

July 27, 1981

President Edward J. Boling
Suite 800, Andy Holt Tower
Campus

Dear Ed:

I know that you are as anxious as I am to put our problems concerning the UT Legal Clinic behind us. Both the quality of the Law School and institutional harmony are on the line. Frankly, I need your help.

First, I genuinely regret the tension and rigidity which have been evident. It is, obviously, time to reduce both. I hope that the Trustees will acknowledge that we have agreed on the following policies which will make them comfortable with the operation of the Clinic and allow the Clinic to carry out the very valuable services which it has offered for a long time (33 years, if I remember correctly).

1. I sincerely believe that the issue of the authority of the Board has been firmly settled. I do not think that there was any ambivalence on the matter previously, but it does no harm to assert (as I have) the ultimate authority of the Board on all policy issues in the University.

What I think has been misunderstood is the fact that the Clinic and the Knoxville Legal Aid Society have indeed established several policies under which the Clinic operates (e.g., who is eligible for service), but such policies are not in conflict with general UT policies established by the Board (e.g., fiscal and personnel) or by State law. They could be termed more appropriately a set of program statements, much like those set up for other academic programs or research projects.

Very likely, any final concerns which the Trustees might have could be met by treating future agreements with the Legal Service Corporation as contracts and having them reviewed by the Vice President for Business and Finance and Legal Counsel.

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2. Any disagreement over whether or not the Clinic should be permitted to recover attorney fees from the State has been settled. They will not.

3. It seems to me that the only remaining, substantial question is whether or not the Clinic should be permitted to represent clients against State agencies. Three enclosures speak significantly to this issue; the first is an excellent memorandum from Jerry Black explaining just what this means. Primarily, it means that the Clinic and the students who spend time there are able to help a number of people on matters which may not look terribly significant to the public (e.g., unemployment compensation, Medicaid, etc.) but which are very important to the people served. As you can see from the second attachment, a statistical summary of the activities of the Clinic, the vast majority of such "cases" never go to court but are resolved through intervention. The final attachment, a letter from Attorney General Leech to the Tennessee Congressional delegation, exhibits his support of legal services and his strong endorsement of the prerogative of legal services to represent clients against the State, even though his office may be involved from time to time in defense litigation. Attorney General Leech confirmed these attitudes recently in a meeting with Ken Penegar and me and offered to appear before the Board to endorse both concepts, if that would be useful. I am very grateful to him for his attitude.

I do not believe that there are any other major issues. Some members of the Board have apprehensions about major class action suits; I can point out that this Clinic simply does not have a record of such activity and that the Congress is likely to prohibit the filing of any such suits against governmental agencies. There may also be some philosophical opposition to the very concept of legal services; I can only remark that this argument should be debated in and settled by the Congress as a matter of national policy.

In summary, Ed: I very much regret the misunderstandings and tensions which have occurred. I probably should have done some things differently, but that is history. I believe that the substantive disagreements have been resolved satisfactorily. The Legal Clinic has a distinguished history on campus; it has been of great benefit in the education of law students, and it has provided a high level of public service. I am very apprehensive about a dramatic change in its scope or funding; that change would not serve the Law School, the public, or the University well. I would very much appreciate endorsement of the substance of this letter by yourself and Beach Brogan, for your support would help a great deal.

I would be pleased to discuss this with you as soon as it is convenient with you.

Sincerely,

Jack E. Reese
Chancellor

Enclosures (3)

cc: Vice President Joseph E. Johnson (w/encl.)
Vice President John Prados "
Mr. Beauchamp Brogan "