

THE UNIVERSITY OF TENNESSEE
LEGAL CLINIC
1505 WEST CUMBERLAND AVENUE
KNOXVILLE, TENNESSEE 37916
TELEPHONE
615 974-2331

JUL 21 1981

MEMORANDUM

TO: DR. DONALD EASTMAN
FROM: JERRY BLACK *Jerry*
DATE: JULY 20, 1981
RE: CONSEQUENCES OF PROHIBITING THE UNIVERSITY OF
TENNESSEE LEGAL CLINIC FROM REPRESENTING CLIENTS
IN ACTIONS AGAINST THE STATE OF TENNESSEE

The U.T. Legal Clinic represents low-income people whose lives are daily and directly affected by decisions of government agencies. Many of our clients rely on state maintenance programs to meet the bare necessities of life. An agency decision which is arbitrary, untimely, or simply wrong can suddenly leave such a person without food, shelter, or medical care. If the Legal Clinic could not represent low-income clients against the State of Tennessee, we would be unable to help poor people deal with the several state agencies which administer most of the public benefits programs available to these people. We would be unable to represent indigent families who have been wrongfully denied Aid to Families with Dependent Children. We would be unable to represent people who have problems with food stamps or Medicaid. And we would be unable to represent people who have been erroneously denied unemployment compensation.

While many of us may take food and housing more-or-less for granted, many of the community eligible for our representation are critically aware of their dependence on the state for these day-to-day necessities. Resolving an error in a decision about food stamps is generally of more immediate importance to our clients than obtaining a divorce, satisfying creditors, or handling any of the other problems which low-income persons face in the private sector. By failing to represent these people where decisions are made which most vitally effect their lives, we seriously undermine our claim to provide legal services for low-income persons.

In addition to the crucial issues raised for poor people in the administration of public benefits programs, our clients have the same need as those more fortunate for fairness and responsiveness in the provision of state services which are offered to all. Poor people have handicapped children who need appropriate educational placements; they have relatives in need of mental health treatment. They must deal with a variety of state agencies on matters which may be complex or as apparently trivial as restitution of a revoked driver's licenses. A low-income person without legal representation will generally be severely disadvantaged in attempting to understand and comply with the rules and regulations governing his or her problem. The administrative bureaucracy seems overwhelming. They and their children will become more and more frustrated as they search blindly for assistance which competent legal representation could make available to them, perhaps with as little effort as a letter to the appropriate person.

The Legal Clinic also appears regularly in Court against the State of Tennessee to defend persons who have been sued by the state in criminal or quasi-criminal cases. If our existence as part of The University of Tennessee, a State agency, dictates that we should not represent clients against the State, then it follows that this form of representation should also cease. This would entail total elimination of the Criminal Clinic and virtual elimination of the Civil Clinic program in Knox County Juvenile Court. We could not represent either adults or juveniles accused of crimes and we could not represent parents or children (as guardians ad litem) in neglect or abuse cases where the State moves to obtain legal custody of the children or in termination cases where the State moves to free the children for adoption. In most of these cases we currently appear because the judges appoint us. People involved in these kinds of cases are guaranteed lawyers, either by the Constitutions of Tennessee and the United States or by Tennessee law, but the state and county funds appropriated to provide counsel are always insufficient. By accepting these appointments without requesting fees, the Clinic's criminal program currently provides a substantial savings to the State of Tennessee. We assume that these clients would still be represented without our services, but at a financial cost to the state and county and at a serious educational cost to law students who would never have the opportunity for supervised training in the criminal courts.

A severely curtailed Civil Clinic could provide some legal services to low-income clients and some educational programs for third-year law students. The impact on clients was discussed above. The impact on students is of equal

concern. We have deliberately offered a general practice Civil Clinic because we believe students will be challenged best by a variety of issues in a variety of forums -- administrative hearings, simple trials before a judge, more difficult cases presented to a jury, appellate work, and so forth. The work they now do in Knox County Juvenile Court and in preparing for state administrative hearings is a valuable part of our curriculum and would be difficult to duplicate in a different context. In addition, we have developed generally good relationships with the attorneys and hearing officers who participate in these cases. They have been supportive of students and have helped us provide excellent educational experiences for fledgling attorneys. We would hate to lose those opportunities.

Of course, in addition to the considerations set forth above, we assume that a restriction on representing clients against State agencies would mean the total loss of Legal Services' funding to the Clinic. We would then lose 60% of our faculty in the Civil Clinic, 60% of our support staff, and almost all of the office equipment. We would probably also be forced to lay off additional faculty and staff as we allocate University monies to replace the Clinic's operating budget which is now almost completely paid from Legal Services' funds.

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