

Representing the Whole Client

By Ellen Hemley

To provide the highest-quality representation to our clients, we need to deepen our understanding of the many dimensions of their lives and refine the skills necessary to relate to and represent increasingly diverse client communities. The material for this article comes primarily from the experiences of advocates who designed and sponsored training programs on “whole client” representation for legal services programs in New England.¹ Issues of “cross-substantive practice” are part and parcel of “whole client” representation and are addressed elsewhere in this manual.

The Importance of Representing the “Whole Client”

“Whole client” representation means looking at and responding to people who seek our services as “whole people” rather than

simply “poor people” with legal problems or, worse, as “legal issues” divorced from the people whom the issues affect. Our clients come to us with a range of life experiences and histories that inform how they approach problems and make decisions and how they relate to the legal system and to us as advocates. Representing the “whole client” means recognizing our clients’ individual strengths and resources as well as their specific challenges or special needs.

When we understand the nuances of clients’ experiences and the lenses through which they see the world, we are in a better position to serve them and achieve the best outcomes on their behalf. To represent the whole client effectively, advocates should know

- how poverty affects the daily lives of legal aid clients;²

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¹ Wendy Janett of the Legal Services Training Consortium of New England and I developed the “whole client” training curriculum, with help from Maria Del Rio, Tanya Neiman, Myra Hindus, Michael O’Laughlin, Robin Barnes, and Lynn Barenberg. Whole Client Training: Participant’s Manual, the full set of participant and trainer materials on “whole client” representation, including topics not covered here such as working with clients with mental impairments and working with clients who are chemically dependent, is available at www.nlada.org/Training/TrainMaterials of the National Legal Aid and Defender Association.

² We recommend the training simulation on surviving a month in a state of poverty; the Reform Organization of Welfare Education Association of St. Louis, Missouri, developed the training. See www.extension.iastate.edu/cyfar/wnew/sat/sat_sim_sum.html for more information.

- how people of different cultures perceive things differently and how insight into the notion of “cultural competence” can strengthen our advocacy;³
- how our own life experiences and backgrounds influence our approach to our work and our interaction with clients;
- how working through an interpreter can enable those of us who do not speak a client’s language to communicate with the client effectively;
- basic communication skills necessary to work effectively with all clients, and especially those who have particular challenges such as learning disabilities, chemical dependence, or mental illness; and
- alternative delivery models for serving the whole client.

Being a “Whole Advocate”

To represent the whole client successfully, we must be aware of our own “wholeness” as legal aid staff. This notion implies that we are much more than the positions we hold at work; we arrive at our jobs with life histories and experiences that contribute to our effectiveness as advocates and influence how we relate to and interact with others.

Advocates should reflect on their own beliefs and assumptions and how these may affect services to clients. For example, what are our assumptions about people who are poor? About women who are battered? About people from different cultures? About mental illness or chemical dependence? To what extent do our economic or cultural backgrounds influence how we see others? To what extent do these influences help us relate more easily to certain groups of clients or less easily to others?

We encourage advocates to view their own wholeness as a resource to be nurtured and supported—both as a means of sustenance in the challenging work of legal aid advocacy and as a way to foster connections with clients. For example, if we draw from our own experiences as

parents or young people or members of particular communities, we can make our clients feel more comfortable and trusting in their relationships with us.

Working with Clients from Diverse Cultures

Legal aid programs are serving new immigrants from all over the globe as well as long-standing communities made up of people from many racial and cultural groups. Representing the whole client requires us to be aware that people of differing cultures may perceive events and ideas in different ways and that misunderstood cultural differences may complicate communication and legal representation.

The Meaning of “Culture.” We define culture as “an integrated pattern of human behavior that includes thoughts, communications, actions, customs, beliefs, values, and institutions of a racial, ethnic, religious or social group.” We ask advocates to reflect on their own cultural identifications and how these influence the ways they see the world and approach their work. We also ask advocates to identify the cultures and backgrounds of the clients they serve and the challenges or questions they have about working with people from these groups. For example, what have they noticed about how people from different cultural groups communicate? How might cultural identity inform how a client deals with domestic violence, divorce, health care, or education, and to what extent might this suggest the need to modify or adapt the approach to serving the client?

Legal Aid as a “Culture.” Culture includes not only religious, racial, or ethnic groups but also our own legal aid programs and the legal institutions of which we are part. Therefore, we must ask: what are the dominant thoughts, communications, actions, customs, beliefs, and values that our legal aid programs reflect? How might clients from different backgrounds—those who are poor, who have limited education, or who do not speak

³ Note that much of the material on culture and cultural competence comes from the Massachusetts Diversity Coalition. For more information, see www.diversitycoalition.org.

English, for example—perceive legal aid’s “culture”? What challenges or opportunities might these differences present for advocates?

We must recognize that our very roles as lawyers and advocates (not to mention our training) tend to create a power imbalance and separate us from our clients. To the extent that one of our core values as legal aid advocates is to recognize the dignity and humanity of our clients and to work toward their empowerment and self-sufficiency, we need to be conscious of these issues of difference and work hard to overcome them.

Cultural Competence. We define cultural competence as “a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or group of professionals and enable that system, agency or group to work effectively in cross-cultural situations.” It involves competence in knowledge, skill, and attitude and means knowing, by first inquiring about, how people from different cultures approach issues. For example, how might Hmong people approach issues related to health care or child protective services?⁴ What do we need to know about how women from particular Hispanic or Asian cultures respond to domestic violence issues? Cultural competence does not mean knowing the answers to all these questions in advance; rather, it requires that we know to ask the questions and be willing to find the answers.

Culturally competent legal aid advocates should consider learning about some of the following: (1) the history and sociopolitical situation in clients’ countries of origin; (2) how cultural or class background affects clients’ experience of legal institutions and process (e.g., police,

courts, overall justice system) as well as their interactions with the legal aid program and individual advocates; (3) how courts, judges, and government agencies respond to clients based on their race, cultural background, or country of origin; and (4) how cultural experience and context affect how clients make decisions and approach legal problems.⁵

In the skills arena, advocates need to know, among others, how to (1) build rapport when working with clients from different cultures, (2) listen effectively, and (3) work through an interpreter with clients who are not conversant in English. Advocates should (1) be aware of their own values and belief systems, (2) recognize their own attitudes toward clients from backgrounds different from their own, (3) recognize differences among cultures, (4) understand the effect of historic distrust on present-day interactions, (5) realize that one may misjudge another’s actions based on learned expectations, and (6) be willing to learn about other cultures.

Becoming More Culturally Competent. Cultural competency training covers many of the areas described above. Advocates can also learn about different cultural groups by reading about them and by establishing working relationships with community-based organizations and others who serve particular cultural groups and communities.⁶

Working with Clients Who Speak Limited or No English

Advocates are seeing increasing numbers of clients who speak limited or no English even as more languages are spoken within the communities we serve. As a result, there are more clients with whom we are unable to talk directly even if we are flu-

⁴ In our “whole client” training, we ask participants to read Anne Fadiman’s *The Spirit Catches You and You Fall Down* (Farrar, Straus & Giroux 1997), which examines cross-cultural issues related to the Hmong community in Merced, California, and to consider the implications of these issues on legal aid practice.

⁵ See also Whole Client Training: Participant’s Manual, *supra* note 1, at 6–25.

⁶ The Massachusetts Diversity Coalition conducts regular training on cultural competence generally as well as training sessions on working with specific cultural groups. See www.diversitycoalition.org for more information.

ent in one or more languages other than English; we must communicate through different kinds of interpreters.⁷

An interpreter listens to, memorizes, and recasts a statement in another language and cultural context. This activity, requiring repetition of exactly what the other person said, is not natural; rather, it is the product of training, concentration, and professionalism. Interpreters range from highly skilled professionals with experience in legal issues to a client's child whom we might draft in the moment.

Legal aid programs rely to some extent on professional interpreters (e.g., through court interpreters or services such as Language Line). More common, we rely on bilingual staff and other ad hoc interpreters such as family or community members.

Ad hoc interpreting does not follow the “memorize and recast” rule; rather, it is a more faulty process akin to “brokering.” The ad hoc interpreter functions as something of a shuttle diplomat, carrying on two conversations (one between the client and the interpreter and another between the interpreter and advocate). To work most effectively with ad hoc interpreters (i.e., to move from two conversations to one), we need to train them on the spot so that they are no longer brokering but actually interpreting. We must explain the need for accuracy and completeness and take greater control of the linguistic situation—the exchange—by putting ourselves, rather than the interpreter, in the center of the conversation. Ideally the interpreter is like a telephone through which advocate and client talk to each other. Use of this telephone line requires simplified speech, lowered expectations, and beginning with a few practice questions that establish the parameters of this new mode of communication. Most people find interpreting difficult, and many suddenly realize, when trying to do it, that interpreting is harder than it looks!

Advocates who take control of the interview process can begin a real conversation with their clients but will find the conversation much simpler than one without an interpreter. An advocate working with an ad hoc interpreter should

- encourage the interpreter to repeat what the client says and use the first rather than third person (e.g., “My name is Maria,” rather than “Her name is Maria”);
- speak clearly;
- speak directly to the client (rather than explaining the question or message to the interpreter);
- use the first person to refer to oneself and second person to refer to the client (e.g., “Can you (client) tell me (advocate) when ...”) rather than (“Can you ask her when ...”);
- use short, simple sentences;
- not ask compound questions;
- eliminate unnecessary jargon; and
- avoid slang and idioms.

Ad hoc interpreters who are family members can inhibit the client in speaking freely because they are too close to the situation. In this regard, advocates must be extremely mindful of the content of the interview and who is interpreting. For example, a client's child should not serve as the interpreter when the issue involves domestic abuse.

Other Examples of Client Identity and Challenge

Advocates should be aware of other relevant aspects of client identity. For example, recognizing behaviors related to specific psychiatric impairments (e.g., clients who are delusional, are victims of trauma, or have borderline personality disorder) and developing techniques for working effectively with these clients are helpful. Similarly useful is for advocates to be familiar with issues of chemical dependence (e.g., the concept of addiction and

⁷Material in this section comes primarily from Michael O’Laughlin’s “How to Work with an Interpreter,” in *Whole Client Training: Participant’s Manual*, *supra* note 1, at 34.

the process of behavioral change connected to chemical dependence) and specific skills for working with addicted clients (e.g., how to form an alliance with the client, set reasonable goals, clarify expectations and limits, know when and how to make referrals, and be empathic and nonjudgmental).

Other Strategies for Representing the Whole Client

The concept of “whole client” representation suggests the need not only to see clients as whole people but also to bring a wider range of tools and skills to an advocate’s practice. Like social workers, who are trained to see their clients within the larger social environment, we, too, need to learn about the “nonlegal” issues that affect our clients and that may determine the success of our representation. Becoming better versed in the nuances of

different cultural norms and practices, or the social-psychological conditions that contribute to mental impairments, is a new but necessary area for many legal aid advocates. But, given the demanding case-loads that most advocates already have, how can we take on even more?

The good news is that we need not do all this ourselves. In fact, we serve our clients best by working collaboratively with community organizations and social service providers who also serve them. By referring clients to other providers for help with nonlegal issues, we will ultimately help clients achieve better outcomes. A number of innovative approaches, such as having social workers on staff in legal aid programs, doing joint intake with social service providers, or stationing legal aid advocates in social service programs, can serve the whole client.⁸

⁸ For more suggestions on how to represent the whole client, see www.nlada.org/Civil/Civil_EJN/holistic_advocacy.