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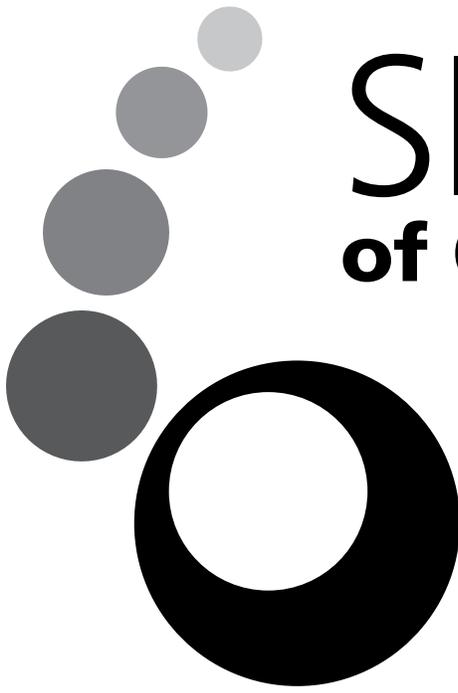
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SIX AREAS of Opportunity for Us

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[Editor's Note: Peter Edelman, professor of law, Georgetown Law Center, delivered these remarks at the National Legal Aid and Defender Association Litigation and Advocacy Directors Conference, Chicago, Illinois, July 23, 2010.]

Good afternoon. This is billed as a keynote address. I've often wondered what that means.

Maybe it's a musical idea. If you had invited me to speak right after the election in 2008, even with the recession and all the other problems, it would have been a triumphal march, everything in a major key. We had just made history, and we thought we had turned a page in our American narrative.

It's nearly two years later. Harmony has been replaced by cacophony. Discordance has become the order of the day.

And now is when you ask me to give a talk about an agenda for your work. Thanks a lot.

We have definitely had change since President Obama was elected—some that we can definitely believe in, but in other ways not so great.

We should celebrate the good things. We have a historic health care reform law. It's imperfect but an amazing achievement nonetheless—a huge long-term antipoverty investment bringing health coverage to an astonishing number of low-income people who never had it before. We have a far-reaching financial regulation law, with remarkable new protections for ordinary everyday consumers of financial service. We have a stimulus law, the American Recovery and Reinvestment Act of 2009, that directed more than \$200 billion to help low-income people—new poor and old poor both—and helped states make up about a third of their revenue shortfall last year. Without that law we might well have tumbled into a deeper recession and millions of people would have been far worse off than they are now.

These are the big-ticket items. And every day, in agency after agency across the government, there are people who care about low- and lower-income people, who are engaging in tougher law enforcement against discrimination and scam artists, rewriting regulations, and making government more responsive. There are programmatic initiatives such as Promise Neighborhoods and Choice Neighborhoods and Race to the Top that are getting money to communities to push change in good directions and plant the seeds for longer-term reform. Many of these changes are what I call below

the line—not reported in the media, not politicized, not especially noticed—but very important, especially when they are all added up.

All of that said, and it is a lot to feel good about, millions of people around the country are having a very tough time, and Washington has turned totally sour. We are nowhere near finished stimulating the economy and helping people out of the recession, but the tune has changed to one of deficit reduction and finding offsets to pay for every new expenditure. You are trying to help people who desperately need help, in an atmosphere where state and local governments are broke and the federal government is tightening the purse strings. Your work has never been more important, or harder. Demand is way up and you have less money to respond. And you couldn't meet all of the demand even when times were better.

But the larger challenge was and still is to take bigger steps toward ending poverty. It is absolutely critical that we all, always, keep our eyes on the big picture.

I want to talk with you about six areas of opportunity—some nearer term and some longer term—all of them things you've undoubtedly thought about and many of which you're already working on. The six are implementation of the health care law, low-wage work, extreme poverty and Temporary Assistance for Needy Families (TANF), public education, high-risk youth, and concentrated poverty. And I would emphasize, of course, that the continuing challenges of race and gender equality cut across everything.

1

First, the implementation of the new health care law. How nice to be able to say those words! For years I could say in a speech, “AND we have to get health coverage for everyone in this great nation.” And there would be applause. It was nice to get applause. Well I'm thrilled to trade an applause line for a lifeline for millions of our people. And we have to make sure it is done right. The legal services com-

munity has a big role to play. States have big responsibilities and many decisions to make. There need to be people in every state who understand what is in the law. You need to press for seats at the table in the decision-making process and/or light a fire under the seats of those at the table. Sixteen million new people are going to be eligible for Medicaid. Will the states be ready and truly willing to enroll them all? Will Medicaid achieve its enhanced potential as a portal for other public benefits? There are huge opportunities here. States have to decide whether to establish insurance exchanges. These will be the source of insurance for twenty-four million people, many of whom will be quite low-income. Will states coordinate the exchanges with Medicaid? What will they do with families that have fluctuating income? How will they handle differing eligibility among family members for the different programs? How will states use their new options to move their long-term care systems in Medicaid toward more home- and community-based options? What will they do to set up strategic plans to guide all of their work under the new law? The list goes on and on. Legal aid lawyers in every state should involve themselves in all of these decisions.

2

Second, it cannot be said too often that, far more than was the case forty years ago, the problems of poverty and near-poverty are associated with low-wage work. The immediate crisis is the staggering unemployment. The crisis of low-wage work will still be there when the recession is over. The so-called poverty line is unrealistically low. Myriads of research show that the real line for economic self-sufficiency is about twice the poverty line, a figure that encompasses about ninety-two million people at present. I am glad to say that the legal services community is far more attuned to issues about low-wage work than was true even ten years ago. But we need to do more. The Fair Labor Standards Act is violated massively every day, especially with regard to undocumented people. The barriers facing ex-offenders as they get out of prison are severe and disabling for increasing numbers. Too many

people still do their jobs in unsafe and unhealthy workplaces. With today's widespread unemployment, new scams have appeared, collecting fees for placement in nonexistent jobs. Most fundamental, the challenge of seeing that every worker earns a living income from a combination of wages, federal and state refundable tax credits, and a full plate of in-kind income equivalents such as child care and housing vouchers is still a basic ingredient for antipoverty advocacy everywhere.

3

Third, if the top end of antipoverty advocacy is at a level much in excess of the so-called poverty line and far more associated with work than it used to be, the bottom is more important than ever. The severity of the problem is new. Extreme poverty has soared in the last decade, reaching a level of 17.1 million people in 2008. We have no major public policies other than food stamps and the forthcoming expansion of Medicaid to address this massive and seldom-discussed crisis.

The *New York Times* reported that six million people had no income other than food stamps, and food stamps provide an income at about 35 percent of the poverty line.¹ TANF has become irrelevant in many states. In 2008 in the entire state of Wyoming 259 families with children—4 percent of poor families in that state—received TANF. Eleven states had 12 percent or less of poor families on the rolls. Nationally, less than 30 percent of poor families receive welfare. Benefits, always low, have eroded even further. Thirty states provide benefits at less than 30 percent of the poverty line. During this recession food stamps, to which people are legally entitled, have soared to a caseload of over forty million, while the needle on TANF has barely moved—to just a little over four million. There is a story to tell here and we are not telling it, either nationally or state by state. As we move toward TANF reauthorization, all

of us have an obligation to tell this story, both in numbers and putting a human face on it. We have little chance of improving TANF substantially if we do not get the story out.

4

Fourth, there is a lot of activity in K–12 education reform. State legislatures around the country are very active on school reform, yet I suspect that few here have been much involved. If I am correct, this is a mistake. One of our jobs is to pursue every strategy we can to see that children from low-income families have great teachers, strong principals, adequate learning time, and access to extra support if they're behind or struggling. What is the law in your states regarding preparation, hiring, evaluation, promotion, compensation, and dismissal of teachers and principals? Are there charter schools and is there rigor in the way they are authorized, supervised, and ultimately dechartered if they are not performing—all to ensure that charter schools are high performing? There are models. In Tennessee, Massachusetts, Colorado, Oklahoma, Louisiana, and even Arizona—to name a few—parents and civic leaders have joined with key elected officials to overcome significant opposition and enact statutes that promise better outcomes for children in the future. They did this in part to respond to the carrot of Race to the Top, but it would not have happened without the active participation of concerned parents and other citizens. Legal aid lawyers who involve themselves in policy must include K–12 (really, P–14) education in the core of their work.

5

Fifth, if extreme poverty is an underexposed disaster, so is the disaster of the number of young people of color disappearing from our view every year. We know how many are going to prison, but that is a tip of a much larger iceberg. There are two million to four million young people 18 to 24—disproportionately Afri-

¹Jason DeParle & Robert M. Gebeloff, *The Safety Net: Living on Nothing but Food Stamps*, NEW YORK TIMES, Jan. 3, 2010, <http://bit.ly/bWodWw>; Food and Nutrition Service, U.S. Department of Agriculture, The Stimulus Package and SNAP: How the American Recovery and Reinvestment Act Affects SNAP Benefits and Policies (n.d.), <http://bit.ly/chCvSg> (PowerPoint); U.S. Department of Health and Human Services, The 2009 HHS Poverty Guidelines: One Version of the (U.S.) Federal Poverty Measure (last revised Aug. 3, 2010), <http://bit.ly/aSGi45>.

can American, Latino, and Native American—who are disconnected: have no high school diploma and no job, and have been in that situation for a year or more. In our largest cities the dropout rate is 50 percent or higher. This was so before the current recession. In 2010 the employment-to-population ratio for youths 16 to 19 is at its lowest level in more than sixty years. In March only 38 percent of high school dropouts 16 to 24 are employed. Fewer than one in four black youths have a job. All of this is a national tragedy. Yet federal funding to states and localities for youth employment programs, measured in current dollars, has decreased from \$3.2 billion in 1991 to just \$923 million. Even with Job Corps, YouthBuild, and other programs added in, the total funding is pathetic. This is one area in which I am frankly deeply disappointed in the Obama administration. As with extreme poverty, there is a story here that is not being told. We all have an obligation to help in making it come alive for decision makers at all levels. National policy is only a modest part of the answer. The major challenge is for all relevant players to become involved locally and to build a true system to get young people through high school and as much postsecondary education as they can absorb and on into the labor market, and to reconnect those who are already disconnected.

6

Sixth and finally is the continuing story of concentrated poverty both urban and rural, which in many urban areas is now compounded by the complexities of gentrification. The concentrated poor are also a nucleus of the persistently poor and the intergenerationally poor. The issue is evolving somewhat because of the displacement effects of gentrification and the fact that the HOPE VI (Homeownership and Opportunity for People Everywhere) program has removed so much public housing from the inventory of affordable housing. Both phenomena have scattered thousands of poor people into other low-income neighborhoods and especially inner-ring suburbs where they become

invisible and are removed from the opportunity of obtaining the supports they need to adjust. The picture in every city is different, but the basic challenge is the same—to create housing and job opportunities on an equitable basis throughout metropolitan regions while investing at the same time in improving and equitably integrating inner-city areas. I am well aware that this is a big mouthful. We do have some new thinking, though. Schooling is finally being seen as a community-improvement tool. We now have the example of the Harlem Children's Zone as a catalyst to promote so-called Promise Neighborhoods around the country. Recently 330 applications were submitted to the U.S. Department of Education for twenty available planning grants for the Promise Neighborhoods program. At the U.S. Department of Housing and Urban Development Secretary Shaun Donovan is seeking to apply the best of the HOPE VI experience to promote Choice Neighborhoods. The funding for these efforts is modest, but the federal government is for the first time ever pointing policy on concentrated poverty in the right directions. We need interest and commitment on these issues in every community. We don't have those yet.

We have a long way to go, but, never forget, we have come a long way, too. Without the investments we have made, poverty would be far higher. We know far more about what we should do than we did in the 1960s. Looking at all of you, and especially at the younger lawyers I see here and the steady stream of law students I see in my poverty seminar, I know we are headed in the right direction.

Robert Kennedy was fond of evoking Albert Camus: "Perhaps we cannot prevent this world from being a world in which children are tortured. But we can reduce the number of tortured children. And if you believers don't help us, who else in the world can help us do this?"² Or as Rabbi Abraham Joshua Heschel said, "Some are guilty, [but] all are responsible"³

Thank you for the opportunity to speak with you today.

²ROBERT F. KENNEDY, MAKE GENTLE THE LIFE OF THE WORLD: THE VISION OF ROBERT F. KENNEDY 133 (Maxwell Taylor Kennedy ed., 1998).

³ABRAHAM JOSHUA HESCHEL, MORAL GRANDEUR AND SPIRITUAL AUDACITY 231 (Susannah Heschel ed., 1996).



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