

To the Class of the 1978 Foundation,

This past summer, with your assistance, I served as an investigator intern for the Legal Aid Society's Manhattan Criminal Defense practice. Upon reading this report, I hope you find, as I now distinctly feel, that neither your money nor my time has been spent in vain. Rather your generous grant has enabled me to play a small yet indispensable role in the lives of dozens of underprivileged New Yorkers and, more generally, in the advancement of justice. But this is not immediately evident or easy to explain. Unfortunately, given the pace at which criminal cases proceed, the internship ended before I could learn the outcomes of those cases for which I labored. What my work achieved is best expressed in terms of the aims, efforts and history of the organization it served.

Prior to the formation of the Legal Aid Society in 1876, civil legal defense simply did not exist anywhere in the US for those unable to afford it. Without the means or knowledge necessary to defend their interests in court, the poor were extraordinarily susceptible to abuse. Though in theory law secured equal protection for all, lack of advocacy effectively deprived it of the force necessary for it to be of use to the lower classes, allowing the unscrupulous to invalidate their rights at will. In New York, German immigrants in particular were often the targets of graft and hostility; in response, a few good men came together to establish The German Legal Aid Society. By 1896 the organization was serving thousands of immigrants of numerous ethnicities every year, and its name was changed accordingly. By 1920 the Legal Aid Society had opened its first criminal defense branch and sprouted sister organizations in cities across the country. The mission at the heart of Legal Aid—that access to justice not be denied to those who cannot afford representation, that the justice system be less unjust in practice—had become consecrated in the American legal system. Today the organization functions as the primary public defender for New York City and is the oldest and largest public-interest law firm in the nation, handling over 300,000 cases every year across criminal, civil and juvenile rights practices. Given its size, funding and reputation, Legal Aid now not only affords the underprivileged zealous representation across a range of legal services unparalleled in the New York area, but, through its appeals bureau and active law reform cases, also pressures the system—often successfully—for the redress of inequities or deficiencies in law and procedure on behalf of the whole indigent community.

My job was to assist two Legal Aid attorneys in the achievement of the former. But before that could begin, there was a week-long preparatory lecture series which, though I didn't fully appreciate it at the time, was eye-opening and exceptionally informative. There was of course a great deal of specifics as to how conduct investigations so as to stay safe, collect only the most accurate bits of information and present it as clearly and faithfully as possible, while avoiding the creation of *Damon* material which might compromise a client's case. But the talks began by embedding the function of the Society and our services as investigators on its behalf within a simplified but comprehensive and accessible conceptualization of the legal system. The criminal justice system, as I now understand it, consists in two competing perspectives—that of due process, driven by the need to protect the people from social injustice, and that of crime control, driven by the need to enforce law and social order. The latter is comprised of the police, corrections officers, DAs and court system while the former, which exists only in an attempt to counterbalance the other, is left to defense counsel alone.

From this basic picture we proceeded to the unsettling realities, which, although sometimes completely contrary to my previous understanding--or, as I now see it, ignorance--flow from that picture: that the system is primarily adversarial--from the initial complaint until dismissal, verdict or allocution, there is a presumption of guilt, not innocence; that police and DAs often operate under the influence of quotas, job pressures and institutional prejudices rather than that of reason, empathy or conscience; that police work and arrests are usually based on astoundingly little initial investigation and, as follows, understanding of the incident and its circumstances; that when officers frisk someone and find marijuana, they usually claim that person brandished it or held it in an open palm in plain view so as to both charge him with a crime and legalize otherwise illegal search; that police usually do not see legal repercussions for manifest abuse of power and obstruction of justice; that the number of arrests increases more directly with level of police contact than with amount of crime, victimizing entire poverty-stricken and minority communities; that trials are rarities and, when they do occur, the defense is deliberately hampered by Manhattan's very harsh discovery laws which prevent the prosecution from handing over key evidence until after the jury has been sworn in; that 50-60% of cases end at arraignments in guilty pleas which stem from the client's record, fear of jail and or the unwarranted obstinance characteristic of DAs just as often as from guilt; in sum, that the justice system would be more aptly termed the punishment system with a just dash of justice; and that, as such, Legal Aid and all those who aid its mission, even the lowly college interns, fight to maintain that dash and vital service both to the accused, who would otherwise be without hope, and a system, which would otherwise have to abandon all claims to freedom and moral standing.

But we interns were actually more important than I just let on. All of us, at every branch, went out and retrieved evidence, the thread with which Legal Aid's attorneys weave each client's defense. Without the ability to independently obtain evidence, it is hard to imagine the quality of thread they'd be left with and the shoddy products which would result. As I myself witnessed, police tend to react and arrest rather than investigate. My very first investigation on my first day concerned a trespassing charge which, had the arresting officers bothered to contact the woman our client claimed to be in the building to visit, would have seemed absurd. Instead the defendant sat in jail as I tried to locate her, his ex-girlfriend and the mother of his children, so as to get a statement verifying their relationship and her address. Similarly, it would fall to me to photograph the scene of a stabbing, document the blood splatter stains and carry bloody clothes in a McDonald's bag back to the office via the subway, because the police somehow neglected to do any of this since carrying out the arrest days before. In another instance, a client was arrested for slipping through the turnstiles and fare evasion while in his hand he held proof that he had possessed and swiped a valid metro card. I had to run from the court house to a subway attendant to verify when it had last been swiped and then run back with my word as corroboration, in order to prevent him from having to take a plea at his arraignment. But even if the police do their due diligence and the evidence is gathered, DAs provide as a little of as possible as late as possible in order to secure convictions or less forgiving plea bargains. My attorney didn't receive pictures of the bruises on the complaining witness' neck in an assault and strangulation case until the day the trial began, 15 months or so after they were taken. Essentially what this means is that, innocent or guilty, Legal Aid investigators are a necessity for the accused and their counsel.

As interns, we certainly weren't equal to the professionals there but, save serving subpoenas and work on homicides, we performed the same tasks. Our lawyers would figure out and relay what information they would need to further their defense for particular cases,

whatever that might mean, and we would go out and attempt to retrieve it for them. Mine would sit me down, give me the context of each case--the police report, the circumstances of the accused, what they believed had actually happened, the evidence or lack of evidence out there, how they believed the case would progress, how the tasks they asked of me might aid the client's representation--and tell me what they needed done. Then I'd grab a partner, fill them in, and we would proceed with purpose. The investigations I mentioned before form a small, unusual sampling. More often it would mean looking for cameras, asking managers for the contact information for the person from whom Legal Aid could subpoena the corresponding surveillance, photographing and or drawing maps of incident locations, canvassing for or hunting down witnesses, or interviewing either the defendant, alleged victim or a bystander. Of these, traveling long distances to look for cameras and take photos for a few minutes were of course both the most frequent and tedious. And yet even then it was always meaningful because I knew from the attorney exactly how that work would help a person, often wrongly, inaccurately or disproportionately accused.

Once it was more interesting: I had to take photos of the location of an incident, the sidewalk in front of government housing, and was accosted by aggressive men afraid that I had taken their pictures. I whipped out my Legal Aid card, explained what I was doing, and they instantly turned into allies. One even took me to the owner of a store nearby to get surveillance footage and gave me the name and contact information for people he thought likely to have been around during the event. Because he confronted me, I was able to get my lawyer a witness whose account completely and, for us, positively differed from the police report. Just as rewarding and even more intriguing were in-depth interviews. It is from them that I really caught a glimpse of the other side of the justice system, fraught with abuse I previously wouldn't have believed possible. In two instances I spoke with minorities assaulted by police under the pretext of resisting arrest. The first involved a tiny, unthreatening 16 year old boy who was beaten and dragged by an officer apparently for turning his head to ask a question. In the second a tiny pregnant woman took a shortcut across a city park at night to find a cab on the other side, was stopped for loitering and, because she wouldn't drop her cell phone, was hit repeatedly. On another occasion I spoke with a woman accused of having stolen the phone of another when the nature of the incident and the evidence available can leave no doubt that she did nothing wrong and that such charges completely, laughably, misrepresent what transpired. And yet, in this case as in so many others I came across, the prosecution soldiers on, dragging it out for months with little to no evidence. Often this appeared to be so as to deliberately create new court dates which the defendant might fail to appear for or to keep that person in jail until his resolve fails and he takes a plea to get out. For one such case I went to Time Square to ask the costumed characters who pose for photos with tourists if any had been around and witnessed the incident, in the hopes that one could corroborate our client's innocence. Had I not worked there and conducted the investigations myself, I would never have believed or understood that it is innocence which must be proven or how DAs use the system to secure convictions regardless of guilt or proof.

But these themes recurred when I sat in on proceedings in criminal court. At the Manhattan branch interns were assigned directly to specific attorneys, and when they didn't have much for me to do I accompanied them to court. When they were working arraignments, we would take turns reading the charges against someone and then interview him or her as he sat in the holding cell in the back. Sometimes I would ask questions to flesh out what had happened and call relatives to drum up bail. It was there that I met a man who drove without a license in order to get his brother to the hospital. We were able to verify his story. Because of his priors,

however, the DA was able to secure a sentence of 7 days in prison for an action which a reasonable person, with a little information as to the circumstances of the incident, should have simply dismissed. Also memorable was the man who was stopped and frisked for wearing a "Stop stop and frisk" hat. The officer found marijuana in his underwear and claimed he had held it out the open, a misdemeanor. The search was illegal, the charge a lie and there were several witnesses to corroborate his account. But when the DA requested and the judge set bail he couldn't afford, he decided he couldn't sit in jail long enough for us to prove his innocence and took a plea.

Nevertheless, for those defendants whose situations permitted an extended bout in court my lawyers seemed to provide excellent, enthusiastic representation, pursuing every available avenue and long shot to assist them. I know because, when not in court or on investigations, I was often given portions of the leg work. Essentially, whenever they, stretched thin, had any work which might further a client's cause and required little advanced knowledge or experience, I filled in. Once this meant looking through surveillance for images that corroborated the defendant's account. Often it just meant making phone calls, whether to schedule meetings with the client or to arrange for that person to fax over documents which would improve his/her standing or verify mitigating factors in court (proof of employment, enrollment, mental health issues, etc.). Other times there were short research tasks: I had to compile a report on the conditions our mentally handicapped, terribly vulnerable client might face if deported so as to melt the DA's heart and convince her to avoid action from which deportation might follow. Later, in order to discern whether the deponent's allegations were enough to sustain the charge of public lewdness, the misdemeanor of which our client was accused, or just exposure of a person, a violation--the difference between prison with a record and a mere fine--I had to review the specific legal distinctions between the two as established by case law. Another time, it fell to me to determine which alcoholism rehabilitation programs would accept our client, a man with an expired green card.

Longer, more drawn out assignments involved looking through, compiling, organizing and presenting information so as to facilitate my attorney's trial preparations. A woman, whom through my work I would learn to be completely unstable, had accused our client of assault and strangulation. The two had met on Facebook and carried on a physical relationship for a few months until he pulled away because her messages had become increasingly needy and aggressive and she retaliated. First I interviewed our client, listened to and took notes on the 911 calls and the interview he had had with the DA and looked through the woman's post-incident medical records. Seeing all of this come together was extremely interesting. But then I was tasked with collecting all of their documented exchanges and incorporating them, along with all the other information I had come across, into a comprehensive timeline of their relationship. Unfortunately, toward the end of her relationship and in the 14 months since his arrest she had spent entire days harassing him and his family on Facebook and through texts with incomprehensible but offensive messages. Her initially amusing blather became incredibly time-consuming tedium involving hours and hours of transcription. And yet, at no point did it cease to seem worthwhile, important even. I had come to know the client, am still confident in his innocence and was glad, even proud, to assist in his defense.

Therein lies what my main achievement of this past summer--striving towards truly meaningful ends. Regardless of the particular task--sometimes uninteresting and repetitive--, I was and remain secure in the belief that, even if my efforts failed to advance our client's case, they assisted in Legal Aid's mission, a noble cause and an absolutely essential service to the poor

and on behalf of justice. It would have been incredibly gratifying to have heard back that something I had contributed played a significant role in ameliorating a client's legal position, but I didn't. In one instance, I took pictures of signs indicating a park's closing time that should, as I understand it, prove the defendant was not loitering and result in a dismissal, a dismissal I would have directly effected. But, again, I haven't heard how or if the legal proceedings changed as a result. Sometimes my efforts yielded nothing of value to the defense. All I have is the knowledge that, while for some time I have been struggling to find a purposeful way to apply my time and energy in the present and find a career of value for the future, for 10 weeks or so I succeeded. I am endlessly grateful for the opportunity and the assistance you so generously provided which placed it within reach.

Sincerely,  
Justin Harris