



Organization, Ego and the Practice of Alternative Law

By James Douglas

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An increasing number of lawyers and law students are trying to work in alternative kinds of law practices. In Chicago, New York, San Francisco, Boston, groups are getting together to form law communes, legal collectives, and people's law offices. They are united in their rejection of the traditional role of the corporate lawyer and in their belief that corporate practice serves only to perpetuate the inequalities that exist in American society.

As more people begin to consider new forms of practice, it is important to consider some of the problems they will face in becoming "people's lawyers." The following discussion outlines some of the problems and considerations that one alternative firm had to face. Hopefully these observations and reflections on this firm will provide some idea of the practical problems involved in becoming part of an alternative venture.

The Community Law Firm (CLF) occupies a small storefront on the edge of a racially-mixed urban district in San Francisco. The office is adequate and clean, but in no way plush. The furniture was donated, the bookshelves were built by a law student, and the small library was put together by cheap purchases and donations from more established, sympathetic (from a distance) lawyers.

Two white male lawyers, each about thirty, a full-time chicana legal worker and a part-time white woman legal worker make up the regular members of the firm. There are also six law students — a white man and woman, two chicano men and two black men. Two chicano

students were also placed in the office by a community organization which provides jobs for high school students. There are also intermittent volunteers.

One of CLF's lawyers described the primary purpose of the firm as follows: "to use legal skills to strengthen radical groups within the community to help develop the political consciousness and power of emerging community groups." Although the specific purpose of CLF is to support politically active community groups, many of the problems it faces are common to alternative models of practice. In the way in which it confronts these problems, CLF is in many respects a prototype for future efforts. Other groups have recognized CLF as relatively successful, and members of the firm are frequently consulted by people interested in learning about new approaches to the practice of law.

CLF's desire to strengthen existing radical groups in the community forced them to be very conscious of the location of the office. They chose a store-front in the Mission District in San Francisco because of the already existing community groups in the area. The members of CLF felt that a politically active community most needed the services of a community law office — and in turn, CLF could function only if they were situated in this kind of community.

One of the first problems CLF had to face was the size of the firm. The regular members consciously chose to keep their numbers few. The two lawyers who first conceived CLF realized when they began that extraordinary demands would be placed on the people involved if the firm was to provide both a service to the community and a fulfilling experience for its individual members. They felt that certain basics had to be agreed upon: how community demands are to be met, to what degree the firm will deviate from the more traditional models, what each individual member wants from the firm, and whether each others' goals are compatible. The members felt that there had to be absolute confidence and trust in the abilities, personalities, and commitment of each other. They all recognized a need for a long-term commitment, not only to the "movement," but even more to the people they are working with. They feel a crucial need for unity and coherence which required that the group remain small.

Translating a commitment to social change into reality involves very material considerations. How is the group going to finance itself, how much should each member make, how much (if anything) should be charged for services? CLF members all felt that the high fees charged by "downtown lawyers" effectively deny legal services to both poor and middle-income people. CLF agreed that a voluntary limitation of income was essential for two reasons: 1) to provide services for those who could not afford them, and 2) to provide a way they could identify (materially) with the community of which they were a part.

Some firms have decided that subsistence wages are all that is necessary. But the strains on any person (especially one trained as a lawyer) who voluntarily puts himself in a limited-income position are considerable. The lawyer knows that he has trained with people

who will make very good money as a result of the same training. An individual may be perfectly willing to settle for a starting salary much less than \$17,500; but does that feeling extend down to \$150-200 a month?

CLF feels that working for social change creates enough demands without also suffering a perpetual anxiety about the adequacy of one's income. It knows that such doubts may eventually drive an otherwise committed person out of the firm. CLF attempts to generate enough fees to provide each member with a base salary of \$400 a month plus an allowance for each dependent. This entails problems of conscientious fee-production. The firm is forced to maintain a delicate balance between free and fee cases to preserve both its financial survival and its political honesty. The members have to work out and agree on criteria to be used in selecting the cases the firm will handle without charge.

Because CLF emphasizes working with community groups, the legal problems of the groups as a whole and of the individual leaders and members have priority over other cases. CLF's activities consequently range from acting as counsel for the groups as a whole to the defense of individual members of the groups for such things as draft problems, warrants based on outstanding traffic tickets, and even bank robberies. CLF also handles cases of those not necessarily active within the community if the community leadership feels the case has political significance to the community. Non-community fee-generating cases to keep CLF financially stable include federal court appointments in draft cases and personal injury or workmen's compensation cases. Community leaders encourage people in the community to bring suits like personal injury cases to CLF.

Although not yet collective financially, CLF does practice collective decision-making in the determination of goals and directions. CLF believes that their office should be the first to focus on social equalization. All the members have equal voice in the decisions. Lawyers and legal workers participate equally in determining such things as whether to accept a particular case, which groups should be assisted, and the general direction that the firm will take. Many of the more political decisions are better determined by consensus than by the lawyers alone. Law students also have a voice to the extent that their association with the firm is an ongoing one.

The lawyers realize that the decision to create an egalitarian office structure will require even more of them. This is also true for law students who sometimes succumb to professional pretensions and the attendant privileges. Chores such as cleaning the office, going out to buy groceries for lunch, and answering the phone must be done by everyone: they are part of the work of the whole office — no person's role is restricted to answering phones or typing letters. Group pressure makes sure that no person goes for long without carrying his share of the undesirable tasks.

Responsibilities are shared as well. Any member can

call a meeting. The subjects can be as varied as sexism in the office to the relationships with a particular community group.

The attempt to replace the hierarchical office model with an egalitarian structure manifests itself in other ways as well. "Secretaries" are called "legal workers," and the role itself has been changed in more than name. The legal worker is no longer seen as the slave of the lawyer; rather, there is an attempt to respect the worker's individual worth and to develop his abilities to include more than typing, filing, and answering the phone. Law students help to teach the legal worker para-professional skills such as the preparation of motions and other pleadings, limited legal research, and interviewing and investigative techniques. This is one way that CLF makes a conscious effort at demystifying the law for both the legal workers in the office and the community at large.

CLF believes that it is crucial to recruit legal workers from the surrounding community. This is the most direct way that the lawyer can contribute to the community's resources. In turn, the lawyer becomes more quickly attuned to what is happening in the community, to what the community wants and needs. This is essential if the lawyer is to become a genuine participant in the social, political, and personal milieu from which his clients come, and if he wants to break down the barriers that exist between him and his clients due to the "professional mystique." (See letter to the editors, this issue.)

In its attempt to help develop and protect the political consciousness of the community, CLF assumes the role of the education of law students — particularly those from indigenous minority groups. Working with a community firm such as CLF helps develop both the student's legal skills and his political awareness. Each law student is given considerable independence, not trained simply to obey the commands of a senior attorney. The lawyer has a commitment to the law student which goes beyond reaping the benefits of cheap labor. The difference between them is recognized for what it is — one of education and experience, rather than innate superiority.

Last summer there were informational meetings arranged almost weekly for the benefit of the law students: a visit to a federal judge in his chambers, a trip to the office of a more established "radical" firm, and lectures on such matters as draft law, divorce procedures, and personal injury suits. This program was relevant to the student's current work and his long-term education.

So far I have described the political goals and operation procedures of the office; voluntary limitation of income, collectivizing the office decision-making structure, and the redefinition of relationships between law students, lawyers, and legal workers. But there are also important internal dynamics to consider, especially for those trained in the traditional legal role. The demands of the ego are difficult to silence — and often this is required. Ego demands may impose important restraints upon the ability of the lawyer to work within this kind of structure. It is important, therefore, for him to appraise honestly his

feelings about being in a position where he may be required to accept less money than a legal worker without the same years of training, where a secretary may not jump to do typing at an instant's notice, where he must solicit opinions from others he may unconsciously consider less qualified. These demands run counter to the lawyer's conditioning and are compounded by pressure resulting from his stance as community servant.

Part of this internal struggle for ego suppression is the lawyers' realization that there is much knowledge that they do not possess, knowledge that affects even "legal" decisions. It is common sense, for example, to involve minorities in composing a list of *voir dire* questions to test for racial prejudice. Lawyers can often improve their courtroom performance by inviting criticism from office observers about the effectiveness of a particular line of questioning or whether a preemptory challenge should be used to dismiss a certain perspective juror.

The lawyer's personal concern for his self-image will often conflict with his determination to serve the community. On whose terms will a legal service be performed? If a client wants to politicize his trial, if he wants to disrupt his trial, if he is being detained and wants to publicize his trial, what should the lawyer do if he feels that any of these activities will be a detriment to the outcome of the case in court? What particular function is the lawyer willing to adopt in a political movement? Any community firm must resolve these issues before specific controversies arise, taking into account all the conceivable community cases.

CLF believes that there are other considerations than getting the client off or doing well in the courtroom. The value to the community and the individual client derived from political mobilization around a particular issue may be far greater than establishing one person's innocence.

In attempting to carry out its primary function, the encouragement of community leadership by the use of legal skills to strengthen groups emerging in the community, the members of CLF have had to face similar internal-dynamic problems. Especially in out-of-court contact with members of the community, the CLF lawyer must be willing to allow local leadership to assert itself by consciously refraining from injecting his own values or goals into a particular situation. Any other course is sheer paternalism and will be recognized as such and denounced by community spokesmen. Lawyers must confine themselves to a role that is ultimately respectful and supportive.

There are other compelling reasons for refraining from assuming leadership. The lawyer is not the expert in all cases. It is seldom that the lawyer has grown up in the community or has experienced in a complete sense a similar environment. It's not his community in the same way that it belongs to the people with whom he is working. He should not use his legal skills or education or role to assert authority over the community.

Many community groups welcome sympathetic individuals with legal skills who are willing to help them in their

already-defined work. CLF serves as "house counsel" to various groups whose political goals it accepts and with whom it has established working relationships. As in corporate practice, this role is essentially preventive; it offers advice to groups before legal conflicts solidify. Community groups know they can benefit from legal experience but, unlike corporations, they justifiably demand that assistance be on their terms. Because they are primarily concerned with preserving their integrity, the lawyer's advice will not be regarded as sacred.

An opportunity to perform this kind of non-authoritarian service occurred last summer when a health clinic sponsored by a radical chicano group had trouble renegotiating their lease. The landlord did not want to negotiate an extension for the clinic. After the community picketed the landlord, he became more willing. CLF served in an advisory capacity from the beginning — considering the potential liability for defamatory statements on the picket signs and the possibility of injunctions against the picket.

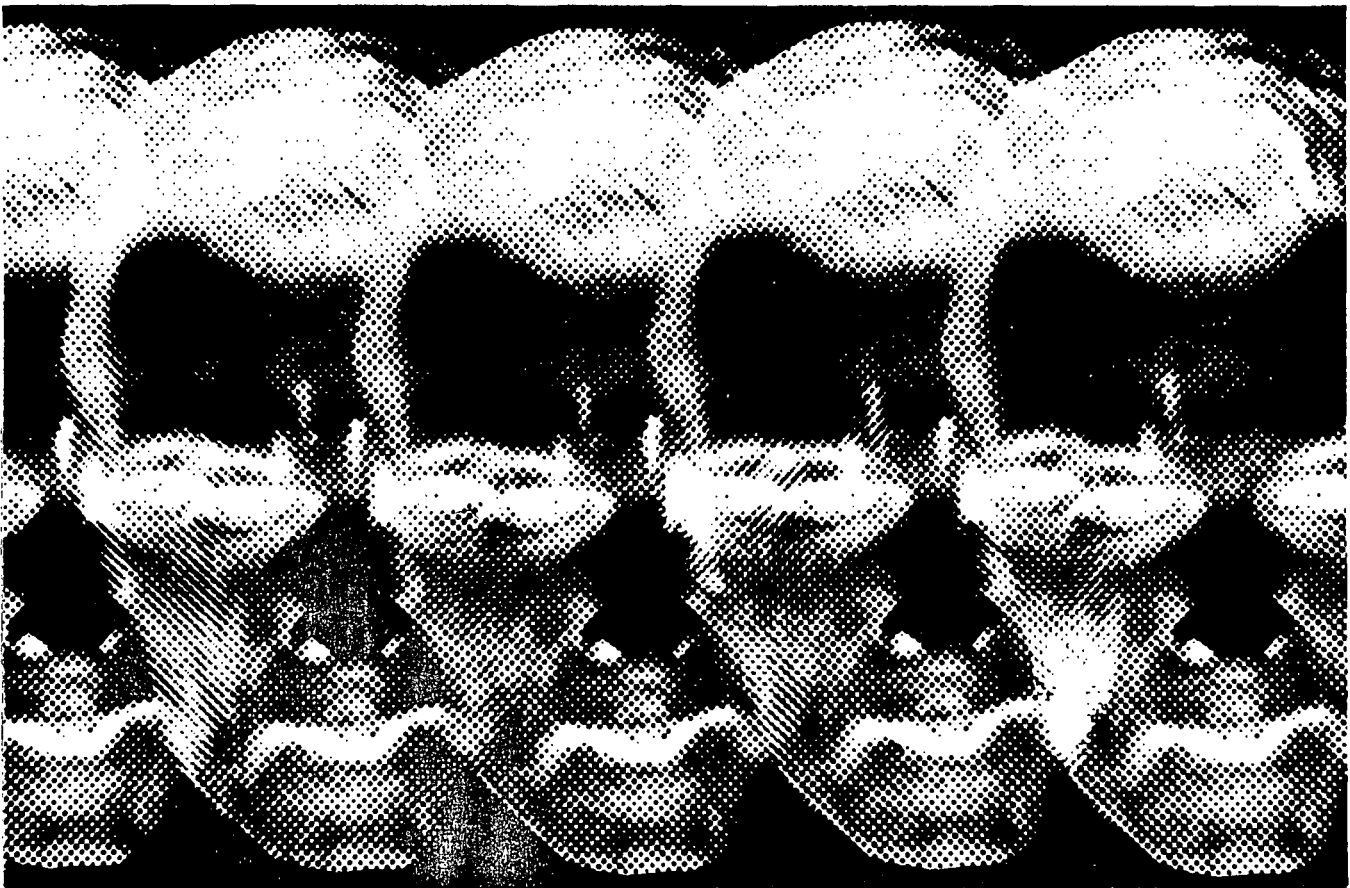
A law student then participated in the negotiations between the clinic and the landlord, helping to put the implications of the various demands into perspective, contributing opinions when appropriate, but leaving the ultimate decisions to the representatives of the clinic. When agreement was finally reached, CLF represented the interests of the clinic in drawing up the specific provisions of the lease.

This experience shows that the role CLF plays in the community, though significant, is essentially advisory

on terms established by the community. It is a role that does not usually create great ego satisfaction for the lawyer. He cannot pat himself on the back for his professional prowess in handling a ticklish legal point. In this case, the dispute never went to court — it was not a "big case." The sole reward was the successful contribution of particular expertise to the efforts of a group with which CLF was in substantial sympathy. While this kind of satisfaction is relatively common to this kind of practice, not everyone will be satisfied at this level. If a young lawyer expects to trade off the monetary rewards of corporate law or regular law practice for the fame of public interest law, he will be disappointed. Fame is not a part of the alternative practice's paycheck.

Clearly, more is required of the member of CLF than good technical skills. If he is to experience pleasant and fruitful working relationships with the community, the lawyer should live in the community. To live outside or fail to mix socially with the people with whom he works would be interpreted either as a desire to live above the people of the community or as an indication that his motivation for working with the community is one involving sympathy rather than real commitment.

The lawyer cannot conceive of himself as sacrificing his prestige and earning potential for the benefit of the downtrodden masses. He must want what the community wants, not because of his own detached intellectual brilliance, but because he believes that the changes desired by those in the community are desirable for



among "the people" for whom he feels concern. Their struggle is his; no more and no less.

Finally, the lawyer must consciously try to associate with community groups in non-leadership and non-legal capacities. There must be the opportunity for the "legal" individual to relate to the community and to contribute to its development in a non-legal capacity. If this can be done, the members of the firm will cease to be seen exclusively as lawyers and will come to be known for the people they are. Hopefully, the barriers created by the professional stereotype between the lawyers and the people of the community will gradually be overcome.

However, it would be false to assume that all barriers are easily overcome and that the relationship between CLF and the community groups is always harmonious. This summer I took part in a meeting between CLF and a legal defense union for a radical chicano group. The defense union felt that CLF was turning away from the community and developing a more traditional type of practice. CLF was taking fewer and fewer cases referred by the union, and members of the firm were not spending as much time with the defense group as they had previously.

There were several reasons for this apparent shift which the firm tried to explain. When CLF had been first set up, they had taken many cases from the defense group — there were few other cases limiting the amount of time available. But as the practice expanded, and as the firm developed contacts with other groups, less of CLF's time could be spent doing free work for the defense union. The firm wanted to retain a certain measure of autonomy from the local groups, and too close relations with some would minimize their chance of relating to others. In addition, the firm was still handling many cases already referred by the defense groups. Court appearances, memos and briefs had all taken up time, but these activities were not visible to the union, whose function was mostly limited to lining up defense help for particular defendants.

Some of these differences could be resolved by open discussion. Other questions, such as those relating to the autonomy necessary for the law firm, were inherent in the different positions of the parties. The legal defense group felt that the law firm should do more active door-to-door preventive legal work, while the firm believed that its resources were too limited to provide that kind of service. These differences may never be resolved, but they have been discussed openly and candidly. The important thing is the ability of the firm to take criticism from the community and not react defensively. The egos of the lawyers cannot be allowed to jeopardize the ongoing relationships between the law firm and the community groups.

These observations and reflections have hopefully shown some of the practical problems involved in starting and working with an alternative law practice. Over-all goals, site location, size, problems of income and financing are some of the external considerations. The internal office dynamics are equally important — the working relationships between the members, the breakdown of traditional hierarchical

structures, the attempt to de-mystify the law and train legal workers from the community, the efforts to instruct and incorporate the work of law students, and finally, the attempt to point out some of the personal considerations, especially the problems of authority and ego control. Is there a conclusion?

The conclusion, in theory, is relatively simple and straight-forward. Before a lawyer considers entering this kind of practice, he should frankly consider what it takes to make him happy. He should know what kind of work experience he wants and needs. This cannot be over-emphasized. The would-be community lawyer must examine his training and socialization to determine how fully he can incorporate these into the life style of the community. If he believes that such a practice would be satisfying for him — if he thinks he could be happy with the kinds of rewards it offers — he has only to find others in whose ability and motivation he has confidence and trust.