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ABSTRACT

The Economic Opportunity Act of 1964 established a community action program -- an all-out community attack against poverty. One goal of this program -- law reform -- has since been implemented by both traditional legal aid societies and newly-created agencies that select unusual cases for special treatment. Responses to inquiries made of over 80 legal aid society directors reflected interchanges with local public schools in nine areas: student discipline, Federal fund use by local public schools, school bus transportation, integration of pupils, district organization and management, tuition, application of the "one man, one vote" principle in school bond elections, State aid to local public schools, and educational activities concerning the law. (JF)

THE IMPACT OF LEGAL AID PROGRAMS FOR THE POOR ON THE OPERATION OF PUBLIC SCHOOL DISTRICTS IN THE UNITED STATES

an address by
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at the

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In August, 1964, the Economic Opportunity Act became law in the United States. It included, among other provisions, a section establishing the "community-action-program" approach to dealing with the problems of poverty. This approach was characterized by an all-out attack in the local community against poverty. The law contemplated that all of the resources of the local community were to be brought to bear to help eradicate the plight of the poor. The generalship of this part of the "war on poverty" was to be shared by poor persons who also were supposed to be involved in the actual carrying out of the projects. Under the law, the "community action program" projects were financed mainly by federal funds administered by the newly created United States Office of Economic Opportunity.

One of these "community action programs" slated to receive substantial federal funding as part of the frontal assault on poverty in our nation was the legal services program. The rules for the establishment of the "community action program" of legal services were clearly set forth in a talk by Theodore M. Berry, Director of the Community Action Program of the Office of Economic Opportunity to a meeting in Washington, D.C. in June, 1965, of 500 lawyers and other persons involved in legal aid work throughout the country.[1] This meeting had been called by the Attorney General of the United States and the Director of the Office of Economic Opportunity to discuss the role of the lawyer in the implementation of the Economic Opportunity Act. The rules for "community action program" legal services were:

1. The poor should receive legal services equivalent to that received by persons who can afford to pay lawyer's fees;

2. Legal representation of the poor should be aggressive and dedicated in nature;

3. The legal services program should be as independent of outside influence as possible;

4. The legal services program should be willing and free to handle the most controversial cases.

5. The legal services program should be broadly representative of the community and the groups to be served should be partners in the control and operation of the program.

Within the framework of these rules, Mr. Berry said that the "community action program" legal services program should provide a full range of service. He specifically identified:

> . . . government abuses whether they involve welfare, the school system or public housing.[2] (emphasis added)

as an integral part of the "full range of services" to be offered by Office of Economic Opportunity financed lawyering. It is to the second part of that triumvirate which this paper is addressed.

The federally funded legal services program operated under the Economic Opportunity Act has been in existence just over five years. The question which arises is: What has been the impact of these legal aid programs for the poor on the operation of public school districts in the United States? To answer that question adequately it is necessary to look briefly at the history of the legal aid program for indigent persons in the United States. Since the question is framed, as a practical matter, exclusively in terms of the civil law, we will not concern ourselves with attempts to provide legal defense for the poor in criminal law matters.

Legal aid programs providing legal counsel and representation in civil matters for persons who were financially unable to retain an attorney have a long, rich history in the United States. Characteristically, it was a charitable services activity wholly funded by contributions from the local community. Typically, the local organized bar, and wives of local lawyers, provided the

leadership in money-raising efforts to finance the legal aid program. The local bar also provided a reservoir of public spirited lawyers who would accept indigent clients on a volunteer, no-fee basis. These lawyers usually were the younger members of the bar who not only had more time because of their relatively small practice in their early years to devote to legal aid referral clients but also because they were eager to develop the broadest possible experience in the general practice of law.

Legal aid funds and the time of volunteer attorneys were very limited. These two factors, in combination with the prevailing view that legal aid societies generally should limit their legal assistance offerings to persons who had legal problems which could be solved at the trial court level, severely restricted the nature of the lawyers' caseloads in legal aid societies. Some areas of the civil law, such as matrimonial cases, were entirely excluded from legal aid programs unless there were compelling reasons, such as the danger of injury to a wife who could not get a restraining order to keep a derelict husband away, to change the general policy.

Moreover, a dominant factor in the establishment of policy governing legal aid programs was the local bar, which usually was conservative in nature and, therefore, exceedingly loathe to visualize the legal aid program as anything more than a defensive legal charity. That is, legal aid was structured to provide immediate legal solutions for worthy persons caught up in identifiable legal snares. Since it is improper for a lawyer to advertise, the legal aid program was not well known among the poor, who were the very persons it was supposed to assist. And, finally, the definition of the level of poverty a prospective client must have sunk in order to qualify for legal aid was very low.

The picture that emerges of the typical legal aid program for the poor in the larger cities of the United States prior to 1964 is a small law office staffed by one or just a few lawyers who practiced under severe limitations in the freedom of choosing clients and in the methods of representing them before administrative or legislative bodies and at the appellate court level. The Economic Opportunity Act of 1964 changed the picture drastically by pumping millions upon millions of dollars into free legal aid services for the poor and requiring that at least a portion of that money be spent on "law reform" activities.

Legal aid societies throughout the United States were placed in a dilemma in 1964 by the Economic Opportunity Act. If they applied for federal funds as a community action program to combat poverty by providing legal services to the poor, they had to change their philosophies and methods of operation drastically. That is, if their applications for federal funding under the Economic Opportunity Act were to be approved, they must take action to involve the poor on their boards of directors, agree to aggressively represent the poor in even the most controversial cases, employ poor people wherever possible, act more independently of "outside influences," establish a more liberalized definition of what constitutes "poverty" in order to qualify for free legal aid, and do a much better job of acquainting the poor with the free legal aid services available under the legal aid program. In return for assurances that these conditions would be satisfied, a legal aid society could profoundly expand its program of legal assistance to the poor. The alternative to the acceptance of these conditions by the established legal aid societies was the creation of a new organization in the local community designed to provide free legal services as a "community action program" component under the Economic Opportunity Act.

Communities differed in their responses to the carrat of federal funds held before them by the Economic Opportunity Act of 1964. In some cities, the legal aid society became the "community action program" legal aid project, in other cities the legal aid societies refused to alter their historic policies and new agencies were born to carry out the "community action program" legal services, and in yet other cities, legal aid societies shared "community action program" funds under the Economic Opportunity Act of 1964 with newly created legal service agencies.

Regardless of whether the legal services funded by the Economic Opportunity Act of 1964 are provided at the local level by old-line, established legal aid societies or by newly created agencies, a significant part of their program is "law reform."

Under the "community action program" approach of the Economic Opportunity Act of 1964, for legal aid to the poor, the term "law reform" means that, in addition to handling the usual types of legal problems, the legal aid society also should carefully select for special treatment those unusual cases which, if resolved in favor of the legal aid client, could have a significant impact on the lives of the poor. These "unusual" cases should have community-wide significance, and would include

> . . . such matters as test case litigation, the reforming of administrative agency practices, the development of economic programs, or the representation of groups (of poor people).[3]

That "law reform is the thing" under the Economic Opportunity Act of 1964 is illustrated in the conditioning of EOA federal fund grants to legal aid agencies on the development by such agencies of a definite plan which

> . . . should include a list of the issues that the program feels have law reform significance, an indication of the relative

importance of each of these issues, the intended strategy for handling each of these issues, and the priority to be set between the handling of these issues and the handling of divorce and other routine cases. A checklist should also be developed for the ease of the staff so that they will immediately recognize the law reform issues. Finally, the program must develop a plan for using volunteer lawyers to assist in law reform . . . [4]

The object of "law reform" is to remake the law in such a way that the civil and human rights of poor people are given a full and fair consideration and to prevent the law from being a tool of oppression and thwarting the socially desireable aspirations of poor people to share more fully in the material rewards of personal industry and productivity. It is a commonly known fact that seeking education is the single most important endeavor for poor people who are attempting to better themselves. It is perhaps belaboring the point to state that education is of significant "community-wide significance" to the poor. Since the poor people of today depend primarily on the public schools for their education, and the public schools are administered under state laws and local school board rules and regulations, it is hardly surprising that the local public school would be a natural target for "law reform."

To determine the extent to which "law reform" by federally financed legal aid agencies has affected the operation of local public schools, I wrote to the directors of more than eighty legal aid entities throughout the United States last August asking them about their interaction with the local public schools of their communities. Over fifty responses were received. In a significant number of cases, there had been considerable dealings with the local public schools on the part of legal aid entities in our nation. The areas in which local public schools and legal aid agencies dealt with each

other may be divided into at least nine separate areas:

1. student discipline;
2. use of federal funds by local public schools;
3. school bus transportation;
4. racial integration of pupils;
5. school district organization and management;
6. school tuition;
7. application of the "one-man, one-vote" principle;
8. State Aid to local public schools;
9. Educational activities about the law.

Let us consider some representative examples of cases under each one of these categories:

I.

STUDENT DISCIPLINE

Probably the most numerous interchanges between the local public schools and legal aid agencies involve the discipline of pupils. School administrators and teachers are very concerned about their capacity to control discipline in the schools. They view themselves generally as sound people who are specially equipped by professional training and specially licensed by State law to mete out punishment to errant pupils as their discretion tells them is appropriate to maintain control over the situation. They look upon themselves as "second parents" of pupils and believe that to be successful they need the widest possible flexibility in dealing with their pupils who may be disciplinary problems. They tend to view any attempts either to limit their exercise of reasonable discretion in punishing pupils or to formalize their approach to the misbehaving pupil through the application of a judicial concept like "due

process" as efforts which frustrate them in maintaining good order and discipline in the schools. As valid as this viewpoint may be, the fact is that the law is changing. And this change is working to erode the power of school administrators and teachers over their young charges.[5] This fact has not gone unnoticed by legal aid lawyers who, in the spirit of "law reform" are continually attempting to expand the rights which the law would recognize that children have with the resultant narrowing of authority of school people. An example of this kind of case is Anderson v. Independent School District #281. This matter was recently considered by the Hennepin County, Minnesota, District Court as a result of a lawsuit filed by the Minneapolis Legal Aid Society.

In that case, the plaintiff was a sixteen year old high school student who was suspended from school on January 10, 1969, for allegedly having committed the "offense of smoking." In the complaint for injunctive relief, the attorneys for the Minneapolis Legal Aid Society claimed that (1) their client had a right to a hearing on his suspension under the due process clause of the Fourteenth Amendment to the U.S. Constitution, (2) the "no smoking" rule was only sporadically enforced by school authorities and that the selective enforcement of the rule against young Anderson was a denial of the equal protection of laws, (3) the punishment meted out to young Anderson was "grossly disproportionate to the offense," (4) a school district is "precluded from issuing regulations that would deny the statutorily guaranteed right to a free public education for trifling offenses," and, (5) effectively, the only valid test for the adoption and enforcement of a rule regulating pupil conduct is class disruption or undermining of discipline in the schools. The District Court ordered that young Anderson be reinstated and the school district has appealed the decision.

In New York City, in Knight v. Board of Education,[6] the "Community Action for Legal Services, Inc.," brought a lawsuit in the U. S. District Court for the Eastern District of New York in 1969 which resulted in the reinstatement in school of a large number of suspended students. And in San Francisco in December, 1967, a federally funded legal aid agency represented a pupil who had been suspended from school as a result of having been arrested on suspicion of throwing a fire bomb in a school hallway. The pupil claimed he should have had a hearing before his suspension from school. The California Supreme Court denied a petition for a hearing and the school district's action of suspension was allowed to stand.[7] The question of whether or not a student who is the subject of disciplinary proceedings in a public school is entitled to a hearing probably is not settled to the satisfaction of all lawyers in California.[7a] The "Alameda County Legal Aid Society" filed suit in January, 1969, to require the Oakland city public schools to hold "procedurally adequate hearings" in pupil disciplinary cases.

Notwithstanding the actual litigation which occurs in the area of pupil discipline, most of the efforts of legal aid agencies in dealing with school authorities in pupil discipline matters involve out-of-court negotiations with school officials or appearances at suspension hearings. It is the unusual case that goes into Court. Probably, every legal aid agency in the nation has had such informal dealings with local public school officials, ranging from "excessive suspensions," which, when such practice:

> . . . has been called to the attention of school authorities, it has been terminated immediately,[8]

to school authorities in a poverty area junior high school with a high pupil drop-out rate:

> . . . going overboard in their disciplinary measures.[9]

It is indeed a new era when school children who are the subject of disciplinary action in a school become represented by attorneys. Part of the reason was eloquently expressed in Brown v. Board of Education, 347 U.S. 483 (1954) at p. 493:

> Today, education is perhaps the most important function of state and local governments . . . It is the very foundation of good citizenship. Today, it is the principal instrument in awakening the child to cultural values in preparing him for later professional training and in helping him to adjust normally to his environment. In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.

But the other part of that reason is attributable in great measure to the expanded services of federally financed legal aid services to the poor.

II.

USE OF FEDERAL FUNDS BY LOCAL PUBLIC SCHOOLS

The U. S. Government has provided millions of dollars in federal aid to local school districts to pay for the special educational needs of children from poverty families. Title 1 of the Elementary and Secondary Education Act of 1965 specifically recognizes the special educational needs of children of low income families and provides money

> . . . to expand and improve their educational programs by various means . . . which contribute particularly to meeting the special educational needs of educationally deprived children.[10]

Specific guidelines are established to assist local schools in determining who the poor people are who are entitled to educational assistance under the law. These guidelines are somewhat subjective, however, and their application in local school districts is complicated by neighborhood groupings and census tract data. The "Alaska Legal Services Corporation" in Anchorage, convinced that:

> many school districts throughout the country have abused the Title 1 (Elementary and Secondary Education Act of 1965) program due to their desire to employ the funds to offset local expenses rather than to fight the adverse educational effects of poverty.[11]

helped induce the local school district to change its plans for the expenditures of such funds in a "substantial" way.

In St. Paul, Minnesota, the "Legal Assistance of Ramsey County, Inc.," assigned one of its staff attorneys to work with school districts in Ramsey County

> . . . to implement a free hot lunch program[12]

under the federally financed school lunch program. One of the principal efforts of this legal aid attorney was

> . . . working out procedures (with school district personnel) to insure that the students participating in the program would not be treated differently than the students who were able to purchase hot lunches.

Two lawsuits in the area of pupil lunches under federal legislation, one against the Kansas City, Kansas, School District No. 500 and the other against the Detroit, Michigan, city school district were recently filed by Ronald F. Pollack, Staff Attorney of the "Center on Social Welfare Policy and Law," New York, New York.[14] These lawsuits, filed in the federal courts,

sought declaratory and injunctive relief to enable "needy school children"

> . . . to receive their school lunch entitlements in conformity with Federal constitutional, statutory, and regulartory law.

Essentially, the complaints filed in both cases allege that poor children who are pupils of the defendant school districts are entitled to free lunches under the federal lunch program without having to work for them as a student cafeteria worker and regardless of whether or not they live in a minimally defined target area of poverty.

The "free lunch" lawsuit also is being contemplated by the "Law Reform Unit - Legal Services Program" of Baltimore, Maryland.[15] The "Atlanta Legal Aid Society, Inc.," fulfilled a watchdog function on its two local school districts (Atlanta and Fulton Counties) concerning their implementation of the federal school lunch program and

> . . . concluded, fortunately, that both school districts' plans do comply with federal problems.[16]

Instead of going to court, the "Economic Opportunity Legal Services Program, Inc.," of Miami, Florida, appeared before the Dade County school board on several occasions. As a result of efforts by the legal aid attorneys, the "Dade County Board of Public Instruction" took two significant actions:

> 1. the application form was simplified to eliminate irrelevant and embarrassing questions, and
>
> 2. qualifications for the program and objective standards of administration were made uniform on a county wide basis.[17]

Not content with this, the legal aid attorneys are pressing the "Board of Public Instruction" to strengthen its procedures for administering the federal free lunch program to insure that all children qualified to receive program benefits actually receive them.

The theory underlying the school lunch lawsuits is not only that poor children have a legal right to such lunches but that proper nutrition is indispensable to the successful learning process. The legal aid agencies, on behalf of their poverty clients, are striving for acceptance by local public officials of responsibility for insuring that, at least while the children are at school, all children receive the benefit of a good diet.

III.

SCHOOL BUS TRANSPORTATION

In an interesting case involving school bus transportation of Indian pupils whose parents could qualify for legal aid from the San Diego County Legal Aid Society, Inc., California, the legal aid society filed a legal action against a county school district.[18] The purpose of the lawsuit was to require the Escondido, California, Union High School District to provide school bus service between the Rincon Indian Reservation and the local high school. The legal theory was that failure to provide school bus transportation deprived the Rincon Indian children from receiving equal opportunity in education. The school district subsequently made provision of transporting the Rincon Indian children between the reservation and the high school and the lawsuit never pursued.

The "Legal Assistant of Ramsey County, Inc.," is now considering a lawsuit

> . . . which would involve the denial to students living in St. Paul of any form of free public transportation which is available to out-of-state students.[18a]

The subject of transporting children to and from school is certainly a matter of considerable significance to the community. Therefore, it qualifies easily as an innovative "law reform" activity of a legal aid society which affects the local public schools.

IV.

RACIAL INTEGRATION OF PUPILS

A lawsuit seeking to establish racial balance among the pupils of an elementary school in the Richmond, California, public school district was filed on October 16, 1969, by the "Contra Costa Legal Services Foundation."[19] Three of the five school board members of the Richmond public school district voted not to answer the complaint. The trial court then accepted all the allegations in the legal aid society's complaint as true and

> . . . ordered the school board to desegregate the school that is the subject of this action and to adopt a proposed plan of desegregation which was to be filed with the Court within thirty (30) days. . .[20]

Thus, a legal aid society was the attorney in a legal action which produced the first judicial order requiring a local public school district in California to develop and implement a pupil racial desegregation plan. However, it should be noted that the pupil desegregation plan was later changed from its original format and such change was approved by the Contra Costa County Superior Court. Without hesitation, the "Contra Costa Legal Services Foundation" promptly filed a petition for writ of mandate against the Superior Court in the California Supreme Court. That action was filed in August, 1969, and is now pending.[21]

In an imaginative twist to school pupil racial litigation, the "Legal Aid Society of Albuquerque," New Mexico, filed a lawsuit against the New Mexico State Board of Education and the Albuquerque Board of Education recently on behalf of Mexican-American poor people.[22] This federal court action seeks a mandatory injunction directing the New Mexico public schools

> . . . to provide instruction in Spanish history, language and culture on a basis of equality with American history, language (English) and culture.[23]

Additionally, the suit also seeks relief from alleged discriminatory practices, including "ability grouping" of pupils by tests which are not designed for Mexican-American children, rules improperly inhibiting freedom of speech and the right of assembly of Mexican American children and stationing police and other law enforcement officials in large numbers in and around public schools where Mexican-American children are enrolled.

Thus, the legal aid agencies now qualify as contenders in sensitive areas of "law reform" with old-line law reformers such as the "National Association for the Advancement of Colored People" and the "American Civil Liberties Union." The big difference, of course, is that federal funds finance the legal aid agencies.

V.

SCHOOL DISTRICT ORGANIZATION AND MANAGEMENT

In his letter of August 13, 1969,[24] in response to my letter of August 1, 1969, inquiring about his legal aid agency's interaction with local public schools, John DeWitt Gregory, Counsel of the "Community Action for Legal Services, Inc.," of New York City, declared:

> During the (recent) school strike (in New York City), which lasted several weeks, many of our (legal aid neighborhood) offices acted as counsel to community groups which sought to re-open their schools. Several injunctive actions were brought in state court to prevent striking officials from interfering with those teachers who wanted to return to school. A similar federal action was also brought, Rodriguez v. Skear, 293 F. Supp. 1013 (S.D.N.Y. 1968) . . . (The strike ended before most of the cases were decided.) I should add that in several communities our offices continue to act as counsel to neighborhood parent associations.

In an attempt to foster our clients' interest in community control of schools, we recently cooperated in litigation challenging the establishment of a new centralized Board of Education for the City. (Oliver v. Board of Education, ____ F. Supp. _____ (S.D.N.Y., 1969). . . . Finally, you may be interested in McMillan v. Board of Education, _____ F. Supp. _____ (S.D.N.Y., 1969) a federal case in which we seek adequate schooling for brain injured children who cannot afford private schools.

In another case filed by a legal aid society which touches on a vital nerve in the management of the public schools, the "Legal Aid Society of Alameda County" sued the Oakland, California, City Board of Education in an effort to prevent the Board from hiring a certain person as Superintendent of Schools.[25] The complaint claimed that the school board failed to comply with the procedures it had set up itself for the selection of the new Superintendent and that the school board had failed to keep the public informed of its deliberations concerning the selection of the new Superintendent. The lawsuit, however, was aborted when the new Superintendent-designate who had been the center of this legal storm withdrew himself as a candidate for the superintendency.[26]

These cases reveal the unsettled nature of virtually every aspect of public school organization which touches upon the control of local public education. A nationwide contest for control of the public schools is underway - and the legal aid agencies have aligned themselves on the side of the poor parent of the poor child in the poor community.

VI.

SCHOOL TUITION

In a unique contact with the local public schools, Ray A. Shaffer, General Counsel of the "Indianapolis Legal Aid Society, Inc.," said in a letter

dated August 25, 1969:

> Our greatest, perhaps exclusive, activities in this area is in situations where a child of school age is living with someone other than his natural parents. In such cases the school authorities require that the person with whom the child lives pay tuition for the child's attendance in school unless they have been appointed by a court the legal guardian of the child. In a proper case our office assists in this guardianship proceeding. A real hardship exists in a situation where the child's parents are living in the same city but in a different school district from the one in which the child lives. In many cases the natural parents cannot care for the child and places him with a friend or relative usually for economic reasons. In such a situation Indiana law will not permit a guardian of the child. In such cases the child must return to his natural parents or someone has to pay tuition.

This activity is in the vein of classic legal aid assistance. Effectively, it assists a poor person to become the legal guardian of a child to avoid payment of tuition for the child to attend school. It nicely illustrates the traditional legal aid society approach which is highly pragmatic and effective from the viewpoint of the individual client. On the other hand, the "law reform" approach would be to earnestly seek through exhaustive legal research a basis for a legal challenge to the Indiana school tuition statute and, once found, to vigorously press a test case attacking the statute's validity.

VII.

APPLICATION OF THE "ONE-MAN, ONE-VOTE" RULE TO SCHOOL BOND ELECTIONS

The Constitutions of some States require more than a simple majority "YES" vote at a school district election to approve the issuance of school bonds. In California, the state constitutional requirement is 66 2/3% "YES" vote of the

voters actually voting. The "Legal Aid Society of San Diego County, Inc.," is in the process of bringing a lawsuit to force a change in this 66 2/3% requirement to a simple majority of the voters voting. This lawsuit does not represent the "breaking of new ground." In fact, it is a carbon copy of lawsuits filed elsewhere which have had the common aim of permitting school districts and other local government entities to issue bonds upon majority vote of those voting, rather than stacking the voting deck in such a way that one "NO" vote is equivalent to two "YES" votes.[27] The San Diego lawsuit will attempt to obtain legal approval of a $35,000,000 school bond issue to rehabilitate schools built before 1933 that are graded "unsafe" in their capacity to withstand earthquakes which "failed" to pass because it only received 52%, rather than the required 66 2/3%, of the popular vote at an election held November 4, 1969.

VIII.

STATE AID TO LOCAL PUBLIC SCHOOLS

In the fall of 1968, the "Western Center on Law and Poverty" operating out of the University of Southern California and funded principally by the Office of Economic Opportunity, brought suit in the Los Angeles Superior Court to force the State of California to provide for a substantially equal allocation of "resources" per student to all the public school districts of the state.[28] This lawsuit does not seek equal statewide apportionment of tax money, because it recognizes that more money must be spent in some urban areas than in suburban or rural areas. The lawsuit would not penalize rich school districts, rather it's objective is to insure that the educational program offered in the poorer areas is comparable to that available to youngsters in the more affluent areas.

In St. Paul, Minnesota, the "Legal Assistant of Ramsey County, Inc.," is considering litigation which:

. . . would test the distribution formula of educational aids under which inner-city schools do not receive benefits comparable to schools in the more affluent areas.[29]

The legal aid agencies represent only one of the many organizations active in the school finance position. A major difference between the legal aid agencies and the other groups, however, is that the legal aid agency, as an organization has no official position on school finance - but it does have clients it represents who have strong interests in quality public education for the poor.

IX.

EDUCATIONAL ACTIVITIES ABOUT THE LAW

Sargent Shriver, then Director of the Office of Economic Opportunity, said in 1965 during the embryo stages of the federally financed legal services program:

> . . . The (legal assistance) programs we wish to finance should be designed locally, by local people, to respond to local needs. This insistence has already yielded a variety of approaches: (for example) l[illegible] education by lawyers for high school teachers and guidance counsello[illegible][30]

The legal education programs conducted by legal aid agencies since 1964 have been recognized as an outstanding contribution by all segments of the community. These programs exist in some form or another in virtually every legal aid agency in the nation and invariably are the "pride" of every legal aid Chief Counsel. The programs range from conducting regular neighborhood seminars about such practical "gut" issues as the rights of persons whose property or wages are attacked, whose automobiles are repossessed, or who are evicted from their homes to teaching children about the rule of law to develop respect for

the manner in which our society governs itself.[31]

In conclusion, the whole gamut of legal aid activities in the United States indicate that the legal aid lawyer is having a profound impact upon the operation of the public schools by articulating the hopes, aspirations, and demands of the poor for what they conceive to be better educational opportunities. The effectiveness of the work of the legal aid agencies with the public schools cannot be measured only by the number of lawsuits filed. In fact, some legal aid agencies eschew filing lawsuits except as a desparate last resort. This attitude was cogently expressed by Frank B. Gorski, Chief Attorney, "Essex County Legal Aid Association," Newark, New Jersey, when he said:

> In the main. . ., the dominate reliance for law reform in education or the administrative operation, falls into the political arena where the normal give and take bargaining, mutual good-will of parties involved, and a modicum of sanity, all play an important part.[32]

In its in-court or out-of-court representation of its clients in controversial "law reform" matters, the legal aid agency is not without its stern critics. And this is to be expected. As the Santa Clara County, California, Bar Association magazine In Brief remarked in an editorial commenting on the umbrage certain members of the Bar took at a cartoon jibing the local legal aid agency which had appeared in an earlier edition of In Brief:

> What we take exception to is the implication that, because of the lofty purpose, the awsomeness of the need or the dedication of the individuals involved, this enterprise (legal aid agency) is somehow beyond the pale of a particular brand of criticism or comment.[33]

As the legal aid agency in the United States matures as a "law reformer", it will inevitably gather storms of criticism about it in its relations with

the public schools. The public discussion evoked about the "law reform" activities of legal aid agencies will have real impact upon the future development of legal aid programs - and it seems equally clear that the operation of the public schools will continue to be influenced by the poverty clients whom the legal aid agencies represent. The extent to which financing "law reform" activities of legal aid agencies can be maintained at present or expanded levels is the key issue. Without adequate financing, "law reform" activities concerning the schools are difficult to manage by legal aid agencies.[34] Since federal funds are involved, the effect of the public discussion about the "law reform" work of legal aid agencies will be a significant factor in determining the future impact of legal aid agencies upon the operation of the local public schools in America.

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FOOTNOTES

1. 51 American Bar Association Journal 746 (August, 1965), "The Role of the Federal Government," by Theodore M. Berry, part of a report on the National Conference on Law and Poverty.

2. Ibid, p. 748.

3. Letter of Earl Johnson, Director, Legal Services, Office of Economic Opportunity, Executive Office of the President, dated July 3, 1968, to Donald L. Clark, President, San Diego County Legal Aid Society.

4. Ibid.

5. See Tinker v. Des Moines Independent Community School District, U. S. Sup. Crt., No. 21, October Term, 1968, (February 24, 1969).

6. Knight v. Board of Education, F. Supp. (E.D., N.Y., 1969) Letter from John De Witt Gregory, Counsel, Community Action for Legal Services, Inc., New York, New York, dated August 13, 1969.

7. Scarbrough v. Board of Education, San Francisco Unified School District, Sup. Crt. No. 586014 (Dec. 14, 1967); Petition for hearing denied by California Supreme Court, Feb. 15, 1968.

7a. See Note 26, Infra.

8. Letter from Roy F. Martin, Director, Legal Aid and Defender Society of Columbus, Ohio, dated August 5, 1969.

9. Letter from Vernard C. Anderson, Jr., Staff Attorney, Yellowstone County Legal Services, Billings, Montana, dated August 4, 1969.

10. Elementary and Secondary Education Act of 1965, 20 U.S.C. 241.

11. Letter from John S. Hedland, Supervising Attorney, Alaska Legal Services Corporation, Anchorage, Alaska, dated October 21, 1969.

12. Letter from Timothy J. Halloran, Executive Director, "Legal Assistance of Ramsey County, Inc.," St. Paul, Minnesota, dated August 11, 1969.

13. Ibid.

14. Walker v. The School Board of the Kansas City, Kansas, School District No. 500, et al., civil action filed in the U.S. District Court for the District of Kansas, (1969) and Kennedy v. The Detroit Board of Education, civil action No. 33367, U.S. District Court for the Eastern District of Michigan, Southern Division (1969). See also letter from Ronald Pollack, Staff Attorney, Center on Social Welfare Policy and Law, Columbia University, New York, New York, dated August 27, 1969.

15. See letter from Hugh M. Boss, Attorney, Law Reform Unit, Legal Services Program, Baltimore, Maryland, dated August 28, 1969.

16. Letter from Michal D. Padnos, Director, "Atlanta Legal Aid Society, Inc.," Atlanta, Georgia, dated August 6, 1969.

17. Letter from Howard W. Dixon, Executive Director, "Economic Opportunity Legal Services Program, Inc." Miami, Florida, dated August 4, 1969.

18. Mazzetti v. Escondido Union High School District, San Diego County Superior Court No. 307570 filed August 1, 1968, San Diego, California.

18a. See Note 12, Supra.

19. Johnson v. Richmond Unified School District, Contra Costa County Superior Court No. 112094, filed October 16, 1968, Richmond, California. See letter from Ralph E. Warner, Directing Attorney, Richmond Office, "Contra Costa Legal Services Foundation," Richmond, California, dated August 14, 1969.

20. Ibid.

21. Olden v. Superior Court of the State of California in and for the County of Contra Cost, Respondent, and Richmond Unified School District, Real Party in Interest, August 6, 1969.

22. Tijerina v. Henry, U.S. District Court for District of New Mexico, Civil No. 7664, amended complaint filed on May 26, 1969. See letter from William G. Fitzpatrick, General Counsel, "Legal Aid Society of Albuquerque," Albuquerque, New Mexico, dated August 5, 1969.

23. Ibid.

24. See Note 6, Supra.

25. Thompson v. Oakland Unified School District, Alameda County Superior Court No. 389900 filed May 20, 1969.

26. See letter from Francis Kennett, Publicity Writer, "Legal Aid Society of Alameda County," Oakland, California, dated August 5, 1969.

27. For a prototype of this kind of case, see Bogert v. Kinzer, Case No. 10446, now pending before the Supreme Court of the State of Idaho. See also, "Legal Aid Newsletter," Issue No. 5, November, 1969, published by the Legal Aid Society of San Diego County, Inc., 964 Fifth Avenue, Room 400, San Diego, California 92101.

28. Serrano v. Priest, Los Angeles Superior Court No. 938254, filed August 23, 1968.

29. See Note 12, Supra.

30. 51 American Bar Association Journal 1065 (Nov., 1965), "The O.E.O. and Legal Services," R. Sargent Shriver.

31. See letter of Daniel E. Farmer, Chief, Juvenile Law Reform Unit, "Community Legal Services, Inc.," Philadelphia, Pennsylvania, dated August 21, 1969. See also letters of: (1) Herbert C. Goldstein, Executive Director, "Dauphin County Legal Service Association," Harrisburg, Pa., dated August 5, 1969; Catherine Nutterville, "Neighborhood Legal Services Program," Washington, D. C., dated August 15, 1969; Phillip F. Fishman, Staff Attorney, "The Legal Aid Society of the City and County of St. Louis, Mo., dated August 19, 1969; and Hugh M. Boss, Law Reform Unit, "Legal Services Program," Baltimore, Md., dated August 28, 1969.

32. See letter from Frank B. Gorski, Chief Attorney, "Essex County Legal Aid Association," Newark, N.J., dated August 14, 1969. See also letter from E. DeWitt Anthony, Jr., Director, "Legal Aid Society of Dallas, Inc.," Dallas, Texas.

33. In Brief, Official Bulletin of the Santa Clara County, California, Bar Association, Vol. 5, No. 7, September, 1969.

34. See letter from: (1) E. Bryan Henson, Jr., Director, "Tulsa County Legal Aid Society, Inc.," Tulsa, Oklahoma, dated August 19, 1969; (2) Arne T. Hendriks, General Counsel, "Legal Aid Society of Topeka, Inc.," Topeka, Kansas, dated August 20, 1969; and (3) J. MacArthur Wright, Executive Director, "Washoe County Legal Aid Society," Reno, Nevada, dated August 7, 1969.