HISTORICAL SOCIETY OF THE NEW YORK COURTS

ORAL HISTORY PROGRAM

Helaine M. Barnett, Esq.

*Found on exterior entrance to New York Court of Appeals*
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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It is recommended that this oral history be cited as “An Oral History of Helaine M. Barnett, conducted on September 14, 2017 by Hyon Kim, at the Association of the Bar of the City of New York, by The Historical Society of the New York Courts.”
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. Why don’t we start with your early life, if you want to tell us about your family background?

HB: Thank you, Hyon. Let me begin with my parents. My father, whose name was Harry Meresman, was born in Brooklyn. He was one of seven children: six boys and one girl. His parents Joseph and Ida came to this country 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. My mother, whose name was Helen Janet Chafets, was one of four children: three girls and one boy. She was a devoted daughter and sister. My grandfather Samuel Chafets emigrated to the United States in 1906, from Orsha, Russia when he was 19, and my grandmother Lena Sherzer came to this country as a young girl from Vienna. They married in 1913. My grandfather went to City College and
became a civil engineer in the New York City Department of Transportation. My grandmother Lena raised her children, but died at an early age.

My parents met in a hotel in the Catskill Mountains in New York. They were married in November 1938. Both my parents graduated from City College. My father became a CPA; my mother, who majored in accounting, 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, loving parents. My beloved sister sadly lost her battle with cancer far too young.

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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. Hate was not a word we could use in our home. My father said it was too strong and unnecessary an emotion. He had developed his own accounting firm, which eventually merged, at the time of his death, with Deloitte Touche, and he was on the Board of Revlon, Inc. from its beginning. He was a man of unquestioned integrity, 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: And where did you live growing 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: And where did you go to school?

HB: 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. 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 somewhat surprising that in my yearbook, I was voted most likely to succeed.

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

HB: Well my mother wanted me to have a co-ed university experience, because 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. When we went to the interview at the University of Pennsylvania, we didn’t see another 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. I was a government major and my favorite course was taught by Professor Clinton Rossiter, a noted historian and political scientist. I transferred to Barnard after my sophomore year because I became engaged to Victor Barnett, 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. At Barnard, 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 college campus activities. I continued to be a government major and my professor and advisor Phoebe Morrison was Chairman of the Department. My government courses were still my favorite.

My senior thesis 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 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. 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.

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HK: Now were there other courses that you wanted to mention from college, such as a minor
or other college experiences?

HB: Yes, I minored in art history, which I loved. 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. And so there were 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, but I was concerned, as I was
newly married, to attend law school full-time. At Barnard, my advisor Professor 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. It 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.

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HK: And what was it like in law school, starting it and what kind of reaction did you get, especially at that time, being one of very few women in law school?

HB: Well you’re quite right. 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, since 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 and my classmates, I must admit, were surprised to see that I returned in the fall. But 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.¹ 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.

HK: Were there certain classes 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 Robert B. 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. ² Professor McKay suggested instead, I write on Justice Potter Stewart,³ about whom very little, if anything, had been written. 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.

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 the Burger Court, signed by each of the Justices of the Court.

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.”⁴ 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 1985.

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³ Potter Stewart, Associate Justice of the Supreme Court of the United States, 1958 - 1981.

HK: That’s amazing. Did you have a favorite professor or mentor when you were in law school?

HB: Yes. Robert B. McKay was both my favorite professor and my mentor. The path of my legal career was set while I was in law school, where it was my very good fortune to have, as my teacher and advisor, Professor Robert B. 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 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.

[00:14:55] 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 Cardozo Law School, 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 after law school, when it came time to be admitted to the bar, what do you remember about that process?

HB: Oh, I remember it 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, 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, and 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.

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HK: Can you talk a little bit about your work at the Legal Aid Society?

HB: I began at the Legal Aid Society in 1966, in the Criminal Appeals Bureau. Our office was at 100 Centre Street, which was the Criminal Court’s 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 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*\(^5\) 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*\(^6\) violation, since my client had been deprived of his right of confrontation under the Sixth Amendment. The Court of Appeals in a lengthy opinion reversed the decision below and ordered a new trial.

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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 trial offices.

I was appointed Deputy Attorney-In-Charge of the Civil Division in 1974 and eventually became the Attorney-In-Charge in 1994. 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. The Civil Division had 240 employees, of which 125 were lawyers. We had eight neighborhood offices in the five boroughs, plus the Brooklyn Office for the Aging, which was a national model in the representation of seniors. We also had specialized citywide 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, and we handled approximately 25,000 individual cases annually involving housing, benefits,

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family law, domestic violence, health law, immigration, employment, and consumer law, and 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, setting of office priorities, budget formulations, and maintaining relationships with the judiciary, the Society’s Board of Directors, and other divisions of the Society.

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HK: So Helaine, 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.

HK: Sure.

HB: In the area of public housing, in *Davis v New York City Housing Authority*, we stopped widespread racial discrimination by the Housing Authority, in the 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, as a result of our *Dixon* 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.

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In the area of public benefits, in our *Jiggetts v Grinker*\(^9\) case, we successfully challenged the adequacy of the shelter allowance for families with children who received welfare in New York City. Under an interim relief system over 16,000 families with children received supplemental shelter allowances.

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.

But just as important as the landmark cases, are the millions of individual cases that Legal Aid attorneys handle day after day. Our work in providing legal assistance is 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 improper denial of disability benefits for a returning veteran. Every day in our Legal Aid offices, we make 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 thereby obtain stability, security, and self-sufficiency.

\(^10\) 70 NY2d 109 (1987).
HK: What do you think some of your major accomplishments were while at the Legal Aid Society?

HB: I’ll refer to three in particular. 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. I was asked by a friend who was concerned with the number of homeless families in New York City to describe how they were being temporarily housed. I thought the best way to do so would be to visit the actual locations. 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 entire families slept in a single room and where children had to walk past drug users in the corridor to get to a bathroom. We then 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 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 was required to meet standards of decency, sanitation, and safety, pursuant to article XVII of the New York Constitution.

As a second example, 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 without the appointment of a receiver, of the Beth Rifka Nursing Home on Staten Island, in which they had lived for many years. 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 of our State. The Court of Appeals ordered a hearing be held and evidence presented before Justice Joseph Gagliardi.11 I prepared for and participated 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.12 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. 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 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.

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A third example involved initiating and mobilizing the Legal Aid Society’s 9/11 Disaster Assistance Response Plan. It is 16 years this week that 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 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 were fleeing the World Trade Center area, our Legal Aid lawyers staffed the city’s disaster centers in Lower Manhattan seven days a week, for more than 10 months. They set up a disaster hotline with a single point of entry to provide expedited referrals to neighborhood offices in all five boroughs. They also stationed staff at social service agencies, healthcare centers, and union offices. They prepared disaster assistance guides and worked with the State government to create a disaster Medicaid program. They 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. Legal Aid lawyers 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.

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

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 had to give 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 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 law school 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.

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I would like to make one other comment about my time at Legal Aid, and that is, since my interview with the Character and Fitness Committee, in connection with my admission to the bar, I experienced no discrimination based on gender throughout my career. It is clear that women had held leadership positions very early on at Legal Aid. Mary B. Tarcher was head of the Civil Division long before I ever was, and Helen L. Buttenwieser was Chairman of the Board of Legal Aid when I was head of the Civil Division.

HK: Now I know you’ve done a lot of work also, with the American Bar Association, so can you talk about how you got involved with the ABA and some of the work that you have been able to accomplish through the ABA?
HB: Well 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. 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. I was reappointed to a three-year term and after that, I was appointed to the ABA Standing Committee on Ethics and Professional Responsibility, which I eventually chaired, and 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 in 1991. 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 continued funding for civil legal services.

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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 Forger was the New York State Delegate to the ABA, the state delegates normally appointed themselves to go on the
ABA Board of Governors when an opening occurred for their state’s seat. Instead, in 1994, Alex appointed me to the ABA Board of Governors to represent New York—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 to her Executive Committee and appointed me chair of her Program Committee and so began a very special lifelong friendship that continues today.

Legal Services Corporation funding was again in jeopardy in the 1990s, and Congress was calling for the elimination of LSC funding and once again, I had an opportunity to be a voice for saving LSC.

I also was subsequently appointed to the ABA Commission on Women and was appointed the ABA Representative to the United Nations.

At Dean Robert McKay’s suggestion, I became involved with the New York City Bar Association, where we are meeting today. I was elected a member of the Executive Committee, I was elected Treasurer, I served on numerous committees, and after my term on the Board of Governors ended, I was appointed to represent the New York City Bar Association in the ABA House of Delegates which I continue to do today. I was also appointed a member of the New York State Commission on Judicial Conduct, by Governor Cuomo, and served two terms.

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HK: So that brings us up to the time of the Legal Services Corporation. How was it that you happened to apply to be president of LSC?
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 Association of the Bar of the City of New York, at which Alex Forger was the master of ceremony, at which Chief Judge Judith Kaye was the keynote speaker, and at which former ABA President Roberta Ramo came especially from New Mexico to give remarks.

At around the same time, a new LSC board was appointed by President George W. Bush. Their first task was to find a new president for the Legal Services Corporations. Since in 1996 the Legal Aid Society had given up $1.6 million of LSC funding in order to bring class actions, as well as to represent immigrants, which we were 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 37 years at Legal Aid and nearly three decades’ involvement in the management of its Civil Division, I could do this job, and so I applied. I was immediately contacted by Ellen Brown from Heidrick & Struggles, the search firm hired by the Board of Directors of LSC to help find a new president, and I was 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 enjoyed
that interview and the time sped by so quickly that I did not have a chance to cover
everything I wanted to say, but they told me I would have another opportunity to do so.

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I was called to a second interview shortly thereafter in New York City at the November
meeting of the LSC Board of Directors, and my interview was before the entire LSC
Board of Directors. After the interview, I was clearly interested in the job and thought I
could definitely do the work. A considerable time passed, which I later understood
involved detailed investigations and reference checking, and 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 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. On January 20, 2004,
Frank Strickland introduced me at the gathering of all LSC staff, at its headquarters at
3333 K Street 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.

HK: And what were your primary responsibilities as president of LSC?

HB: As president of LSC, I was the Corporation’s chief executive officer. I was responsible
for providing the leadership and commitment to fulfilling the mission and purpose of the
Legal Services Corporation, by ensuring that LSC funded programs provided high quality
legal services in conformity with the mandates of Congress. I was also responsible for
overseeing a budget of $335.3 million, of funding 137 programs, in every county and

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state in the country, that had over 920 offices, approximately 10,000 staff, of which 4,000 were attorneys, and handling close to one million cases annually. 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. 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.

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HK: What do you consider your major accomplishments from your time 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 an interim president, had serious health problems. The prior LSC president, John McKay, had focused on the consolidation and mergers of programs. I announced my emphasis and focus would be on quality. From my first days at LSC, it was clear that quality would be a primary emphasis during my presidency. Our focus on quality was not 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, emphasizing strategies to enhance the quality of legal services programs, which included revising LSC’s performance criteria, instituting a pilot loan repayment assistance program that demonstrated it helped programs recruit and retain 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. We also produced a major report, Documenting the Justice Gap in America, 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 shaped 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, just issued an updated report and unfortunately, some 12 years later, although we have made some progress, we are still looking 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 the Senate Judiciary Committee.

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 of Louisiana and Mississippi 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 our staff, and on those needing legal assistance. 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, all of which I think are still being utilized today, in response to Hurricanes such as Harvey and Irma.
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 were invited. The anniversary provided a number of special opportunities, including the unprecedented gathering of all the executive directors of LSC funded programs throughout the country in Washington, D.C. It gave me an opportunity to meet and thank them all 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. I traveled to more than 40 states, visiting programs, including the Indian reservations of Rosebud and Pine Ridge 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 need for civil legal services.

I would just note that since its inception and throughout its history, LSC 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. From the beginning, we took GAO’s recommendations as helpful technical assistance to improve our own operations and undertook activities to implement the recommendations. By doing so, LSC became a more modern agency, improved its internal working relationships, board governance and grants oversight. 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.

HK: And are there any other special memories from your time at LSC that you want to share?

HB: Yes, there is one in particular. As you know, the LSC Board is appointed by the President of the United States with confirmation by the Senate. Six members have to be of the party of the President and the other members are of the other party. In addition, at least one of the members must be client eligible. Florentino Lico 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 and represented our clients. He came to all board meetings with his wife Mickie. He unexpectedly passed away in March of 2006 in El Paso, Texas, where he lived. I attended the funeral services for him and represented LSC and the Board of Directors. Upon arriving in El Paso, I went to see his wife Mickie beforehand and she said that Lico would have wanted me to lead the motorcycle precession 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.

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Lico was the head of the Texas Harley Davidson Motorcycle Club, and I rode with the Vice Chairman of the Club, 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 was only going to be a few moments from the funeral home to the church, 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: And when you finally returned to New York, you started to teach a class at NYU Law School. How did that come about?

HB: When I returned to New York in 2010, I met with Dean Ricky Revesz of the New York University School of Law. We went out for a coffee, and I said that I thought I could develop a course based on my career. 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. The course I developed was based on my 37 years at the Legal Aid Society of New York and my six years as President of the Legal Services Corporation. I believe it was the only course at NYU Law School that focused exclusively on equal access to the civil justice system.

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I began teaching in the fall of 2010 and taught for five years. I invited guest lecturers, including Alex Forger, Roberta Ramo, and Judge Fern Fisher.13 I helped the students get

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public interest law jobs. I particularly enjoyed the opportunity to share with the students how rewarding and fulfilling a career in public interest law can be, and of course 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. A Helaine Barnett Summer Fellowship at LSC for NYU Law School students interested in a career in the public sector was established and is still ongoing.

HK: Next came the Chief Judge’s Task Force on Expanding Access to Civil Legal Services in New York, so can you explain how that came about?

HB: When I returned to New York from Washington, D.C., after serving as President, I 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 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. A few days before Law Day, he called to say he was going to announce the creation of the Task Force to Expand Access to Civil Legal Services in New York and appoint me as Chair, and that is exactly what he did on May 3, 2010. We formed an exciting partnership. Members of the Task Force consisted of representatives of the 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. We were committed to providing the Chief Judge a report each year with our
monetary and non-monetary recommendations for helping to close the justice gap in New York, and those are the reports that I have displayed in front of us.

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HK: In addition to the annual reports, what were the major accomplishments of the Task Force?

HB: We set a goal of $100 million of State funding for civil legal services to be included in the judiciary budget annually, and we met that goal. We recommended that the funding focus on the essentials of life: housing, family matters, health, education, 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 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, not just every four years but every year, and in fact, this coming Monday, September 18th, we will be holding the hearing before Chief Judge Janet DiFiore\(^{14}\) in the Court of Appeals in Albany. At the hearings, business leaders, 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. 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 obtain federal benefits. The report documented that for every $1 invested in legal services, there was a $10 return to the State. We focused on increasing pro bono representation by

\(^{14}\) Janet M. DiFiore, Chief Judge of the New York State Court of Appeals, 2016 - __.
increasing the number of pro bono hours required for admitted attorneys from 20 to 50, by permitting out of state lawyers to go into court to do pro bono work and by requiring mandatory reporting of pro bono hours and financial contributions to civil legal services programs as part of the biennial attorney registration.

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We focused on the role of law schools and convened an annual law school conference 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 an Access to Justice Law School Council. We focused on the role of technology and convened an annual statewide technology conference, and implemented 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, the New York State Legislature adopted a statement of principle that low income New Yorkers facing legal matters impacting the essentials of life have effective assistance.

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. As a result of the Permanent Commission’s work, New York went from 2.3 million individuals annually appearing unrepresented in civil court proceedings to 1.8 million.
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, in making our accomplishments possible.

This year, New York State was one of seven states to receive a 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 those facing civil legal problems impacting the essentials of life.

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We had our September meeting yesterday, and we have the hearing in the Court of Appeals on Monday. We are working on our strategic action plan, and we have a stakeholders’ meeting at the end of September. And then of course, we will be submitting our 2017 Report to the Chief Judge by November 30th.

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

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, midwives, who are not doctors but provide healthcare assistance. Of course, if surgery is needed, you want 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, benefits, and try to prevent problems from turning into legal actions. I thought that trained 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 service providers.

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The first three Legal Hand storefront centers were launched in Crown Heights, Brownsville and South Jamaica, and were supported by a $1 million grant from an anonymous donor. The 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. Initial results, resulting from the number of people who have sought help and gotten relief, which is more than 8,500, indicates 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 in the Bronx and one in Harlem. I am exceedingly proud of the role Legal Hand plays in helping to close the justice gap, and I believe it has great potential.

[01:10:11]

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

HB: Well, each has special meaning. I guess I would start with the ABA Margaret Brent Women Lawyers of Achievement Award, where Chief Judge Judith Kaye and Roberta Ramo came to that event especially to sit at my table with my husband and sons. I received an honorary degree of law 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 delivered the NYU Law School commencement address 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 Ginsburg, Scalia, and O’Connor.

I received the Lifetime Achievement Award from the New York Law Journal, and was the only lawyer 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 reward. I received the first Judith Kaye Award from the Historical Society of the New York Courts, which as you can tell from everything I’ve said was particularly meaningful to me.

HK: So, 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 wholeheartedly supported my desire to work at Legal Aid and indeed my working in Washington, D.C., even though it 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

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15 Ruth Bader Ginsburg, Associate Justice of the Supreme Court of the United States, 1993 - __.
16 Antonin Scalia, Associate Justice of the Supreme Court of the United States, 1986 - 2016.
17 Sandra Day O’Connor, Associate Justice of the Supreme Court of the United States, 1981 - 2006.
our 58th 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. It has been the most rewarding career imaginable and has provided me with a tremendous sense of fulfillment and purpose. I always like to quote United States Supreme Court Justice Lewis Powell, who 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.”

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HK: And then as we look forward to the future, what are your hopes for the legal services field?

HB: Well, we have not yet been successful in closing the justice gap, but we are working hard at narrowing it. I hope 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.

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18 Lewis F. Powell, Jr., Associate Justice of the Supreme Court of the United States, 1972 - 1987.
HK: Helaine, thank you so much for sharing your career and your life history, and thank you very much for including me in the effort.

HB: Thank you Hyon, very much, for coming from Washington, D.C. to conduct my interview. I so enjoyed working together when we were at the Legal Services Corporation and I am so glad that we have maintained our friendship throughout these years.

HK: Thank you.

[End of Audio File]