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Theresa Zhen

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Community Lawyering: Direct Legal Services Centered Around Organizing

Theresa Zhen*

We have to show up. It can't just be a handful of big mouths like myself; it has to be a community. The community is the ears, eyes, and mouths required to keep the system functioning for the good of the people . . . Together, we can end discrimination. Together, we can push our government to remove barriers and open up doors for people who are qualified in the here and now. People who should not be held stagnant. People who should not forever be kept in the place when they were at their lowest. Together, we can make these changes. And we must.

—Susan Burton, *Becoming Ms. Burton: From Prison to Recovery to Leading the Fight for Incarcerated Women*¹

In June 2017, Susan Burton, founder of the successful prisoner reentry program A New Way of Life Reentry Project (ANWOL), spoke to students and staff at the East Bay Community Law Center (EBCLC). Ms. Burton's story is profound: She spent more than twenty years cycling in and out of prison, punished each time for her drug addiction. Since 1998, she has been providing shelter, social services, and legal services for women returning home from prison or jail. Her life mission is to end mass incarceration and to link promise with opportunity for women who have been through (and, almost ubiquitously, been traumatized by) the criminal justice system. For me, having her speak at EBCLC was a powerful reminder about what it means to be a community lawyer.

Having grown up in Chinatown, New York in an immigrant community mired in poverty and then having being trained as a people's lawyer in one of the toughest places in California—where the 1992 Rodney King riots shook Los Angeles for years to come—I have had personal and professional experiences

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* Staff Attorney and Clinical Supervisor, East Bay Community Law Center (EBCLC).

1. SUSAN BURTON & CARI LYNN, *BECOMING MS. BURTON: FROM PRISON TO RECOVERY TO LEADING THE FIGHT FOR INCARCERATED WOMEN* 277–78 (2017).

that have prepared me well for the East Bay Community Law Center's Clean Slate Practice.

Before the East Bay Community Law Center, I worked for Ms. Burton as a Skadden Fellow from September 2014 to September 2016. Ms. Burton and the incredible women with whom I crossed paths at ANWOL left an indelible imprint on my life.

At ANWOL, working with organizers, formerly incarcerated people, and attorneys in a common space confirmed for me that lawyers have a place in the movement. Ms. Burton lauded lawyers for using their "legal codes" to free people from both imprisonment and from the collateral consequences of a criminal conviction. But she also stressed that lawyers should not limit themselves to traditional legal tools, remedies, or even fora.² Lawyers must actively support and show up for movements led by formerly incarcerated or convicted people. In her speech, Ms. Burton affirmed that lawyers' intimate knowledge of statutes and regulations enable them to identify opportunities for structural and systemic reform that non-lawyers might not as readily perceive because the criminal legal system is so technical and complex. Rather than continuing to operate within a system comprised of flawed laws, lawyers must work with community members on the ground to educate, empower, and organize people to change inherently unjust and predatory systems. Finally, Ms. Burton emphasized the importance of truly knowing your client. In other words, what is it really like to walk in your client's shoes? This notion of radical empathy not only requires graciousness and compassion but also ingrains in us the extraordinary depths of the human experience.

In her nearly twenty years of leading ANWOL, Ms. Burton recognized that nimble and rebellious lawyers were necessary to achieving her radical mission of restoring the civil rights and human dignity of people whose lives have been negatively impacted by the unchecked growth of the criminal justice system.³ Working under Ms. Burton's purview and alongside ANWOL's rebellious lawyers—Joshua Kim, CT Turney-Lewis, Elie Miller, Pavithra Menon, and Juan Carlos Moran—I observed this abstract concept of community lawyering become a dynamic and palpable reality.

At the East Bay Community Law Center, I observe community lawyering being performed on a larger and more holistic scale. I see lawyers as the indomitable problem solvers envisioned by Gerald P. López in *Lay Lawyering*,⁴ working tirelessly to achieve positive case outcomes for individual clients. I am proud to be a part of a holistic, interconnected legal services office that serves children, parents, elders, formerly incarcerated and convicted people, women, men, unaccompanied minors, people who are unhoused, and others—in all aspects of their lives. It is an honor to practice within this multi-modal model

2. *Id.* at 208–09.

3. *Id.* at 206–15.

4. Gerald P. López, *Lay Lawyering*, 32 UCLA L. REV. 1 (1984).

wherein the inequities and inefficiencies surfaced by our individual representation directly inform our litigation and policy advocacy and generate a feedback loop whereby our clients' collective experiences actually create broad-based change.

The Clean Slate Practice has been particularly innovative in this regard. Our origin story is rooted in individual representation—removing the shackles of a criminal conviction, one person at a time. Observing the tremendous legal barriers that existed even after the physical shackles were removed underscored the need for systems-wide change, which, in turn, formed the bedrock of our impact litigation practice. Currently, Staff Attorney Brandon Greene and I spearhead Clean Slate's Decriminalization of Poverty (DeCOP) project after recognizing that keeping people out of the grasp of the criminal justice system was as important as helping clear conviction records once they did get out.

As EBCLC grows, our potential to build power amongst our clients is becoming increasingly urgent. In the context of dynamic and ever-changing grassroots movements like prison abolition, #BlackLivesMatter, and racial justice and equity, we must ask ourselves in radical terms: How can we liberate our clients, and, in turn, help our clients liberate their community? As lawyers, it is our privilege and responsibility to use our legal advocacy skills to build the power of communities to challenge and eradicate systems of inequality. The cofounder of Law for Black Lives, Purvi Shah, advises that the poverty and racialization of our clients is a symptom of “the larger disease[s] of systemic oppression and conscious inequality.”⁵ To eradicate these diseases, it will take a grassroots movement of people, not lawyers alone.

To ensure that our work outlives us, EBCLC must invest and take a more active role in organizing or supporting the organizing of our clients and our community. This requires us to move beyond traditional direct legal services and individual representation. EBCLC is in a unique position to ally directly with impacted leaders like Susan Burton instead of merely to produce high-volume one-on-one representation in a manner that leaves behind few new relationships, operating institutions, or opportunities for marginalized people and their lawyers to act effectively together.⁶

As EBCLC looks to the future, it has an opportunity to adapt our direct services model to meet the evolving needs of our clients while simultaneously addressing the root causes of the inequities that our clients face. We are poised to be a pioneer in rebellious models of representation of the poor—organizing-centered direct legal services—that shatters the traditional public interest lawyering paradigm. With our more than sixty attorneys and staff members in

5. Purvi & Chuck: *Community Lawyering*, ORGANIZING UPGRADE (June 1, 2010, 7:20 AM), <http://www.organizingupgrade.com/index.php/modules-menu/community-organizing/item/71-purvi-amp-chuck-community-lawyering> [https://perma.cc/6E6H-PR3T].

6. Michael Grinthal, *Power With: Practice Models for Social Justice Lawyering*, 25 U. PA. J. OF L. & SOC. CHANGE 33 (2011).

two offices serving clients at multiple clinics across Alameda County, EBCLC is already collectively initiating numerous relationships with our client base. What if each relationship we made intentionally advanced organizing campaigns that are led by a grassroots movement of people impacted by systems of exploitation? What if we saw each connection as an opportunity to build the type of power that is needed to topple systems?

In the journal article *Power With: Practice Models for Social Justice Lawyering*, Michael Grinthal, a direct services lawyer and organizer, talks about power.⁷ Grinthal observes that “[r]elational power is the power that comes when people combine and coordinate their thoughts, voices, energy, imagination, and other resources.”⁸ When people build relational power they build relationships—long-term sustainable relationships—that result in leadership development, personal growth, and stronger community bonds. A sophisticated network of these relationships has the potential to organize and mobilize for a common cause. Grinthal further posits a model of lawyering that facilitates or opens spaces for organizing and exercising relational power.⁹ This model employs a range of tactics including litigation, legal writing, policy reform, and direct representation.¹⁰ As Grinthal writes, “[f]or example, the lawyer may work to defeat injunctions against organizing or demonstrating; find creative loopholes in existing law into which community leaders can fit their demands; uncover the legal leverage that organizations can use to target their organizing; use litigation to attack particular figures or institutions that collaterally attack the organization and prevent it from engaging with its real political target; and file lawsuits to slow down institutional processes and give organizing processes time to work.”¹¹

Some scholars have called this “rebellious lawyering”¹² or “empowerment lawyering,”¹³ whereby the purpose is to enable a subordinated group of people to gain control of the forces that affect their daily lives. Two notable ways that this can be done is documented in Victor Narro’s writings: First, public interest lawyers can “become involved with an existing organizing campaign;” and second, lawyers can “initiate the process that leads to an . . . organizing strategy.”¹⁴ Any pivot towards organizing-centered direct services requires lawyers to abandon certain traditional conventions of lawyering, which is a

7. *Id.* at 35–36.

8. *Id.* at 36.

9. *Id.* at 50 (discussing “Lawyer as Political Enabler”).

10. *Id.*

11. Michael Grinthal, *Power With: Practice Models for Social Justice Lawyering*, 25 U. PA. J. OF L. & SOC. CHANGE 33, 50 (2011).

12. GERALD P. LÓPEZ, *REBELLIOUS LAWYERING: ONE CHICANO’S VISION OF PROGRESSIVE LAW PRACTICE* (1st ed., 1992).

13. William P. Quigley, *Reflections of Community Organizers: Lawyering for Empowerment of Community Organizations*, 21 OHIO N. U. L. REV. 455, 455–56 (1994).

14. Victor Narro, *Finding the Synergy Between Law and Organizing: Experiences from the Streets of Los Angeles*, 35 FORDHAM URB. L.J. 339, 344 (2008).

challenge that some of us may already intimately know in attempting to lead an authentic life as a people-facing lawyer.

Community lawyers must adjust to different norms when actively employing Grinthal's organizing-centered direct services model. First, we must leave behind the exclusive notion of an office space. To aspire to walk in the shoes of our clients requires us to step into the sober living homes, businesses, homeless shelters, gymnasiums and churches where community events are held, and many other spaces that our clients see and experience. After all, there are things that community lawyers learn and internalize by being present for our clients beyond our client meetings at the lawyer's office and outside of the attorney-client relationship. Second, we must reject a model where clients develop a dependency on their lawyer¹⁵ and where lawyers occupy a space of "well-defined roles, clear chains of command, and steady work."¹⁶ Third, community lawyers must forsake the reward structure that has long reigned in the legal field. The legal field measures attorneys' professional worth by quantifiable individual successes (e.g., the number of lawsuits filed or the number of clients represented). To actively dismantle this traditional lawyering paradigm—moving the focus away from an attorney's professional self-worth to a new paradigm that reflects social movement values—requires conscious and deliberate reflection. It then takes leadership and vigilance to live that paradigm genuinely and meaningfully on a daily basis.

To live the new paradigm meaningfully as community lawyers and as an organization, EBCLC may be forced to confront hard questions:

- How do we operationalize "organizing-centered direct legal services" in a way that respects each client's autonomy and humanity?
- Can we decline grants on principle, on the basis that the "deliverables" ask us to sacrifice organizing in and for the community?
- How do we measure success and impact in a structure where organizing and community-building is paramount?

EBCLC must also continually reflect on how truly diverse and inclusive we are as an organization. Are there community organizers on staff? Former clients? Formerly incarcerated or convicted individuals? While it is by no means an easy paradigm for an organization to genuinely and meaningfully realize, EBCLC must—for the sake of staying true to our mission and values—reflect the communities we represent and break down barriers to employment for those whom we strive to lift up and out of poverty.

All of this is certainly an extraordinarily challenging transition for any organization. Fortunately, EBCLC in its thirty-year history has already made

15. Quigley, *supra* note 12, at 457.

16. Grinthal, *supra* note 6, at 30.

monumental steps towards empowering our clients and equipping attorneys and law students to be systems-changers. Over time EBCLC attorneys and staff have developed a familiarity with the physical places of power (e.g., the courthouse, the Capitol, the city hall). We have experience navigating and challenging systems of oppression and inequality. Imagine what could be accomplished if we were lawyers for grassroots movements led by (s)heroes like Ms. Burton, who are fighting for dignity and opportunity for many whom we represent.

Ms. Burton's speech at EBCLC ignited deep reflection in me. Hearing her voice echo through the walls of our conference room, I felt like my past and my future were colliding in my present. From the collision forged a clear path forward for my identity as a community lawyer. Lawyers must be responsive to the changing shape and shades of injustice. We cannot afford to be stagnant as the penal system continues to keep people in a place where they feel powerless to change their circumstances. We must not be complicit in a system that perpetuates a cycle of racial disparity and poverty. Surely, when Ms. Burton wrote, "[t]ogether, we can make these changes,"¹⁷ she meant to include lawyers in her vision of the group of change-makers. And surely, EBCLC can rise to the challenge of disrupting the status quo in a way that will meaningfully empower and free people and their communities.

17. BURTON, *supra* note 1, at 278.