sped up. He followed at the same high speed. The cop-car slowed. The student slowed. The officer went well over the speed limit. My future client kept pace. This cat and mouse stunt continued until both vehicles went off on the north bound ramp at Wellington Road. While on the ramp, the officer put on his flashing lights and got out to have a chat with the student. The student had the good sense or good luck to ask the officer if he was on duty with some investigation. The officer told him he was just going to court. He had lots of time. He also had a ticket prepared and charged the trailing student with doing 40 MPH over the speed limit – the same speed the officer was doing. The student was not happy. After hearing the facts in the privacy of the broom closet, the two of us left the law school the next day and attended at the Wharncliffe Road OPP station where a Justice of the Peace was on duty. After a long talk, I was able to convince him to take an “information” charging the officer with speeding. Two days later, the sergeant in charge of the detachment called me to offer a deal. If we withdrew our charge, he would withdraw the speeding charge against the student! What a deal! We won! The Student Defender system proved itself to be a worthwhile support for that student!

These are good memories of participating in a unique, non-credit law school activity. It encouraged me personally to strike out on a career in the courts. It was good fun!

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Founder: UWO Law School Student Defender Program, 1969

Class of 1969 – Celebrating our 50th Anniversary since graduation (1969 – 2019).