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LEGAL SERVICES AND THE WAR ON POVERTY

SARGENT SHRIVER *

I ONCE TALKED to a group of poor people in the ghetto of a large city in this country. We discussed the police, crime in the streets, and the law. One man said he knew the law existed but that he had never felt it himself. Another man said the opposite: that he had felt the law, but his experience had been so bad that he knew justice did not exist—certainly not for him. A third man was somewhere between the other two. He had been helped by lawyers, had been told of his rights and duties as a citizen. And he knew where to go to get legal services. “But the sad thing is,” he said, “I’m still a poor man. The law only gets me out of a jam. It doesn’t get me out of poverty.” He must have spoken the truth—at least for himself. But we in the War on Poverty think he was wrong as regards the nation and as regards the poor as a whole. We know that the law and legal services *can* get people out of poverty. We have seen it happen. The Legal Services Program of the Office of Economic Opportunity has proven it. Legal Services is one of the most effective programs in the OEO. One major reason is that it attacks the causes of poverty. In the long run, it may prove to be the most effective weapon in the poverty program. Here is why:

- (1) Legal Services has brought counsel and representation to one million people who in the past were almost never helped by the law.

* Director, Office of Economic Opportunity.

- (2) It has given legal services to thousands of tenant associations, welfare mother groups, and other community action groups, helping them to set up self-help institutions like credit unions, to win their rightful share of public services, such as health care, street lights and paving, and garbage collection. The members of these groups number in the hundreds of thousands.
- (3) It has given preventive law education in their legal rights and responsibilities to several million poor Americans who have long regarded the law as their enemy.
- (4) It has challenged many laws and practices that operate unfairly against the poor—laws and practices that constitute a bias in our legal system. And it has won scores of court decisions in test cases that broadened and protected the rights of whole classes of poor people—tenants, consumers, juveniles, and welfare recipients. Beneficiaries of these rulings number in the millions.
- (5) It has researched the laws and identified those that discriminate against the poor. It has drafted legislation, advised public officials on discriminatory laws, and played key roles in the passage of such legislation in several states.
- (6) It has demonstrated to many poor people that the law belongs to them and is meant to protect them. There is no more persuasive way to teach a man to respect the law. When a poor man sees that a lawyer can reverse an arbitrary decision by the welfare department or the housing authority, he is likely to join the ranks of those who respect the legal system.
- (7) It has stimulated a revolutionary new interest in the problems of the poor in the law schools and has inspired many of our brightest young lawyers to enter the poverty program.
- (8) By winning a very high percentage of its court trials and appeals, Legal Services has demonstrated the widespread injustices suffered by the poor in housing, consumer, and welfare cases.
- (9) It has posted some impressive achievements in terms of cost effectiveness. Legal Services has shown an ability to obtain income and services for the poor far in excess of the cost of operating the program. One case in California restored 210 million dollars in medical services for 1.5 million poor and aged. Both the amount of money involved and the number of people helped by just one suit were three or four times greater than the cost of the national program and the total number of individual clients served nationally last year.

Ask Mrs. Lillie Brown of Washington, D.C., why Legal Services is part of the national fight against poverty. On February 7 of this year Mrs. Brown, a tenant who got little help, bowled over the landlord population of her city. The help came from lawyers who argued her case before the District of Columbia Court of Appeals. They were employed by the local OEO Legal Services Project. They advanced the relatively novel legal theory that a lease to real property was invalid if the property was not in conformity with

the building code when the lease was executed, and that, therefore, Mrs. Brown's lease was void, and that the rent claimed under it was accordingly uncollectible. The three-judge court unanimously agreed.

Some 280,000 people live in the 100,000 District of Columbia dwelling units which have been found to have building code violations. The weapon which Mrs. Brown has thrust into their hands with her case can make an unbelievable difference in the conditions under which they live. In a stroke it can eliminate all the historic profit for slum landlords in letting property decay.

The national implications are equally awesome. If Mrs. Brown's precedent is followed—and at this very moment dozens of OEO Legal Services lawyers in hundreds of cases in every corner of this nation are arguing it should be followed—the irresponsible absentee ownership of slum property can be abruptly ended.

The President, droves of Cabinet members, and blue ribbon commissions for many years have said, again and again, that slum housing in this nation is debilitating, disease ridden, deplorable, destructive to the ambition and enterprise of all who are forced to live in it. Now, a couple of young poverty lawyers helping a lady named Brown have struck a magnificent blow for change and against those who, for whatever reason, have maintained the ghastly conditions of slum housing.

In the summer of 1967, Legal Services played a key role in Newark, Detroit and elsewhere in trying to prevent riots, in trying to calm those disorders that did break out, and in helping in emergency community efforts to represent those who were arrested.

There are some striking parallels between the recommendations of the National Advisory Commission on Civil Disorders and what Legal Services has been doing for two and one-half years. Here are some examples:

The Commission said its investigation of the 1967 riot cities established that virtually every major episode of violence was foreshadowed by an accumulation of unresolved grievances and by widespread dissatisfaction among Negroes with the unwillingness and inability of local government to respond. Redressing such grievances and helping groups of the poor to obtain their rightful share of public services is one of the basic tasks carried out by Legal Services.

The Commission listed twelve deeply held grievances that lay behind the disorders studied. Eight of the twelve grievances represent areas in which Legal Services lawyers have represented hundreds of thousands of poor clients and community groups, areas in which LSP has challenged and reformed the law. Those areas are:

- (1) Police practices;
- (2) Inadequate housing;
- (3) Inadequate education;
- (4) Ineffectiveness of the political structure and grievance mechanisms;
- (5) Discriminatory administration of justice;
- (6) Inadequacy of municipal services;
- (7) Discriminatory consumer and credit practices; and
- (8) Inadequate welfare programs.

Legal Services has worked effectively in all these areas, representing the in-

terests of the poor and achieving change through the legal process.

As to the need for grievance mechanisms cited by the Commission, Legal Services is seeking to find new and simpler ways to resolve disputes between poor people and landlords, poor people and creditors. The tools of arbitration and mediation are being explored. The American Arbitration Association is working with the Cleveland Legal Aid Society to determine how arbitration can be used broadly in the resolution of landlord-tenant disputes and consumer-creditor disputes. In Los Angeles, the Community Relations Conference of Southern California is using mediation in disputes involving the poor that do not allow for a reasonable legal solution. The aim is to find less expensive and less time-consuming methods of solving problems than the courts.

The Commission endorsed the efforts of Legal Services projects to eliminate the welfare residence requirements. In the nine months preceding the commission report, Legal Services lawyers won decisions in five states and the District of Columbia by three-judge federal courts declaring residency laws unconstitutional. Sixteen other residency suits have been filed—all, of course, by Legal Services projects.

The Commission cited the "welter of statutory requirements and administrative practices and regulations" that operate to remind recipients that they are considered "untrustworthy, promiscuous and lazy." It noted that regular searches of recipients' homes violate their privacy. Legal Services has challenged midnight welfare searches and many

other arbitrary regulations and practices of welfare programs.

The Riots Commission recognized the importance of legal services in dealing with the problems it found. It recommended a broad expansion of legal services programs and expanded public and private support of these efforts.

When ghetto residents are shown that the legal system offers a way of redressing their grievances, they are less likely to turn to violence and rioting. The point was illustrated one night in May, 1967, in Cleveland. A Negro youth was shot and killed by a white policeman in the Hough area. Word spread that the Negro had his hands in the air when he was shot. Whether true or not, this ignited a feeling of outrage among the residents. A neighborhood worker notified an investigator with the Hough Neighborhood Law Office of the Cleveland Legal Aid Society, and the office attorney was called. The lawyer was met by a crowd of angry people when he arrived at the office. Some of the Negro youths were threatening to retaliate against the white authorities.

The attorney questioned witnesses and took down their information. He assured the crowd that legal steps would be taken. Within an hour or two, the beginnings of a law suit were formulated. The lawyer and the investigator stayed in the office all night talking to the crowd. When the people were assured that legal steps would be taken, the talk of violence subsided. If the legal process had not been offered them at the neighborhood office, what would they have done? Why had the people turned their attention to a Neighborhood Law Office? Because they knew from experience that neighborhood law-

yers were effective advocates for the poor. Some had received advice or representation as individuals or as members of community and tenant organizations that had been helped by the OEO-funded agency. The Cleveland program actively pursues a policy of involvement in the neighborhood community and of representing groups such as tenant associations.

On another occasion early one morning in June, 1967, in Washington, D.C., the director of the Neighborhood Legal Services Project prevented a riot when he got the United States Attorney out of bed and persuaded him to go to a ghetto neighborhood to calm an angry crowd. The crowd was upset over alleged police brutality in the arrest of a resident involved in a fight. The United States Attorney spoke to the group and promised to hold a hearing on the matter later that morning. The crowd, satisfied it would get a fair hearing, dispersed.

In the early days of the poverty program, we could not have imagined how important a neighborhood law office could be to a ghetto community. We could not have imagined incidents like those in Cleveland and Washington. We knew the poor needed jobs and education. But we found that a job for the father was only part of the solution to the problem of a child's deprivation. We found that poverty includes poor health and weak schools; that poverty means getting the run-around in courts of law and the brush-off in hospitals. We found that poverty was not just a social problem. It is also an educational, legal, medical, and psychological problem. That is why the War on Poverty began on many fronts at the same time.

This country has developed the most comprehensive system of jurisprudence in the world. But as we examined the causes of poverty, we found that justice was a stranger among the poor, not a friend. The words "Equal Justice Under Law" are etched into the marble of the Supreme Court building. But these words were empty of meaning in the slums. To the poor, the law meant the landlord who comes to serve an eviction notice, the hostile policeman on the beat, the finance company that has come to repossess. It was clear we could not mount an all-out attack on poverty without providing legal services to the poor.

In the summer of 1964, Edgar S. Cahn and his wife, Jean, published a landmark article on legal services in the *Yale Law Journal*. They outlined a proposal for a neighborhood law firm that would "represent persons and interests in the community with an eye towards making public officials, private service agencies, and local business interests more responsive to the needs and grievances of the neighborhood."¹ There was the problem of how to translate ideas tested in New Haven and New York into a national program. The leaders of the organized bar played an important role. They include Lewis Powell of Richmond, Virginia, President of the American Bar Association in 1964-65, a founding father of the program; John Cummiskey, then Chairman of the ABA's Standing Committee on Legal Aid; Theodore Voorhees, then President of the National Legal Aid and Defender Asso-

¹ Cahn & Cahn, *The War on Poverty: A Civilian Perspective*, 73 *YALE L.J.* 1334 (1964).

ciation. Mr. Voorhees described the importance of the law in the poverty program:

The heart of the new national effort to combat poverty has to be the providing of legal services. Whether we are talking in terms of a man's right to an opportunity for employment, or to receive welfare that is legally due him in the absence of a job, or to live in an inhabitable dwelling under the minimum standards of rent and housing laws, or to keep his child in a friendly or unfriendly school, or to escape victimization at the hands of the unscrupulous purveyor of consumer goods, the whole bundle of rights that the poor ought to share with the rest of us are utterly meaningless to them unless legal representation is provided to give those rights reality. The antipoverty drive to bring new opportunities of employment, health, and education into the immediate neighborhood of the poor will inevitably fall short of its mark unless lawyers and the Legal Services Program are in the vanguard. They should spearhead the whole program.²

The question of Legal Services to be financed by the federal government was put to the American Bar Association in early 1965. The question before the ABA was this: Should the legal profession support the federal government's efforts to bring justice to the poor, or should they attempt to kill that movement in its infancy? Was such federal support for legal aid a threat to the profession? Or was it an opportunity? Lewis Powell had the vision to perceive the idea as a unique opportunity for the profession and the statesmanship to guide a favorable resolu-

tion through the House of Delegates. The House of Delegates showed statesmanship, too, by passing unanimously the resolution that remains the official policy of the ABA. That resolution was an historic step. It said, in effect, that we, the members of the Bar, want to convert the ideal of equal justice and the promise of equal justice into the reality of equal justice. It was an act of courage. The job of bringing justice to the poor challenged our complacency and our self-image.

E. Clinton Bamberger, Jr., distinguished member of an outstanding Baltimore law firm, who had been active in legal aid as chairman of committees of the Baltimore and Maryland Bar Associations, became director of the new OEO Legal Services Program in late 1965. In developing policy and guidelines, he sought the counsel and comment of the National Advisory Committee for the Legal Services Program, which included top officials of the American Bar Association, and the National Legal Aid and Defender Association. He sought the best judgment of the experts, those who had organized and operated the new neighborhood-type legal services programs and legal aid programs. He discussed the proposed new policies before the NLADA convention, before national, state, and local bar association meetings, and in articles for bar journals and newspapers. This public discussion of what the new program should do—by bar leaders as well as by OEO officials—generated increased understanding of the problem and cooperation with the program by state and local bar associations and by lawyers generally. Thus the policy for the Legal Services Program was drafted in the context of public discussion within the legal profession.

² Address by Theodore Voorhees, Toledo (Ohio) Bar Association, Feb. 10, 1966.

The Legal Services Program rapidly became one of the programs most wanted by the poor. They regarded it as a test of whether the poverty program was sincere in proclaiming that the poor should be treated as full citizens. The poor live in a state of fear, insecurity and powerlessness. They were interested in Legal Services because the law is a source of strength.

The lawyers of America, from the leadership of the organized bar to the individual attorney, are the key to the program's success. It was the local and state bar associations that provided the initiative and the manpower to organize most Legal Services agencies. And while they do not all agree on what is the best

way to bring legal services to the poor, the lawyers of this nation have given the program overwhelming support. In two and one-half years, Legal Services has provided funds to 250 local Legal Services Programs for the establishment of 850 Neighborhood Law Offices staffed by 1800 full-time lawyers. They have made and are making equal justice a reality for millions of poor Americans. They are offering to poor people a way to join our society in the fullest sense and to participate in the institutions from which poverty had previously excluded them. If we can continue, if we can fulfill the promise of bringing equal justice to all the poor people in this country, we will achieve a truly great triumph of American democracy.

