

ETHICS & PROFESSIONALISM: AN INTRODUCTION

January 30, 2015

International Human Rights Program

Lauren Tompkins signed up for an IHRP Working Group being led by a second-year student leader who is reporting to an NGO lawyer. The Working Group is researching the status of labour rights in Peru. The IHRP will be hosting a major international conference on this issue in November and the students' research will be provided to presenters, including international experts on the issue. The second year student supervisor has assigned Lauren and her friend Nancy to draft a legal memo on child labour in Peru.

It is Friday of the Thanksgiving weekend and Lauren has a train ticket to go home to Ottawa for the holidays. Since September, she has known that the legal memo is due to her student leader the Friday before Thanksgiving. She has been working on her portion of the memo all night and it is almost ready. As she reads through one of Nancy's sections for the first time, she notices that the lead statistic on child labour in Peru, which is one of the key factual foundations of the paper, is cited to the web-site of an organization she has never heard of. Having spent two months researching child labour in Peru she finds this odd. As she is thinking about how to handle this, her working group leader texts her to say, "Can you please get the memo to me ASAP, the lawyer supervisor needs it right away?" Lauren is now in a panic over catching her train. She reasons that since the statistic is cited and she does not have time to re-do Nancy's research she better just send over the memo to the lawyer supervisor directly. After that, Lauren tried to reach Nancy several times. She never receives a response.

A few weeks later, Lauren is emailed by the working group leader. Apparently, the lawyer supervisor for the project has contacted the Director of the IHRP with concerns regarding the students' research. In particular, she notes that the statistic quoted in Lauren's memo is grossly incorrect and is now wondering whether she can rely on any of the research conducted by the students. The working group leader is clearly upset with Lauren and Nancy. Lauren feels like she is under attack and quickly sends off an email to the lawyer supervisor, which says, "I didn't do the research, Nancy did. Anyway, how can you expect a bunch of first year volunteers to do this kind of thing? We're not lawyers yet!"

Question: At each juncture, what should Lauren do?

Pro Bono Students Canada

Ira Kawabata is anxious to begin his work for PBSC. He is working with the National Civil Liberties Association (NCLA) on the issue of police powers to arrest individuals without an arrest warrant, in the context of the G20 Summit held last June. He is conducting legal research and tracking down interviewees who were arrested without a warrant during the Summit. He is excited about this topic and while he does not know much about the law in this area, he is familiar with some of the facts because he worked as a student in the Information Office for the Toronto Police Services last summer. In fact, he thinks a good place to start his research would be to call his former supervisor to get her ideas.

In the fall, Ira finds and interviews a woman whose wrist was broken when the police at the Summit arrested her. The interview is very powerful, and Ira receives a lot of positive feedback from the NCLA for his efforts in tracking down the interviewee and conducting such a poignant interview. In the spring, the woman is invited by the NCLA to participate in a press conference. The morning of the press conference, the woman tells Ira that her wrist was actually broken before the Summit, but that it really got worse after the police officer grabbed her and it still has not fully healed. Ira is worried that it is too late to find a replacement for the press conference, and he would hate to see the larger cause derailed by this new development. Also, he plans to apply for a summer job at the NCLA, and he is concerned that if he tells the NCLA that the woman was not being completely honest, it will reflect badly on him and his entire law career will be impacted. He says nothing, and during the press conference, the woman repeats the allegation that her wrist was broken by the police. At the end of the press conference, the Director of the NCLA singles Ira out publicly for his excellent volunteer work, and then tells him that she really hopes he will consider applying for a summer job.

Question: What are Ira's professional responsibilities in this scenario?

David Asper Centre for Constitutional Rights

Julian Ho has an interest in constitutional law. He has signed up to volunteer in the Asper Centre. He has been assigned to the Centre's new file, as an Intervenor on the Polygamy Reference Case to the Supreme Court of British Columbia. Julian and two other students will be conducting research on the relevant issues and helping draft a factum. Julian thinks he has a great head start on his part of the project because his roommate, a third year law student, was a Research Assistant last summer to her family law professor and she prepared a paper in this area. He intends to ask her if he can borrow her paper. It should cut down on the amount of research time he will need to do and if he is lucky, he can cut and paste from it for the factum. At a family dinner on the weekend, Julian's favorite aunt (a litigation lawyer in Toronto) asks, "What kind of extra-curricular projects are you involved in at school?" He wants to tell her about his work for the Asper Centre.

A few weeks later, Julian is working alone in the Centre in the evening when he receives a phone call. A panicked lawyer for the government of British Columbia asks him if they had received a couriered package containing two large binders. Julian sees two binders on the conference table and responds, "I think I see the binders you mean." The lawyer tells Julian that her office made a mistake and included a privileged document at Tab 43 of the second binder. She asks Julian to return the document to her immediately. Julian has not looked at the document, has no idea what it is or whether the claim of privilege is valid or meritless.

Questions: Is Julian's research plan a good one? What, if anything, can Julian tell his Aunt? What should Julian do about the document at Tab 43?

Downtown Legal Services

It is the end of February. Sally Jones, a first year student, was very excited to sign up for DLS in the fall. Sally has been very busy between classes, readings, and her involvement with the LAWS program and IHRP too. She has not been diligent in pursuing the DLS case file assigned to her in January and, in fact, it is fair to say that the file has not really progressed since she took it on. There are a number of tasks awaiting her. Her supervisor, who is supervising 15 other students, is not really pushing Sally to resolve or advance the case.

Sally complains about her file to another first year DLS law student at lunch in the cafeteria. She says, "I have this tenant housing case where Anna Schmidt is suing her landlord, Ralph Black, for an abatement in her rent because he didn't fix her refrigerator for 3 weeks. I don't know why she would even bother with that claim. It's probably not even worth very much money. She just doesn't seem to get it - I don't think she really understands English, her first language is German. Plus, she told me she doesn't trust him because he is originally from Colombia. Why is the clinic helping a racist?" Sally does not think she can devote time to her DLS file for at least a few more weeks.

Questions: What is Sally's professional and ethical obligation? What should she do?

LAWS (Law in Action Within Schools)

Nicola Vercruz has volunteered for the LAWS program. She has always enjoyed teaching younger children and sees this as an opportunity to inspire high school students who might want to become lawyers. On her first day in the classroom, Nicola takes part in an ESL workshop for the students. The teacher introduces her by saying "We are so lucky to have a young lawyer with us today. Nicola will teach us about immigration law." Nicola launches into her presentation.

Later in the term, Nicola is tutoring a high school student, Sujit Kashin. He is fifteen years old and lives in rental accommodation with his mother. One day when they are working alone in the library, Sujit tells Nicola that his mother received an Eviction Notice. Sujit says, "My mom works, but we don't have much money – we certainly can't hire a lawyer." He goes on to tell Nicola "we heard that it is really hard to get evicted and it usually takes months, so maybe we should keep ignoring the eviction notice for now. Is that what we should do?" Sujit says he hopes they do not get evicted because his mother told him that the only other place they could go is her boyfriend's house, and he is really afraid of his mother's boyfriend.

Questions: How should Nicola respond? What if she has some experience with landlord-tenant matters?