

L A W S C H O O L

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# A Host of Heroes:

A Story of the  
Notre Dame  
Legal Aid Clinic



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... 5. the central figure in any important event or period, honored for outstanding qualities. ...

— WEBSTER'S NEW WORLD DICTIONARY 657 (2d ed. 1978)

In writing the story of a program like the Notre Dame Legal Aid Clinic, it is tempting to write simply a traditional history — complete with dates (*e.g.*, year founded, year moved to its present location), statistics (*e.g.*, the number of clients served, the number of students volunteering their time), and a chronicle of the annual successes, failures and challenges of providing legal services to the needy of South Bend and its environs. Not that such a story actually would be easy to write — scant written records exist that describe the work of the clinic before the late 1980s. And the oral history that survives, understandably, is colored by the passage of time and by individual impressions of whether the clinic, as well as the Law School and the University, met particular goals or satisfied specific needs over the course of time.

Nevertheless, such a traditional history — if, in fact, it could be constructed — would miss entirely the point of the story of the Notre Dame Legal Aid Clinic. For the clinic is not about dates, locations and numbers. It is about people. And indeed, it is the story of these people — the individuals who have given of themselves completely to the business of securing justice for those who cannot otherwise afford it — that forms the core of the real history of the Notre Dame Legal Aid Clinic. And it is a handful of people — those faculty and students who are the “central figures” in “important events or periods” in the clinic’s progress, who have exhibited outstanding

dedication and commitment to service, and who have left their distinctive imprints on the course of the clinic’s development — who, rightly, could be considered the heroes of the history of legal-aid services at Notre Dame.

The life of legal aid at Notre Dame must be reviewed as two distinct eras — the first beginning in the early- to mid-1960s

and continuing through the late 1980s, and the second beginning in the late 1980s and continuing through today. Although the themes of community service and securing justice for those in need are the common threads that tie together the work of both eras, each era exhibits a distinctive mission, and each has its prominent heroes.

## THE EARLY YEARS

In the early era, legal-aid services at Notre Dame consisted primarily of a student-run organization that served a variety of causes, depending on the interests of individual student leaders, the needs of the community, and the vision of the faculty advisors who supported the student effort. Generally, the students organized themselves much like any other student club or association: one student in charge directed the work of other students, who tackled as many projects as they could handle of whatever type interested them personally. The students had no office space, although some managed to share space with faculty members who were sympathetic to and involved in their work. Except for a brief period from 1966 through 1971 when Notre Dame’s formal Legal Services Program received some federal funding and foundation grants, the student-run organization had no official budget, and from time to time the students held bake sales and other fund raisers to cover their postage and transportation expenses. The faculty advisors who

helped the students fulfill their mission carried full-time teaching loads in addition to supervising students and appearing in court on behalf of indigent clients.

The students who ran the various legal services organizations of this era, with their “fierce partisanship for justice” (to quote the late Dean Joseph O’Meara), along with the faculty members who served as advisors to the organizations, defined their goals and determined the work to be done. But two faculty members proved to be instrumental in helping create a true mission for these students. Professor Tom Broden ’49 J.D., with his sense of community activism and his ability to bring together people of diverse perspectives working toward a common cause, facilitated interaction between NDLS students and the local bar and bench, thereby expanding the opportunities available to the students and, correspondingly, expanding the impact these students had on the community. Professor Tom Shaffer ’61 J.D., with his unwavering sense of justice and his ambition to focus on a

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humanistic, values-centered legal education at Notre Dame, guided the students who were helping clients, thereby infusing their work with his belief that the problems of people and society were the problems that lawyers should resolve.

Professor Broden joined the law faculty in 1950, shortly after his graduation from NDLS. Almost immediately, he set about finding ways for law students to help those in need of legal services. Notes in the November 30, 1951, and March 14, 1952, issues of the *Scholastic* describe a Legal Reference Service begun in late 1951, run by students under the direction of Jim Termondt '52 J.D., with Professor Broden as the faculty advisor. A University student, employee or faculty member with a potential legal problem would present the situation to a law student who participated in this service — “student referrals,” as they were called, who were selected for their maturity and knowledge of the law. The student referral would evaluate the case and, if appropriate, refer the individual to a member of the St. Joseph County (Indiana) Bar Association who had agreed in advance to assess the case for a low initial consultation fee — \$5 for the first half-hour. The March 14, 1952, issue of the *Scholastic* describes this program as revolutionary, primarily because local bar association members had agreed to accept referrals from NDLS students and had agreed to a reasonable fee arrangement. The value of this program to law students was not lost on the *Scholastic* editors: “This [service] will also be of practical benefit to the Law student, giving him experience in consulting with needy clients.” (Nov. 30, 1951, at 23.)

Interaction between NDLS students and the local bar association, as well as with other community agencies, proved to be a hallmark of Professor Broden’s involvement with Notre Dame’s legal-services programs. In fact, it was his innovative plan for bringing various legal-services agencies in the South Bend community under one umbrella that made Notre Dame’s Legal Services Program a role model for other universities trying to secure federal funding to support their own programs.

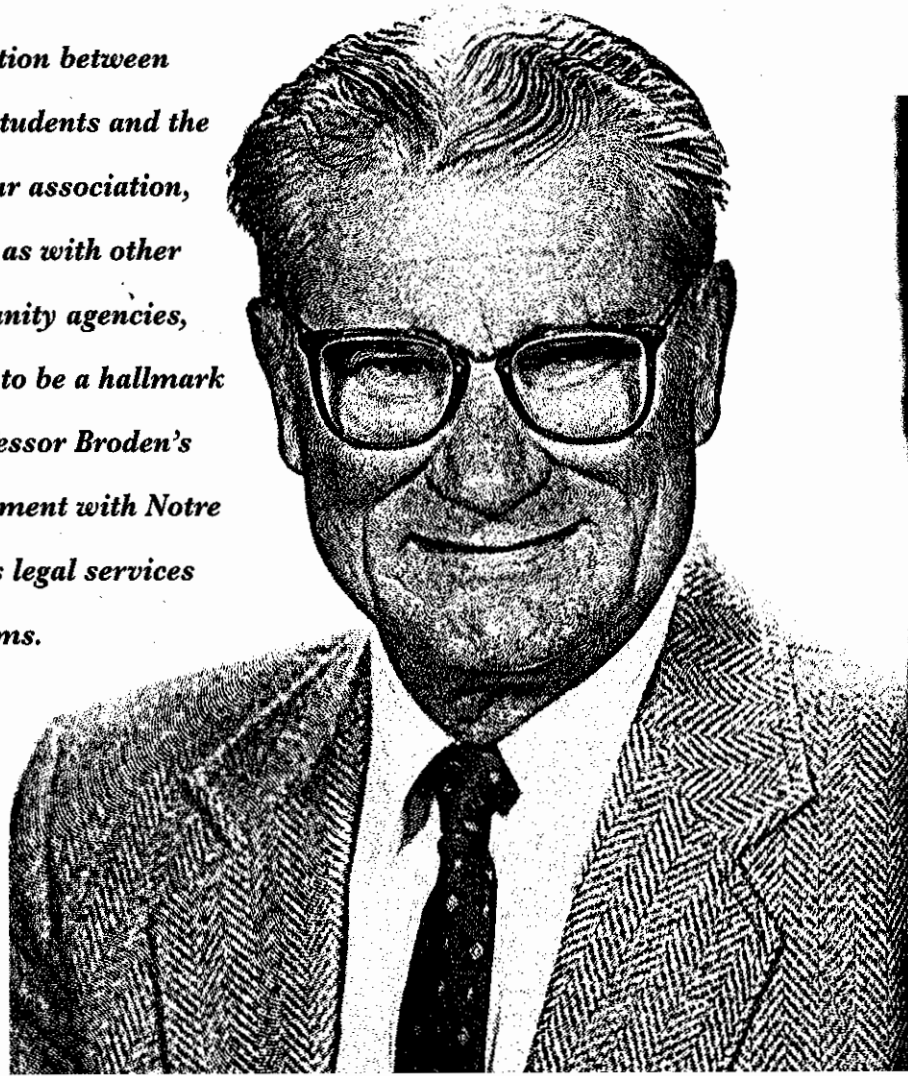
In 1965, as an element of its “War on Poverty,” the Johnson Administration’s Office of Economic Opportunity (OEO) challenged law schools to develop programs through which law students could provide civil legal assistance to the needy. This type of program presented a radical change for law schools at the time — since law students generally could not “practice” law (even at summer jobs) before graduating and passing the bar examination. Law schools around the country seized the opportunity to become community leaders in the provision of legal services to the poor. In approving programs for federal funding, OEO sought high-quality, ambitious programs that would have a significant effect on the problems of poverty.

Professor Broden’s proposal for the Notre Dame program proved to be one of the more innovative, because it brought together under one organizational structure the various county and local agencies that provided legal services to the poor. In an article in a *Notre Dame Lawyer* (the law review) of the era, Professor Broden described his plan:

*The . . . Notre Dame Law School program . . . is the legal services program for St. Joseph County, Indiana, embracing South Bend, Mishawaka and some smaller towns. Prior to OEO financing there was a Legal Aid Office in downtown South Bend with one lawyer and a stenographer. The local OEO community action agency, the county bar association, the Legal Aid Society, the United*

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*Community Services (United Fund agency which had been supporting the Legal Aid Office) and the University agreed on a single expanded legal services program which would create one or more neighborhood law offices in the poor sections of the county in addition to the downtown South Bend office. A new 24-man board was created with representation as follows: 10 members to be selected by the county bar association; 8 representatives of the poor; 4 members of human rights and human relations groups; [and] 2 faculty members of the Notre Dame Law School who are members of the county bar association.*

— 41 NOTRE DAME LAWYER 898, 904 n.10 (1966).

Professor Broden guided Notre Dame's proposal down a narrow path, balancing the socially conservative University's concerns against the requirements of a socially liberal federal government. Due in large part to Professor Broden's transparent decency and his community-focused vision, Notre Dame secured federal funds and foundation grants to support the program, and became the first law school in the country using this model to be approved for funding by the federal government. Professor Broden structured his proposal for the Notre Dame program so well that, in fact, both Harvard and Columbia "borrowed" it as the model for their own proposals.

Professor Broden's program won the praise of the federal government as well as the envy of some of the nation's top law schools. But in addition to serving the underrepresented poor people of the area, this program gave NDLS students practical experience and the opportunity to interact closely with faculty, practicing attorneys, local judges and community leaders. The Law School administration lauded the value of this multidimensional educational experience:

*... [P]rofessional competence is not enough. The Law School believes that lawyers and law schools must face the great questions concerning the nature of man and of society, the origin and purpose of law and the lawyer's role in society. ... The School*

*believes that the lawyer is best served, and the community as well, if he possesses not only legal knowledge and legal skills but also a profound sense of the ethics of his profession — and something else which the curriculum is likewise designed to cultivate: pride in the legal profession and a fierce partisanship for justice. To that end the Law School participates in a local program to provide legal services, mainly in civil cases, to persons unable to pay counsel. This activity is part of the Legal Services Program of the Office of Economic Opportunity.*

— BULLETIN OF THE LAW SCHOOL (1968-69) at 7.

Under Professor Broden's guidance, Notre Dame's legal-services program established neighborhood law offices around South Bend. Local attorneys signed on to run the offices and to supervise the students who performed legal services for the needy in the community. Among the first attorneys hired to run the neighborhood offices was Professor Charles Crutchfield, who, in 1966, first tackled the job of establishing the southeast neighborhood office and then set up the western neighborhood office. His successes in administering the program were due to his nature — he was charismatic, had a marvelous presence, and operated well in the real world of clinical practice — and to his unwavering commitment to social justice.

Professor Broden, appointed assistant dean in 1965, served as program director until 1969. During his tenure, he managed to secure federal funding to support program activities through 1971. In 1969, he took a leave of absence from NDLS to accept a position with OEO in Washington, D.C., but returned to South Bend two years later to head the University's newly created Urban Planning Institute. Today, as professor emeritus of law, he continues to facilitate, encourage and teach students through his volunteer efforts at the clinic. In recent years, he has taught courses in subjects such as law and poverty — courses that augment the actual clinical educational experience and provide the intellectual foundation that

supports the idea of a clinical, practice-oriented education in an academic environment.

Professor Shaffer, another hero of this early era, joined the law faculty in 1963 and, having worked in Indianapolis as an attorney with Barnes, Hickam, Pantzer & Boyd, was one of the few faculty members admitted to practice in the state of Indiana. This was but one of many reasons that made him the natural choice of the students to supervise their work in these legal-services programs right from the beginning.

In the early 1960s, a group of students created an organization in response to requests for help from inmates in the Indiana State Prison in Michigan City. Although dating back to the 1960-61 academic year, the students formally organized the Notre Dame Legal Aid and Defender Association in the 1964-65 academic year. Under the initial leadership of John Fine '67 J.D., the handful of students who joined this organization visited these prisoners and agreed to help them prepare *habeas corpus* petitions for federal district court. NDLS faculty members who were admitted to practice in Indiana agreed to accept appointments from the court as uncompensated counsel, and the students did most of the work to prepare the cases for the hearings. Professor Shaffer supported and encouraged these students — and appeared in court numerous times — until his appointment as dean in 1971.

The late Dean Joseph O'Meara, in his *Dean's Report* of 1966-67, praised the students' and Professor Shaffer's efforts as a valued part of the Law School experience, "since we strive always to develop in our students a sense of public responsibility and a readiness to engage in public-service activities." And the students agreed. A February 23, 1968, *Scholastic* article by Terrence Kelly '68 J.D., who with Rich Hennessey '68 J.D. and Ivan Bodensteiner '68 J.D. led the association in 1967-68, described the value of the program from a student's perspective: "The outside community provides a laboratory for the Association and, in turn, we give service to the community." (Feb. 23, 1968, at 22.)

In reality, the association was more than just a community-service organization. Professor Shaffer had become the faculty advisor to a student group that had mushroomed quickly into the largest law office in northern Indiana. In addition to teaching his full course load, Professor Shaffer supervised the student who served as executive director of the association — still largely a student-run enterprise that, by 1968, included five regional offices in South Bend and one in Cass County, Michigan, and other divisions that provided assistance to University students, faculty and employees, to inmates at the Indiana State Prison, to the St. Joseph County prosecutor's office, and to the local public defender's office. Professor Shaffer also worked with the supervising attorneys in the regional and county offices to ensure that quality legal services were being provided by the students who participated in the program.

Professor Shaffer continued to influence the direction of the clinic all the way through his tenure as dean from 1971 to 1975. Although unable to supervise the students directly because of the demands of the deanship, Professor Shaffer ensured that the work of the clinic would continue by admitting students who exhibited a strong social conscience. This service-oriented focus of his deanship was described in a *Scholastic* article entitled "Humanistic Legal Education," written shortly after the beginning of the 1971-72 academic year:

*The deepest intellectual concern at ND Law School is interpersonal legal education between professors and students, students and students, students and the South Bend community, and between potential lawyers and pressing problems of our era such as civil rights, international development, peace and poverty.*

*ND Law School [under the guidance of Dean Shaffer] has a humanistic climate in which students can learn to become personally involved in their clients' problems, where students can learn to bring Christian humanism to their work through a people-centered legal education.*

—Nov. 19, 1971, at 11.

There is every indication that Professor Shaffer succeeded in his goal to integrate the needs of people and society into the study of the law. In fact, during the Shaffer Era, participation in clinical programs grew to its highest level — approximately 120 students per year helping those in need. And through their practice of law today, many alumni of that era — includ-

ing, for example, Honorable Willie G. Lipscomb '75 J.D., who served as executive director of the association as a 3L, and Honorable Ann Claire Williams '75 J.D. '97 LL.D., who was instrumental in establishing a law library at the Indiana State Prison — continue to be community activists, working to secure justice for those in need.

## LEGAL AID TODAY

Today's Notre Dame Legal Aid Clinic retains much of the influence of Professors Broden and Shaffer. It is an essential part of the legal-services community of St. Joseph County and much of the surrounding area, in keeping with Professor Broden's plan for a community-based organization. It allows the law students who work there to minister to the needs of the community in their practice of law, thereby furthering Professor Shaffer's desire to bring a humanistic, values-centered approach to the study of law. But the clinic today is also so much more.

Beyond the unquestionably valuable and worthwhile goals of community service and practical experience for law students, today's clinic has become an integral part of the Law School's academic programs. The clinic's co-directors, Eileen Doran '86 J.D. and Barbara Szweda, have reorganized a student-run organization into an actual law office, and have transformed a community-service program with an informal educational component into a program that is fully integrated into the Law School curriculum, complete with defined courses for credit and distinct academic goals.

Eileen and Barbara have much in common. Both are attorneys who had worked at big-city law firms — Eileen in

Milwaukee and Barbara in Los Angeles and Tulsa. Both are mothers with young children. Both arrived in South Bend around the same time with their husbands who had taken positions at the University. Both are women with a passion for their work.

Right around the time Eileen and Barbara arrived at Notre Dame, a fortuitous confluence of events paved the way for today's clinical programs. Dean David T. Link '58, '61 J.D., in response to faculty desires as well as in response to the University's renewed commitment to the South Bend community (as

evidenced, for example, by its investment in the South Bend Center for the Homeless and in renewing the neighborhood south of campus), decided that the Law School should have a stronger community presence. Professor Shaffer returned to NDLS and expressed his desire to experience the next phase of his career teaching ethics in a law-office setting and contributing his talents to helping the community. And Eileen and Barbara arrived with ideas and energy.

Although initially able to secure grants to cover only part-time salaries, Eileen and Barbara committed themselves full time to their mission to reform the way NDLS ran legal services. First, they reorganized the student association using the law-firm model. Eileen notes

