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A Neighborhood Law Office: The New Haven Project

Charles D. Gill*

The ultimate purpose of what we set upon here is not litigation, it is not court battles . . . The end purpose is justice. The end purpose is dignity. The end purpose is that rights will be observed without a fight, without a protracted course of litigation which takes its toll on victor and defeated alike.

THE ABOVE QUOTATION is taken from an address delivered by then-Justice Arthur J. Goldberg at the official opening of the Neighborhood Law Offices of the New Haven Legal Assistance Association on Law Day-U. S. A. 1965.¹ The address was given not in the marbled rooms of an impressive courthouse, but rather on a hastily-erected platform in what is popularly termed "an underprivileged neighborhood." The building abutting this platform contains a laundry, a pool hall, six tenement flats, and a vacant grocery store which that day became a neighborhood law office.

The audience was comprised of many influential citizens, members of the Bar and Judiciary. Also included in the audience were those who had a vested interest in the ceremonies, the poor.

That day marked the realization of a new step toward the somewhat distant goal of equal representation for all citizens regardless of socio-economic status. The need for new steps in the area of expanded legal services for the impoverished has indeed been accentuated in recent years. The accentuation exists not only because of decisions such as *Gideon v. Wainwright*,²

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¹ Goldberg, 39 Conn. Bar J., 209 (June, 1965).

² 372 U. S. 335 (1963). "Charged in a Florida State Court with a non-capital felony, petitioner appeared without funds and without counsel and asked the court to appoint counsel for him; but this was denied on the ground that the state law permitted appointment of counsel for indigent defendants in capital cases only. Petitioner conducted his own defense about as well as could be expected of a layman; but he was convicted and sentenced to imprisonment. Subsequently, he applied to the State Supreme Court for a writ of habeas corpus, on the ground that his conviction violated his rights under the Federal Constitution. The State Supreme Court denied all relief.

(Continued on next page)

but also because of a renewed and enthusiastic response to ethical obligations by government, citizenry and the organized Bar.

The first new step taken by the New Haven community was the establishment of free legal services for the poor in offices located *within* poverty stricken neighborhoods. The offices serve all persons residing within a particular geographic area who meet a financial eligibility standard. The present standard is based primarily upon the total weekly net pay of an applicant's family, although some consideration is given to family debts. Thus, a married couple is eligible for our services if its net weekly income is fifty dollars per week or less. Each child or dependent raises this amount by ten dollars per week in net income. The New Haven Municipal Legal Aid Bureau recently raised its standards to seventy dollars per week per couple and fifteen dollars per dependent, and I believe we will soon follow this pattern.

Our services are available in both civil and criminal matters. The only type of cases specifically excluded are personal injury plaintiff suits, where there is the possibility of a contingent fee arrangement.

Applicants who seek to maintain personal injury cases or who are without our financial standard are referred to a panel of lawyers provided by the local bar association. Scores of such applicants have thus found their way to private attorneys.

Much has been learned in the first months of the program's operation. Some knowledge gained merely supports existing notions of the legal problems of the poor and of the resolution of those problems. However, considerable knowledge has also been gained which challenges many traditional concepts and tends to suggest new approaches which may be more effective than the traditional legal services previously available to the poor.

An understanding of the sociological condition of the poor is a necessary prerequisite to reaching any worthwhile determination concerning the most effective means of treating their legal problems.

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Held: The right of an indigent in a criminal trial to have the assistance of counsel is a fundamental right essential to a fair trial, and petitioner's trial and conviction without the assistance of counsel violated the 14th Amendment."

I. The Problems of the Poor and the Law—The Case of George X—Poverty

If the poor of this nation had to categorize the "law" as friend or foe, I believe that the result would, unfortunately, be that the "law" is a foe. The rationale of the categorization is plain to see. The poor of the nation seldom see the "law" in a protective or beneficial role. Rather, they see the "law" as a vehicle used by others to make their existence more difficult. They see, for example, the "law" used by a slumlord to evict them. The eviction order is an act by a court of "law," signed by an officer of the court and served at his direction by a sheriff. Everything, they are told, is "nice and legal." They see the "law" similarly used by the merchant, the furniture company, the door-to-door salesman, the employer, the welfare department and, of course, the policeman on the beat. The eviction may be the conclusion of a landlord-tenant argument concerning the failure to provide heat. The wage garnishment may be the conclusion of a merchant-buyer argument concerning the non-delivery of goods, and so on. But in all cases it is the "law" which evicts, garnishes or arrests. The poor cannot escape the seemingly reasonable conclusion that the law has somehow taken sides. The socially catastrophic nature of the latter notion needs no emphasis here, I am sure.

Though the end result of most legal encounters indubitably finds the poor as losers, it is still, of course, not true that the "law" has taken a side. Clearly, the deficiency lies in the inadequate representation of the poor. In other words, the poor do not have anyone to take *their* side. In the final analysis, the results of a man's having no representation can hardly be distinguished from those which would accrue if the law actually took sides against him.

Law is often a great mystery to the middle class, well-educated citizen. The mystery is compounded in the eyes of the poor, uneducated citizen. The noble expressions of "equality under law" are meaningless cliches to the man who is not only ignorant of his rights but who also has no effective way of expressing or protecting them in a court of law. It is to these men that the phrase "justice is for the rich" has meaning. It is to these men that breakdowns of families, morals, and incentives are common place. It is to these men that the feeling of inability to control their own destinies is real. It is in these men that

anarchy, riots, rebellion and other anti-social behavior have found fertile ground.

One cause of our nation's social disorder, we are told, is the failure of some to "respect the Law." Respect for the law, however, has a mutual and reciprocal status, which, in the case of the poor, can be achieved only when the "law" is no longer a mystery which seemingly has taken sides against them. The cure eventually will be education and an improved economic climate. However, it is imperative that the first-aid of proper legal representation be administered *now*, to keep the patient alive for the cure.

Consider, if you will, the case of George X, as illustrative of the "cause" of social disorder.

George X is a thirty-eight year old Negro, born and reared, but unfortunately not well-educated, in a southern state. George lived in a rural area with his wife and nine children. His sole assets totaled two hundred dollars. At the turn of the decade, he decided that he would bring his family north, hoping thereby to provide them with a brighter future. Much to his chagrin, his hope of a brighter future in the north was short-lived.

Imagine for a moment the problems faced by George in his attempt to establish his family in a medium-sized northern city.

George arrived in New Haven and resided temporarily with his brother-in-law. His first problem was to obtain adequate housing for his family. Suffice it to say that his family of eleven did not attempt to find housing in the so-called "nicer" neighborhoods. Public housing, although constantly expanding, was presently operating on a waiting list basis. Inevitably, George reached the underprivileged neighborhood and the slum landlord. He rented a sub-par third floor apartment consisting of five rooms. The rent was \$125.00 monthly, plus heat and utilities. This is an amount equivalent to some luxury apartment rentals in New Haven.

The next problem was furniture for his family's apartment. Being new in town and not having the much-desired "good credit," George was contacted by the inevitable door-to-door salesman for a "discount-small weekly terms-no money down" store. Accompanied by his brother-in-law, George went to this store and purchased three double-decker beds, a bedroom set and a kitchen set from a catalogue. He signed some blank papers with his brother-in-law and went home to await the ar-

rival of his furniture. The blank papers he had signed included a note for some two thousand dollars which was sold at discount the following day to a finance company.

Assured of furniture, George then sought employment. Again, lacking education and skills, he found only the least rewarding employment. He was employed by a local hospital for \$1.25 per hour and proceeded to work in excess of sixty hours per week to make ends meet.

The furniture arrived several weeks later. It was not the furniture he had ordered, but used furniture in poor condition. George was told his furniture was delayed in shipping asked if he would accept the used furniture temporarily. George signed a receipt but even now, years later, has yet to receive the furniture he ordered.

With a scarcity of money, George labored through the first year or so in his new home. During this time improper ventilation and heating brought several of his children to the hospital with pneumonia. Probably preventive medicine or prompt attention would have made hospitalization unnecessary.

When George came to our office, his pay had been garnished by the assignee of the furniture note, the hospital was waiting its turn to attach for the medical bills and George's total weekly income, allowed by the garnishment statutes then prevailing, was twenty-five dollars per week. This weekly amount made payment of his rent impossible and eviction proceedings were initiated against him.

The crisis situation of the family was also reflected in domestic disputes and anxieties by the children in school. This seems to be the pattern of life among the poor. The social problems of debts, housing, and employment bring many to the brink of financial ruin. However, it is the aftermath of economic ruin that generates a multitude of other social problems. Family fights over money and bills lead to arrests for breach of peace or assault. The children react to parental discord in behavior patterns we term juvenile delinquency. Parents separate and the welfare rolls are lengthened. The husband meanders and is jailed for non-support. The mother meanders and is jailed for welfare fraud or the children are taken by the state as being neglected. Children drop out of school and are groomed to start the cycle over again with families of their own.

I suppose if George's family had become subjects of welfare or if he had abandoned his family some might say he lacked initiative, incentive and other virtues. The fact of the matter is he tried his best to cope with our society. But due to his ignorance of law, lack of education and deficient commercial experience, he was in a situation from which he, alone, could not possibly hope to extricate himself.

II. The Neighborhood Lawyer and the Problems of the Poor

Theoretically, the function of the neighborhood lawyer is not only to advise and represent the poor but also to practice preventive law by education. Clearly, preventive law and education available through some social agencies would prevent a great many Georges from even approaching the crisis that this George faced. The ideal situation of a well informed and educated poor is for all immediate purposes non-existent. The bulk of the neighborhood lawyer's time is still spent in alleviating crisis after crisis with no end in sight. Indeed, it seems characteristic of the poor we have represented to wait until a situation has developed to the crisis point before seeking legal help. The same is more than likely true of their response to their medical problems as well. It makes the position of the neighborhood lawyer extremely difficult when, instead of handling a debtor-creditor or landlord-tenant dispute, he is presented the case when judgment has been entered and wages actually garnisheed or the sheriff is at the door to evict.

George X's crises were handled by reopening the judgments and resolving them favorably and, of course, without the resultant wage garnishments. The landlord was persuaded to reconsider his eviction. Some problems, we have discovered, are solved not necessarily by what the lawyer does, but merely by the fact that there is a lawyer involved who will represent the indigent's rights vociferously.

The answer to some of these problems is bankruptcy followed by a meaningful lecture on purchasing and budgeting. Most of the poor are reluctant to enter bankruptcy. They fear that their non-existent "good credit" will be destroyed. Many think that bankruptcy is cheating and therefore immoral. It is nearly impossible to convince them that the friendly door-to-door salesman is not their friend at all. This is understandable. Who else would give them forty dollars worth of Christmas toys

for only two dollars a week? (The fact that payments run two years is seemingly unimportant.)

An enlightening study of the latter consumer problem is found in "The Poor Pay More" by David Caplowitz.³ Also, a recent speech by Representative Michael A. Feighan of Ohio contained several references to similar practices in Washington, D. C.⁴ There, a door-to-door salesman had a great deal of success selling certain television sets for \$503. The same sets sold for \$170 from legitimate dealers elsewhere in Washington. The list of such examples is as interminable as the time the neighborhood lawyer must spend to resolve the difficulties they provoke.

In many respects it would seem that the neighborhood lawyer is no more than a decentralized legal aid society. Maybe so, but there are some significant distinctions.

III. Traditional Legal Aid and Public Defender Services Versus the Neighborhood Law Office

There are at least three differences between the traditional services and our neighborhood lawyer program. This writer considers them all improvements.

The most obvious difference is our *location within the troubled neighborhoods*. We are not found in an awesome municipal building or in a midtown office complex. We have discovered, as sociologists have surely found, that fashionable central business districts are often held in dread by the poor. They feel conspicuous of their dress and manner in most downtown buildings. Incredible as it may seem to some we have learned that many neighborhood people have never even been in the central business district. Clearly, there is little need ever to go there when the neighborhood provides everything required. Many neighborhood people, even if aware of other legal services, are unable to locate them. Financially, a trip to the central business district may be out of the question for a welfare mother with four children. The three dollar bus fare is a considerable portion of

³ Caplowitz, *The Poor Pay More; Consumer Practices of Low Income Families* (1963).

⁴ In a speech delivered before Congress on Sept. 23, 1965, Congressman Michael Feighan concluded, "Good legal representation is basic to the dignity of the individual who is poor, providing that good legal representation is essential to our nation." 111 Congressional Rec. 24102 (daily ed., Sept. 23, 1965).

her budget. Being in the neighborhood, we are not only more accessible but certainly less imposing than a midtown edifice.

With an unimposing storefront office we have become just another resident of the neighborhood. As times passes, one becomes familiar with the merchants, the ministers and the families themselves.

When interviewing clients, one sees them and their problems in a familiar setting. Their social situation may already be known to the attorney. Trust and rapport, so essential to a successful attorney-client relationship, is easily developed when lawyer and client have a common bond of knowledge and experience. The neighborhood and knowledge of what transpires in it combine to form such a common bond.

Probably the most outstanding benefit of our location and physical structure is that most of our clients do not realize we are a public agency. Many think we are private attorneys whose offices happen to be in their neighborhood.

A second difference between traditional services and our program is that *we take all types of cases*, excluding, of course, personal injury cases. Other services which specialize in criminal or civil law or which make other exceptions forego strong and close social ties with families. The latter are important in the area of preventive law. If an attorney has a close relationship to a family, he may be called before the domestic dispute erupts, the contract is signed or the eviction papers are served. It is also certainly true that civil and criminal cases are often indistinguishable. For example, if a man and wife are arrested for breach of peace, is this criminal or is it essentially a domestic problem in the civil area? It is equally true that a compilation of social problems, such as George X's, which are essentially civil, can be the catalyst of criminal behavior in a family. The neighborhood office is in a more knowledgeable position, because of proximity, if nothing else, to treat not only the criminal eruption but also the underlying cause thereof.

The latter is essentially the third difference between traditional services and our neighborhood program, the difference being our *sociological orientation*. We do not perceive legal problems in a vacuum.

For example, if one were to treat George X's problems solely on a legal basis, he and his community would have gained nothing. Such achievements as the reopening of judgments

would be nothing more than temporary reprieves from the eventual social downfall of his family. Why? Because George still does not have adequate employment to support his family. Because George still will be trapped again by others more learned than he in commercial transactions. Because George still does not know how to cope with the family's health problems which caused the enormous hospital bills. Because George still lives in sub-par housing. Because George, in the final analysis, has the same problems, limitations, educational weaknesses and physical and social needs that led to his first crisis.

It is no secret that Legal Aid Agencies for decades have spent much of their valuable time doing nothing more than servicing the crisis of families that they have so helped many times in the past. *Some such agencies report that as much as 37% of their business in a given year is repeat business.*⁵ This is understandable, for the causes of the legal problems were never treated in the first place. The legal reprieves available in traditional legal aid have not penetrated, let alone solved, the problems of the poor. Much of this ineffectiveness can be attributed to the amazing case loads handled by legal aid attorneys. It is not uncommon for a single such attorney to handle 2,500 cases yearly!⁶ This is roughly *ten new* cases per day. It is difficult to see how these dedicated men even have time to meet the daily legal crises of their clients; how can they attempt to solve the underlying causes?

Nevertheless, even with a comfortable caseload, the important ingredients of sympathy and understanding are needed. In the case of George X, we were not content merely to grant him his legal reprieve. George was referred to a local job retraining and employment center. After receiving proper training, he is now employed as a chef, earning nearly ninety dollars a week net income. He has a well-paying part-time job which supplements his basic income. Social workers from another agency have given his wife housekeeping and health assistance to prevent a recurrence of that problem. His children have been enrolled in worthwhile leisure time programs which are designed to aid their progress in school. Efforts are being made by others to relocate his family in suitable housing. A medical division of

⁵ Brownell, Supplement to Legal Aid in the United States (1961).

⁶ *Ibid.*

the welfare department has assisted his wife in obtaining an artificial leg to replace a dilapidated one purchased years ago. Thus, many people are on the lookout for other problems which may require legal advice, such as the family need to purchase furniture or appliances.

It might be said that we have made the George X family completely dependent upon society. To a certain degree, this may be true. We hope, however, that the dependence will be temporary. There is no greater dependence upon society than that experienced by a family on welfare, which was the predictable outcome in this case. In any event, we think it preferable to gamble the chance of even long term dependence against the certainty of another legal crisis which leads inevitably to an eternal dependence on welfare.

The services of other local agencies are also made integral parts of our services. We utilize psychiatric, alcoholic and other health services which aid us in the treatment of causes of the problems of the poor as opposed merely to their legal manifestations.

Another significant advantage enjoyed by the neighborhood operation is its ability to organize various neighborhood groups dedicated to "self-help." Our office has been instrumental in the creation of several such groups. One, the Spanish-American Association of New Haven, is particularly effective. Starting with a nucleus of four young Puerto Ricans holding weekly meetings in the neighborhood office, it has developed into an active organization of several hundred members with private clubrooms and facilities. This completely self-sustaining organization provides its members with practical benefits as well as social benefits. In a recreation vein, there are weekly dances and daily activities such as billiards, dominoes and weight-lifting. In a practical vein, there is a job placement service which provides interpretive services as needed; housing location services; and legal services to private attorneys of the neighborhood office. Projected services include educational programs for the children, such as Higher Horizons and musical training.

Other organizations have diverse purposes, but have generally succeeded in making people feel that they can have a voice in their own community life.

In general, then, the major difference between traditional services and New Haven's neighborhood program is that the at-

tack upon the legal problems of the poor is not limited to legal action alone, but is pursued by a coordinated effort directed at the causative factors of their legal problems. And the approach to this effort is better made, not in a peripheral or remote physical location, but in the completely immersed structure of a neighborhood office.

IV. Some Philosophical Problems of Legal Services Programs

The philosophy of a legal services program is a continuum with quite distant poles. There are those who are opposed to free legal services at all, those who favor the status quo, those who wish for changes which would allow the expansion of legal services, and many other views in between. In each community and, indeed, in each Bar Association, these viewpoints will meet head-on. There will be lawyers who oppose expansion because of their basic conservatism and a dislike of what they might term meaningless change. There will be those lawyers who fear the tentacles of a welfare state in their noble profession. There are those lawyers who feel such legal programs are unethical and in violation of the canons of ethics regarding solicitation, practice of law by a corporation, etc.; there are those who regard the status quo as sufficient; those who feel they can personally and voluntarily represent the poor, who hold that the Bar Association alone should tend to the problem of legal services; or who see no need for such programs, or who feel that there will be cheaters in such programs. There are those lawyers who feel that they will themselves lose money. And, of course, there are those lawyers who have vested interests which may be disturbed, such as the attorneys who specialize in collections, evictions and the like.

When such diverse views exist, to say that there are philosophical problems in legal services programs is to understate the facts. Nonetheless, there are strong counter sentiments flourishing.

Most new legal services programs hire recent law graduates as staff attorneys. While there are many reasons for this practice budgets seem to be the predominating concern. The use of recent graduates has created another philosophical problem which is troublesome not only to Bar Associations but even to the very founders of the service programs. The problem is whether the purposes of such programs shall be to provide

representation for as many people as possible or to be selective and look for the proverbial "test case." The use of young lawyers emerging from law school with youthful vigor and the United States Constitution imprinted on their sheepskins heightens this concern.

This problem was created and is being maintained by those who think in alternatives. It is alleviated simply by each lawyer's asking of himself, "What is best for my client?" The answer to that question should be followed by "What does my client want?" It is my opinion that the first purpose of any program is to provide the maximum amount of service to as many people as possible.

If, in the course of representation a "test case" emerges, only the welfare of the client should determine whether the case should be pursued. It is certain that appeals were one means of helping George X. Nevertheless, because the Georges of the nation are so numerous and at a crisis stage, the test case approach should be an auxiliary weapon that is used when appropriate, to provide proper representation of *each* George. A further practical consideration is that a de-emphasized "test case" approach will make these badly-needed programs more palatable to local communities and Bars.

V. Conclusion

The New Haven program is now one of many such programs materializing in the nation. It is by no means the only effective type of program to solve the problems of the law and the poor. Each bar association, attorney and community must experiment to find its most effective programs. We have discovered the amazing complexity and depth of the social-legal problems of the poor. We clearly see the absolute necessity of expanded legal services if our society is to reach any social plateau even approaching a "Great Society."