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## Legal Aid's Once and Future Role for Impacting the Criminalization of Poverty and the War on the Poor

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LEGAL AID’S ONCE AND FUTURE ROLE FOR  
IMPACTING THE CRIMINALIZATION OF POVERTY  
AND THE WAR ON THE POOR

*Aneel L. Chablani*\*

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INTRODUCTION

Recent media coverage and advocacy efforts on behalf of individuals subjected to criminal sanctions as a result of their poverty status has resulted in increased attention on this nation’s troubled history of oppression and control of the poor and people of color. At the federal, state, and local levels, a growing number of policies create criminal sanctions for poverty-related circumstances. These, in turn, result in collateral consequences that unfairly affect those who lack the means to afford their criminal justice experience (i.e., processing costs, fees, and fines), or affect their ability to access employment, housing, or other basic services. These policies also disproportionately affect people of color, and the origins of many of these policies share a twisted history in decades of racial oppression and discrimination.<sup>1</sup> In many respects, these criminal sanctions and collateral consequences lay on the surface of deep-seated social and economic ills that have been neglected, festering over decades and breaking out now in events over the past two years from Ferguson to Baltimore. Challenging these entrenched social and economic inequities will be necessary in order to produce real change for communities struggling against the criminalization of poverty. Legal challenges must be coordinated with community-based social movements emerging in these communities in order to confront the barriers to opportunity and structures that perpetuate inequities. Legal Aid

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1. See generally MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* (2012).

programs have a historical grounding in this type of community-based impact advocacy work and are uniquely positioned to work together with community groups to bring about meaningful change.

In Part I of this Essay, I will briefly review the criminalization of poverty in the context of the historic interconnectedness of poverty, race, and the criminal justice system. In Part II, I will discuss the origins of Legal Aid as a national network of federally-funded programs designed to challenge systemic inequities like those underlying the criminalization of poverty. In Part III, I will present suggestions on how, despite drifting from its early mission, Legal Aid can realign itself with social justice movements and become relevant and impactful in challenging the criminalization of poverty and the war on the poor. Lastly, I will discuss how the development of the Racial Justice Training Institute can help lead Legal Aid in this national movement.

### I. POVERTY, RACE, AND THE CRIMINAL JUSTICE SYSTEM

The rise in criminal sanctions and collateral consequences impacting people in poverty reflects decades of misguided policies targeting the poor.<sup>2</sup> Many of these efforts have been closely tied to programs or institutions of social control, such as public assistance and subsidized housing programs, where privacy rights have been stripped away.<sup>3</sup> Other methods include the control and restriction of poor people's use of public spaces, as through the criminalization of sleeping in public and through the enforcement of anti-loitering laws for panhandling.<sup>4</sup> These and similar methods reflect a belief, espoused by some, that the condition of poverty somehow reflects moral failings.<sup>5</sup> Moral blame attached to poor people for their condition provides justification for imposing harsh sanctions and criminal consequences. Writer and journalist Ta-Nehisi Coates describes how low-income communities in need of supportive social services are instead dealt with by law enforcement and the criminal justice system: "Vexing social problems – homelessness, drug use, the inability to support one's children, mental illness – are presently solved by sending in men and women who

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2. See generally Karen Dolan with Jodi L. Carr, *The Poor Get Prison: The Alarming Spread of the Criminalization of Poverty*, INST. FOR POLICY STUDIES (Mar. 8, 2015), <http://www.ips-dc.org/wp-content/uploads/2015/03/IPS-The-Poor-Get-Prison-Final.pdf>.

3. *Id.* at 6-7.

4. *Id.* at 24.

5. See, e.g., ALEXANDER, *supra* note 1, at 45 ("Conservatives argued that poverty was caused not by structural factors related to race and class, but rather by culture – particularly black culture."); see also Nell Irvin Painter, *When Poverty Was White*, N.Y. TIMES (Mar. 24, 2012), [http://www.nytimes.com/2012/03/25/opinion/sunday/when-poverty-was-white.html?\\_r=0](http://www.nytimes.com/2012/03/25/opinion/sunday/when-poverty-was-white.html?_r=0) ("And so when Mr. Murray faults poor whites' morals today, he unwittingly joins an earlier tradition of blaming the poor for their condition, whether they be black in the 1960's or white at the turn of the 20th century.").

specialize in fear and ensuring compliance.”<sup>6</sup> This law enforcement response to social and economic ills in turn exposes our racial divide, exacerbating the historic and deep-rooted relationship of control through fear and oppression of the African-American community by law enforcement.<sup>7</sup>

Within our criminal justice system, control has long been employed against racial minorities, particularly African-American men. In her groundbreaking work, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, Michelle Alexander discusses mass incarceration as a system of control: “the larger web of laws, rules, policies, and customs that control those labeled criminals both in and out of prison” and locks them out of the mainstream society and economy.<sup>8</sup> As Alexander documents, over the last four decades the criminal justice system shifted its focus from prevention and punishment of crime to criminalizing behaviors reflective of poverty and its ills.<sup>9</sup> The War on Drugs was carried out in poor, mostly African-American communities reeling from decades of fall-out from the social and economic neglect of public institutions in favor of wealthy private interests.<sup>10</sup> Lack of enforcement of fair housing laws, equity mandates, and affirmative action policies compounded these problems.<sup>11</sup> These same communities now bear the brunt of devastating collateral consequences resulting from decades of mass incarceration policies. These consequences include not only reduced access to employment, subsidized housing, and benefits, but also the appalling disenfranchisement of millions of U.S. citizens, including thirteen percent of African-American men who lost the right to vote because of their criminal history.<sup>12</sup>

The lines of racial and economic oppression cross paths with the criminal justice system at numerous points. Over the past two years, we have seen this play out in the tragic events from Ferguson, Missouri, to Baltimore, Maryland. In August 2014, Michael Brown, an unarmed Black teenager, was shot and killed by a White police officer in Ferguson, Missouri.<sup>13</sup> The shooting spurred a wave of protests, which intensified after a

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6. Ta-Nehisi Coates, *The Myth of Police Reform*, THE ATLANTIC (Apr. 15, 2015), <http://www.theatlantic.com/politics/archive/2015/04/the-myth-of-police-reform/390057>.

7. See *id.* (“African Americans, for most of our history, have lived under the power of the criminal-justice system, not its authority.”).

8. ALEXANDER, *supra* note 1, at 13.

9. *Id.* at 188.

10. *Id.* at 124.

11. See Nikole Hannah-Jones, *Living Apart: How the Government Betrayed a Landmark Civil Rights Law*, PROPUBLICA (June 25, 2015, 12:26 PM), <http://www.propublica.org/article/living-apart-how-the-government-betrayed-a-landmark-civil-rights-law>.

12. *Restoring Voting Rights*, BRENNAN CTR. FOR JUSTICE, <https://www.brennancenter.org/issues/restoring-voting-rights> (last visited Jan. 5, 2016).

13. Monica Davey & Julie Bosman, *Protests Flare After Ferguson Police Officer Is Not Indicted*, N.Y. TIMES (Nov. 24, 2014), <http://www.nytimes.com/2014/11/25/us/ferguson-darren-wilson-shooting-michael-brown-grand-jury.html>.

grand jury failed to indict the officer responsible.<sup>14</sup> Below the surface of the fatal confrontation between Michael Brown and the officer, Darren Wilson, lay deep social and economic injustice. Decades of lax enforcement of fair housing laws resulted in the creation of racially segregated communities around St. Louis.<sup>15</sup> Ferguson, with an African-American population of sixty-seven percent and twenty-five percent of its residents living in poverty, was policed by an almost entirely White police force.<sup>16</sup> African Americans in Ferguson accounted for ninety-three percent of the arrests by the Ferguson Police Department, many for jaywalking or for the charge of “Failure to Comply.”<sup>17</sup> The Ferguson Municipal Court compounded these problems through its policies of enforcing minor code violations through arrests, jail time, and payments that exceeded the costs of the original ticket many times over.<sup>18</sup>

In Baltimore, the death of a young Black man, Freddie Gray, while in police custody was cause not only for protests and demands for justice but also for a deeper examination of the conditions leading to his fatal encounter with the police.<sup>19</sup> We learned that Freddie Gray grew up in a dilapidated row house in Sandtown-Winchester, one of Baltimore’s poorest neighborhoods.<sup>20</sup> He had lead poisoning from flaking paint chips and, like so many young African-American children in urban environments, likely experienced diminished cognitive functioning and increased aggression as a result.<sup>21</sup> We learned that more than a third of the Sandtown-Winchester houses are abandoned, twenty percent of its re-

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14. *Id.*

15. John Eligon, *A Year After Ferguson, Housing Segregation Defies Tools to Erase It*, N.Y. TIMES (Aug. 8, 2015), <http://www.nytimes.com/2015/08/09/us/a-year-after-ferguson-housing-segregation-defies-tools-to-erase-it.html>.

16. U.S. DEP’T OF JUSTICE, CIVIL RIGHTS DIV., INVESTIGATION OF THE FERGUSON POLICE DEPARTMENT 1, 6–7 (Mar. 4, 2015), [http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf).

17. *Id.* at 4.

18. *Id.* at 42.

19. See Peter Hermann & John Woodrow Cox, *A Freddie Gray primer: Who was he, how did he die, why is there so much anger?*, WASH. POST (Apr. 28, 2015), <https://www.washingtonpost.com/news/local/wp/2015/04/28/a-freddie-gray-primer-who-was-he-how-did-he-why-is-there-so-much-anger/>. On April 12, 2015, Freddie Gray, a 25-year-old African-American man, was chased and arrested by police. *Id.* While being transported in a police van, Gray suffered a severe spinal injury and died one week later. *Id.*

20. Terrence McCoy, *Freddie Gray’s life a study on the effects of lead paint on poor blacks*, WASH. POST (Apr. 29, 2015), [https://www.washingtonpost.com/local/freddie-grays-life-a-study-in-the-sad-effects-of-lead-paint-on-poor-blacks/2015/04/29/0be898e6-eea8-11e4-8abc-d6aa3bad79dd\\_story.html](https://www.washingtonpost.com/local/freddie-grays-life-a-study-in-the-sad-effects-of-lead-paint-on-poor-blacks/2015/04/29/0be898e6-eea8-11e4-8abc-d6aa3bad79dd_story.html).

21. *Id.* (“Lead poisoning has been an especially cruel scourge on African American communities. ‘Nearly 99.9 percent of my clients were black,’ said Saul E. Kerpelman, a Baltimore lawyer who said he has litigated more than 4,000 lead-poisoning lawsuits over three decades. ‘That’s the sad fact to life in the ghetto that the only living conditions people can afford will likely poison their kids .??. .?’”).

sidents are unemployed, and a third of its families live in poverty.<sup>22</sup> Sandtown-Winchester has more residents in prison than any other Baltimore neighborhood.<sup>23</sup>

The narratives from Ferguson and Baltimore reflect deeply embedded problems and decades of festering social and economic inequities. These are complex problems manifested in policies and police action that seek to control and criminalize low-income communities of color. Promisingly, the Ferguson Commission Report, *Forward through Ferguson*, has begun to probe into the complexity and interrelatedness of public systems—from housing, healthcare, and transportation to employment and criminal justice—to identify the underlying causes of inequity that must be addressed and reformed on the path toward racial equity, economic justice, and community reconciliation.<sup>24</sup> These events have reminded us that the challenges facing many of our communities are daunting. We must unravel the poverty, race, and criminal justice interactivity. We must also recognize and confront the deeply embedded interaction of institutions that are working to maintain an inequitable and racially biased system.<sup>25</sup>

Confronting these challenges requires systemic, broad-based advocacy with the potential to change institutions and reform systems. It requires organization and strategy at the community level that is supported by a national movement. Legal advocates on the ground level are critical, for they bring to the table technical support and advocacy strategies for law reform and systemic change. Legal Aid programs can and should fill this role.

## II. LEGAL AID AND THE WAR ON THE POOR

The framework and context for the creation of our federally funded national legal aid system not only justifies our involvement and relevancy to tackling systemic problems associated with the criminalization of poverty, but it also uniquely positions Legal Aid as a potentially powerful force in this movement.

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22. Jeremy Ashkenas, Larry Buchanan, Alicia Desantis, Haeyoun Park & Derek Watkins, *A Portrait of the Sandtown Neighborhood in Baltimore*, N.Y. TIMES (May 3, 2015), <http://www.nytimes.com/interactive/2015/05/03/us/a-portrait-of-the-sandtown-neighborhood-in-baltimore.html>.

23. *Id.*

24. THE FERGUSON COMM'N, FORWARD THROUGH FERGUSON: A PATH TOWARD RACIAL EQUITY, <http://forwardthroughferguson.org> (last visited Jan. 5, 2015).

25. See Francisca D. Fajana & Camille D. Holmes, *Advancing Racial Equity—a Legal Services Imperative*, 47 CLEARINGHOUSE REV. J. OF POVERTY L. AND POL'Y 139, 140-41 (Sept.-Oct. 2013) (“Racism is so deeply embedded in the American social fabric that it recreates patterns of inequality through interpersonal, institutional, and structural interactions without the trigger of individual ‘racists’.”).

Federally funded legal services were an integral component of President Lyndon B. Johnson's War on Poverty Campaign.<sup>26</sup> With the creation of the Office of Economic Opportunity (OEO) in 1964, and the Economic Opportunity Act Amendments of 1966, legal services received funding as part of the Johnson Administration's anti-poverty programs.<sup>27</sup> With the appointment of Sargent Shriver as OEO's first director, legal services were designed to spearhead much-needed reforms.<sup>28</sup> Legal services offices were opened within struggling neighborhoods, at times embedded in community action agencies themselves.<sup>29</sup> Shriver intentionally developed legal services within communities because he understood that in order for real change to occur, legal services would have to take on the powers that be and advocates would need to be aligned with the people, not the establishment.<sup>30</sup> Shriver understood that poverty could be ended by changing systems and challenging institutions.<sup>31</sup> The independence of legal aid programs was the key to unlocking the door to change, and Shriver masterfully ushered in the policies that kept legal services programs "free from lay control locally, regionally, and nationally."<sup>32</sup>

The creation of community-based legal aid offices quickly resulted in significant law reform efforts as due process challenges were raised against local welfare offices, conditions of low-income housing were challenged, and habitability standards were established, and a general effort was underfoot to hold local, state, and federal officials accountable for policies that unfairly impacted low-income communities.<sup>33</sup>

Lawyers who joined these Legal Aid programs in 1966 and the years following saw themselves as "poverty warriors."<sup>34</sup> They were a "new

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26. Gary F. Smith, *Poverty Warriors: A Historical Perspective on the Mission of Legal Services*, 45 CLEARINGHOUSE REV. J. OF POVERTY L. AND POL'Y 34, 36 (May-June 2011).

27. Alan W. Houseman & Linda E. Perle, *Securing Equal Justice for All: A Brief History of Civil Legal Assistance in the United States*, CTR. FOR LAW AND SOCIAL POLICY 7 (Jan. 2007), <http://www.clasp.org/resources-and-publications/files/0158.pdf>.

28. Victor Geminiani, *Whence We Come—Reflections on Earl Johnson Jr.'s "To Establish Justice for All: The Past and Future of Civil Legal Aid in the United States,"* MGMT. INFO. EXCHANGE J. 30, 32 (Fall 2015).

29. Advocates for Basic Legal Equality, Inc. in Toledo, Ohio, was originally created and funded through the community action agency, Economic Opportunity Planning Association (EOPA), and, through its advocacy, was advancing the same social and economic justice goals.

30. See Geminiani, *supra* note 28, at 32; see also Houseman & Perle, *supra* note 27, at 5 ("[N]eighborhood law offices and neighborhood lawyers were necessary for an effective anti-poverty program because they provided a vehicle for poor residents in local communities to influence anti-poverty policies and the agencies responsible for distributing benefits.").

31. See Alan W. Houseman, *Reflections On My Work and Some Thoughts for the Future*, MGMT. INFO. EXCHANGE J. 44, 44 (Winter 2014).

32. Houseman & Perle, *supra* note 27, at 15.

33. Arthur von Keller IV, *From Whence We Come: History and the Legal Services Advocate*, MGMT. INFO. EXCHANGE J. 3, 5 (Summer 2015).

34. Smith, *supra* note 26, at 36 (Poverty warriors are "united in the goal to achieve social and economic justice for the poor, in the moral sense, with all the stirring reverberations of the

breed of lawyers . . . dedicated to using the law as an instrument of orderly and constructive social change.”<sup>35</sup> They were charged with “helping to articulate and promote the hopes, the dreams, and the real possibility for the impoverished to make the social changes that *they* feel are needed through whatever lawful methods are available.”<sup>36</sup>

As it remains today, the need for legal services by low-income individuals greatly exceeded the number of legal aid lawyers available during the formational years of the OEO.<sup>37</sup> Yet faced with competing demands for inadequate resources, OEO's second director, Earl Johnson, reinforced the clear mission of the new national legal services program mandating “that programs set local priorities for the allocation of resources, but established ‘law reform’ for the poor as the chief goal of OEO legal services. He made clear that OEO would give priority in funding to proposals that focused on law reform.”<sup>38</sup>

The historical context of the founding of our national legal services program—the War on Poverty—is not simply an interesting historical footnote; it is fundamental to understanding the purpose and potential of Legal Aid. Sargent Shriver witnessed extreme poverty on his tours in Appalachia, the Jim Crow South, and urban ghettos in the North that revealed the fundamental need for poor people to obtain equality and justice.<sup>39</sup>

Yet, today much of the national discourse on the role of legal services focuses on *access* to justice, not on justice itself. Efforts to expand access to the courts by increasing the volume of legal representation for low-income individuals in civil cases is, undoubtedly, a laudable goal. So, too, is ensuring that *pro se* defendants receive basic legal information to help them navigate the court system on their own. “Through its focus on the access to justice, the Legal Services Corporation (LSC) has adopted a goal of providing ‘some form of effective assistance to 100 percent of persons otherwise unable to afford an attorney for dealing with essential civil legal needs.’”<sup>40</sup> That national LSC goal as well as the goals of statewide Access

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parallel civil rights movement giving full meaning to that term. The mission was to provide justice itself, not merely ‘access’ to it.”)

35. Nicholas deB. Katzenbach, Acting Att’y Gen., Address to the Conference on Extension of Legal Services to the Poor 3 (Nov. 12, 1964) (transcript available in the Dep’t of Justice Library at <http://www.justice.gov/ag/speeches>).

36. Smith, *supra* note 26, at 35 (quoting Edward Sparer, *The New Legal Aid as an Instrument of Social Change*, 1965 U. ILL. L. F. 57, 60 (1965)) (emphasis added).

37. Houseman & Perle, *supra* note 27, at 11.

38. *Id.*

39. AMERICAN IDEALIST: THE STORY OF SARGENT SHRIVER, <https://www.facinghistory.org/videos/american-idealist-story-sargent-shriver>.

40. James J. Sandman, *The Current State of Access to Justice in the United States*, 22 GEO. J. ON POVERTY L. POL’Y 453, 458 (LSC’s plan for providing some form of effective assistance to 100 percent of eligible persons involves the “creation of a single, statewide entry portal for people seeking civil legal assistance in each state. The portal would perform automated ‘triage’ to



To Justice taskforces to address “gaps in and obstacles to accessing the civil justice system” and to help *pro se* litigants better navigate the complexities of our courts are commendable.<sup>41</sup>

However, the national discourse on access to justice has been improperly conflating access and justice, implying that the goal of Legal Aid efforts should be on providing access to the court system, achievable through some level of service through a triage portal, and that by its achievement, justice has been served.<sup>42</sup> To be clear, access to the courts means little if behind those courtroom doors, the justice system imposes upon the poor the consequences of unjust and unchallenged laws and policies. These access-to-justice initiatives are of a different nature than the War on Poverty initiatives, and the former bear little resemblance to the legal services envisioned by Sargent Shriver as community-based anti-poverty lawyering.

Additionally, the overemphasis on access-to-justice initiatives risks masking the inequities embedded within the justice system itself. If 100 percent access means justice has been achieved, there is little incentive to dedicate resources to the systemic law reform work most desperately needed on behalf of low-income communities. Likewise, training and professional development for Legal Aid attorneys will reflect this change at the expense of complex litigation skills and community lawyering efforts.

Access to the courts is essential, but in order for access to be connected to the mission of the War on Poverty, it must be complimentary to and supportive of advancing systemic advocacy aimed at law reform and policy advocacy around poverty reduction and racial justice. This type of systemic advocacy aimed at law reform was the vision driving the creation of a national network of federally funded legal services programs and embedded in its essential elements.<sup>43</sup>

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identify the type of assistance most likely to be effective for the particular person in the particular matter; taking account of variables such as the sophistication of the client, the nature of the matter at stake, and whether the opponent is represented by counsel.”).

41. THE SUPREME COURT OF OHIO, REPORT & RECOMMENDATIONS OF THE TASK FORCE ON ACCESS TO JUSTICE ii (Mar. 2015), <https://www.supremecourt.ohio.gov/Publications/accessJustice/finalReport.pdf> (“Structural and cultural barriers are seen in the lack of standardized forms and information available to Ohioans in need of assistance with civil legal matters, as well as a lack of knowledge regarding the role of attorneys, the judiciary, and organizations that may be available to provide assistance.”).

42. See generally Elizabeth L. MacDowell, *Reimagining Access to Justice in the Poor People’s Courts*, 22 GEO. J. ON POVERTY L. & POL’Y 473 (Spring 2015) (offering a powerful examination of this topic).

43. Houseman & Perle, *supra* note 27, at 12-13 (“Thus, by 1970, the basic structure of the legal services program was in place. It was differentiated from traditional legal aid by five principal elements:

- The first element was the notion of responsibility to all poor people as a ‘client community.’ Local legal services programs attempted to serve, as a whole, the community of poor people who resided in their geographic service area, not

The War on Poverty programs acknowledged that real change could only come about through a shift in both power and resources.<sup>44</sup> Legal Aid was a key component of challenging the power structures that created and perpetuated poverty. The same essential elements that made Legal Aid such a powerful force in its early years demonstrate its potential to positively impact communities struggling with the latest manifestations of the war on the poor.

### III. A MODEL FOR THE FUTURE – RELEVANCY AND IMPACT

To become relevant and impactful in the fight against the expanding criminalization of poverty requires not only a renewed focus on Legal Aid's historic War on Poverty mission but also on structuring Legal Aid programs to be supportive of this type of advocacy. Tackling criminalization of poverty issues, and the racial injustices that lie within, requires the development of broad-based advocacy strategies, and Legal Aid programs must be internally organized to support the planning and development of this type of systemic reform work. Legal Aid programs must also be organized and structured in a manner that intentionally aligns them with the low-income communities they serve. Although program models differ, the following five internal characteristics can help position Legal Aid programs to effectively undertake this work.

First, develop a strong mission statement that is grounded in core poverty law principles. To be a sustainable program model, systemic advocacy priorities must be grounded in a mission statement espousing basic principles of eliminating injustices and barriers to equal opportunity and

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simply the individual clients who happened to be indigent and who sought assistance with their particular problems.

- The second element was the emphasis on the right of clients to control decisions about the priorities that programs would pursue to address their problems. The legal services program was a tool for poor people to use rather than simply an agency to provide services to those poor people who sought help.
- The third element was a commitment to redress historic inadequacies in the enforcement of legal rights of poor people caused by lack of access to those institutions that were intended to protect those rights. Thus, "law reform" was a principal goal for the legal services program during the early years.
- The fourth element was responsiveness to legal need rather than to demand. Through community education, outreach efforts, and physical presence in the community, legal services programs were able to help clients identify critical needs, set priorities for the use of limited resources, and fashion appropriate legal responses, rather than simply respond to the demands of those individuals who happened to walk into the office.
- The fifth and final element was that legal services programs were designed to provide a full range of service and advocacy tools to the low-income community. Thus, poor people were to have at their disposal as full a range of services and advocacy tools as affluent clients who hired private attorneys.").

44. *Id.*

seeking just and equitable outcomes for clients. The staff of a given program, from the administrative assistant to the executive director, must have a shared belief that their program is a continuing effort in the ongoing War on Poverty, battling injustices against the poor. The mission statement must drive advocacy priorities, which in turn will direct work plans and case acceptance guidelines. Without this strong foundation, the program may be pulled in any number of directions that are rationalized as worthy of the program's time and resources.

Second, recognize that systemic advocacy aimed at reforming laws and institutions requires time, patience, and persistence. Legal Aid programs must be structured in a manner that allows systemic work to be investigated, researched, and developed. This cannot take place when advocates are carrying heavy caseloads and moving from one crisis to the next. While we need emergency rooms, we also need cancer wards. Programs should ensure that advocates are organized in ways that allow them to identify, plan for, and collaborate on systemic advocacy cases and projects. One model that facilitates this work is having substantive area practice groups with dedicated work plans built from mission-driven advocacy initiatives. Programs must also ensure that triage and crisis stabilization occurs in a controlled manner that does not consume or compromise other program resources. Ensuring this need is met through a dedicated crisis stabilization and brief service unit not only focuses expertise in a way that can provide high quality urgent care but at the same time frees up other staff to develop systemic advocacy.

Third, provide primary program funding for advocacy directed at broadly impacting the fight against the war on the poor. Competing priorities for funding are ongoing and by no means easy to work out. In the end, programs must be guided by their mission. Legal Aid programs exist in every state throughout the nation<sup>45</sup> and have the potential to engage in the systemic work needed to change policies and reform laws affecting poor communities. But without funding and staffing to mount law reform efforts, those unfair and discriminatory laws and policies will continue to result in an overwhelming number of individual cases seeking individual remedies. When our solutions lie upstream, we cannot continue to put the bulk of our funding and resources downstream.

Fourth, Legal Aid advocates must be part of social justice movements. This begins by encouraging them to be active and present in the communities they serve and by providing them with training that builds their community lawyering skills. Social justice movements begin in run-down neighborhood community centers, not in large conference rooms in downtown high-rises. Programs that are not embedded in the communi-

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45. See *Find Legal Aid*, LEGAL SERVICES CORP., <http://www.lsc.gov/what-legal-aid/find-legal-aid> (The Legal Services corporation "currently provides funding to 134 independent nonprofit legal aid organizations in every state, the District of Columbia, and U.S. Territories.").

ties they serve should dedicate time to developing relationships that will help Legal Aid become a contributing partner to social justice movements.

Fifth, train advocates as “poverty warriors.”<sup>46</sup> This involves not only developing skills and expertise in the traditional poverty law practice areas but also in civil rights and racial justice advocacy. Legal Aid attorneys must have the broadest range of tools, from complex litigation to administrative and legislative advocacy. They should also gain experience by working with community groups and developing advocacy campaigns. In the immediate years following the War on Poverty, Legal Aid advocates demonstrated remarkable expertise and aggressive lawyering in representing poor people seeking justice.<sup>47</sup> Between 1966 and 1974, legal services attorneys argued 110 cases before the Supreme Court and won sixty-two percent of those cases.<sup>48</sup> Legal Aid attorneys must be trained with the skills, so they have the confidence and boldness to be this type of force once again.

To be sure, many Legal Aid programs around the country possess these qualities and are engaged in aggressive anti-poverty advocacy. But for many, priorities have shifted and staff members lack the historical perspective, experience, and training needed to be a relevant and impactful ally in the struggle against the expanding criminalization of poverty, particularly with respect to addressing the intersection of poverty and racial injustice. The Sargent Shriver National Center on Poverty Law is leading one effort to change this. In 2014, the Shriver Center launched the Racial Justice Training Institute (RJTI), an intensive program aimed at training and supporting advocates on broad-based racial justice advocacy.<sup>49</sup>

RJTI is grounded in the principle that racial justice advocacy is integral and essential to anti-poverty advocacy and believes that Legal Aid and public interest lawyers are key agents of change in this work.<sup>50</sup> RJTI recognizes that racial disparities and poverty interact to create inequities in numerous areas—education, healthcare, housing, employment—and that only by addressing the underlying systems producing these inequities will we be able to achieve equitable outcomes.<sup>51</sup> RJTI provides substantive training on critical race theory, civil rights laws, and multi-forum advo-

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46. Smith, *supra* note 26.

47. Von Keller, *supra* note 33.

48. Alan Houseman, *A Front-Lines Reflection on Early Legal Services: Lawyering to End Poverty*, 22 GEO. J. ON L. & POL'Y 469, 470 (Spring 2015).

49. See *Racial Justice Training Institute*, SHRIVER CTR., <http://www.povertylaw.org/training/racial-justice-institute> (last visited Feb. 9, 2016). The author is a member of the RJTI Advisory Committee and faculty. *Racial Justice Training Institute: Advisory Committee & Staff*, SHRIVER CTR., <http://povertylaw.org/training/racial-justice-institute/advisory-committee> (last visited Feb. 9, 2016).

50. *Racial Justice Training Institute*, *supra* note 49 (“The overarching goal of the Institute is to develop a network of equal justice advocates committed to advancing a coordinated racial justice advocacy agenda.”).

51. *Id.*

cacy.<sup>52</sup> Significantly, RJTI focuses on community lawyering and building campaigns, skills essential in seeking broad-based, long-lasting change.<sup>53</sup> Through RJTI, the Shriver Center is also building a national network of trained advocates and providing a forum for sharing advocacy stories, developing skills, and collaborating. These efforts are providing the tools to help make Legal Aid relevant to and impactful in the national movement for racial and economic justice.

### CONCLUSION

Beneath the surface of laws and policies criminalizing poverty lie deep-seated economic and social inequities. Legal Aid programs have the historical grounding and unique position within communities to engage in the type of systemic reform advocacy needed to combat these continued efforts at controlling and criminalizing the poor and people of color. Sadly, in scenes from Ferguson to Baltimore, we have witnessed what decades of unchallenged social and economic disparities can produce. Legal Aid originated in community-based advocacy charged with upsetting the power structure and challenging inequities at their root. Legal Aid programs in every community have the potential to mobilize a powerful network of advocates. Legal Aid can and should take up the call from our communities and once again be an influential agent of change in the social and economic justice movement.

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52. *Racial Justice Training Institute: Institute Structure and Components*, SHRIVER CTR., <http://www.povertylaw.org/training/racial-justice-institute/institute-structure> (last visited Jan. 5, 2015).

53. *Id.*