

Commissioned For: Nat. Forum on a Commission on Volunteerism
Blacksburg, VA 1980

GOVERNMENTAL LISTENING POSTS

Bobbie Greene Kilberg*
and
John G. Milliken**

This paper is an effort to answer the question, "who in the federal government listens and who should listen" to the concerns of the private, non-profit sector. The flip answer is that, of course, everyone does. Every official, elected, appointed or career, professes to care about the sector, the volunteer and social and community issues. But for government to be effective it must listen institutionally as well as personally. This paper then is a search for those institutional listening posts. We have divided our inquiry into two logical parts, the executive and the legislative branches of government, and have sought to provide an explanatory and useful roadmap.

An Introductory Word About Names and Titles

Private, non-profit organizations arise from the concerns of people seeking solutions to community problems or finding ways to accomplish shared projects. It is often difficult to determine what to collectively call these associations whose diversity is as great as the ingenuity of those who founded them. Spiritually, they are voluntary associations relying on individual volunteers for support, energy and legitimacy. Legally, they are private, non-profit organizations, categorized and defined in the Internal Revenue Code under Section 501(c)(3). Collectively, they are a third sector if one considers the for-profit world and government to be sectors one and two. For this paper, we choose to call these associations the independent sector, in reaffirmation of their most important, and threatened, characteristic--their freedom from governmental constraints.

*Director, Committee for the Third Sector, Aspen Institute for Humanistic Studies; Associate Counsel to President Gerald Ford; White House Fellow, Class of 1969-70.

**Attorney-at-law with the firm of Winston & Strawn, representing non-profit, charitable organizations; former Executive Assistant to Congressman Joseph L. Fisher; writer and speaker on voluntary organizations.

The Executive Branch

In general, the executive branch views the independent sector as it does all applicants. For the most part, they are seen as a series of special interest groups seeking "special considerations" from the federal establishment. There has been little effort to look at the sector as a whole and to understand the importance of the dynamism, diversity and pluralism it embodies. John Gardner, former Secretary of Health, Education and Welfare, former Chairman of Common Cause and now Chairperson of the newly formed Independent Sector, has characterized the creativity of this sector as being based on "its freedom from constraints, its pluralism, its habit of being hospitable to non-majoritarian ideas, and the opportunities it provides the individual for initiative, participation, a sense of community and grassroots action." He also has warned of the danger to the sector from "central bureaucratic definition of goals and prescription of rules." And he has observed that there seems to be little governmental cognizance of a sector sincerely concerned with "private initiatives for the public good" rather than with presentation of narrow interests in a specific set of institutions. However, the import of his comments has not penetrated the collective federal consciousness.

Because the independent sector is viewed by government as a series of special interests, there has been no specific place for it to bring concerns that apply to a range of groups within it and little recognition of the potential political clout it could possess. For example, individual staff members in the White House have specific responsibility for issues of concern to women, to minorities, to senior citizens, and for specific areas such as energy, transportation, health. But no one has the portfolio to worry about the independent sector. This pattern is repeated on the departmental level throughout government and is reinforced by the committee structure in Congress. Thus, independent sector concerns are not represented at the table when important program initiatives are developed and policy decisions made. Most governmental officials think of independent sector organizations only in terms of specific grant and contract seekers, tax-exempt entities and volunteers. In this view, the funding program office within a department, the IRS and ACTION are the only relevant base points.

It is our premise for this paper that issues of autonomy and independence, financing, management and accountability cut across the independent sector in such a major way as to necessitate governmental responsiveness above the single department, administrative and implemental level. At the same time, it is crucial that this government attention be focused in a manner that does not further threaten or destroy the diverse, pluralistic and independent nature of the sector and that does not slowly squeeze the sector out of existence or essentially absorb it into the governmental labyrinth.

The matter of legitimacy for the independent sector within the body politic is very serious. The credibility of the sector, its

continuing contribution to society, and its need for both support and independence have increasingly been called into question. Yet to date, the sector has not effectively communicated its importance and strengths to the executive branch and Congress, to the for-profit sector or to the public. The establishment on March 5 of this year of the new organization, Independent Sector, the activities of the Committee for Responsive Philanthropy, and the agendas of other groups, such as the Center for Community Change, all indicate that there certainly are issues of overriding concern to the sector which necessitate coalition building on its part, a large scale educational and communication effort, and appropriate attention from the government. More prevalent to date, however, within the independent sector has been the proliferation of numerous "trade associations" representing different organizations and groups. These trade associations have been notorious in their ability to ignore any other than their own narrow interests and thus to reinforce the government's special interest perspective. How the overview and the narrow view will be reconciled, if at all, remains to be seen.

Given the independent sector's present status and the importance of issues central to its survival, the logical answer to who in the executive branch should listen is the Executive Office of the President --specifically the White House Domestic Policy staff, the Office of Management and Budget and the U.S. Regulatory Council. The only indication of any responsiveness within these entities is found in an incipient stage at OMB within a new Office of Assistant Director for Regulatory and Information Policy and a new Assistance Policy Branch, both on the management side of OMB. The new Assistant Director's office will bring together three elements of importance to the independent sector: information systems, regulatory reform and reports management. Though the Assistant Director is classified as a non-career and "general position," it is being filled by a career official, James Tozzi, a member of the new senior executive service. This can have the positive attribute of helping to institutionalize the Office's function at its inception, but also can have the possible negative aspect of lacking political clout. The Assistance Policy Branch will have government-wide responsibility for all assistance policy relating to all classes of federal funding recipients, and thus could be of major importance to the independent sector. On the OMB charts, the Branch will, for the present time, report to the Deputy Associate Director for Intergovernmental Affairs, an office whose charter is directed at state and local governments. This is unfortunate since the mandate of the Assistance Policy Branch extends well beyond governmental entities and clearly includes private, non-profit organizations. The next formal step in that line of command will be to Wayne Granquist, Associate Director for Management and Regulatory Policy, though the Branch will operate in close relationship with the Assistant Director for Regulatory and Information Policy and with the Financial Management Division on the budget side of OMB. It is obviously impossible to forecast at this time whether the shifting of functions and responsibilities within OMB will actually improve policy formation or management capabilities and thus

be beneficial to the independent sector. However, the initial possibilities for access to policy formation and implementation that it affords to the sector should be positively explored.

The area of deregulation may be symptomatic of both the problem and the subtle shift that may be taking place. The government's regulatory reform efforts, in theory, have included the private, non-profit community. However, in reality the attention of government policy-makers has been riveted almost exclusively on the for-profit, business sector and more recently on the state and local governmental apparatus. The impact of regulation directly on private, non-profit groups has been at best a peripheral concern. And even when the intent on the part of officials was good, the political power of the state and local governments quickly intervened to refocus the emphasis of the reform to the governmental units, often to the detriment of independent sector groups. Recently, however, OMB officials are beginning to realize that the independent sector has legitimate reasons for separate consideration of its problems in the regulatory area, though these problems are often similar to what is being faced by state and local governments and business. To a certain extent, OMB has been propelled into this understanding by the requirements of the Federal Grant and Cooperative Agreement Act of 1977 which was authored by Senator Chiles (D. Fla.), and which required OMB, in cooperation with the executive agencies, to undertake a "study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs." OMB was required by that Act to present a report on the study to Congress and that report is due to be released to the public on March 13. Hopefully, it will contain findings, actions and recommendations of particular interest to the independent sector.

In a broader arena, President Carter has recently appointed a 50-member President's Commission for a National Agenda for the Eighties, which is chaired by William McGill, President of Columbia University. A substantial number of the members of the Commission have independent sector backgrounds. The senior staff person at the White House responsible for the Commission is Hedley Donovan, though there seems to be political input from others. The Commission's staff has a strong academic perspective and is not politically very sophisticated. Whether the Commission will actually accomplish anything or whether its members will be able to insist on a non-political environment in which to do so cannot be assessed at this point. Nor is it all clear whether an examination of the independent sector will occupy a significant place on its agenda. However, this may well be a forum where the sector should seek input.

The Legislative Branch

If the question is who in the legislative branch cares about and listens to the independent sector, then the answer is easy--everyone does. Most Members of Congress currently serve or have in the past

served on one or more boards of voluntary organizations. By definition, they are politicians, active in their community and, in most cases, active in a voluntary organization.

But if the question is who is institutionally responsible by committee or other assignment to listen to the sector, then the answer is more difficult, due both to the highly structured nature of the Congress and to the diverse nature of the independent sector.

The Tax Writing Committees

One deals first with the House Ways and Means and Senate Finance Committees. Voluntary organizations share the common blessing of exemption from taxation under Section 501(c)(3) of the Internal Revenue Code. Since it is from the tax code that their status is derived, it is the tax writing committees who have legislative responsibility for that status. Whether the proposed change affects lobbying, unrelated business income, coverage by social security, voter education or charitable contributions, it must come to the Congress through the Ways and Means and Finance Committees. One consequence of this is to place perhaps undue emphasis on the revenue effect of a change in the law rather than on the often broader social policy issues that give rise to a proposed change. Legislation affecting voluntary organizations often gets buffeted about in the more powerful winds of balanced budgets, sunset proposals and tax cuts.

Nominally at least the Senate Finance Committee has a Subcommittee on Foundations (Chairman, Mike Gravel (D. Alaska); ranking minority member, Malcolm Wallop (R. Wyo.)), but legislation affecting public charities originates in the Subcommittee on Taxation and Debt Management generally (Chairman, Harry F. Byrd, Jr. (I. Va.); ranking minority member, Bob Packwood (R. Ore.)). The Ways and Means Committee has a Subcommittee on Select Revenue Measures (Chairman, Dan Rostenkowski (D. Ill.); ranking minority member, John J. Duncan (R. Tenn.)). However, that subcommittee is relatively new and the scope of its jurisdiction unclear. Historically, tax matters have been dealt with by the committee as a whole.

Within those committees, five members have proven to be the most consistent supporters of the independent sector and volunteerism. In the House, they are Congressmen Joseph L. Fisher (D. Va.) and Barber B. Conable (R. N.Y.). These two Members are not only the primary sponsors of legislation to allow persons who use the standard deduction to specifically deduct their charitable contributions as well, H.R. 1785, but were also the primary supporters of the changes in the lobbying laws in 1976 and the reduction in the excise tax on private foundation investment income in 1978.

The same may be said for Senators Bob Packwood (R. Ore.) and Daniel P. Moynihan (D. N.Y.), the chief sponsors of S. 219, the charitable contributions legislation in the Senate. There are other champions

in the Senate. Certainly Senator David Durenburger (R. Minn.) who was active in voluntary organizations in his own state would be one. No doubt there are more, but these five are Members who understand the independent sector, share its concerns, and watch out for its interests in the legislative arena.

The Social Program Committees

Increasingly over the past two decades, voluntary organizations have become the recipients of federal dollars through contracts, grants and other agreements to carry out federal programs at the local level. This is especially true of the social welfare agencies. Committees in the House and Senate responsible for authorizing legislation for programs such as Head Start, Community Services and the Older Americans Act make decisions which affect millions of dollars and tens of thousands of volunteers. Yet it is not our impression that the perspective of the volunteer is specifically taken into account. Increasingly the voluntary agencies have become participants in the lobbying process leading up to the passage of legislation. But often, and properly, the voluntary agencies speak for their clients and are viewed by Congress as organizations concerned about the continuing flow of federal dollars to those who need assistance. The role and status of the volunteer is not often considered in the debate over the size and shape of federal programs.

In the Senate, many of these programs come under the jurisdiction of the Committee on Labor and Human Resources, chaired by Harrison A. Williams (D. N.J.) (Ranking minority member, Richard S. Schweiker (R. Pa.)). Several of the subcommittees have a role. They are:

Subcommittee on Aging: Older Americans Act of 1965, senior activity centers and volunteer programs.

Chairman: Thomas F. Eagleton (D. Mo.)
Ranking Minority Member: William L. Armstrong (R. Colo.)

Subcommittee on Alcoholism & Drug Abuse:

Chairman: Donald W. Riegle (D. Mich.)
Ranking Minority Member: Orrin Hatch (R. Utah)

Subcommittee on Child & Human Development: Programs authorized by the Domestic Volunteer Service Act of 1973 and carried out by the ACTION agency.

Chairman: Alan D. Cranston (D. Calif.)
Ranking Minority Member: Gordon J. Humphrey (R. N.H.)

Subcommittee on Education, Arts & the Humanities:

Chairman: Claiborne Pell (D. R.I.)
Ranking Minority Member: Robert T. Stafford (R. Vt.)

Subcommittee on Employment, Poverty and Migratory Labor: Head Start, Emergency Food and Medical Services, and Legal Services.

Chairman: Caylord Nelson (D. Wis.)
Ranking Minority Member: Jacob Javits (R. N.Y.)

Subcommittee on the Handicapped:

Chairman: Jennings Randolph (D. W.Va.)
Ranking Minority Member: Robert T. Stafford (R. Vt.)

Subcommittee on Health & Scientific Research:

Chairman: Edward M. Kennedy (D. Mass.)
Ranking Minority Member: Richard S. Schweiker (R. Pa.)

In the House, the Education and Labor Committee has primary jurisdiction over social service programs. The Subcommittee on Human Resources (Chairman, Ike Andrews (D. N.C.); ranking minority member, E. Thomas Coleman (R. Mo.)) has responsibility for Community Services, Head Start, Nutrition Programs for the Elderly and the Older Americans Act. The Subcommittee on Select Education (Chairman, Paul Simon (D. Ill.); ranking minority member, Kenneth Kramer (R. Colo.)) has responsibility for the Child and Family Services Act, the Comprehensive Older Americans Act Amendments of 1975 and legislation affecting education of the handicapped.

Once a statute is in place which establishes and defines a program, it still must be funded through the annual appropriation process. The Appropriations Committees in the House and Senate each have subcommittees dealing with general social services. In the Senate, the Subcommittee on Labor, Health, Education, and Welfare (Chairman, Warren G. Magnuson (D. Wash.); ranking minority member, Richard S. Schweiker (R. Pa.)) has jurisdiction over all programs in what was formerly the Department of Health, Education, and Welfare, over the domestic programs of the ACTION Agency, over the Community Services Administration and others. Other subcommittees providing funds for the dozens of departments, agencies, bureaus and commissions pass on monies which sometimes find their way to grantee voluntary organizations.

In the House, the Subcommittee on Labor-Health, Education and Welfare of the Appropriations Committee (Chairman, William H. Ratcher (D. Ky.); ranking minority member, Robert H. Michel (R. Ill.)), has jurisdiction similar to its Senate counterpart.

The International Voluntary Agencies

Many of the international voluntary agencies receive funds for their relief work from the Agency for International Development. The Subcommittee on International Organizations of the House Foreign Affairs Committee (Chairman, Don Bonker (D. Wash.); ranking minority member, Edward Derwinski (R. Ill.)) and the Subcommittee on International Operations (Chairman, Dante B. Fascell (D. Fla.); ranking minority member, John H. Buchanan, Jr. (R. Ala.)) are the primary authorizing committees, though the several subcommittees dealing with specific geographic areas have a role to play as well.

"Who Should Listen"

A number of approaches can be taken to the question of who in the legislative branch should listen to the concerns of the independent sector. The options include: (1) recognition by the House Ways and Means and Senate Finance Committees of a central role as the legislative committees with oversight responsibility in this area; (2) recognition by the appropriate authorization and appropriation committees of the institutional importance of the independent sector and formal inclusion of the sector when considering and reviewing programs; or (3) continuation of the system as it presently functions.

There are advantages and disadvantages to each of these approaches which could affect the independent sector in critical ways. Thus, each should be scrutinized very carefully, as should other options, before determining which avenue will be most beneficial.

Summary

This paper has presented a summary description of executive branch and congressional relationships with the independent sector. It is as accurate a roadmap as we can draw and it leads to a rather simple conclusion, *i.e.*, that for the foreseeable future it is likely that the governmental listening posts will be scattered and will not be located at very powerful political levels. As the independent sector coalesces more effectively, the federal government, in general, may seem to listen more attentively. However, the basic question of "who specifically listens and who should listen" -- along with the corollary question of "with what impact" -- will remain in a state of flux for some time to come.