

HISTORICAL SOCIETY OF THE NEW YORK COURTS

ORAL HISTORY PROGRAM

Helaine M. Barnett, Esq.



Found on exterior entrance to New York Court of Appeals

HISTORICAL SOCIETY OF THE COURTS OF THE NEW YORK COURTS

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ORAL HISTORY

**Subject: Helaine M. Barnett, Esq.
Legal Aid Society; Legal Services Corporation;
New York State Permanent Commission on Access to Justice**

An Interview Conducted by: Hyon Kim, Esq.

Date of Interview: September 14, 2017

Location of interview: Association of the Bar of the City of New York

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THE HISTORICAL SOCIETY OF THE NEW YORK COURTS

Oral History Project

SUBJECT: Helaine M. Barnett, Esq.

INTERVIEWER: Hyon Kim, Esq.

DATES: September 14, 2017

HK: This is Hyon Kim. It's September 14, 2017. We're here at the Association of the Bar of the City of New York, for the recording of the oral history of Helaine M. Barnett, for the Historical Society of the New York Courts. It's been my privilege to know Helaine since 2005, when I worked with her early in her presidency of the Legal Services Corporation, and I'm really pleased to be part of the effort of doing her oral history today for the Historical Society. So Helaine, let's start from the beginning. Can you tell us about your parents?

HB: My father, whose name was Harry Meresman, was born in Brooklyn. He was the middle child of seven children: six boys and one girl. His parents Joseph and Ida came to the United States from Russia, when Ida was 19. His father died when he was nine, and his mother raised the children on her own. My father was a devoted son and brother. He graduated from City College and became a CPA.

My mother, whose name was Helen Janet Chafets, was born in the Bronx. Her parents came from Russia and Vienna. She was one of four children: three girls and one boy. She was the middle of three daughters and was exceedingly close to her sisters. Each graduated from college, which I understood was unusual for a woman in those days and each majored in subjects that at that time were male orientated. My Aunt Henrietta, the

eldest, majored in mathematics and physics, my mother majored in accounting and business administration, and my Aunt Selma majored in chemistry. My mother was also a devoted daughter.

My parents met in a hotel in the Catskill Mountains in New York on Labor Day Weekend in 1935. They were married in November 1938. My mother stayed home and concentrated on raising her two daughters. I was the eldest of the daughters and was named Helaine, and my sister, who was five years younger, was named Janis. Growing up, we were affectionately referred to as Lainie and Janie. We were raised to believe we could do anything that we set our minds to do. We had the most wonderful and loving parents. My beloved sister sadly lost her battle with cancer far too young.

I grew up in a home where there was a concern for those less fortunate and where it was important to give back to society. My mother transmitted to us her conviction about the moral value of social justice. My father had a special sense of community responsibility. He was very active in the community. He was President of his synagogue, Temple Israel Center in White Plains, he was Treasurer of his country club, Old Oaks in Purchase, and he was on the Board of Baruch College. He had developed his own accounting firm, which eventually merged with Deloitte Touche, and he was on the Board of Revlon Inc. from its beginning. Hate was not a word we could use in our home. My father said it was too strong and an unnecessary emotion. He was a man of unquestioned integrity and of profound moral fiber and ethics. My parents, through example and by teaching, indelibly shaped my character, my values, my work ethic, and my commitment to those less fortunate.

HK: Can you tell us about your grandparents?

HB: My grandfather Samuel Chafets, my mother's father, emigrated to the United States in 1906, from Orsha, Russia when he was 19, and my grandmother, my mother's mother, Lena Sherzer, came to this country as a young girl from Vienna. They married in 1913. My grandfather went to Cooper Union College and became a civil engineer and spent his entire career at the New York City Department of Transportation, designing bridges and tunnels. He read extensively and loved the opera. I remember as a child going with my parents to my grandparents' apartment, which was just around the corner from our apartment, every Saturday for lunch, which my grandmother lovingly prepared. My grandfather would listen to the 2:00 p.m. radio broadcast of the opera every Saturday. The love of the opera was passed on to my mother. My parents had a box at the opera and when they died, my husband and I continued that subscription to this very day. My grandmother died when I was six. My grandfather lived until 94. My father's mother, my grandmother Ida, brought up her seven children by herself and ran a small retail store. She was heroic in holding her family together. I remember going often with my father to visit her in her one room apartment in Queens. She moved to California in her later years to be with her daughter and died at the age of 94 in California.

HK: Are there other members of your family you would like to tell us about?

HB: Yes, I would like to tell you about my Aunt Henrietta, who we referred to as Aunt Hattie, who had the most incredible career. In fact, I am not the first woman in my family to have her oral history recorded. Henrietta Leiner's oral history is in the Computer History Museum in Mountain View, California and was recorded on June 20, 2004 when she was 90 years old. She went to Hunter High School and Hunter College and majored in mathematics and physics. She did graduate work and earned a master's degree at the

University of Pennsylvania. Then came the 1940's and the war. She was asked to do war work for the government and worked in the electronic computer group. In 1960, she went back to graduate school to study the anatomy of the brain at Columbia University. When she was 80 years old, the New York Times on November 8, 1994 featured her on the front page of the Science Section, as a neuroscientist who with her husband, Alan Leiner, discovered a function of the cerebellum not before recognized, that the cerebellum contributes not only to motor skills, but to mental skills as well. She followed very thoroughly my career and interestingly in her apartment in Palo Alto she kept a box of articles announcing my appointments, copies of my publications, and press coverage clippings.

HK: Can you tell us about your childhood, where you lived and grew up?

HB: We lived in an apartment in the Inwood section of Upper Manhattan until I was eight, and then we moved to a house in the suburbs in Harrison, New York.

HK: Can you tell us about your schooling?

HB: My first recollection was going to a play school in a neighbor's apartment down the road from our apartment, and the reason I remember it so clearly is because there was a swing in the doorway. At four I went to pre-kindergarten at the Ethical Culture School in Fieldston and stayed until the fourth grade. I then went to the Harrison public schools, as we had moved to Harrison at that time. I was a good student. Since half the students who graduated did not go on to college, my mother did not think I was being academically challenged enough in high school, so I went one summer to summer school, and skipped the eleventh grade. I was only one year with my graduating class, so it was a surprise that in my yearbook, I was voted most likely to succeed.

HK: What about extra-curricular activities?

HB: Growing up I loved horseback riding, I took lessons at a stable where the famous Austrian Lipizzans stayed when they were performing at Madison Square Garden and we got to watch them practice. I also took piano lessons. In addition, I went to Sunday School for religious studies and was the first girl trained in our temple to be a Bat Mitzvah and read from the Torah.

HK: And by the time it came to selecting colleges, how did you make the selection of where to go to?

HB: Well, my mother wanted me to have a co-ed university experience, because she thought I was brought up essentially in a female dominated home. But she did not want me to go to an all-women's college that was associated with a larger all men's college. I was given two choices of co-ed schools that were close to New York City: the Wharton School at the University of Pennsylvania, where my father wanted me to go, and Cornell University. When we went to the interview at the University of Pennsylvania, we didn't see a girl in the class, and so we knew it would not be Wharton, it would be Cornell, and that is where I went to college. I started Cornell when I was 16 and was there for two years.

HK: Now what was your major in college?

HB: I was a government major and my favorite course was taught by Professor Clinton Rossiter, who was a noted historian and political scientist, on the American Presidency.

HK: Can you tell us about your social life at college?

HB: Well at Cornell because there were so many more boys than girls, I was quite popular and had a very busy social life. I can remember telling all my dates that I was going to go to law school and if they had a problem with that, we shouldn't continue to go out.

HK: Can you tell us about meeting your husband, Victor Barnett?

HB: My mother was having lunch with a friend of hers at a restaurant in New York City and Victor was having lunch with an Aunt of his at the same restaurant. His Aunt knew my mother's friend, so they stopped by their table to say hello on the way out. My mother's friend told my mother to show this young man her daughter's picture and he said he would call her when she came home from Cornell for Thanksgiving. He did call me and invited me out the Saturday night of Thanksgiving and I said I couldn't possibly go because my roommate from college had come home with me and I wouldn't think of leaving her. He called back very shortly later and said he had a friend for my roommate. I asked my roommate if she wanted to go and she said why not. And so, the four of us went out that Saturday night and that is how we met.

Victor was born in London, England, was a refugee in America for three years during World War II, attended the Wharton School at the University of Pennsylvania and had been quite successful in his beginning years in business. I transferred to Barnard after my sophomore year because I became engaged to Victor, who was living and working in New York City. We got married that June 1959, and I returned to Barnard for my senior year, as a married student. Since I was a transfer student in my junior year and a married student in my senior year, I was really not involved in any Barnard College campus activities.

HK: And at Barnard, did you have any favorite professors or mentors?

HB: At Barnard, I continued to be a government major and my professor and advisor Phoebe Morrison who was Chairman of the Department was my mentor. My government courses were still my favorite.

HK: And in your senior year, did you write a senior thesis? And if you did, can you tell us about it?

HB: I did. I wrote my senior thesis for Professor Morrison. It was 175 pages and was entitled, "The Study of the Japanese Evacuation from the West Coast During World War II." I would like to quote some excerpts from it because it shows how I thought as a college student and what I actually still believe today. In the introduction to my thesis, which was submitted April 1960, to the Barnard College Government Department, I stated, "How American democracy, at a time when it was engaged in a death struggle against the forces of totalitarianism across the seas, came to deal with one of its own minorities, two-thirds of whom were American citizens by birth, is the central story about to be told. Such was the history of the Japanese American evacuation, in the course of which an entire ethnic community of over 100,000 people were uprooted and imprisoned, submitted to grievous personal discomfort, severe economic loss, and deprived of both legal and human rights. This evacuation was a major event in the history of American democracy. It was without precedent in the past, and with disturbing implications for the future. It was the first time the government condemned a large group of people to barbed wire enclosures. It was the first time that a danger to national welfare was determined by group characteristics, rather than by individual guilt. Race alone determined when an individual would remain free or would become incarcerated. There were no charges filed and persons with as little as one-sixteen percent of Japanese blood were included. The decision in the short-run affected

only a minority of the national population, but in the long-run, it affected the whole people.” In 2011, the U.S. Department of Justice finally acknowledged that the Solicitor General’s defense of the internment policy had been in error. But it was not until June 2018 that the United States Supreme Court finally overruled *Korematsu vs. United States*,¹ the 1944 decision upholding the forcible internment of Japanese Americans during World War II, which was almost universally recognized as a shameful mistake. Chief Justice Roberts wrote, “the forcible relocation of U.S. citizens to concentration camps, solely and explicitly on the basis of race, is objectively unlawful and outside the scope of Presidential authority.” He added “*Korematsu* was gravely wrong the day it was decided, has been overruled in the court of history, and – to be clear – has no place in law under the Constitution.”

HK: Now, were there other courses in college that you took that stand out?

HB: Yes, I minored in art history at Barnard, and I loved those courses. I took Professor Julius Held’s *Survey of European Art*. I took Professor Meyer Schapiro’s course on Impressionism, which was a graduate course he taught at Columbia College, but was open to Barnard seniors, and I took Professor Barbara Novak’s course on modern American painting. We were assigned to write papers on paintings in the Metropolitan Museum of Art and in the Museum of Modern Art. There were obviously special advantages of going to college in New York City.

HK: And how did you come to decide to apply to law school and to attend law school?

HB: I always knew I wanted to go to law school after college. However, I was concerned, as I was newly married, to attend law school full-time. At Barnard, my advisor Professor

¹ 323 US 214 (1944).

Phoebe Morrison, who was also a Justice of the Peace in Connecticut, advised me to apply to New York University School of Law, which at that time had a night program, and after getting accepted to the night school, petition to take my courses during the day, and that is exactly what I did. I believe I may have been the only part-time day student at NYU Law School. Part time was intended to be a five-year course of study instead of three, but I ended up going two summers and graduated after three and a half years in February of 1964.

My husband, who came from a culture where women not only did not go to universities but were not expected to have a career other than marriage and having a family, was in every way, fully supportive of my going to law school.

HK: Can you tell us about the start of law school and what it was like at that time being one of very few women in law school?

HB: Well you are quite right that there were very few women in law school at that time. When I began law school in 1960, where there were only a handful of women in my class. As one of the very few female married students, I was asked why I wanted to go to law school, as I already had a husband, since obviously that was viewed by many as the only reason a woman would go to law school at that time. I actually had my first child during the summer between my first and second year in law school and my classmates, I must admit, were very surprised to see that I returned in the fall.

Because there were so few women, I had the very good fortune to meet and get to know Judith Smith, even though she was two years ahead of me. We became very good friends and began a lifelong friendship. Judith later married Stephen Kaye and, as we all know,

became the first woman Chief Judge of the State of New York.² She was the keynote speaker at my Legal Aid Society retirement party, was quoted in the press release announcing my appointment as President of the Legal Services Corporation, and when I returned to New York in 2010, appointed me to the Board of Trustees of the Historical Society of the New York Courts, where she was the Chair of the Board.

HK: In law school, what about faculty - were there any women teaching in law school?

HB: When I think back, there were no women professors and there were no women instructors, and I have to admit at that time, I did not find that particularly disturbing or surprising, which of course, I would today.

HK: Were there certain courses in law school that you especially liked?

HB: I loved my constitutional law class, which was taught by Professor Robert B. McKay, and I received the American Jurisprudence Prize for Excellence in Constitutional Law. I also loved my seminar on problems of the Supreme Court, also taught by Professor McKay. For my seminar on problems of the Supreme Court, we had to write a paper on one of the sitting United States Supreme Court Justices, and when I went to meet with Professor McKay to discuss my selection, I indicated I would like to write on Justice William Douglas.³ Professor McKay suggested instead, I write on Justice Potter Stewart,⁴ about whom very little, if anything, had been written. And so, I did my paper on Justice Potter Stewart's first six years on the Supreme Court. It was published in 1965 in the *NYU Law Review*, and so began my lifelong friendship with Justice Potter Stewart.

² Judith S. Kaye, Chief Judge of the New York State Court of Appeals, 1993 - 2008; Associate Judge, 1983 - 1993.

³ William O. Douglas, Associate Justice of the Supreme Court of the United States, 1939 - 1975.

⁴ Potter Stewart, Associate Justice of the Supreme Court of the United States, 1958 - 1981.

When I was a law student, writing my paper on Justice Stewart's work, he repeatedly made himself available to meet with me in his chambers and to share his thoughts about the Court and the process of constitutional interpretation. He continued, despite the demands and stature of his position, to always find time to meet with me. He came to our home after giving a lecture at the New York City Bar Association on October 26, 1967. He arranged for me to sit in his box in the Supreme Court when I was admitted to the Supreme Court Bar on December 11, 1967. He gave me photographs of the Warren Court and of the Burger Court, signed by each of the Justices of the Court at that time.

I subsequently published another article in 1982 on Justice Stewart and his contribution to the jurisprudence of the Fourth Amendment entitled, "A Lawyer's Lawyer, A Judge's Judge: Potter Stewart and the Fourth Amendment."⁵ It was published in the *Cincinnati Law Review*, and I was assisted by my sister, who was also a lawyer, and my childhood friend Professor Jeffrey Morris. I treasured Justice Stewart's professional friendship that lasted until his untimely death in December of 1985.

HK: And in law school, did you have a favorite professor or mentor?

HB: Yes. It was Robert B. McKay who was both my favorite professor and my mentor. I always knew I wanted to provide legal services to those less fortunate and the path of my legal career was set while I was in law school, where it was indeed my very good fortune to have, as my teacher and advisor, Professor McKay, who became Dean of the law school, President of the Legal Aid Society, and President of the New York City Bar Association. He guided, encouraged and inspired me to pursue a career dedicated to public interest law and directed me, upon graduation, to the Legal Aid Society of New

⁵ 51 U Cin L Rev 509 (1982).

York, the oldest and largest legal aid organization in the country, with a mission to provide the poor in New York City with meaningful access to justice.

Professor McKay was a mentor throughout my entire career. He proposed me for membership in the American Law Institute in 1984. He recommended me to become an adjunct professor of law at the Benjamin N. Cardozo School of Law, where I taught a third-year required course on professional responsibility from 1980 to 1985. He encouraged my active involvement in the New York City Bar Association.

HK: So let's pick up after law school, when it came time to take the bar exam, what do you remember about that time and process?

HB: I took the bar exam at a hotel in Times Square. There were very few women in that ballroom. What I remember so distinctly was that at the outset, the proctor said, look to your left, look to your right, only one of you will pass. I looked at the two men seated on either side of me and hoped I was smarter than they were. And I passed.

HK: And when it came time for admission to the bar, what do you remember about that?

HB: Oh, I remember that well. I went for my interview before the Character and Fitness Committee of the Appellate Division, First Department, when I was nine months pregnant with my second child. The elderly gentleman reviewing my papers for admission to the bar said he unfortunately could find no reason not to admit me, but he was certain I would never practice law a day in my life. Of course, I knew he was wrong.

HK: After you were admitted to the Bar, you went to the New York Legal Aid Society, and what led you in that direction?

HB: I wanted to go to work for an organization whose sole mission was to give some semblance of reality to the goal of equal access to justice. I believed that providing legal

services to the poor is not only central to fundamental fairness, due process, and equal protection of the law, but it is how the law may be used as a means of correcting inequities and abuses, and for securing rights for the disadvantaged. It is also a recognition of the importance and value of providing a voice for those not able to represent themselves and whose pressing concerns are not always foremost in the minds of the policymakers and the public. And so, began my lifelong career in the provision of legal services to the poor and the pursuit of equal access to justice.

HK: Can you talk about your work at the Legal Aid Society, as you were just starting out?

HB: I began at The Legal Aid Society in 1966, in the Criminal Appeals Bureau as an Associate Appellate Counsel. Our office was at 100 Centre Street, which was the Criminal Courts building. We were an office of 15 lawyers, four of whom became judges and seven of whom were women, all exceedingly bright. As appellate attorneys, our job was to try to ensure that the innocent were not improperly convicted and that convictions were obtained in accordance with constitutional protections. But it was still an uphill battle, since all our clients had been convicted. I briefed and argued over 100 criminal appeals in the New York State appellate courts, including six in the Court of Appeals. I remember in particular *People v Floyd Baker*,⁶ where my client and his codefendant were tried jointly and convicted upon a jury verdict of robbery in the first degree. During the trial, an out-of-court statement implicating my client in the commission of the crime, was made by his codefendant who did not take the stand. On appeal, I argued there had been a *Bruton*⁷ violation, since my client had been deprived of his right of confrontation

⁶ *People v Baker*, 26 NY2d 169 (1970).

⁷ *Bruton v United States*, 391 US 123 (1968).

under the Sixth Amendment. The Court of Appeals in a lengthy opinion reversed the decision below and ordered a new trial.

In 1971, I transferred to the Civil Appeals Bureau, where I briefed and argued cases in the state and federal courts involving primarily housing and employment matters, and problems of ex-offenders and worked with attorneys in the Civil Division's neighborhood offices for three years.

HK: So, while we're talking about your early years at your career at the Legal Aid Society, is there anything you want tell us about how you managed the work life balance, since this was a time when your children were young?

HB: Well because I had two very young children when I began at Legal Aid, I was part time in the sense that I worked three days a week in the office, although I worked at home the other days. And when I was offered my first management position in 1973, as Assistant Attorney-in-Charge of the Civil Appeals Bureau, my job required working from the office full time.

HK: Can you tell us about some of the highlights of your career at the Legal Aid Society?

HB: I was appointed Deputy Attorney-In-Charge of the Civil Division and in 1994 became the Attorney-In-Charge. As the Attorney-In-Charge, I was responsible for the overall management and supervision of all aspects of the operation and legal work of the Civil Division, which had 240 employees at the time, of which 125 were lawyers. We had eight neighborhood offices in the five boroughs, plus the Brooklyn Office for the Aging, which was the national model in the representation of seniors. We also had specialized city-wide units, which included the health law unit, the homeless family rights project, the immigration unit, the bankruptcy and consumer law unit, and the civil appeals and law

reform unit. Our budget was approximately \$22 million dollars and we handled approximately 25,000 individual cases annually, involving housing, benefits, family law, domestic violence, health law, immigration, employment, and consumer law. We also brought many successful actions that changed the lives of a significant number of poor people. My responsibilities also included the review and approval of all appellate and affirmative litigation, the setting of office priorities, budget formulations, and maintaining relationships with the judiciary, with the Legal Aid's Society Board of Directors and other divisions of the Society.

HK: So, Helaine, can you talk about whether there were any significant developments in the funding of Legal Aid during your tenure at the Legal Aid Society?

HB: In 1996, we gave up 1.6 million dollars annually in federal funding from the national Legal Service Corporation, in order to be able to use the full range of advocacy's tools on behalf of our clients, including class actions, legislative advocacy, welfare reform litigation, and full representation of immigrants, which recipients of LSC funding were prohibited by Congressional Act in 1996 from doing. The Civil Division became the largest unrestricted program in New York City and continues today to bring significant class actions and to provide important immigrant representation.

HK: What can you tell us about some of the memorable cases you worked on at the Legal Aid Society?

HB: I would like to mention just a few.

In the area of public housing, in *Davis v New York City Housing Authority*,⁸ we stopped widespread racial discrimination by the New York City Housing Authority in the

⁸ 1992 WL 420923 (SD NY Dec. 31, 1992).

assignment and transfer of public housing applicants and tenants. Entirely new tenant selection and assignment procedures were adopted, to ensure that the discriminatory practices would not be repeated.

In the area of disability benefits, as a result of our *Dixon*⁹ case, the Social Security Administration was required to consider the combined effects of different impairments in determining eligibility for disability benefits and ordered to reconsider the claims of over 82,000 disabled individuals.

In the area of homeless family rights, our *McCain v Koch*¹⁰ litigation, on behalf of homeless children and their families, established a right to shelter that met standards of decency, safety, and sanitation.

In the area of public benefits, in our *Jiggetts v. Grinker*¹¹ case, we successfully challenged the adequacy of the shelter allowance for families with children who received welfare in New York City. And under an interim relief system over 16,000 families with children received supplemental shelter allowances.

But just as important as the landmark cases, were the millions of individual cases that Legal Aid attorneys handle day after day. Our work in providing legal assistance was critical to our clients and their families' economic and personal survival, as when we prevent a family with children from being evicted and falling into homelessness, when we save a battered woman from a violent and abusive relationship, when we help a young mother maintain custody of her child or gain access to necessary healthcare, when we save a grandmother from losing her home to foreclosure, or when we overturn an

⁹ *Dixon v Sullivan*, 792 F Supp 942 (SD NY 1992).

¹⁰ 70 NY2d 109 (1987).

¹¹ 75 NY2d 411 (1990).

improper denial of disability benefits for a returning veteran. Every day in our Legal Aid offices, we made a meaningful difference in the lives of our clients, who are the most marginalized and vulnerable individuals among us: children, survivors of domestic violence, the elderly, veterans, persons with disabilities, families facing evictions, the uninsured, the unemployed, low wage workers, homeless families with children, institutionalized individuals. Legal Aid helps improve the lives of low-income people by helping them obtain and maintain the basic necessities of life and therefore obtain stability, security, and self-sufficiency.

HK: Can you talk about some of your accomplishments at the Legal Aid Society that you are most proud of?

HB: I'd like to refer to three in particular. First, I created and assumed direct responsibility in 1985 for the Society's Homeless Family Rights Project, which became the leading legal advocate for the protection of the rights of homeless families in New York City. One of my friends asked me how things were going at Legal Aid and I told him about my concerns for the treatment of homeless families. He said he would like to know more. And so, one evening in late 1985, I arranged a visit, starting at 11:00 p.m. at night. We went first to the Roberto Clemente gymnasium in the Bronx, where the City was housing homeless families with children, which included families with pregnant women, families with newborns, families with children with asthma and other special medical needs, in a barracks style gymnasium where families were sleeping in rows of cots, with no partitions, where there was no place for their belongings, just plastic garbage bags in which to keep their things, where the lights were on all night, and where there was a filthy communal bathroom. We then went to the Martinique Hotel in Times Square,

where families slept in a single room and where children had to walk past drug users in the corridor to get to a bathroom. We finally went to a welfare office in Brooklyn where families stayed overnight and where children slept on plastic chairs, on desktops, or on the linoleum floor, under glaring fluorescent lights burning all night long.

That tour led to a \$1 million contribution for us to become the best lawyers possible for these homeless families and as a result of this significant private grant, I created the Society's Homeless Family Rights Project, staffed with lawyers and outreach paralegals, and assumed direct responsibility for providing advocates for those homeless families with children. Through our efforts, appropriate emergency housing placements were obtained and as a result of our work, barracks style shelters like the Roberto Clemente gymnasium, were closed. Placement of homeless families in substandard, squalid welfare hotels was prohibited and as a result of our *McCain* litigation, we established that emergency housing for a homeless family with children was required to meet standards of decency, sanitation, and safety, pursuant to article XVII of the New York Constitution. As a second example, I would refer to the fact that I successfully brought the first civil contempt motion in the New York Court of Appeals, in the course of representing three elderly, frail, indigent nursing home residents, who challenged the closing of the Beth Rifka Nursing Home on Staten Island, in which they had lived for many years, without the appointment of a receiver. The New York Public Health Law stated that the Commissioner of Health shall seek the appointment of a receiver in such circumstances to oversee the orderly transfer of the nursing home residents to a different facility, as well as to ensure the adequacy of patient care and the health and safety of the residents. An issue was raised as to whether the statute was mandatory or permissive. I obtained a stay,

prohibiting the removal of the residents until the State's highest court could rule on the statutory requirement to appoint a receiver.

The day after the stay was granted, I arranged to visit my clients to tell them about the stay and, to my utter dismay, I found that the nursing home, with the knowledge of the State Commissioner of Health and without informing me, had moved the residents out, in clear violation of a court order. As a result, I brought the first civil contempt motion ever filed in the New York Court of Appeals, the highest court in New York State. The Court of Appeals ordered a hearing be held and evidence presented before Justice Joseph Gagliardi.¹² I prepared for, participated and testified in a two-day hearing involving 12 witnesses, which resulted in a 68-page report to the Court of Appeals. The Court published a 14-page opinion granting the motion, in which it held the Commissioner of the New York State Department of Health, the Beth Rifka Nursing Home, and its Administrator in civil contempt and ordered payment of a fine to the patients. Justice Gagliardi's report, summarizing the evidence, found that the various respondents had knowledge of the Court's order and had clearly violated its expressed terms. The Department of Health had facilitated and participated in the patient transfer after obtaining knowledge the Court had granted a stay, and the nursing home had discharged the petitioners and transferred them against their will. The Court concluded, that it has been demonstrated with reasonable certainty, that respondents by their conduct, deprived petitioners of substantial rights secured by a stay and therefore should be held in civil contempt.¹³ Although my clients received only a modest monetary recovery for the harm done to them, such actions will never be repeated in the State of New York again, since

¹² Joseph F. Gagliardi, Justice of the Supreme Court of the State of New York, 9th Judicial District, 1961 - 1987.

¹³ *Matter of McCormick v Axelrod*, 59 NY2d 574 (1983).

the Court also ruled that the Public Health Law requires the Commissioner of Health to apply for the appointment of a receiver, when a facilities operating certificate is revoked, to oversee the orderly transfer and to ensure the adequacy of patient care.

A third example involved initiating and mobilizing the Legal Aid Society's 9/11 Disaster Assistance Response Plan. It is 17 years since the World Trade Center calamity occurred.

On the morning of September 11, 2001, I was in a car, driving to Albany to attend an Access to Justice Conference convened by Chief Judge Judith Kaye. When I arrived in Albany at the hotel where the conference was being held, I learned for the first time of the planes crashing into the World Trade Center. Since our office building was located at 90 Church Street, directly across from the World Trade Center, I tried reaching our staff all day and finally, at the end of the day learned that thankfully, all our staff were safe, but unfortunately, some of them had witnessed people jumping from their office window to their death. When I returned to New York City the next day, I relocated our office temporarily to our Brooklyn neighborhood office on Montague Street. Of course, we had to get crisis counselors to help our staff deal with the horror they had seen.

In response to the tragedy of 9/11, New York City Legal Aid lawyers provided essential services to affected New Yorkers and became an important part of the city's recovery.

While thousands continued to leave the area around the World Trade Center, Legal Aid lawyers staffed the city's disaster centers in Lower Manhattan seven days a week, for more than 10 months. We set up a disaster hotline with a single point of entry to provide expedited referrals to neighborhood offices in all five boroughs. We stationed staff at social service agencies, healthcare centers, and union offices. We prepared disaster assistance guides and worked with the state government to create a disaster Medicaid

program. We helped 8,500 individuals, one by one, those who lost family members, those who worked or lived in Lower Manhattan, and those whose lives were otherwise affected by the attacks, including those who, as a result of the disaster, were suddenly out of work, lacking health insurance, facing consumer credit problems and on the verge of eviction. Some of the people helped were restaurant workers, hotel workers, maintenance workers, delivery people, messengers, tour guides and small shop owners. We provided assistance with housing, employment, family and consumer issues. It was a shining hour for Legal Aid staff and I was never more proud of the work we did and of the difference we made in the lives of those New Yorkers who were so profoundly affected by the attacks on the World Trade Center. The Civil Division earned universal respect for the high quality of its legal work, its innovative projects, and adherence to the highest professional and ethical standards.

HK: Is there anything else from your time at the Legal Aid Society that you want to discuss?

HB: I was privileged to work with a remarkable and exceptionally talented group of individuals, and to see the amazing evolution in the professional development of so many whom I hired right from law school, and see them become incredibly effective advocates for our clients, to nurture and encourage them and to see them exceed, many times over, my highest expectations, both at Legal Aid, where they devoted their lives to those less fortunate, and those who became trial court judges, appellate court judges, law school professors, law school deans, and were appointed to high ranking positions in state and local government.

But perhaps one of my most personal and moving remembrances that I will never forget, is the opportunity I gave someone just released from prison, the opening position he

needed, at a critical time in his life, and to see him reach his fullest potential. I received a letter from a prisoner, wanting to apply for a position we had posted for an outreach paralegal in the Homeless Family Rights Project. I met with him after his release from prison and was so impressed by him that I hired him. He did such a superb job as an outreach paralegal that I promoted him to be a supervising paralegal. He then came to me and said he could do so much more for our clients if he had a law degree. So while he continued to work at the Legal Aid Society, he went to Fordham School of Law at night. He graduated Order of the Coif. He received a federal court clerkship, he took the bar and passed and then began the challenge of getting a convicted felon admitted to the Bar of New York. Eventually, we did succeed in doing so, because of the strength of his references, his stellar employment record, and his stellar law school record. His practice today provides assistance to ex-offenders and I recently attended a reception at his law school, where he was honored as a distinguished alumnus.

HK: Can you comment on the role of women in the Civil Division of the Legal Aid Society?

HB: Interestingly, there was a recent study commissioned by the American Bar Association, which indicated stark differences between men and women with regard to their experiences with big law firms. Women partners found dissatisfaction with pay disparity and lack of promotions into leadership positions, resulting in them leaving the profession. Women in the Civil Division of the Legal Aid Society do not have concerns with either of those two issues. I experienced no discrimination based on gender throughout my career at the Legal Aid Society or indeed elsewhere. It is clear that women have held leadership positions very early on in the Civil Division of the Legal Aid Society. Mary B. Tarcher was head of the Civil Division when I joined the Legal Aid Society and Helen L.

Buttenwieser was Chairman of the Board of Legal Aid when I was attorney-in-charge of the Civil Division.

Indeed, I appointed many women attorneys to leadership positions and supported their appointments to the bench. I appointed a woman to head our Brooklyn Neighborhood Office, who became a Family Court Judge, a woman to head our Queens Neighborhood Office, who became a Civil Court Judge, a woman to head our Brooklyn Office for the Aging, who became a Housing Court Judge, and a woman to head our Harlem Neighborhood Office, who eventually became my successor as Attorney-in-Charge of the Civil Division. By the way, when I was at the Legal Services Corporation women attorneys and attorneys of color were not very prevalent in Executive Director positions and so I created a leadership mentoring program to try in some way to rectify that.

HK: While at Legal Aid you became involved in bar association activities, can you talk about why you got involved?

HB: I thought it would be important to be involved on bar association committees to be a voice concerned with equal access to justice and with the impact of committee actions on low-income individuals. I was appointed to many significant committees including the Judiciary Committee, the Professional and Judicial Ethics Committee, and the Council on Judicial Administration. I was usually the only legal aid attorney on those committees at that time. In addition, I was elected a member of the Executive Committee in 1990, elected Treasurer of the Bar Association in 2001, and was appointed in 1997 to be one of the two delegates to represent the New York City Bar in the ABA House of Delegates, which I continue to do today.

HK: How did you first become involved with the ABA?

HB: My first involvement came about after I received an unsolicited call in 1979 from the President of the ABA, who I did not know, appointing me to the ABA Standing Committee on Professional Discipline. Again, I thought it would be important to be involved on bar association committees, to be a voice concerned with equal access to justice, and with the impact of committee actions on low-income New Yorkers. Among my fellow committee members were state bar presidents from Texas, Mississippi, and Delaware, and former Chief Judges of the State of Washington and the Commonwealth of Massachusetts. The ABA also gave me a chance to meet lawyers that I would not otherwise have met. I was next appointed a member of the ABA Standing Committee on Ethics and Professional Responsibility, which I eventually chaired. That was a committee of only eight lawyers, who were responsible for the issuance of all ABA formal opinions, interpreting both the Model Rules of Professional Conduct and the Code of Judicial Conduct. After that, I was appointed to the ABA Standing Committee on Professionalism. During those years, for many of the individuals with whom I worked, I was the first Legal Aid attorney they had ever known or met, and I had the opportunity to explain to them the importance of providing civil legal services to the poor and the importance of obtaining adequate funding to do so. It was during this time that President Reagan had proposed the elimination of funding for the Legal Services Corporation, and I was able to solicit support from my fellow committee members for the continued funding of LSC.

HK: Can you talk about your service on the ABA Board of Governors?

HB: Alexander D. Forger, who was Chairman of Milbank, Tweed, Hadley & McCloy, a past President and Chairman of the Board of the Legal Aid Society, a past President of the

New York State Bar Association, and New York State Delegate to the ABA House of Delegates, was also one of my great mentors. When Alex was the New York State Delegate to the ABA House of Delegates, the long standing practice was for state delegates to appoint themselves to go on the ABA Board of Governors when an opening occurred for their state's seat on the Board. Instead, in 1994, when an opening occurred in New York, Alex appointed me to the ABA Board of Governors to represent New York State -- the first Legal Aid attorney to serve on the ABA Board of Governors, (and unfortunately, the only one to-date), and to serve under the leadership of Roberta Ramo, who was the first woman president of the ABA. She appointed me a member of the Executive Committee of the Board and appointed me chair of the Board's Program Committee and so began a very special lifelong friendship which continues today. A major activity of the ABA Board at that time was spearheading the effort to save the Legal Services Corporation whose funding was again in jeopardy in the 1990's, with the Speaker of the House of Representatives calling for the elimination of LSC. I had an opportunity to play an important role in urging ABA support for LSC. We were fortunate that ABA President Roberta Ramo was from New Mexico and knew Senator Pete Domenici from New Mexico, who was a key Senator, and with organizing lawyers around the country in a very targeted campaign, a compromise was reached whereby Congress continued to fund LSC, but placed restrictions on the type of work LSC funded programs could do, including prohibiting class actions.

HK: Since your service on the Board of Governors, what has been your involvement with the ABA?

HB: I was privileged to serve in many significant capacities. I was elected to the Committee on Scope and Correlation of Work, appointed to the ABA Commission on Governance, appointed to the ABA Commission on Women in the Profession, and served as the ABA Representative to the United Nations from 2012-2016.

HK: Were you similarly involved in any other entities?

HB: Bob McKay proposed me for membership in the American Law Institute and I was very honored to be elected a member in 1984. The American Law Institute is the leading independent organization in the United States, producing scholarly work to clarify, modernize, and improve the law. It has a limited membership, which consists of distinguished judges, lawyers, and legal scholars. I may well have been the only legal aid attorney elected a member of the ALI at that time. I served on the Consultative Group on the Restatement of the Law Governing Lawyers. One becomes a life member of the ALI after 25 years. Roberta Ramo became the first woman President of the ALI and she was the President of the ALI at the time I became a life member. She invited me to give the luncheon address on behalf of all those elected to membership in 1984 who became Life Members at the May 2009 Annual Meeting. I was honored to be selected and focused my remarks on the importance of equal access to justice. Roberta also asked me to chair a committee to encourage membership of public interest lawyers in the ALI.

I was elected President of the Network of Bar Leaders and represented the City Bar in that organization, an association of 33 bar associations and groups in the Metropolitan New York area, which addressed issues affecting the courts and the profession.

In addition, I was also appointed by Governor Mario Cuomo a member of the New York State Commission on Judicial Conduct in 1990 and served two terms. The Commission

was responsible for investigating complaints against any judge in the statewide court system.

HK: That brings us up to the time of the Legal Services Corporation. How did you come to be considered for the position of President of the Legal Services Corporation?

HB: After having been with the Legal Aid Society since 1966, with nearly three decades of involvement in the management of the Civil Division and as Attorney-in-Charge since 1994, I announced in January of 2003, that I would retire from the Legal Aid Society at the end of the year, or sooner, if a replacement was selected. Legal Aid hosted a wonderful retirement party on May 29th, at the New York City Bar Association, at which Alex Forger was the master of ceremony, Chief Judge Judith Kaye was the keynote speaker, and former ABA President Roberta Ramo came especially from New Mexico to deliver remarks.

At around the same time, President George W. Bush had appointed a new Board of Directors for the Legal Services Corporation. The Legal Services Corporation is the single largest funder of civil legal assistance for the Nation's poor. The Board's first task was to find a new President. Since the Legal Aid Society in 1996 had given up \$1.6 million of LSC funding in order to bring class actions, as well as to represent immigrants, which it was founded to do in 1876, we were not subject to LSC regulations, nor were we monitored by LSC. So it was not surprising that I was totally unaware of the search for a new LSC President. However, in the fall of 2003, an executive director of a LSC-funded legal services program, with whom I had worked for many years, sent me the job description and urged me to apply. After reading it, I thought, based on my background, I could do this job, and so I sent in my resume. I was immediately contacted and asked to

go to Atlanta, Georgia, to meet with the Chairman of the Board Frank B. Strickland, an attorney in private practice in Atlanta, and Lillian BeVier, Vice Chairman of the Board, and a distinguished professor of law at the University of Virginia Law School. I was called for a second interview shortly thereafter in New York City at the November meeting of the LSC Board of Directors, and appeared before the entire Board. In my last week at Legal Aid, I received a call from Frank Strickland informing me that I had been selected to be the next President of the Legal Services Corporation to start in Washington, D.C. on January 20, 2004. On Friday, December 19, 2003, the press announcement appeared in the *New York Law Journal* and elsewhere, indicating that I was the first Legal Aid attorney, as well as the first woman to be appointed full-time as LSC President. I had three weeks to find a place to live in Washington, D.C., and begin a new chapter in my career.

HK: What was the start of your tenure at the Legal Service Corporation like?

HB: On January 20, 2004, Frank Strickland introduced me at the gathering of all LSC staff, at its headquarters in downtown Washington, D.C., as the next President of the Legal Services Corporation. It was very exciting, it was very daunting, but I knew I could do the job. I enjoyed a wonderful relationship with the Chairman of the Board, which continues today. I received a very warm reception from the Executive Directors of the LSC funded programs, many of whom I knew from having attended national conferences on legal aid. And for those I had not known, the fact that I had actually headed a legal services program and came from the field was reassuring and meaningful to them.

HK: What were your primary responsibilities as LSC President?

HB: As President of LSC, I was the Chief Executive Officer. I was responsible for providing the leadership and commitment to fulfilling the mission and purpose of the Legal Services Corporation, which is to promote equal access to justice in our Nation and to provide high quality civil legal assistance to low-income persons. I was also responsible for overseeing a budget of \$335.3 million, of funding 137 programs in every county and state in the country, that had over 920 offices, approximately 10,000 staff, of which 4,000 were attorneys, and handled close to one million cases annually. LSC funded programs help people with annual incomes at or below 125% of the Federal poverty guidelines. In 2008 over 50 million Americans were eligible for LSC funded assistance. Clients were the working poor, veterans, homeowners and renters, families with children, people with disabilities, and the elderly. Legal assistance was necessary to address major issues that dealt with low-income individuals and families, including family law matters, victims of domestic violence, custody issues, and landlord tenant disputes and preventing foreclosures, in addition to dealing with issues involving employment, consumer issues, health law, and matters affecting veterans. I made annual funding decisions to legal services programs based on a competitive grants process and made annual funding decisions regarding the awarding of LSC's technology initiative grants and oversaw LSC staff program visits and compliance visits.

I was also responsible for managing the day-to-day operations of approximately 100 employees in Washington, D.C. and was the principal spokesperson representing LSC in its relations with Congress, its grantees, and the judiciary. I was greatly aided in my work by a very knowledgeable and dedicated management team.

HK: Now can you talk about your major initiatives at LSC?

HB: Well, when I arrived at LSC, there had not been an active President for some time, since my predecessor, John Erlenborn, a former congressman from Illinois, who had been appointed interim President, had serious health problems. In fact, he was not well enough to meet with me, and unfortunately, died soon afterwards. The prior LSC President, John McKay, had focused on the consolidation and mergers of programs. From my first days at LSC, I announced my primary emphasis and focus would be on quality. Our focus on quality was not meant to imply the representation by LSC programs was not of high quality, but rather the aim was to make the delivery of legal services even better. So we pursued a quality initiative, which emphasized strategies to enhance the quality of the legal services provided by LSC funded programs. These included revising LSC's performance criteria, which are used by LSC to evaluate funding applications and in program visits and was first drafted in 1993, instituting a pilot loan repayment assistance program that demonstrated it helped programs recruit and retain highly qualified lawyers, developing a leadership mentoring program to provide guidance to programs to help create a well-trained diverse group of future leaders, and identifying technology capacities needed in a legal aid office.

Also, since LSC was established in 1974, 2004 was its 30th anniversary, I decided to have a 30th anniversary celebration, to which all the executive directors of LSC funded programs throughout the country were invited to come to Washington, D.C for the first time to meet as a group. New York State Chief Judge Judith Kaye and ABA President Robert Gray were guest speakers with video greetings from Senator Hilary Clinton and Senator Pete Domenici. It gave me an opportunity to meet and thank them for all the work they do, many of whom I had worked with over the years and greatly admired, and

to strengthen our partnership in working on our shared priorities for enhancing the quality of legal services.

HK: What do you think were your major accomplishments at LSC?

HB: We produced a major report, “Documenting the Justice Gap in America: the current unmet civil legal needs of low-income Americans.” It was released in September of 2005. It was the first comprehensive national statistical study that provided compelling evidence of the current unmet civil legal needs of low-income Americans, which helped shape the dialogue with Congress. We coined the phrase, “the Justice Gap,” and everyone started referring to the need to close it, including members of Congress, civil legal services providers, and the media. LSC, by the way, issued an updated Justice Gap report in 2017 and unfortunately, some 12 years later, although we have made some progress, we still need to close the Justice Gap.

I met regularly with members of Congress and testified at eight congressional hearings before the House Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies, and before the Senate Judiciary Committee. When I left LSC its congressional appropriation for fiscal year 2010 was \$420 million dollars.

Hurricane Katrina occurred during my time as President. It was the largest hurricane in the history of the United States, as of that time. It hit the Gulf Coast on August 29, 2005. Within two weeks, I visited the devastated areas and our programs in three states: in Louisiana, Mississippi, and Alabama. It was important to see firsthand, the needs of the areas deeply affected and the impact on those needing legal assistance as well as the impact on our staff. LSC played a leadership role in the coordination of disaster relief to the affected area. We initiated and hosted weekly national conference calls on disaster

related issues. We created a disaster assistance website, coordinating with the ABA, NLADA, and Pro Bono Net, and we established relationships and coordination with FEMA and the American Red Cross. We set in motion the way for LSC to respond to natural disasters, which is essentially followed today in response to recurring hurricanes and wildfires.

I believed that part of my job was to highlight the importance of providing civil legal services to low-income individuals to audiences throughout the country. I traveled to more than 40 states, visiting programs, including the Indian reservations in South Dakota, and meeting with staff, state chief justices, and state bar leaders. I delivered more than 80 speeches over six years, at statewide, regional, and national conferences, and at law schools, on the importance of equal access to justice.

HK: And during your service as LSC President, was there anything that you hadn't experienced previously in your other positions?

HB: Yes. LSC since its inception and throughout its history has been subject to congressionally initiated oversight, and we were the recipient of reviews by the U.S. Government Accountability Office (GAO) as well as by LSC's Office of Inspector General. We took GAO's recommendations as helpful technical assistance to improve our operations and undertook activities to implement the recommendations.

HK: Are there other special memories from your time at LSC that you want to include?

HB: There are three experiences I would like to share with you. I was invited to deliver the Sherman Bellwood Memorial Lecture at the University of Idaho College of Law on October 21, 2004. It is a signature event for the Idaho legal community and the University of Idaho. Past Bellwood lecturers included Supreme Court Justices

Ginsburg,¹⁴ Scalia,¹⁵ and O'Connor.¹⁶ My remarks focused on access to justice for poor Americans and was entitled *Justice for All: Are We Fulfilling the Pledge*. The lecture was delivered to an audience of approximately 700 people in the University of Idaho campus and it was televised live, as well. It was published in the *Idaho College of Law Review*. The Dean of the law school devoted the entire day to public service, beginning with breakfast with the clinical faculty, meetings with alumni, students and tenured faculty. The lecture was followed by a reception and dinner in my honor. It was an exhilarating experience.

The end of May 2005 I toured Indian country in South Dakota, driving more than 450 miles and visiting the Rosebud Reservation and the Pine Ridge Reservation and witnessing the unique difficulties facing Native Americans living on reservations and the very difficult issues facing this client population. At lunch, we had a picnic in a park on the Rosebud Reservation where I was joined by Tribal Judges, elders of the reservation, members of the Mission Office, and representatives from the Bureau of Indian Affairs. I was presented with a beautiful blanket, which they wrapped around me and then was serenaded by a special Indian song with drum accompaniments in my honor. It was a very special occasion.

Finally, LSC is headed by a bipartisan board of directors whose 11 members are appointed by the President of the United States and confirmed by the Senate. Six members are of the party of the President and the other five members are of the other party. In addition, at least one of the members must be client eligible. Florentino Lico

¹⁴ Ruth Bader Ginsburg, Associate Justice of the Supreme Court of the United States, 1993 - ____.

¹⁵ Antonin Scalia, Associate Justice of the Supreme Court of the United States, 1986 - 2016.

¹⁶ Sandra Day O'Connor, Associate Justice of the Supreme Court of the United States, 1981 - 2006.

Subia was the eligible client board member appointed by President George W. Bush, who knew him in Texas. He lived in the poorest section of El Paso, Texas. He came to all board meetings with his wife Mickie. He unexpectedly passed away in March of 2006 in El Paso. I attended the funeral services for him representing LSC and the Board of Directors. Upon arriving in El Paso, I went to see his wife Mickie and she said that Lico would have wanted me to lead the motorcycle procession from the funeral home to the church for his funeral. I had never ridden a motorcycle, but I knew I had to do what Lico would have wanted me to do.

Lico was the head of the Texas Harley Davidson Motorcycle Club. I rode with the Vice Chairman of the Club on his motorcycle, leading the procession and holding on for dear life. The funeral procession stretched miles long and was deafeningly loud with the rumble of the motorcycle engines. I thought the ride from the funeral home to the church was only going to be a few minutes, but it turned out to be more than half an hour, through highways and towns. When we finally got to the church there were at least 1,200 motorcycles parked outside. I was overwhelmed by the thousands of people who came to pay their respects and attend his funeral mass and who were friends of Lico. In the church, there was standing room only. To witness the outpouring of so many people who knew and loved him and mourned his passing was a true indication of the measure of a very special person. I will never forget this experience, and it will remain in my mind as a living testament to an extraordinary individual. We in Washington had no idea of the extent to which Lico was revered by his fellow Texans.

HK: Okay Helaine, let's pick up at the point about when you were leaving LSC and returning to New York?

HB: After six years of commuting every weekend from Washington, D.C. to New York City to be with my family in New York, I decided it was time to return to New York and I announced I would step down as President of LSC on December 31, 2009. At that time, I was the longest serving LSC President.

In returning to New York after six years working on the national level, I began thinking about ways in which to expand access to justice on the state level, including the role of law schools.

HK: And that takes us to your course at NYU Law School. How did that course come about and what was your motivation to teach a class about civil legal services and access to justice?

HB: When I returned to New York in 2010, I met with Dean Ricky Revesz of New York University School of Law and told him I thought I could develop a course focused on equal access to justice based upon my career and that I thought law schools should educate their students about the importance of equal access to justice. He urged me to write a proposed syllabus and submit it to him, which he would share with the faculty committee responsible for appointing adjunct professors and approving new courses. I prepared a syllabus which was approved, and I was appointed an adjunct professor of law to teach a third-year seminar on Access to the Civil Justice System and Delivering Civil Legal Services to the Poor: Policies, Practices and Current Challenges. I believe it was the only course at NYU Law School that focused exclusively on equal access to the civil justice system.

I wanted to imbue in law students the significance of providing civil legal services and the role law schools can play in helping to close the Justice Gap. I welcomed the

opportunity to share with the students how rewarding and fulfilling a career in legal services can be. I also wanted to encourage them, no matter how they chose to practice law, to remember their obligation to provide pro bono legal services to low income individuals throughout their career. I also enjoyed introducing the students to “heroes” of the bar, who had led the way in supporting funding for civil legal services, who I invited to be guest lecturers, including Alex Forger, Roberta Ramo, former Chief Judge Jonathan Lippman,¹⁷ and Judge Fern Fisher.¹⁸ And I was pleased to help students obtain jobs in legal services organizations.

I began teaching in the fall of 2010 and taught for five years.

HK: Is there anything else about your experience at NYU Law that you would like to share?

HB: I was very honored that a Helaine Barnett summer fellowship at the Legal Services Corporation for a New York University Law School student interested in a career in the public sector was created by LSC’s Board of Directors.

HK: And after the NYU class, next came the Chief Judge’s Task Force to Expand Access to Civil Legal Services in New York. Can you talk about the origins of the Chief Justice’s Task Force?

HB: At the same time, when I returned to New York from Washington, D.C., after serving as LSC President, I also realized there was a great opportunity for initiatives to be undertaken at the State level to help close the Justice Gap. I met with then New York Chief Judge Jonathan Lippman and discussed with him, based on my experience as President of LSC, that there were things other states were doing that New York could

¹⁷ Jonathan Lippman, Chief Judge of the New York State Court of Appeals, 2009 - 2015; Chief Administrative Judge of the Courts of the State of New York, 1996 - 2007.

¹⁸ Fern A. Fisher, Justice of the Supreme Court of the State of New York, 1st Judicial District, 1993 - 2017; Deputy Chief Administrative Judge for New York City Courts, 2009 – 2017.

consider, such as establishing an Access to Justice Commission and holding hearings in the State's highest court on civil legal services, as Texas had done every four years. Chief Judge Lippman said he thought these were some very good ideas and on Law Day May 3, 2010, he announced the creation of the Chief Judge's Task Force to Expand Access to Civil Legal Services in New York and appointed me as Chair.

We formed an exciting partnership. Members of the Task Force consisted of representatives of the legal services provider community, senior partners of major law firms, law school deans, bar association leaders, business leaders, funders, labor leaders, and judges from the trial and appellate courts and the Court of Appeals, who have all worked exceedingly well together.

HK: Now what were the goals of the Task Force?

HB: We developed a multifaceted approach that included monetary and non-monetary recommendations to help close the justice gap in New York and committed to providing the Chief Judge an annual report with our recommendations, which we have done since 2010.

We set a goal of \$100 million of State funding for civil legal services to be included in the judiciary budget annually, and we reached that goal in 2016, which is more than any other state in the country, making New York the undisputed leader in the funding and providing of civil legal services. We recommended that the funding focus on the essentials of life: housing, family matters, health, education, and subsistence income, and that it be provided to New Yorkers living at or below 200% of the federal poverty line. We assisted in the conduct of hearings every year presided over by the Chief Judge to assess the extent and nature of unmet civil legal needs in all parts of the State, in order to

recommend to the legislature and the executive the level of public resources necessary to meet those needs. At the hearings, major business leaders, high ranking state and local government officials, bankers, district attorneys, labor leaders, medical providers, educators, religious leaders, judges, and clients all testified to the need for funding for civil legal services programs for low income individuals and families. In addition, we obtained pro bono assistance from nationally recognized economic consulting firms to document the cost benefit analysis of providing civil legal services to prevent homelessness, to prevent domestic violence, and to obtain federal benefits. The report documented that for every \$1 invested in legal services, there was a \$10 return to the State.

HK: And what about the Task Force accomplishments on the non-monetary recommendations?

HB: We focused on expanding pro bono efforts to increase access to justice by increasing the recommended annual pro bono service for New York lawyers from 20 to 50 hours, by permitting out of state lawyers to go into court to do pro bono work and by requiring mandatory reporting of pro bono activities and financial contributions to civil legal services programs as part of the biennial attorney registration. In addition, we supported the adoption of the 50-hour pro bono service requirement for law graduates seeking admission to the New York Bar.

We focused on the role of law schools and convened an annual law school conference with over 150 attendees that brings together faculty, deans and students from New York's 15 law schools, with providers and representatives from the courts and the bar, to focus

on how law schools can help close the justice gap, and we established a New York State Access to Justice Law School Council.

We focused on the role of technology and convened an annual statewide technology conference with over 150 attendees, which resulted in implementing a pro bono law firm initiative to provide technical assistance to legal services programs.

We looked at the role of nonlawyers which resulted in the creation of the Navigator Program to provide assistance to unrepresented parties in Civil Court and Housing Court.

We supported the creation of Legal Hand neighborhood storefront centers, where trained community volunteers, who are not lawyers, provide free information, assistance and referrals to help resolve issues and try to prevent matters from turning into legal actions.

In addition, we recommended that the New York State Legislature adopt a statement of principle that low-income New Yorkers facing legal matters impacting the essentials of life have effective assistance, which it did.

The Task Force was institutionalized and became the New York State Permanent Commission on Access to Justice in 2015 through promulgation of the Rules of the Chief Judge and I remain Chair.

HK: Can you talk about some of the major changes brought about as a result of the work of the Permanent Commission?

HB: As a result of the work of the Permanent Commission, New York went from 2.3 million individuals annually appearing unrepresented in civil court proceedings to 1.8 million, and went from meeting only 20 percent of the need for civil legal services to meeting 37 percent of the need. We hope that new recommendations will result in further improvements. I cannot emphasize enough the importance of the leadership and the

invaluable support of the Chief Judge of the State, former Chief Judge Jonathan Lippman and current Chief Judge Janet DiFiore,¹⁹ in making our accomplishments possible.

HK: What is the current major focus of the Permanent Commission?

HB: In 2016, New York State was one of seven states to receive a \$100,000 grant from the National Center for State Courts and the Public Welfare Foundation, to develop a strategic action plan to provide effective assistance to 100 percent of New Yorkers in need facing civil legal problems impacting the essentials of life. Effective assistance contemplates a spectrum of meaningful and appropriate services ranging from providing information to full representation.

In an effort to achieve our goal, we made recommendations for statewide initiatives, which included the development of plain language materials, expansion of help centers to provide assistance to unrepresented litigants in the courts, judicial and court staff education focusing on implicit bias and the impact of poverty, promoting limited scope representation, expanding the role of non-lawyers, and developing technology to coordinate and integrate access to existing services and resources. At the same time, we developed two local pilot programs in Suffolk and Monroe Counties to develop a local access to justice plan to close the Justice Gap in a specific local geographic area. As a result of our Annual Statewide Stakeholders Meeting, which we recommended take place to share knowledge, strategies, and best practices, local access to justice initiatives are now being developed in at least six additional counties in different parts of the State.

HK: You also have a new initiative called Legal Hand. Can you talk about the inspiration for Legal Hand and how it's going?

¹⁹ Janet M. DiFiore, Chief Judge of the New York State Court of Appeals, 2016 - ___.

HB: I am really very proud of Legal Hand. I was interested in lessons learned from the medical profession, where there are nurses, nurse practitioners, physician assistants and midwives, who are not doctors but who provide healthcare assistance. Of course, if surgery is necessary, one needs a doctor. I was also looking for new initiatives to further the contribution that nonlawyers could make to expand access to justice, and I thought that trained nonlawyer community volunteers could be useful in that way. So, I created Legal Hand, which are neighborhood based storefront centers, staffed with trained community nonlawyer volunteers who provide free information, assistance and referrals to help low income individuals with issues that affect their lives, in areas such as housing, family, immigration, divorce, domestic violence and benefits, and try to prevent problems from turning into legal actions. I thought that trained community nonlawyer volunteers providing free information, assistance and when necessary referrals, to people where they live, in neighborhood storefront centers that are visible and accessible and require no appointments, offers a tremendous benefit. Legal Hand volunteers receive training from legal services providers.

The first three Legal Hand storefront centers were launched in Crown Heights and in Brownsville in Brooklyn and in South Jamaica in Queens, and were supported by a one million dollar grant from an anonymous donor. Legal Hand centers, which are visible from the street and welcoming, are open during regular business hours, and in addition, have weekend and evening hours. There is also an enormous prevention benefit to this initiative. Legal Hand neighborhood storefront centers provide a location where people can stop in to ask questions and get information, which could make the difference in

resolving problems before they erupt into much more serious issues that ultimately may result in full scale court proceedings.

An overarching principle behind Legal Hand is the recognition that problems with legal components begin percolating long before any case is filed and individuals are required to go to court. By providing support and legal information early in the process, Legal Hand can help resolve disputes before they escalate and require court intervention. The program unites the concept of using nonlawyers to deliver assistance and legal information to those in need, and making such assistance available and accessible in walk-in neighborhood storefront offices.

Providing a reliable, consistent, and accurate source of information and assistance on legal issues that affect the essentials of life will lead to more just outcomes, more crises averted, and less litigation, as well as monetary savings for our state and local government. Most importantly, these centers are contributing to the goal of equal access to justice. In its first two years initial results, based on the number of people who have sought help and gotten relief, which is more than 16,000, in just three Legal Hand storefront centers, indicate there is a great need for this program. We have received funding to expand in New York City and open three more Legal Hand storefront centers. Two new centers have opened in the Bronx, one in the Highbridge section, and one in the East Tremont section. We are still looking for appropriate space in Harlem or upper Manhattan. I am exceedingly proud of the role Legal Hand plays in helping to close the justice gap, and I believe it has great potential.

HK: Throughout your career, you've received many awards from the profession. Which were the ones that are most meaningful to you?

HB: While clearly each has special meaning to me, I guess I would highlight the ABA Margaret Brent Women Lawyers of Achievement Award, where my two very good friends Chief Judge Judith Kaye and Roberta Ramo came to that event especially to sit at my table with my husband and sons.

I received the Honorary degree of Doctor of Laws from Suffolk University. What is especially meaningful to me was the inscription, which said “To many members of the legal profession, yours is the career that they wish they had the courage and altruism to pursue. You embody the ideal of justice for all.”

I also was very honored, especially since it was my law school, to be asked to deliver the NYU Law School commencement address in May 2005 in Madison Square Garden to an audience of approximately 6,000 graduating students, faculty, family members and friends.

I was invited to deliver the prestigious annual Sherman Bellwood Lecture at the University of Idaho, previously given by Supreme Court Justices Ruth Bader Ginsburg, Antonin Scalia, and Sandra Day O'Connor.

I received the Lifetime Achievement Award from the *New York Law Journal*, and was the only lawyer who received this award whose entire career was devoted to public interest law.

I received the New York State Bar Association Gold Medal for Distinguished Service in the Law, the association's highest award.

I received the first Judith Kaye Award from the Historical Society of the Courts of the New York, which as you can tell from everything I have said, was particularly meaningful to me.

HK: Are there any publications you want to note?

HB: In addition to the two articles on Justice Potter Stewart, the first on Mr. Justice Potter in 40 NYU Law Review and the second *A Lawyer's Lawyer, a Judge's Judge Potter Stewart and the Fourth Amendment* in 51 Cincinnati Law Review, two significant lectures I gave were published. My Bellwood lecture entitled *Justice For All: Are We Fulfilling the Pledge* was published in the Idaho Law Review in 2005.²⁰ In addition, I delivered the William Reece Smith, Jr. Distinguished Lecture entitled *Justice For All* which was published in the Stetson Law Review in 2011.²¹

HK: Are there any other significant activities you want to mention, such as board memberships?

HB: I currently serve on the Board of Directors of Homes for the Homeless and have since its inception, on the Board of the National Equal Justice Library, and am a Trustee of the Historical Society of the New York Courts, which Chief Judge Judith Kaye founded, served as Chair of its Board, and appointed me a Trustee when I returned to New York in 2010 from Washington, D.C.

HK: Looking back throughout the course of your career, can you talk about what have been the most important things to you.

HB: The most important thing to me is my family. I have been blessed to have a wonderful family. My husband, early on in our marriage, while I was still a student at Barnard, wholeheartedly supported my desire to go to law school and to pursue a legal career. He has always been a most forward thinking husband and remarkably supportive of my desire to work at Legal Aid and indeed my working in Washington, D.C., even though it

²⁰ 41 Idaho L. Rev. 403 (2004-2005).

²¹ 40 Stetson L. Rev. 861 (2011).

meant being away from home during the week. He has made it possible for me to have a career and to live a life I never would have dreamed possible. Last June, we celebrated our 59th wedding anniversary. We have two wonderful sons. It makes me smile to recall when they were little children and friends would ask, “What would you like to be when you grow up, would you like to be a lawyer?” And each answered, “That’s girl’s stuff!” Each is happily married, have wonderful wives, and have provided us with seven fabulous grandchildren.

In addition, I have had the opportunity to know and work with amazing and accomplished individuals including judges, lawyers in private practice, and legal services lawyers whose special friendships have enriched my life.

I have been extraordinarily fortunate to have been able to devote my entire professional career to the provision of legal services to the poor and in the pursuit of equal access to justice and to be given exceptional opportunities to do so throughout my career at the Legal Aid Society, as President of the Legal Services Corporation, as an Adjunct Professor of Law at New York University School of Law, as Chair of the New York State Permanent Commission on Access to Justice, and as the creator of Legal Hand. It has been the most rewarding career imaginable and has provided me with a tremendous sense of fulfillment and purpose. As United States Supreme Court Justice Lewis Powell²² so eloquently stated, “Equal justice under law is not merely a caption on the façade of the Supreme Court Building. It is perhaps the most inspiring ideal of our society. It is fundamental that justice should be the same in substance and availability without regard to economic status.”

²² Lewis F. Powell, Jr., Associate Justice of the Supreme Court of the United States, 1972 - 1987.

I hope that one day in the not too distant future our nation's promise of equal justice will not just be for some but truly for all.

HK: That is a great way to close out your oral history Helaine. Thank you very much. I am very happy to have been a part of the process of creating your oral history.

HB: Thank you so much Hyon for taking the time to come from Washington, D.C. to conduct the interview and for your friendship.

[End of Audio File]