

Memos Show New Plans To Narrow U.S. Legal Aid

NYTimes

By JOHN D. MORRIS FEB 19 1973
Special to The New York Times

WASHINGTON, Feb. 18—Critics produced documentary evidence that the Nixon Administration was exploring new ways to stamp out controversial aspects of the Federal program of legal aid to the poor.

The evidence consisted of two internal working papers of the Office of Economic Opportunity, the antipoverty agency that is now being dismantled. Leaders of the National Legal Aid and Defense Association, who made copies available to The New York Times, described the documents as the Administration's "game plan" for undermining the agency's Legal Services Program.

The association is an independent organization of lawyers employed in the program.

'Causes Ahead of Cases'

The documents emphasized the Administration's hostility to efforts by legal aid lawyers in the field to help the poor as a class through changes in judicial interpretations of the law and through administrative and legislative reforms. Instead, it was argued, the lawyers should concentrate on the relatively narrow problems of their individual clients in coping with existing laws.

As the author of the documents described the situation, "One of the most objectionable features of the Legal Services Program as it has operated in the past" was "its penchant for putting causes ahead of cases, for using clients as mere vehicles to promote sweeping social and political change."

Both documents were pre-~~one of the most objectionable~~ for Howard J. Phillips, who recently became acting director of the Office of Economic Opportunity with a White House mandate to dismantle the antipoverty agency by shifting most of its functions to other agencies. Mr. Boarman, a long-time adviser to Mr. Phillips, is now acting director of the Evaluation Divisions of the Legal Services Program.

Proposed Alternative

The disclosure of the Boarman papers followed the unauthorized publication yesterday of an anonymous internal staff memorandum calling for swift dismantling of the Office of Economic Opportunity before Congress had time to prevent it.

The Office of Legal Services, unlike most other units of the antipoverty agency, cannot under existing law be spun off. But the Boarman papers, according to leaders of organized legal aid lawyers, call for an equally damaging alternative.

The proposed alternative is to transfer functions of legal service "backup centers"—federally financed research and advisory groups, most of which are attached to universities and their law schools—to an "in-house" Washington office.

In the preface to a memorandum dated Feb. 13, Mr. Boarman said: "The problem of what to do about O.E.O.'s 13 legal services backup centers is most urgent. Howard Phillips asked me to prepare a rationale for phasing them out and replacing them with an in-house unit. The attached is the rationale . . ."

Costs Are Cited

The backup centers have provided much of the inspiration and guidance for test cases, class-action litigation and other controversial activities of the 2,500 lawyers employed by the Office of Legal Services in 900 neighborhood units throughout the country.

Replacing them with an in-house unit, according to the memorandum, would "render the program more amenable to control by those who are the elected and appointed stewards of the funds used to pay for the program."

In addition, the cost of the program could be "considerably reduced," the memorandum said. Grants to the backup

centers now amount to about \$4-million annually. Mr. Boarman's "rough guess" was that this could be cut to \$2.5-million by the proposed shift.

He emphasized, however, that "to suggest that the Administration's plans for restructuring the backup centers is simply a device for gutting the Legal Services Program is both unfair and demagogic."

Other Document

"The purpose of the new approach," he wrote, "is, in fact, quite the opposite: To expand the volume and improve the quality of services to individual clients, and to render the Legal Services Program as a whole less vulnerable to outside political pressures."

The other document disclosed today, dated last September, proposed fundamental changes in philosophical approaches to legal aid to the poor.

For one thing, Mr. Boarman contended, there should be a "strong injunction" against test-case litigation aimed at bringing about "fundamental social change."

Moreover, he wrote, all litigation should be kept to "an absolute minimum, resorting to it only when all other techniques for settlement of differences in an individual client's case have been exhausted."

"Secondly," he added, "guidelines are needed to discourage the tendency of many lawyers of the social action persuasion to hunt for clients whose grievances might be suited to class-action or test-case litigation on behalf of a point of law the attorney wants to establish."

Statement by Agency

These and other guidelines can be established by the Office of Economic Opportunity if it decides to revamp the Legal Services Program as proposed. And the functions of backup centers can be transferred to a Washington in-house unit by Executive order of the President, without Congressional action.

But whether such a "game plan" will be carried out has not yet been decided, according to a spokesman for the Office of Economic Opportunity.

Mr. Phillips, the acting director, was unavailable for comment on the documents. In response to questions submitted to one of his aides, the agency issued a statement under the name of Laurence McCarty, director of the Office of Legal Services. It said:

"This was a staff study, which does not call for abolishment of the backup centers. There is nothing sensitive about it. The matter of backup centers has been under review for some time. No decision has been reached nor is one likely to be reached in the days immediately ahead. What we seek is an accounting for the spending of public funds."