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## Justice for the Disadvantaged

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Vice President (1973-1977)

*This essay represents a summary of past Foundation activities in the justice field. With a change in personnel late in 1977, the specific focal points in this program are likely to change in 1978. Information on new guidelines may be obtained through Lawrence J. Siegel, Program Officer, Program for Justice.*

He listened intently to a summation of the Clark Foundation's program for legal assistance to the poor in penal and mental institutions. As a successful lawyer, he was accustomed to seizing on salient points and weighing the need for action. He nodded appreciatively, "That is a wonderful concept. Much needed."

"Then you will get involved in the program in your community?"

"Afraid not. I really couldn't."

"Why not?"

"My clients wouldn't let me take that much time off. And neither would my partners."

We wish this were an apocryphal story, or at least an unusual one. Unfortunately, it is true, and quite typical of bar leaders throughout the country. Not that they think a program is unnecessary or poorly planned, just the opposite. But the demands on an older, successful lawyer's time are staggering, and the necessity of establishing a practice through constant work is reality for every new, young lawyer in this highly competitive field.

There are lawyers in every sizeable com-

munity and in many bar associations who are not content to use their legal training and expertise only to build a profitable private practice. Many have been involved for years in providing free legal assistance to the poor and in serving community groups, schools, and hospitals as board members and officers. Although the lawyers who are active participants in these programs still are relatively few in number, several local bar associations now have enough interest among their volunteer members to justify full-time "public service" staff directors paid with dues money.

Still, the needs for voluntary public service work by practicing lawyers continue to exceed the supply of hours which lawyers are able to give. But in at least one area of activity—the needs of those who are locked up in institutions—the Clark Foundation has been able to develop a body of lawyers to act as an important force in determining what happens in institutions and how people can be helped to stay out or to get out when they are entitled to do so.

The law and lawyers have always been intimately involved in the process of locking up somebody. But what have their roles been, once an individual has been locked up? Too often, nonexistent; the law has been ignored, and lawyers have not tried very hard to make sure it's followed.

And how does someone get out, once he's been locked up? The law also has had little to do with this process. Citizen parole boards have had great discretion in releasing prisoners; doctors have determined, in isolation, when mental patients are "ready to live in the real world"; managers of juvenile homes and adoption agencies have controlled the placement of children.

The Clark Foundation has helped lawyers to define and carry out a new set of responsibilities for members of the bar: to make sure that people who are locked up in the first place receive the basic protections of the law and to make sure that what happens to human beings once they are in prison, or in hospitals or in group homes does not violate their rights.

Two examples illustrate how dedicated

lawyers who win a landmark case can change the lives of many people. Kenneth Donaldson, a handsome, sandy-haired gentleman who now delivers a lecture with the poise of a professor, was committed in the 1960's to a Florida mental institution. The word "languished" is often used to describe mental patients, but Donaldson never gave up—in fifteen long years—his demands for professional treatment. He claimed it was his legal right. And if the state could not provide such treatment, he demanded such legal rights as "due process" and "equal protection" under the law. With the help of a Clark Foundation grant, the Mental Health Law Project—sponsored by the American Civil Liberties Union Foundation, the Center for Law and Social Policy, and the American Orthopsychiatric Association—helped the New York Civil Liberties Union obtain these basic rights for Donaldson. Bruce Ennis and Paul Friedman led the legal struggle.

In 1975, the United States Supreme Court ruled that states could not put people like Donaldson, who were not dangerous to others and could care for

themselves on the "outside", in mental institutions without providing treatment. For patients who had been "warehoused" without any treatment, this decision meant a new life. It also meant that the highest court in the land finally had recognized that mental patients are citizens with rights which the courts should help to protect.

In still other cases—most notably that of Ricky Wyatt in Alabama—individuals who suffered from being herded together with large groups of people whose mental problems were different, and often far worse than their own, established the right to enjoy adequate facilities and to be provided adequate professional counselling.

The second example of lawyers securing rights involved a penal institution. The National Prison Project, with the help of a Clark Foundation grant, took up the case of prisoners who had been subjected to cruel and unusual punishment in an Alabama penitentiary. In the past, such cases have been largely ignored. Perhaps most law-abiding citizens have a deep-seated belief that criminals should be

punished—and that one form of punishment is as good as another, no matter the value placed on "cruel and unusual" by the Constitution. But the executive director of the National Prison Project, Alvin J. Bronstein, felt that inhumane treatment serves no useful purpose for the prisoners or for society. The Federal Courts took up the issue and ordered Alabama officials to improve living conditions for prison inmates. As a result, in state after state, many changes have been ordered in the way prisoners are treated by the penal authorities. These people are not "coddled" by any stretch of the imagination. They simply are provided with minimum humane living conditions—a clean bed, an operating toilet, some fresh air and exercise.

But thousands of men and women still are incarcerated in truly horrifying conditions. And the number in jails and prisons grows larger, not smaller, with each passing month. The Foundation's financial support for reform programs has made some difference, but much more remains to be done. And even in those states where reform measures have been introduced,


lawyers, citizens' groups and government agencies must be persistent in seeing that these measures are implemented. As leaders in their local towns and cities, they can help persuade legislatures to set standards and to grant funds for buildings and programs. They can serve as constant monitors of what really is happening to people in institutions.

Working through the American Bar Association, the Foundation has provided funds to state and local bar associations for corrections and mental health reform projects. Many of these projects have used the basic skills of lawyers—providing legal services. Others have tried to develop community facilities to divert mental patients and offenders away from large institutions. Still others have trained prison inmates as paralegals to handle their own problems or to operate grievance systems in prisons. A few bar associations—those in Los Angeles, San Francisco, Boston, and Philadelphia—have developed the ability to support ongoing public service projects so that the time of lawyer-volunteers can be well used.

The work of the corrections and mental

health reformers, including those supported by the Foundation, has identified new sets of problems which require new thinking and renewed dedication. It is true that thousands of people who have mental problems no longer are warehoused in large institutions, but now many of them live "in the community" in only a superficial way—in nursing homes, old hotels set aside for them, or even on the streets. In short, most still are isolated from the world around them. New kinds of organizations—helping, caring organizations—are needed to assist former patients in ending their isolation. Community support is required if "people who are different" are to live side by side with the rest of society. And special efforts are needed to find useful employment for the ex-patient as we have for the ex-offender.

But institutional reform has not been the sole interest of the Foundation in insuring adequate access to our system of justice for all. For the past three years, the American Bar Foundation has undertaken an extensive (and intensive) study of the legal needs of the American public. Employ-

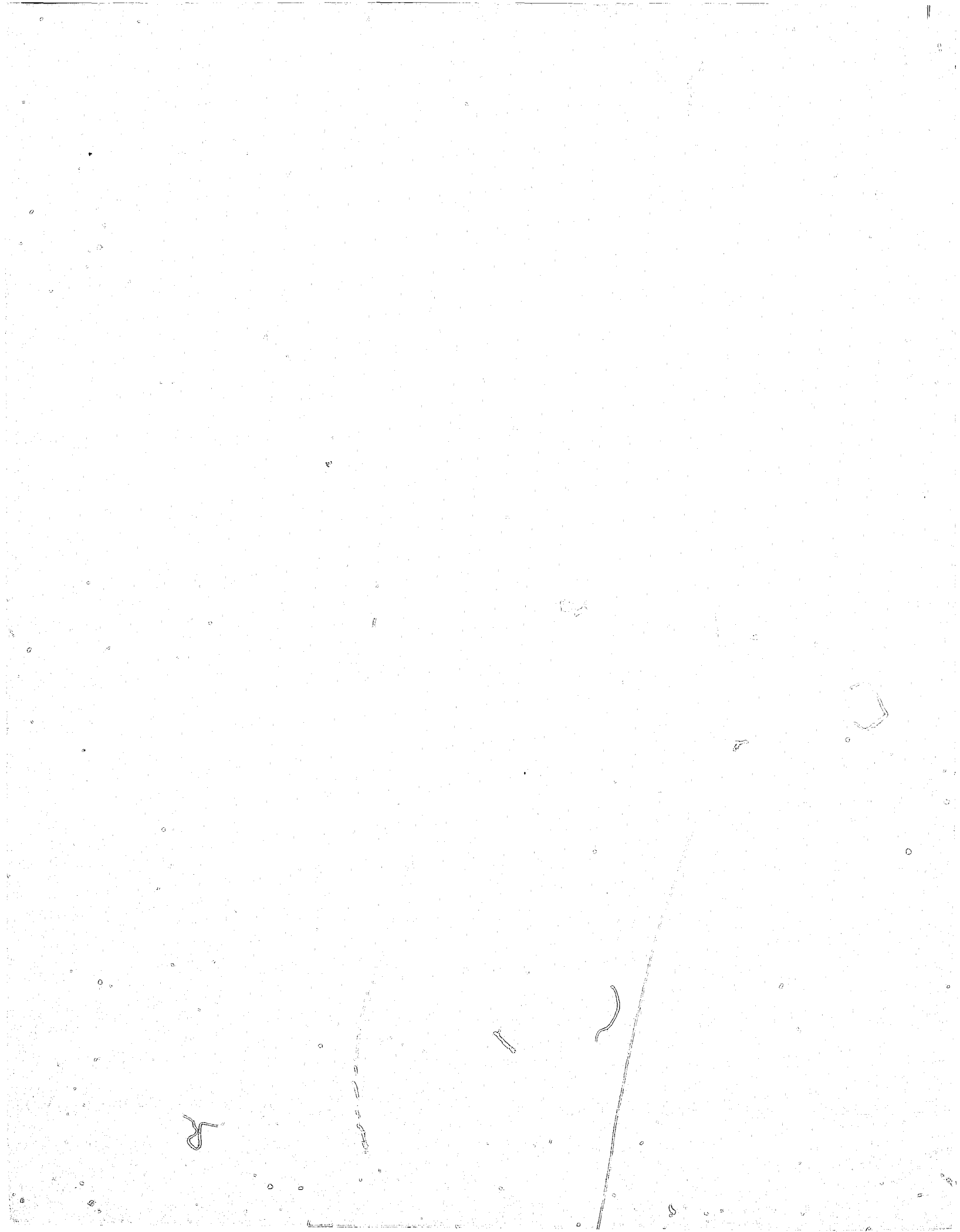


ing in-depth personal interviews with a sampling of 2,064 Americans in various socio-economic categories, a study team from the University of Chicago's National Opinion Research Center has computerized the answers to questions dealing with everything from the way in which Americans perceive the legal community to their problems in paying for legal services. The study was financed in part by the Clark Foundation and now has been published. The computer tapes will be available to legal scholars and will undoubtedly be the source of many subsequent studies.

The Foundation has tried, with smaller amounts of funds, to define and apply the law to other areas of need—legal services for the poor and for middle-income groups, the system of justice in isolated rural areas, speedy and fair processing of disputes through the courts and support of “public interest” law firms.

The Foundation's programs have resulted in some real improvements in the ways the poor are protected and helped by the law and the agencies designed to serve them. They also have contributed to new thinking

about the complex question of why Americans lock up so many people who are different. A new, uncertain future will result from this new thinking; it will continue to demand attention from private foundations, government officials and community leaders.



**END**