

IMPROVING LEGAL REPRESENTATION FOR OLDER AMERICANS

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BEFORE THE
SPECIAL COMMITTEE ON AGING
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Part 2. Boston, Mass., August 30, 1976.

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IMPROVING LEGAL REPRESENTATION FOR OLDER AMERICANS

TUESDAY, SEPTEMBER 28, 1976

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, D.C.

The committee met, pursuant to notice, at 9:45 a.m., in room 4232, Dirksen Senate Office Building, Hon. Harrison A. Williams, Jr., presiding.

Present: Senators Williams, Hartke, and Clark.

Also present: William E. Oriol, staff director; David A. Affeldt, chief counsel; Deborah K. Kilmer, professional staff member; John Guy Miller, minority staff director; Margaret Fayé, minority professional¹ staff member; Patricia G. Oriol, chief clerk; Eugene R. Cummings, printing assistant; and Donna M. Gluck, resource assistant.

OPENING STATEMENT BY SENATOR HARRISON A. WILLIAMS, JR., PRESIDING

Senator WILLIAMS. We will come to order.

Today, the Special Committee on Aging will continue its hearings on "Improving Legal Representation for Older Americans."

Our agenda is long and our list of witnesses is impressive this morning. So I shall be brief and make three major points in my opening remarks.

First, the committee has a longstanding interest in making legal representation more readily available for the elderly.

As chairman of this committee in 1970, I initiated hearings 6 years ago in St. Louis at the American Bar Association conference on the legal problems of the elderly.

This hearing made it abundantly clear that older Americans had major legal problems which were receiving far too little attention. Since then, the Congress has enacted a number of measures to focus greater attention on the legal needs of the aged—from the private bar, law schools, the legal services program, and at the community level.

One example is the Older Americans Amendments of 1975, which include potentially far-reaching provisions to improve legal representation for the elderly. In addition, the Congress approved increased funding for model projects to develop innovative solutions for the aged's legal problems. Three of our witnesses today operate programs under the model projects section of the Older Americans Act.

Second, older Americans should be served by Government and not thwarted by it. Effective service is vital for the elderly because they rely on many Federal programs: social security, medicare, medicaid, supplemental security income, railroad retirement, veterans' pensions, food stamps, and others. But if my mail is an accurate indicator—and I think it is—many older Americans are baffled and confused when they deal with the Government. Of course, they are not alone in this.

MANY ELDERLY ARE CONFUSED

An elderly widow may wonder why her SSI check is suddenly reduced when social security benefits are increased.

A 75-year-old man who is homebound may be understandably upset because of the redtape and bureaucratic lethargy at the local department of social services. Yet, he may be forced unnecessarily into an institution, at a much higher public cost, if he is denied homemaker services.

A retired worker may also throw up his hands in utter disbelief when he tries to wade through the retirement income credit schedule of form 1040.

Every Senator, I am sure, has heard identical or similar accounts. We try to help those who write and tell us about their problems. Caseworkers in our offices are kept busy working on behalf of these individuals to assure that they are treated equitably, fairly and courteously, by administrators of Federal programs.

We also know that there are many more out there who do not write, who do not complain, and who do not know just what to do. Oftentimes they accept wrong-headed decisions or injustice simply because they do not know what recourse is available.

Third, a society based on law should take steps to assure that its citizens—whether they be rich, poor, young or old—have equal access to the law. However, perhaps two out of every three Americans, according to some estimates, do not have access to legal services.

Reasonable persons may differ about the actual number of Americans who cannot obtain legal help when a problem arises, whatever the reasons may be. But, there is no doubt that a substantial number must look out for their own interests when a legal dispute occurs. And this is especially true for older Americans, whether their problems require the attention of an attorney or a person whose profession is described as paralegal.

Fortunately, some steps are being taken now to make legal representation more readily available for the elderly. Our leadoff panel, from Camden, N.J., will provide us with some examples of positive actions at the grassroots level on behalf of aged clients.

We at the Committee on Aging have always encouraged firsthand testimony because we want "to hear it like it really is" from the real experts—the people affected by Government programs. In the final analysis it is the people who will ultimately decide whether Government efforts are worthy, effective, and helpful. With this in mind, I welcome our panel from Camden.

Before we turn to our first panel, Senator Clark of Iowa is here. Senator Clark, do you have an opening greeting?

Senator CLARK. No opening statement. Thank you.

Senator WILLIAMS. We will proceed with Ms. Lessie Hill, attorney, Senior Citizens Advocate Center, Camden Regional Legal Services, Camden, N.J.; Rev. R. Alvin Wilson, chairman, Advocate Center Executive Committee, Camden, N.J.; and Mrs. Katherine Ashton, Gloucester, N.J. We welcome you and are grateful to you.

STATEMENT OF REV. R. ALVIN WILSON, CHAIRMAN, ADVOCATE CENTER EXECUTIVE COMMITTEE, CAMDEN, N.J.

Reverend WILSON. Senator Williams, we are very happy to be here and we appreciate your concern. Also, often we feel like we are voices crying in the wilderness and now that we have this kind of recognition it is very helpful.

It has been my privilege to be chairperson of the Citizens Advisory Committee. When Father Don Griesman of the Camden Regional Legal Services asked me to become involved in the forming of a citizens advisory committee for an advocate center for legal services for senior citizens, I was happy to respond. Because I had worked closely with the Camden Region Legal Services for a number of years, I had the highest respect for their work and felt honored to be asked to participate.

The function of the advocate center committee is to help choose the lawyers for the center and to help set policy. Therefore, I am happy and proud to present one of our lawyers, Ms. Lessie Hill, who directs the center. She represents the caliber of our staff.

We started out on a shoestring and with 70,000 potential clients that we have in five counties. It seemed sort of ridiculous to have just two lawyers take care of all these cases. However, our program is expanding, and with your blessing we trust that the Government will give title III more money so we can expand our program to get back into the boondocks, rural slums, and places where we need special kinds of transportation to go out and meet the low-income people who have real problems.

So now it is my privilege to introduce to you Ms. Lessie Hill, who will give you the specifics of what we are doing in Camden.

Senator WILLIAMS. Thank you very much, Reverend Wilson. We will come back to you after we hear from Ms. Hill.

STATEMENT OF LESSIE HILL, ATTORNEY, SENIOR CITIZENS ADVOCATE CENTER, CAMDEN REGIONAL LEGAL SERVICES, CAMDEN, N.J.; ACCOMPANIED BY KATHERINE ASHTON, GLOUCESTER, N.J.

Ms. HILL. The Senior Citizens Advocate Center was established in March of 1974. The initial funding for the center was divided by a grant from the New Jersey Division on Aging. The initial grant was \$27,375 and Camden Legal Services provided a contribution of \$9,125. The moneys from the division on aging were title III moneys. That is a brief introduction of the center.

Now I would like to ask Mrs. Katherine Ashton some questions. Mrs. Ashton is a former client of mine and of the center.

Mrs. Ashton, how old are you?

Mrs. ASHTON. I am 69 years old.

Ms. HILL. What is the source of your income and how much do you receive?

Mrs. ASHTON. I get social security, \$149.70, and then I get SSI, medicare, and medicaid.

Ms. HILL. Have you any problems with receiving your SSI benefits?

Mrs. ASHTON. No; I have not.

Ms. HILL. What is your present housing situation?

Mrs. ASHTON. Well, my home is too big and I cannot stay in it at the present time because I cannot afford to heat it. I cannot afford the gas and electric. I stay with an elderly lady across the street and I get my housing from her.

Ms. HILL. How did you learn about the Senior Citizens Advocate Center?

LEGAL AID OBTAINED

Mrs. ASHTON. My husband was suing me for a divorce and I didn't know which way to turn. I had no money to get legal aid. My son found out through someone in a New Jersey bank that I could get legal aid from the Camden Regional Legal Services at Front and Point Streets, so he took me there and I got Ms. Hill to take my case and see, I got my divorce.

Ms. HILL. How was the center helpful to you, if it was?

Mrs. ASHTON. The center was very helpful to me, it saved me a lot of money. I didn't have the money in the first place and Ms. Hill got the divorce without any trouble and it didn't cost me a cent.

Ms. HILL. Would you use the services of the center again?

Mrs. ASHTON. I sure would; in any way, shape, or form.

Ms. HILL. Why would you agree to come here today?

Mrs. ASHTON. I agreed to come here because I figured the older people need more help and they need more money to get along on because the cost of living, health care, and other things are getting so high it is hard for people to live off of social security in the ways that we require.

Ms. HILL. Do you think that projects such as the Camden Senior Citizens Advocate Center are necessary for low-income elderly persons?

Mrs. ASHTON. Yes; it is, very much so.

Ms. HILL. Why do you think it is necessary?

Mrs. ASHTON. Because the way things are, people can't afford to pay the high prices for food, housing, electricity, oil, and other necessities.

Ms. HILL. So you think that there are ways in which legal services can help older people?

Mrs. ASHTON. Positively.

Ms. HILL. I thank you.

Senator WILLIAMS. Thank you very much.

Ms. HILL. I just would like to talk a little further about the center and perhaps later somebody might have some questions of Mrs. Ashton.

The mandate of the center was to provide free legal services to low-income persons—low income being described as income of \$3,000 or less and elderly persons being defined as anyone 60 years of age or older. A center to especially deal with the legal problems of the elderly was thought of because the number of elderly persons being represented by legal services was extremely low when compared to the numbers in the area served by the project.

MANY PROBLEMS REQUIRE PROFESSIONAL SERVICES

Often senior citizens failed to realize that a lot of their problems were legal in nature and that legal services was there to serve them. Even those that knew that the problems could be solved by an attorney hesitated to contact an attorney because they could not afford one or they felt they couldn't contact legal services because lawyers, just like doctors nowadays, don't make house calls. The center was to provide services to seniors in a five-county area of South Jersey—more specifically Camden County, Gloucester County, Salem County, Burlington County, and Cumberland County.

As Al mentioned earlier, the number of low-income seniors in these five-county areas—he said 70,000 but I think it is closer to 100,000. In order to be brief I will not go into a detailed breakdown on the age and income distribution for each county.

Rather, I will just use Camden County as an example. Camden County has 41,161 residents who are 65 years of age or over. Of these residents, 19 percent, or 7,884 people, are living on fixed incomes below the poverty level. This income level ranges from about \$1,400 to about \$2,200. It is estimated that another 39 percent are living on incomes of between \$3,000 to \$7,000. In Camden County alone, the elderly population make up the highest percentage of the total population in the urbanized core. The elderly population group is increasing at a faster rate than any other group in the county of main population.

With one attorney initially, the center had represented over 140 clients in a 1-year period and the pressing caseload demanded expansion of the center. In December 1974, an additional attorney was hired. Shortly thereafter the area plan concept was instituted and through some type of administrative mixup the center was without funds for approximately 2 months. For the first time since its inception, the center had to notify persons that the services were not available.

The elderly community pressed their local elected officials and sent numerous letters to the Government requesting funding for the center. The State Department of Community Affairs fortunately had some discretionary funds which they gave to the center and we were back in business again.

The following year the center appealed to the county office on aging for funding. These efforts to achieve funding necessitated so much politicking and meeting with different freeholders that services to clients had to be curtailed and one attorney had to devote a major amount of his time on simply obtaining funds. Even after all of the center's efforts, funding was obtained from only four of the five coun-

ties which would have been served. That meant the service of one of the counties had to be discontinued.

In 1977, it was anticipated that the center would receive title III funds from all five counties and that the center can hire an additional paralegal to adequately serve the clients in the counties. In order to avoid the pitfalls of the county office on aging, vis-a-vis, the free-holders approach to funding, we strongly urged that title III moneys be allocated to projects in some type of flat grant so that at least we would know the specific limitation on the number of years that the project may apply for and receive funds.

ATTORNEYS MUST BUDGET TIME

With an open caseload of approximately 300 clients, the center's attorneys cannot afford time to spend on funding problems. Presently the staff of the center consists of two attorneys, two paralegals, senior volunteers, law students, college students, one VISTA paralegal, and one VISTA attorney.

Now, I just would like to give you some idea of the types of cases that I and the other attorney in my office are dealing with on a daily basis.

The case that I will use is the JFK Towers Tenants Association. Approximately a year ago, a number of the elderly residents, in fact all of them in this public housing project in Camden City, were having numerous problems. The biggest complaint of the more than 100 tenants was the elevators. They said the elevators didn't come and they didn't go. In recent months, they had been taking their complaints to the project's manager and the results were just totally unsatisfactory—in fact, there were no results at all.

I think one statement of Mr. Frank Gibson, who was then president of the tenants association, just about summed up the feelings of the tenants. In speaking to the housing authority, he said: "Three of us have died in the past 2 months, 12 in the past year, 5 of us are now in the hospital. We cannot wait forever and you have done nothing for us so far."

Another glaring example, an aged tenant broke her wrist in the elevator when the elevator jerked and knocked her off her feet.

On July 24, an elderly woman had to wait 15 minutes on the stretcher before the elevator arrived to take her to the ambulance.

Another example of what is going on in the projects, when one 75-year-old woman moved into the project her apartment was extremely dirty and she requested that it be painted. She was simply given 3 gallons of paint and told, "Here, paint it yourself."

With these types of problems, these persons very effectively organized themselves a tenant association and came to the Senior Citizens Advocate Center for representation. Through the combined efforts of the staff of the center, we were able to obtain for these persons new stoves and new sinks. One man, who is 51 years old, lived in the project. He was a diabetic and had to have broiled foods. His oven had not worked in a number of months. We were able to get a stove for him; we were able to get stoves for some other people and refrigerators. We got repair and overhauling of the elevators. We got bars on the doors and we got the apartments painted.

I would not say all the problems in that project have been resolved, but the major problems were resolved. The office is still open so we are still working with those tenants.

EVICTIION TERMS OPPOSED

I will conclude with just one more example of the types of problems that were encountered. Another was the senior citizens who lived in the mobile home park. Camden has three mobile home parks and the majority of these people are senior citizens. One of the parks would not let them stay. The owner of the park had a lease and he was leasing some ground. On that ground were approximately 40 mobile homes. There was a clause in the lease providing that it could be canceled on 6 months notice. The notice was given to the owner of the park and he in turn passed the news on to the tenants.

According to New Jersey law, there is nothing wrong with that if you want to retire the housing from the market or give 6 months notice, but these persons were just totally upset. They didn't know where to turn. Fortunately, some of them had been individual clients of the center and they came to us as a group. We were not able to do anything about the lease situation, but we were able to negotiate with the parties involved.

We got an additional 6-months extension that enabled a number of the people to gain time to sell their mobile homes or to get apartments. For a number of people, we were able to get them into apartments without having to pay the month or month-and-a-half security deposit. A number of persons had to sell their mobile homes. One lady I know just about gave hers away and moved in with her children.

So I think that is one good example of what we were able to do for the seniors even though, to put it quite frankly, we didn't have any law on our side. It was just other things that we were able to do before that. The center handles housing cases, the traditional cases of senior citizens such as social security and SSI problems. Surprisingly enough, we handled a lot of domestic relations cases, those obtaining divorces, even some child custody cases, that type of thing.

I just would like to make one suggestion and that is that some type of funds be allocated for the establishment of a mobile unit. We need transportation to go to the clients. We serve a five-county area spread out over a large proportion of South Jersey.

ADVOCACY ROLE DESCRIBED

We cannot reach these people. We have been knocking on doors, but we still have not reached a number of people who we know are there and who we know need our services. If we had a small bus, we could outfit it with a desk, a typewriter, and a paralegal. We could be at senior citizens projects, we could be at nursing homes, we could be where the people are, and we could more effectively deliver our services to people.

That is all. Thank you.

Senator WILLIAMS. Thank you very much, Ms. Hill. It impresses me that you have most accurately described your center as an advocate

center. This was your designation of title to describe your activity, am I right?

Ms. HILL. Yes.

Senator WILLIAMS. And it impresses me from all you have said here that while it was created for basically legal services, situations develop that go beyond the narrower confines of legal questions that are really a response to social needs. So, yours is an advocacy and in the social service sense. For example, those mobile homes, while the lease was unbreakable, I suppose, and they were living up to the provisions of the lease, you, as an advocate, got an extension of time and then made other living arrangements possible.

Ms. HILL. Yes.

Senator WILLIAMS. Excellent. How large is your staff, Ms. Hill? Do you have a staff of 15 or so?

Ms. HILL. I guess all told it is about 15. We have only six paid full-time workers.

Senator WILLIAMS. Two lawyers and you are one of the lawyers.

Ms. HILL. Yes; that is right, and two paralegals.

Senator WILLIAMS. What training is needed for a paralegal?

Ms. HILL. Well, there are certain colleges that offer a paralegal course. I think it is approximately 2 years in terms of recruiting paralegals. We don't specifically require that. The only thing that we require is that the person have a high school diploma. We spend from 6 months to 1 year training these people. It is mostly on-the-job training. These people are not attorneys, they do not go into court, but they are of tremendous assistance to attorneys. They can go in and represent persons in administrative hearings such as social security, welfare, unemployment, those types of hearings. So they really are the backbone of attorneys and legal services, and I think the legal services uses paralegals more than traditional law firms.

Senator WILLIAMS. Who is the other attorney who works with you?

Ms. HILL. His name is John Poindexter. He is a young man who graduated from law school about a year ago, and he has been working quite effectively with the center.

Senator WILLIAMS. Have you thought of supplementing or expanding your staff to include, perhaps, lawyers who have retired from active practice?

Ms. HILL. We were thinking of some type of joint program with the bar association to use retired attorneys. That program has been talked about for 1 year now, but we just have not been able to get it off the ground for a number of reasons, but hopefully we will be able to come up with some type of program. Presently, we have one retired attorney who works for the volunteers and his services to the center amounts to 20 hours a week.

Senator WILLIAMS. I missed that.

Ms. HILL. One senior, 67 years old, a retired attorney, volunteers his services to the center for 20 hours a week.

Senator WILLIAMS. What is his name?

Ms. HILL. Sam Smith.

Senator WILLIAMS. Excellent. We wanted to get him in the record and to applaud Sam Smith for his volunteer work in this connection.

Reverend Wilson, did you have something to add at this point?

SOME VOLUNTEERS WORK FULL TIME

Reverend WILSON. Yes. This is my concern on the advisory committee. Mr. Smith is an excellent example of an RSVP volunteer. We work closely with the RSVP and they were able to send him our way. He had been to law school but had not practiced law; however, his first love was law. Now, after he has made his pile as a successful businessman, he is free to volunteer his services. He is very happy to come and, actually, spends full time at the center.

We are also working closely with the RSVP directors in each county, to provide us with senior volunteers to be trained as paralegals. To extend the services of the advocate center, we need paralegals in each county. Mr. Smith is our prime example.

Then again we are projecting a course for another category of volunteer who may be called "legal aid." Legal aids to the paralegals can enable the center to extend its services to a larger constituency. If we can have a legal aid volunteer in each club in each county, then we can begin to reach many seniors who as yet have not heard of our center. With this multiplication of our services, we could also begin to reach out to the isolated poor in the rural slum pockets we have in South Jersey. Lack of transportation isolates many poor senior citizens who are unable to get to the centers where the senior clubs meet.

Senator WILLIAMS. I think maybe for the listening audience—and this is being recorded and taped for CAP, I believe—RSVP is the retired seniors volunteer program. That is a creation of the Senate Special Committee on Aging, and it has really brought out the vitality of older people into service of others and in a magnificent way.

I am delighted to hear that Mr. Smith is part of that effort, RSVP. Very good.

Now, Rutgers Law School at Camden is a dynamic place. I have been there many times. You mentioned the relationship with the Camden Senior Citizens Advocate Center, Ms. Hill. Have they worked into any part of the curriculum anything concerning job familiarity and practicing with people on legal questions?

Ms. HILL. No. I hesitate to say too much because the building that we are presently housed in is being leased to us by Rutgers University for a dollar a year, and prior to that, they let us use two of their offices for legal services.

Senator WILLIAMS. Where is the advocate center?

LIMITED TRANSPORTATION HAMPERS ACCESS

Ms. HILL. The advocate center is about two blocks from what is Camden Law School at 12th and Front Streets in Camden. It is inaccessible to a number of senior citizens because the bus stop is about four blocks away from the center. Oftentimes we have persons who get off at the bus stop and call up on the phone and an attorney or a paralegal stops what he is doing, jumps in the car and goes over to pick up the person. So the transportation is a major problem simply because of the location of the center. We had hoped to consolidate a number of the offices in Camden and move closer to the bus stops, and so forth; but we didn't have enough funds to do that.

Senator WILLIAMS. Even with a relocation within the city of Camden, accessibility to the other counties is most difficult, I would think, unless an individual had an automobile.

Ms. HILL. Oh, yes.

Senator WILLIAMS. No bus routes would lead conveniently from Deptford to your advocate center, for example?

Ms. HILL. No; not from the rural areas to Salem.

Senator WILLIAMS. That is why the point is being made about transportation. A budget for transportation is so important if your service and availability is to be made real for people beyond Camden City.

Ms. HILL. Yes. Proportionately we would be serving more clients in Camden City than we do in the other countries and that is mainly because of the transportation problem. Now we have made some meager efforts to solve that problem. We have a paralegal who goes to Salem County 1 day a week. She simply goes down there and sits for about 8 hours and when a person comes in she takes the basic information and then she brings that case back to the center and consults with an attorney and we take it from there. But even with one person going to the counties 1 day a week, we are not reaching the vast number of people that we should because even in terms of the paralegal going to, say, Salem County 1 day a week, that person sits there and people still have to come to him.

I think the statistics indicate that the elderly do not have money for automobiles and if they have the money for the car, they don't have the money for the upkeep, or if they have an automobile, for a number of reasons they choose not to drive it. So simply because of the transportation problem, we are not reaching a number of the people that we feel we should be reaching and the statistics that we have accumulated indicate that very clearly.

We are not just coming here today and advising you of this problem, but we want you to know that we have made certain efforts on our own to resolve the problem. We have applied for foundation grants, and so forth, but for some reason this type of program is not all that glamorous and we just have not been able to get funding for it. Our estimates indicate that it would not cost that much to outfit some type of minibus.

We have even got Legal Services to agree to keep up the maintenance and insurance on the bus and we anticipate that we can get some types of contributions from seniors, and so forth, but the bulk of the moneys we just have not been able to obtain.

Senator WILLIAMS. If you were equipped to be mobile, you could go to the outlying counties. You could visit senior citizen clubs, for example, and describe the help that you can bring to people.

Ms. HILL. Yes.

Senator WILLIAMS. And that knowledge of the club could radiate out into even more remote areas—to others, I would imagine, including friends of those who come to the center.

HOME VISITS UNECONOMICAL

Ms. HILL. Yes. I have been with the project a little over 2 years and in my estimation transportation is the major problem of the center.

We simply need to go to the people. We do home visits but our case-load is about 300 now. To have an attorney go out of the office for an hour to do a home visit just simply is not economical, although we do it. That type of an effort is not reaching people.

If someone absolutely cannot come in and they call the office, and so forth, someone will go out, a paralegal, and get the information and bring it back. But even doing that—and that is very inefficient—we still don't reach the number of people that we should or the number of people who we know are eligible for the service and who need the service.

The most rural areas are in Cumberland County and Salem County and those counties are furthest away from the center. The center is at Camden and those are the areas which are being served the least by the center simply because of location.

Senator WILLIAMS. Yes.

Reverend Wilson.

Reverend WILSON. I think this is our main interest in the advisory committee and why it is important to cooperate with the RSVP. The idea would be that we would have a volunteer in every club who would represent us and be the outreach person to bring in the people, tell the news that there is help for them. This is what we are working for.

Senator WILLIAMS. Excellent. I wish I had had this hearing a few weeks ago. I have been in all these counties a great deal recently. I would like to be an advocate for the advocate center. I will be hereafter, because your service is so needed and being done so sensitively and so remarkably.

You spoke of the rural slums—meaning, of course, really the rural people living in great poverty. Have problems reached you from these areas? What is the nature of the problems?

Ms. HILL. A number of those problems are in Salem County and Cumberland County. I guess the greatest problems we see are in terms of housing.

We had one elderly woman come in. She was 67 years old. She lived in a house that didn't have plumbing and she didn't have toilet facilities in the house. She was having problems with the heat in the house. I think she had a spaceheater in the house. I guess that was the most extreme problem that I saw that came from the rural area, and she contacted us. She had initially contacted the Office on Aging and they referred her to the center and we in turn went to her. We were able to help her. Fortunately, we got her out of the house. We got her into low-income senior housing and I believe at some time the matching was instituted against the landlord also, although I cannot recall now how it terminated.

Cumberland County has a large number of elderly farmers. We see a large number of those problems also. Then, too, we have a large number of requests from seniors for wills, a large number of social security and SSI problems. A large number of the elderly say they cannot get through the application process for SSI or they don't understand, as you had mentioned earlier, when one program is increased or knocked off another program. Last year a number of them were lost in medicaid coverage. We were able to help a large number of those persons.

ATTORNEYS UNFAMILIAR WITH PROBLEMS

The average attorney knows very little about the problems of senior citizens. They have no idea what SSI means, so the attorneys and staff of the center are very effective in dealing with those types of problems simply because these attorneys have developed quite a bit of expertise in dealing with problems of older Americans.

Reverend WILSON. Senator, one thing I would like to have on the record is the interlock we have with the county directors of the offices on aging and the directors of the RSVP programs. The directors often attend our executive committee meetings and help us in the planning of our program. They also help us select the county representatives on our executive committee. They are the top leaders of the senior citizen club programs on aging.

Ms. HILL. I just would like to say one other thing. I have been talking a lot about individual clients. I would like to say also that the center is involved in a large number of law reform cases. We tried to help seniors individually as well as to alleviate the plight of senior citizens as a group and we do this through instituting major actions. We are involved with efforts to reduce utility costs for seniors, we are involved in the food stamp program, we have been involved with trying to obtain model leases. We are involved with rent control statutes. We tried to get those types of things for seniors.

Transportation is a major problem of the seniors. We find out what these problems are from questionnaires that we submit from time to time. When we see that a number of seniors are encountering a problem over and over, we try to institute major actions that will alleviate these problems of senior citizens, and this is one thing we have been doing throughout South Jersey.

Senator WILLIAMS. Where do you send these questionnaires?

Ms. HILL. In local newspapers, and so forth. They were published and then we sent them out in the mail to senior citizens groups and so forth. We wanted to find out from the seniors what they wanted from the center, what they expected from us and what they perceived to be the major problems. From these questionnaires we institute suits.

Senator WILLIAMS. Mrs. Ashton, we have not been questioning you enough. You described your housing situation. Your home is a large home in Camden?

Mrs. ASHTON. In Gloucester.

Senator WILLIAMS. And this has been your home for a long time?

Mrs. ASHTON. Well, since 1916 we have lived there. It was my mother's homestead and when she died she left it to me as long as I lived. It is my home but it is entirely too big for me to take care of. It has 19 rooms in it and I cannot afford to keep it up. I go across the street and stay with an elderly lady. She is 97 years old and I stay with her in order to have heat. I feel like a companion to her because she has nobody else.

Senator WILLIAMS. Has this large home of yours been put on the market to sell?

Mrs. ASHTON. No.

Senator WILLIAMS. Do you own it yourself?

Mrs. ASHTON. Well, it is an estate between three of us, a sister and a brother. In other words, whichever one dies, the other one gets it.

Senator WILLIAMS. I see. Have you had any legal problems with the center that arose out of your residence situation?

Mrs. ASHTON. No, none whatsoever.

Senator WILLIAMS. This is in Gloucester City?

Mrs. ASHTON. Gloucester City, N.J.

CENTER AIDED BY TITLE III MONEYS

Senator WILLIAMS. This has been very, very helpful. As I see the picture, title III money from the national program goes to the States, from the States to the county offices on aging, and all five counties have contributed part of their money under title III to the center.

Reverend WILSON. Yes.

Ms. HILL. Yes. It goes to the corporation, that is true, and then it is used for the maintenance of the center.

Senator WILLIAMS. First, it goes really into the hands of the Legal Services Corporation?

Reverend WILSON. Yes.

Ms. HILL. Yes.

Senator WILLIAMS. And then they distribute the money to you?

Ms. HILL. Yes.

Reverend WILSON. Yes.

Senator WILLIAMS. There is another route of money. The taxpayers money that comes out of Federal programs does reach your communities, and this is being renewed now. That is the revenue sharing money. I know that some of the counties in your area have been very responsive, using revenue sharing money in service to older people in Gloucester, for example.

Gloucester County has an excellent transportation program paid for in part by revenue sharing money. Are you familiar with that?

Ms. HILL. Yes, I am. I know some of those moneys with revenue sharing were specifically earmarked for and were used for seniors basically on transportation problems. I think dollarwise that is where a senior needs a ride to a doctor or a hospital and he calls up and the bus comes and gets the person at a prearranged time, picks him up and takes him back home. That does exist in Gloucester. There was a similar program but it does not exist any longer. There is no such program in Salem County nor in Camden County.

Senator WILLIAMS. Reverend Wilson.

FUNDING POSSIBILITY FROM REVENUE SHARING

Reverend WILSON. One source of funding legal services is title XX moneys at the State level. However, since this is the prime source of funding for our parent organization, namely, the Camden Regional Legal Services, we do not compete for these funds. Now that we have better public relations with the county offices, I think we may have a better chance of approaching the freeholders and investigating the possibilities of funding from the revenue sharing moneys. We are making a little progress.

Senator WILLIAMS. Excellent. Well, it has been very exciting, very revealing, and certainly I applaud all you are doing.

Where did you graduate, Ms. Hill, from law school? Wherever it was, I bet you were the top of the class.

Ms. HILL. Oh, I don't know. That depends on how you define the top.

Reverend WILSON. She made a record at the college and we hired her. She will be a tremendous person to develop a community development program out at the college.

Ms. HILL. Thank you.

Senator WILLIAMS. I believe it. She has shown that. Thank you very, very much.

Now we are going to combine the panels here. Margaret Stone Brodsky, project director, legal counsel for the elderly, American Association of Retired Persons; Eric S. Sirulnik, associate professor of law; codirector, Institute of Law and Aging; director, Community Legal Clinic, National Law Center, George Washington University; and William Fry, director, National Paralegal Institute.

Will those persons named come forward.

That one light means a vote in the Senate. So maybe I will go over and take care of that. If you could relax for a few minutes rather than starting and interrupting, we can proceed shortly. I will vote and return.

[Whereupon, a short recess was taken.]

AFTER RECESS

Senator WILLIAMS. We shall reconvene and come to order again.

**STATEMENT OF MARGARET STONE BRODSKY, PROJECT DIRECTOR,
LEGAL COUNSEL FOR THE ELDERLY, NATIONAL RETIRED
TEACHERS ASSOCIATION/AMERICAN ASSOCIATION OF RETIRED
PERSONS, WASHINGTON, D.C.**

Ms. BRODSKY. Thank you. My name is Margaret S. Brodsky. I am project director of Legal Counsel for the Elderly, a model project located here in Washington, D.C., providing legal services to the elderly.

The project is funded by the Administration on Aging of HEW through a grant to the National Retired Teachers Association/American Association of Retired Persons. I appreciate this opportunity to testify before you on the need for improved legal services for the elderly.

You have already heard testimony from another representative of the NRTA/AARP, Dr. James Peace, at your hearings in Boston on August 30. Dr. Peace's testimony addressed generally the special needs of the elderly and the efforts to meet these needs which have been made to date by the Administration on Aging and through other channels. My testimony today will concentrate on what has been learned about providing legal services to the elderly by the first year of operation of Legal Counsel for the Elderly and on what we feel can be done in the future to encourage expanded legal services for the elderly and—perhaps more importantly—to encourage the elderly to utilize the legal services which are available to them.

Legal Counsel for the Elderly was established in June 1975. The purpose of the project was to test the hypothesis that retired persons would be willing to volunteer their time and could be trained by full-time staff lawyers to act as paralegals in an operating law office serving the elderly.

The staff spent the first months of the grant year laying the groundwork for screening potential volunteers from the Washington area, preparing the forms and substantive materials the volunteers would use in their work and training the first group of volunteers. Twenty-five volunteers were chosen from over 70 applicants. Each volunteer agreed to work 1 day a week and to participate in a 3-day training program.

PUBLIC BENEFIT "CHECKUP"

The office opened to clients in December 1975. During its first 8 months of operation the model office, staffed by 2 full-time attorneys and 25 part-time volunteers, has offered 3 services: (1) A public benefit "checkup" for each new client to determine if the client is currently receiving all benefits to which he is entitled; (2) legal representation for clients whose problem involves entitlement to a public benefit such as title II social security, supplemental security income, medicare or medicaid; and (3) an information and referral service for all callers whose problem cannot be handled directly by the model office.

The model office has been able to take on at least 60 new clients each month and to provide information and referral services to an additional 100 persons each month. A good deal of the work of the office, at all levels, is done by the retired volunteers, working under the supervision of staff attorneys. The volunteers conduct client interviews—which include giving the new client a benefit "checkup"—negotiate with government agencies on behalf of clients, draft correspondence and help prepare for hearings. The volunteers have performed so well in handling public benefit problems that, starting this month, the pilot office has begun handling cases in a second major area of importance to the elderly. The service of the office has now been expanded to include assistance with wills and with protective arrangements such as powers of attorney and conservatorships.

In our first months of operation the project staff has learned that the benefits of using senior volunteers—aside from the obvious one that their services are free—are manifold. Retired people bring to a job a range and depth of experience from their own worklife which makes them exceptionally competent. The volunteers are both dependable and enthusiastic about their work. Perhaps the greatest advantage of using senior volunteers, though, is that older clients are more willing to use, and more pleased with, a service which is offered by their peers.

NRTA/AARP believes that Legal Counsel for the Elderly serves as a good example of how the quality and quantity of legal assistance to the elderly can be enhanced, without large additional expenditures, through the use of a slightly imaginative approach. Volunteer retirees, in addition to increasing the capability of paid professional

staff by at least 50 percent, make it possible to give each client a kind and degree of personal attention which would not otherwise be possible.

The associations are pleased that the project will be able to continue for another year under a combination of renewed funding from the Administration on Aging and a grant from the District of Columbia Office on Aging. In the coming year the project will continue to run the District of Columbia pilot office and, in addition, will be helping to set up similar offices using senior volunteers in other jurisdictions.

“VOLUNTEER RETIREES AS PARALEGALS”

Use of volunteer retirees as paralegals is obviously only one of a myriad of good ideas which can help in the eventual development of comprehensive legal services for older Americans. Many of these ideas have been presented to this committee during these hearings, and I have included some additional suggestions later in my statement. For the moment though, I would like to concentrate not on ways of fostering better service but rather on important threshold barriers in the profession of legal services to the elderly. The problem is that the elderly, ignorant both of their legal rights and of the counsel available to them to enforce their rights, do not fully utilize the legal services which are available to them.

To a large extent it is the very nature of the predominant legal problems of the elderly which breeds their ignorance of their rights. Generally, over half the legal problems of an elderly client group concern entitlements to various public benefits. The elderly person whose benefits have been denied or terminated by a government agency probably does not regard that agency as an adversary which can be challenged. Rather, the agency is perceived as infallible, or at least all powerful, with the absolute right to grant and deny benefits. Of course, this is an untrue perception but a strongly felt one nevertheless.

Older persons' ignorance about the legal services available to them is less explicable than their ignorance of their rights, but equally evident, as the recent experience of Legal Counsel for the Elderly attests. In May of this year, a small article about Legal Counsel's pilot office in the District of Columbia appeared in one of the NRTA/AARP's membership publications. This article elicited some 1,200 letters in a 3-month period from older persons in all parts of the country who had legal problems and did not know where to turn.

Obviously, the answer to the problem is to provide the elderly with information about their rights and about the help available to them in enforcing those rights. Specifically, to suggest some possible solutions, it would be helpful if Legal Services Corporation grantee projects were to provide senior citizen groups with speakers on topics of special interest to them, such as social security rights; if every agency administering a benefit program—and perhaps every pension fund administrator as well—were required to enclose a list of available legal services with every notice of adverse action; and if bar associations were encouraged to compile listings giving the specialties and qualifications of attorneys within their jurisdiction.

The need for education, however, is only a threshold problem. The fact remains that there must be increased and improved legal representation for the elderly to meet even current demand.

POLICY PROPOSALS CONSIDERED

Many innovative approaches to the problem of providing improved legal representation for the elderly are currently being tested; and I am certain that many other ideas have been and will be presented to this committee during these hearings. To all these I add the following suggestions. Although the NRTA/AARP has not taken a policy position on any of these proposals, we believe they are worthy of your consideration:

(1) That the Legal Services Corporation be directed to develop substantive and training materials dealing with areas of particular concern to the elderly. These materials would serve as an encouragement to legal services staff—both attorneys and paralegals—to handle client problems in these areas.

(2) That capacity to increase legal services to the elderly in the public sector be increased by requiring a year of service to the elderly following graduation from law school as a condition for receiving a Federal loan for legal education.

(3) That consideration be given to providing a tax benefit to attorneys in the private sector who provide free or low-cost services to clients over a certain age and under a certain income level.

In conclusion, NRTA/AARP is gratified that this committee has directed its attention to this area of great concern for the elderly and hopeful that the work which has been begun in providing adequate legal assistance for the elderly will be continued and expanded.

I hope that my remarks today will be of help to you in your consideration of this important problem. Thank you.

Senator WILLIAMS. Thank you very much.

Let's continue with the panel members. In that way we question you all at once.

Mr. Sirulnik.

**STATEMENT OF ERIC S. SIRULNIK, ASSOCIATE PROFESSOR OF LAW;
CODIRECTOR, INSTITUTE OF LAW AND AGING; DIRECTOR, COMMUNITY LEGAL CLINIC, NATIONAL LAW CENTER, GEORGE WASHINGTON UNIVERSITY, WASHINGTON, D.C.**

Mr. SIRULNIK. Thank you.

Good morning. My name is Eric Sirulnik. I am the codirector of the Institute of Law and Aging at the National Law Center of George Washington University. I am also the director of the Community Legal Clinic which is the litigation component of the institute.

On my left is Ms. Robinwyn Lewis, one of the four supervising attorneys at the clinic and also its associate director. On her left is Attorney Raymond Natter, the director of the institute's research component. It is with great pleasure that we appear before you this morning.

I speak to you today as someone who has been heavily involved in clinical legal education for the past 8 years, 4½ of them as the director of my own program at George Washington University and before that as the assistant director of the Urban Law Institute, the forerunner to the Antioch School of Law.

It is no secret that there is a crisis in the delivery of legal services to the Nation's aged and aging poor. Problems such as agency advocacy, will writing, estate planning, and tax counseling are so time consuming that general legal services agencies such as our own neighborhood legal services programs (NLSP) in Washington, which are funded by the Legal Services Corporation and overwhelmed by their present caseloads have deemed this service a second priority. In fact, such services are often not available at all. Although there is some basis for these agencies setting legal priorities, that justification is less than persuasive to a 74-year-old widow whose social security check has stopped coming in.

Even when a general legal services agency does have the time and resources to represent the extremely large number of special cases generated by the process of growing old, it rarely, if ever, has the expertise to do it effectively and efficiently. Social security practice, for example, is a form of administrative advocacy which is *sui generis* and capable of frustrating even the most experienced legal practitioner who has not previously faced the problem.

PRIVATE BAR RELUCTANT

The private bar is likewise of little or no help in providing services to the elderly poor, and lawyers are seldom willing even to maintain minimal numbers of paying elderly clients because of the time demands required to deal with the total lifestyle problems of older Americans.

Further, and perhaps in conclusion, it is our observation that a large portion of the blame for this lack of legal services can be lodged squarely with the country's law schools. Not only are the law students who represent the future membership of our bar not given anything resembling the requisite preparation for adequately representing the elderly, they are given even less of an incentive to do so. Predictably, will writing and trusts and estates are offered universally, but ask a graduating law student a question about Medicaid or supplemental security income and his or her response will likely be one of ignorance.

As for interest in representing the elderly, and especially the elderly poor, the problem comes full circle. Since there is little or no classroom material dealing with that area of elderly concerns, a future lawyer's likelihood of becoming interested in the field is less than encouraging.

For the past 4 years the Community Legal Clinic, and more recently the Institute on Law and Aging, have been intensely engaged in a relatively unique experience in clinical and legal education. That experience has been the representation and legal education of older Americans as part of the law school curriculum. To date, the positive results of our experiment have been quite substantial and even more promising. I wish to share those results with you this morning.

Beginning with the fall of 1975, through moneys made available by HEW's Administration on Aging and the District of Columbia Commission on Higher Education, the Institute on Law and Aging initiated a program composed of three separate but coordinated components: (1) A clinical legal education program in the field of law and aging aimed at traditional law students; (2) a paralegal training program in the field of law and aging directed at a group of 60 retired or semiretired persons; and (3) a research effort in the same field with the object of producing and distributing written materials for use in this and other law schools throughout the country.

The clinical program, known as the Community Legal Clinic, operates under the fundamental proposition that second- and third-year law students can gain invaluable practical legal experience while helping provide badly needed civil representation to substantial numbers of the area's aging who are otherwise incapable of retaining counsel. Last year, some 1,300 District of Columbia, Maryland, and Virginia residents were assisted by our law students in everything from estate planning to civil litigation in the city's landlord-tenant and small claims branches of the District of Columbia Superior Court.

In so doing, these students became skilled in such substantive areas of aging law as social security representation and medicare-medicaid procedures which would otherwise be unavailable in the law school curriculum. Perhaps more importantly they have also become exposed to, and sensitized by, the problems and needs of the elderly client.

Their training includes work with students and faculty from other disciplines related to serving the aging, such as the medical school and the departments of sociology and psychology. Over the past year, approximately 90 second- and third-year law students enrolled in this aspect of the institute's program.

TAPPING THE "UNTAPPED SOURCE"

Our paralegal training for seniors program is another partial solution to the gross inadequacy of legal services currently available to the Nation's aged and aging poor. By training older Americans who are retired or approaching retirement to become legal resources with specific skills in assisting the elderly, an intriguing and virtually untapped source of legal aid is being explored for the benefit of the aging community. The obvious understanding these paralegal students have for the problems of their fellow seniors is only one of several dividends their selection as future legal assistants has provided. The wealth of experience many of them have derived from years of government and industry service, and in fact from just plain living, makes them particularly effective as both advocates and counselors for other older Americans.

For last year's class of 20 such older paralegals and this year's class of 40, the program has been a significant contribution to ending the personal waste of retirement while providing badly needed legal services to the elderly.

It is our hope to interest government agencies as well as private law firms in the employment of these legal resources for the aging; for instance, their benefit to a local social security office in helping applicants proceed in the benefits process would be substantial.

We discovered in setting up our project that not only was there a paucity of clinical materials in the field of law and aging but that a similar shortage existed in traditional classroom materials. Under the direction of our research staff we have for the past 2 years been hard at work in the production of new and particularized materials for use in the classroom and the clinic. Seven completed volumes of substantive materials exploring the age-related issues of such traditionally taught law school courses as taxation and housing law as well as literally hundreds of pages of clinical forms related to representing the aging are now available for public use as a result of our efforts.

Finally, perhaps the aspect of the project with the most far-ranging potential is our design to make our own model, complete with textbooks, research materials, and clinical forms, and procedures, available to law schools throughout the country. Through a grant from the Administration on Aging we intend this year to experiment with such a program exportation at three yet to be selected law schools in representative areas of the Nation. By effecting the use of State and area agencies as the storefront office, as we use it, these programs can become an inexpensive and mutually beneficial working program for the chosen law schools and the States and local agencies.

Thank you.

[The prepared statement of Mr. Sirulnik follows:]

PREPARED STATEMENT OF ERIC S. SIRULNIK

THE INSTITUTE OF LAW AND AGING

I. THE PROBLEM

In the United States today, there are over 21 million people 65 and older, and an additional 19 million people between the ages of 55 and 64.¹ These individuals are faced with increasingly serious legal, socio-legal, and economic problems. For example, one-quarter of all elderly families have annual incomes of less than \$3,000, and one-half of all elderly people living alone have annual incomes of less than \$2,000.²

Thirty percent of all elderly are living in substandard housing,³ and it is estimated that between 25 and 50 percent of all elderly individuals presently confined in institutions have no medical reason for being placed there.⁴ Governmental assistance is extremely important for the elderly as a group, statistics indicating that almost 80 percent of all individuals aged 75 or older are relying on social security or supplemental security income for at least a portion of

¹ U.S. Bureau of the Census, *Statistical Abstract of the United States: 1975* (96th ed. 1975).

² Fry, "The Senior Citizen Paralegal: An Advocate for the Elderly Poor," Department of Health, Education, and Welfare, Administration on Aging, *Aging*, 10 (January-February 1974). Although the problem of poverty affects all categories of the aged, perhaps the most severely disadvantaged are the nonwhite elderly and elderly widows. See, e.g., hearings on "Future Directions in Social Security" before the Senate Special Committee on Aging, 94th Cong., 1st sess., pt. 10 (1975).

³ Senate Special Committee on Aging, *Developments in Aging: 1970*, S. Rept. No. 92-40, 92nd Cong., 1st sess., 27 (1971).

⁴ *Aging*, supra note 2. While thousands of elderly individuals are confined to institutions without proper cause, others face the situation in which they will need some form of institutional care and not be able to receive it, due to either lack of funds or the critical shortage of space available. See, Subcommittee on Long-Term Care, Senate Special Committee on Aging, 93rd Cong., 2d sess., *Introductory Report: Nursing Home Care in the United States: Failure in Public Policy* (committee print, 1974).

their monthly income.⁵ Unfortunately, many Federal, State, and local programs make it almost impossible for most persons to understand let alone negotiate the bureaucratic procedures required to obtain benefits without the assistance of a trained professional.⁶

These statistics demonstrate the dramatic need of our Nation's elderly for competent and readily available legal assistance. The elderly need advocates for better housing conditions, for more stringent competency procedures, for fair and realistic welfare benefits, for protection of pension benefits, for representation before Federal and State agencies, and for assistance in disputes involving all forms of age discrimination and mandatory retirement practices. Yet, the sad truth is that our present legal community is unable to provide adequate legal assistance to the vast portion of elderly Americans who are unable to afford the fees of the private bar. In the field of social security, for example, the shortage of qualified attorneys is especially acute, and one prominent administrative law judge has stated:

"... [I]t is paradoxical that in this area of administrative law [social security], where the claimant is most in need of an attorney's legal counsel and expertise, it is so noticeably lacking. To a great extent . . . the bar has shown indifference toward becoming involved in social security matters. I am also firmly convinced that attorneys' involvement would speed up the hearing process."⁷

Problems such as agency advocacy, will writing, estate planning, and tax counseling are so time-consuming that general legal services agencies such as neighborhood legal services programs (NLSP) which are funded by the Legal Services Corporation and overwhelmed by their present caseloads, have deemed this service a secondary priority; and in fact such services are not provided. Although there is some basis for these agencies setting legal priorities, their justification is less than persuasive to a 74-year-old widow whose social security check has stopped coming.

Even when a general legal services agency does have the time and resources to represent the extremely large number of special cases generated by the process of growing old, it rarely, if ever, has the expertise to do it effectively and efficiently. Social security practice, for example, is a form of administrative advocacy which is *sui generis* and capable of frustrating even the most experienced legal practitioner who has not previously faced the problem.

The private bar is likewise of little or no help in providing services to the elderly poor, and lawyers are seldom willing even to maintain minimal paying elderly clients because of the time demands required to deal with the total life style problems of older Americans.

Further, it is our observation that a large portion of the blame for this lack of legal services can be lodged squarely with the country's law schools. Not only are the law students who represent the future membership of our bar not given anything resembling the requisite preparation for adequately representing the elderly, they are given even less of an incentive to do so. Predictably, will writing and trusts and estates are offered universally, but ask a graduating law student a question about medicaid or supplemental security income and his or her response will likely to be one of ignorance.

As for interest in representing the elderly, and especially the elderly poor, the problem comes full circle. Since there is little or no classroom material dealing with the area of elderly concerns, a future lawyer's likelihood of becoming interested in the field is less than encouraging.

II. SOLUTIONS PROPOSED BY THE INSTITUTE OF LAW AND AGING

The Institute of Law and Aging has developed a unique and innovative program designed to meet this challenge. This prototype utilizes the resources of a major law school—the National Law Center of the George Washington University—and the skills provided by a small staff of professionals trained

⁵ K. Davis, "The Paradox of Poverty in America," 56 (1969).

⁶ E.g., disputes, frequently arise as the more than 150,000 requests for administrative hearings received by the Social Security Administration in 1975 indicate. Hearings before the Subcommittee on Social Security of the House Committee on Ways and Means, 94th Cong., 1st sess., 29 (1975).

⁷ Hanrahan, "Social Security—Another Area for Specialization," 49 Fla. B.J. 294, 297 (1975).

in the problems of the elderly, to provide training for lawyers, law students and paralegals in the area of "elderly law," while at the same time providing immediate and direct legal assistance to the elderly community. The program is composed of four interrelated components: (1) Training for senior citizen paraprofessionals or paralegals in the legal problems of the elderly; (2) training of law students in the area of elderly law; (3) development of materials that can be used by both the senior citizen trainees and law students; and (4) exportation of the program to other universities throughout the country. Each of these four phases of the institute relies heavily on outside assistance as well as support of the law school community, and each phase complements the other to form a cohesive and cost-efficient operation.

A. Paraprofessional Training

At the core of the Institute of Law and Aging's structure is the paralegal training for seniors' program (PTS). The goal of this program is to train older persons in the skills necessary to offer competent paralegal and social service assistance to other senior citizens. The effectiveness of using paraprofessionals in this capacity is very promising. For example, statistics from the Social Security Administration indicate that claimants who appear *pro se* at social security administrative hearings are successful approximately 38 percent of the time. However, claimants who have been represented by a nonattorney, such as paralegal or lay advocate, have won 48.5 percent of their cases.⁸ The obvious conclusion is that paraprofessional assistance, especially at administrative hearings, is an effective tool for assisting the older social security claimant.⁹

The PTS program itself consists of two components—traditional classroom instruction and clinical experience. The first part of the program, the classroom instruction, began in the Fall of 1975 with an initial class of 20 paralegal students aged 55 or older. Selection of these students was based on their prior education, work experience, communications skills, community involvement, motivation, and, most important, their desire to work with and for the elderly. The student body was composed of individuals from every part of the city and surrounding suburbs and represented varying income levels from the elderly poor to the upper middle class, and equally heterogeneous educational backgrounds.

Instructors for the program were recruited from the faculty of the law school, the graduate law department (LLM candidates), and from the professional staff of the institute. Various speakers were invited to address the class from one of the governmental agencies being studied by the class at that time.

Classroom instruction began with an introduction to the art of interviewing the older client including the psychological and emotional problems the interviewer might encounter. This was followed by substantive course work in the areas of landlord and tenant law, social security, supplemental security income, medicare, medicaid, consumer law, probate and will writing, and legal research.¹⁰ All para-legals were required to pass written examinations in these subjects before being permitted to participate in the clinical phase of the program.

The clinical portion of the PTS program began by placing the paralegal students under the direct supervision of attorneys and advanced law students. The paralegal students were then assigned to clinical sites located throughout the community. The primary clinical placement was at our storefront office, located in the Adams-Morgan section of Washington, D.C., and known to the community as "Operation PEP," protection for elderly people. Other clinical placements included seven National Capital Housing (public housing) projects designed for elderly tenants, a nutrition site for the elderly located in southeast Washington, and the George Washington University Legal Aid Bureau. One paralegal, with a particular interest in legislation pertaining to the elderly, was assigned a clinical placement at the National Council of Senior Citizens' research arm—Legal Research and Services for the Elderly.

⁸ Collins, "Supplemental Security Income: An Advocate's Handbook" 161 (1975). Claimants represented by attorneys are successful 54 percent of the time, *id.*

⁹ An important dividend of such assistance is the reduction of costs of administering the social security appeals process. The improperly executed application, the ill-prepared hearing exhibition on the self constructed appeal, all take their toll on the Social Security Administration's ability to discharge its statutory role at a reasonable cost to the taxpayer (Institute staff).

¹⁰ See p. 229 for the complete curriculum.

At these clinical placements, the paralegal students received "on-the-job" type training, while at the same time providing, under the supervision of attorneys, direct assistance to the elderly community. The students gained practical experience in such procedures as initial intake, legal interviewing, legal research and writing, and advocacy at the administrative level. Paralegals were also given the opportunity to assist in the preparation of cases going to trial in various branches of the D.C. Superior Court.¹¹

In February of 1976, every paralegal student participated in a special day-long seminar conducted by the Internal Revenue Service arranged by our project and held at the university. Following this seminar, which stressed the problems of the low-income and elderly taxpayer, law and paralegal students began providing free income tax assistance to those requesting such aid at our various service sites. This program is especially significant in light of the fact that many elderly individuals pay more taxes than they owe because of their failure to take advantage of many of the special tax benefits that are available to them.¹²

B. Training of Law Students

Equally important in our program is the training of future attorneys to be qualified and competent to deal with the legal problems of the elderly. Recognizing this fact, the Institute of Law and Aging is integrating the legal problems of the elderly into the regular curriculum. All of the clinical sites used in the training of senior citizen paralegals are used for clinical placement of law students. By the end of the academic year 1975-76, over 90 second- and third-year law students had participated in these clinics; including 10 students who were authorized to represent clients before the courts under the local student practice rules. To satisfy course requirements, law students were required to participate in these clinics, learning first-hand about the problems of the elderly, as co-workers with senior citizen paralegals placed at the same clinic. In this manner, law students gained valuable experience working with older people as both clients and as peers. Further, law students and paralegals in the clinic were required to attend a weekly seminar devoted to a lecture or discussion of some particular aspect of law and aging.

Law students also gained knowledge of the technical aspects of "elderly law" by participating in the research and development of the materials prepared by the Institute. These students were assigned various research topics in an area of the law in which they expressed an interest, and asked to prepare memoranda on these subjects. Memoranda which were of acceptable quality were then incorporated into the materials used in the training of the paralegals and law students.

C. Materials Development

The success of every training program is dependent upon the quality of the training materials used in that program. Because PTS is a completely unique program, no existing materials would have completely served our needs. Therefore, prior to the beginning of the PTS program, the institute began to develop its own materials, especially suited for the older paralegal student and law student. The result of this effort has been the creation of a textbook length training manual, entitled "Paralegal Training Materials on the Legal Problems of the Elderly." This book introduces the lay student to the concept of paralegal advocacy for the elderly, legal ethics, the unauthorized practice of law, and the psychology of aging. This is followed by an in-depth discussion of the art of legal research. Special emphasis is placed on the function of the paralegal in administrative proceedings, especially those involving social security, medicare, and supplemental security income.

The project also developed a "Law School Supplementary Materials Series" to be used in traditional law school classes supplementing administrative, welfare, tax, probate, consumer, and property law courses for the purpose of studying the legal problems of the elderly in each of these fields.

The institute is investigating the most cost-effective method of distributing these materials.

¹¹ NOTE: The paralegals are not themselves permitted to represent clients in these courts.
¹² See hearings before the Senate Special Committee on Aging on "Income Tax Overpayments by the Elderly," 91st Cong., 2d sess. (1970).

D. Expanding the Program

Our strategy for exporting this program throughout the country is three-part: (1) Teaching material development; (2) interfacing paralegal and law student education; and (3) clinical training through offering free legal services to the elderly.

Our teaching materials have been and are being developed to fit into traditional law school courses, because our strategy is to supplement existing courses rather than develop an entirely new curriculum. We are recommending specialized paralegal training for seniors to complement law student training for a number of reasons. First, older Americans need advocates to perform quasi-legal functions. Second, the law student can contribute knowledge about traditional legal approaches while the senior contributes specialized expertise about the problems encountered. Third, paralegal training is self-supporting because it is job-oriented and directed and can be tuition based. Fourth, specialized senior paralegals add the dimension of concern, sensitivity and appreciation for and about the legal problems of the elderly so lacking in legal education at present.

Finally, our program is based on the joint objectives of providing both short- and long-range solutions for the dearth of legal services available to older Americans. Our export program anticipates utilizing the over 300 State and local Administration on Aging offices already providing social services to the elderly. This resource provides a built-in office with clientele that is available for law schools needing clinics that can reach the elderly population.

This export prototype will enable law schools to pick up the educational model under existing classroom and clinical programs. It will also multiply legal services available to the elderly poor as adopted.

III. SERVICE TO THE ELDERLY

An immediate concern to the institute is the need for direct legal, social, and medical services to be provided to the elderly community. Recognizing that many of the problems faced by the elderly are not purely legal, but a combination of legal and emotional, the institute decided to use a multidisciplinary approach at its primary community center—the Operation PEP storefront. Arrangements were therefore made to place graduate counseling students at the PEP center to work with those elderly individuals who had either emotional difficulties or a combination of legal and emotional problems. These students worked under the supervision of a professional mental health counselor on the staff of the storefront office. This operation proved to be especially effective in the situation where an individual's legal problems were causing additional emotional problems such as depression or anxiety. An individual in this position would then be able to receive both legal and supportive emotional assistance in one coordinated approach. The following case history is illustrative:

Mrs. R., an elderly black widow, first contacted our PEP office in an obvious state of emotional distress. After an initial interview, she was invited to speak with one of the mental health counselors on duty at the center. The counselor soon learned that Mrs. R.'s emotional difficulties had been precipitated by the decision of the Department of Human Resources to terminate her eligibility for medicaid due to over-income status. The counselor made arrangements for Mrs. R. to meet with a law student working at the PEP office, who would be assigned as an advocate in her medicaid termination. The law student immediately requested Mrs. R. be given a full and fair hearing on the question of her continued eligibility for the medicaid program, and began to prepare for that hearing. During the weeks that followed, both the law student and the mental health counselor kept in close contact with Mrs. R.; the law student, in order to gain more information needed for the hearing, and the counselor, in order to prepare Mrs. R. for the possibility of losing her medicaid benefits. As the date of the hearing approached, alternatives to medicaid were discussed, as well as ways in which Mrs. R. could save money for medical expenses through simple changes in her budget. She was also given constant reassurance that she would be able to overcome the loss of the benefit, and learn to manage without it if necessary. By the date of the hearing, Mrs. R. was able to face this prospect with a minimum of anxiety and with a great deal of composure. The hearing was held, a decision was made in her favor, and the entire case was closed.

Arrangements are now being made with the George Washington University Medical School to institute a multidisciplinary, multifaceted service center, in conjunction with the school of medicine and health sciences gerontology program, where clients could be provided with interview, diagnostic and evaluative treatment for legal, mental and physical health, and other life style problems with a view toward immediate "treatment."

In addition to the legal and psychological services provided by the Operation PEP center, a wide range of other social services are available on an emergency basis. For example, emergency transportation, storage of household goods while locating housing, and assistance in finding housing are all provided or have been provided by the office whenever possible.

During the period from September 1975 through September 1976, the PEP center handled over 1,021 cases, for an average of 85 cases per month. Cases from all clinical locations, including the National Capital Housing sites as well as the PEP office totalled over 1,380 for the one year period. The highest percentage of cases requiring legal or paralegal assistance were in the areas of social security, medicare, medicaid, supplemental security income, wills and probate, and income taxes. Other legal problems that were presented frequently included consumer problems, Veteran's benefits, and landlord and tenant cases. But, whether the problem presented was designated legal or "nonlegal" (emotional and psychological), service to the elderly client was made available by a university based team of faculty, practicing professionals, paraprofessionals, and law students who had one thing in common—a desire to translate concern into service and learning.

CURRICULUM, PARALEGAL TRAINING FOR SENIORS, 1975-76

1. THE ROLE OF THE PARALEGAL (4 WEEKS)

This first segment contains an introduction into the function and role of the paralegal assistant in helping to solve the problems of the elderly. Special emphasis is placed on counseling techniques with the older client, psychological and emotional problems of the elderly, legal interviewing, and the prohibition against the unauthorized practice of law.

2. LEGAL RESEARCH AND WRITING (4 WEEKS)

Paralegal students are taught the fundamentals of legal research and writing including the National Reporter System, statutes and codes, legislative histories, Federal regulations, and the use of citators.

3. ADMINISTRATIVE LAW AND THE ELDERLY (10 WEEKS)

Paralegal advocacy before Federal and local administrative agencies is examined in detail. Topics covered include social security retirement, survivors' and disability benefits, medicare, medicaid, food stamps, and supplemental security income. The effect of the Administrative Procedure Act upon agency adjudications is stressed.

4. PRIVATE LAW (8 WEEKS)

The role of the paralegal as an adjunct to the licensed attorney is examined. Class work covers the areas of landlord and tenant law, rent control, the problems of condominium conversion of rental units, public housing, nursing home law, the problems of the elderly consumer, and will writing and probate law.

5. TAX (2 WEEKS)

Paralegals are taught the correct preparation of Federal and local income tax forms with emphasis placed on those provisions which are designed to aid the elderly taxpayer. Also discussed are property tax rules designed to benefit the older landowner.

6. CLINICAL PLACEMENT (8 WEEKS)

Practical experience is gained through placement at one of the seven clinical sites operated by or associated with the training program. This experience includes intake, legal interviewing, representation before administrative agencies and assisting law students with court cases. All clinical work is supervised by licensed attorneys.

Senator WILLIAMS. Thank you very much. Mr. Fry.

STATEMENT OF WILLIAM FRY, DIRECTOR, NATIONAL PARALEGAL INSTITUTE, WASHINGTON, D.C.

Mr. Fry. My name is William Fry. I am the executive director of the National Paralegal Institute. I thank you very much for the opportunity to speak here this morning.

I have submitted written testimony¹ which I am not going to read from or necessarily follow. I would like to summarize some of the main points in that testimony and raise some concerns about development of the new legal services program for older Americans.

I think this is a crucial time in the development of this national program. The program has now been running effectively for about a year and has gotten off the ground like a rocket. The need was so enormous and the interest so great that down at the State and area agency levels there is a great deal of activity and things are moving very quickly. I think within the next year the program will have developed a clear profile, so the questions that I would like to raise today are what that profile should look like.

First, let me say, what the National Paralegal Institute is. We have been in existence about 4 years. We focus on the promotion of the paralegal concept. We have a national scope and jurisdiction. We have been funded by OEO and the Legal Services Corporation and are now funded by HEW. Our focus is on promoting the utilization of non-lawyers in delivering legal services.

A great deal of our emphasis is on the preparation and delivery of training because training is what makes a paralegal. In addition, we spend a lot of time talking to agencies and legal services projects on how to recruit paralegals and how to train and utilize them.

"LACK OF CONCEPTUAL FRAMEWORK"

I have noticed that while the new legal services program for senior citizens has generated a great deal of interest and excitement there seems to be a lack of conceptual framework around which it can be built. I think that lack is causing trouble in the field, essentially because the personnel in the senior networks are not familiar with legal services. They know the need, they know about lawyers, and they know that there is a tremendous desire on the part of the senior community to have access to legal assistance, but they are not from the legal services network, they are from the senior network. As a result, they lack basic concepts in trying to design a new legal services delivery system.

Let me suggest an image which may explain our view of a legal services delivery system for older citizens. It consists of a pyramid. The apex of the pyramid represents law reform and test cases—the kinds of things that were mentioned by Mr. Sirulnik. It is the kind of thing that has gone on historically in the OEO legal services program through the national backup centers and through some of the active test case litigation of the OEO projects. It is lawyer work.

¹ See p. 234.

The second level of the pyramid is the kind of work that lawyers and legal services projects have traditionally done which we think of as crisis intervention. This involves situations in which people have reached a crisis in their affairs; they have been sued, they are being kicked out of their building, their welfare grants are being terminated; they are desperate. In a situation like that they think of getting an attorney.

It is situations like these which cause middle class and well-to-do citizens to pay substantial sums of money to attorneys. They are in real trouble. It is often what stimulates poor people to go to a legal services program. They wait until they are in real trouble.

The third layer of the pyramid we think of as work for nonlawyers and to us it represents the greatest need, the greatest number of problems. Many of these problems were described early this morning by the representatives from the Camden project. They talked about such things as people coming into their office with a lease problem where there was not a need for an attorney. They talked about the application process for public benefits. We know that there are millions of citizens who need assistance in the public benefit area. The application process itself is moderately complicated, people often don't know how to fill out applications for public benefits. It takes a knowledgeable person to counsel an applicant on how to make themselves eligible for public benefits. It takes a knowledgeable person to assert a disability claim. These are all things that nonlawyers can do.

We have received a grant from HEW to work on the delivery of services to this third layer of the pyramid. We have given a label to the person who functions in that category and it is not a paralegal.

The paralegal is a nonlawyer working with and under the supervision of an attorney. We call the third layer personnel community service advisors and we expect that these will be the information and referral people, the counselors, all the people that work out of the senior agencies who constantly run into low-level, law-related problems, who need training in handling these problems and who if trained can represent millions of citizens in this third layer of legal problems.

PROBLEMS IN PROGRAM EVOLUTION

Let me turn to a couple of the concerns that we have about the way the AOA national legal services program has been evolving. I should say that by emphasizing concerns I do not mean to suggest that I have any profound inhibitions about the program. It is an excellent program, it has been launched quickly and effectively, and it has a very important mission but in its evolution I think there are some problems emerging.

One of the problems that we see is that the third layer of our pyramid where we think the need is the greatest, the need below law reform and below crisis intervention, we are fearful that that third layer will not be supported, will not receive enough attention, will not be developed. It is going to require a great deal of training to give older people the knowledge and the skills needed to handle these third-level cases. I am not sure that the concept is sufficiently well understood and I am fearful that among other things senior administrators will believe that

legal services is synonymous with lawyer services because that is a traditional concept in this country.

In fact, the AOA and Legal Services Corporation programs have worked hard to establish the idea that poor people have a right to an attorney, which I believe is correct—but it is not the only thing that they have a right to. I think it would be too easy to automatically convert the senior citizen legal services campaign into a campaign to provide lawyers for older people. I think they need much more than that. I think they need trained nonlawyers to help them, and, indeed, I think that the number of their problems is so enormous that it is not conceivable that there will ever be enough lawyers to handle these problems.

The second concern we have is around training and the absence of training. The AAA structure under the Older Americans Act relies heavily on the processing of money through the States to the AAA. There are close to 500 AAA's in the country. It is a system to promote the grassroots participation and involvement of senior citizens. I think the problem is that some delivery services cannot run effectively at the AAA level.

When we travel around the country performing our mandate under our grant, we go into communities and we describe the paralegal concept and we urge them to develop their own training. Most people turn to us and say: "We would like you to do the training, we don't know how. We don't have the people, and we only have five paralegals in our community, and that is not enough to justify launching a whole training program."

So at the AAA level there is not enough money, not enough knowledge, and there is not a critical mass of people to be trained. You really can't expect an AAA to launch a whole training program to train 5 or 10 people. What is needed is some kind of national or regional training and I think it would be very important for the Congress to express that view to AOA. I think the concept of national and regional training is now viewed as a deviation from the Older Americans Act. I don't think the training of senior citizens as paralegals or CSA's is going to happen unless there is some national or regional training capacity.

QUESTIONS ON JURISDICTION

The third concern which I will just touch on is unauthorized practice and I do it simply to remind you that what we are talking about in expanding legal services to older citizens is nonlawyers handling legal and law-related problems. I believe everyone, including Congress, will have to watch closely to see that the bar associations don't close down on all this. I don't want to go into detail at this time, but we are currently involved in three or four situations around the country in which bar associations are promulgating rules on unauthorized practice or ethical rules governing lawyer conduct which would preclude nonlawyers from doing many of the things that we are talking about paralegals and CSA's doing for senior citizens.

A number of State bars are moving in the direction of forbidding nonlawyers from doing administrative representation. If that were to

happen, it would mean that senior citizens would be deprived of the main resource that they have for help in social security, disability cases, food stamp cases, and supplemental security income cases. There are not enough lawyers to handle those matters.

Another concern that we have developed recently around the so-called sprinkle grants is the question of what the States should do under the recent directive from AOA to establish a statewide developer and coordinator of the legal services.

Senator WILLIAMS. What kind of grants did you say?

Mr. FRY. Well, they are referred to as sprinkle grants. This is a program recently launched by AOA in which each State is given a sum of money, most States approximately \$20,000, with the directive that they should create State legal services developers, some of whom would promote, coordinate, and stimulate the development of legal services. The AOA directive was that that person should be a State employee unless there were exceptional reasons for his not being a State employee. A number of States are, as we understand it, planning to subcontract that function. It is a very important function, and a question that has been coming up frequently is whether or not it is a good and proper thing for the States to subcontract that money with another agency rather than to use it to employ someone on their State staff.

I would simply like to call attention to a couple of problems with this subcontracting process. One of them is that if these functions are to be subcontracted, I believe it is important that they go to an agency that has substantial roots in the senior community.

CONFLICT OF INTEREST SHUNNED

Second, I think there is a potential problem in the subcontracting of this function which is that the legal services developer in each State will have a great deal to say about what happens to funds within that State—title III and title IV funds—to develop legal services. I think it is important that the development function not be given to an agency that might have a conflict of interest over applying for those funds. If an agency has the developer function and also is applying for title III funds to operate a program, there is a potential conflict of interest.

The final point I would like to raise is the need for a new title in the Act for legal services. You may recall that the nutrition program started as a model project and grew into having its own title. I believe that that is the direction that legal services expansion should take and I can provide at least one reason. The national support projects funded by AOA to promote legal services are model projects now funded under section 308. As I understand it, there comes a time when a model project has to be terminated, when it has fulfilled its model project purpose. I further understand that there is, under the law, no simple way that these national backup and support programs can be continued indefinitely. I think they should be. It was the experience of the OEO legal services program in this network of national backup programs, and I think AOA will reach the same conclusion.

Senator WILLIAMS. There is new legislation now under study which would automatically terminate programs unless they are renewed.

Every idea, every program, and every effort has a sunset. Then it must justify itself to see a sunrise. You are familiar with the processes we are going through now to insure that, are you not, Mr. Fry? Are you familiar with the sunset legislation.

Mr. FRY. I am not.

Senator WILLIAMS. My friend, when this breaks, you will consider it a disaster that is about to descend upon this Nation, as some of us have. But we have adjusted to the idea that the Nation is in the mood to see all programs zero based within 5 years, and therefore they must rise again and be reborn so to speak.

Mr. FRY. I really don't have any great problem with that concept.

Senator WILLIAMS. I had a big problem, but I am getting adjusted to it and I am beginning to rather like it, as a matter of fact.

Mr. FRY. What I am really referring to is in the future when AOA may lack the legal capacity to continue national support projects even if the decision was made that they ought to be continued.

Thank you.

[The prepared statement of Mr. Fry follows:]

PREPARED STATEMENT OF WILLIAM R. FRY

I. INTRODUCTION

I am grateful for the opportunity to address the Special Committee on Aging at this important stage in the development of legal services for senior citizens. The Congress, through amendments to the Older Americans Act, and the Administration on Aging, through its grant decisions and policy statements, have launched a campaign to expand and improve the legal help available to older Americans. This new direction, if executed effectively, can attack many of the root causes of deprivation, injustice, and misery experienced by older Americans.

At this stage in the evolution of the program, many fundamental decisions are being made about the directions that the program will take, the choice of vehicles for delivery, and the relation of the new program to existing efforts in the field. In this presentation I would like to address some of the choices on structure and direction which are now being made or soon will be made by the Administration on Aging and the State commissions on aging. I will propose a point of view which will suggest a logical structure and manner of proceeding with the program.

To summarize some of the main points I will put before you: The new program should avoid departing from the philosophy of the Older Americans Act which emphasizes strengthening and coordination of existing services by State and area agencies on aging; the new program should utilize senior citizens in the planning and in the actual delivery of services, avoiding too much reliance on lawyers and lawyer-controlled programs; the particular role lawyers should play in the overall delivery system should be clearly defined; and the new program should develop a national training strategy which transcends reliance on State and area agencies to each develop their own training capacities.

II. THE PHILOSOPHY OF LEGAL SERVICES UNDER THE OLDER AMERICANS ACT

The major impetus for a national legal services effort for older Americans is frequently attributed to this committee. Until 1975, the Older Americans Act had no provision which required legal services as a priority under the broadly defined social services activities found in title III. This committee urged a willing Administration on Aging to launch a national effort to promote the extension of legal services to senior citizens. As a first step in this direction, AOA funded 11 model projects which were to provide technical assistance to State and area agencies on aging on identifying legal problems of the elderly, on designing strategies to meet these needs, and on developing a capacity to train those who would deliver the new services.

In 1975, the Older Americans Act was amended to emphasize new categories of social services. Legal assistance and legal counseling were specifically included under title III (section 302(1)(F)). In an effort to affect implementation of these amendments, AOA has now offered to provide each State with funds to employ a statewide legal services developer to promote and coordinate legal services.

It is important to emphasize that the new program direction outlined by AOA builds on and does not modify the underlying philosophy of the Older Americans Act. The act emphasizes the coordination of existing services; the strengthening of State agencies and area agencies on aging; the utilization of senior citizens in the delivery of services; the expansion of power, authority and control of senior citizen agencies over their own affairs; and the development of local multipurpose centers so that as many services as possible can be provided under one roof. I emphasize these underlying philosophies because, as will appear below, I fear that in too many cases new legal programs are being established in or through agencies and programs in which senior citizens are the least involved—and that this development is contrary to the philosophy of the Older Americans Act.

Before discussing the possible structures of delivery, it may be useful to summarize the kinds of legal problems which older citizens experience.

III. THE RANGE OF LEGAL AND LAW-RELATED SERVICES NEEDED FOR OLDER AMERICANS

During the last few years, there has been extensive analysis of the legal needs of older citizens. Much of this has been produced by the model project grantees of AOA whose function it was to explain to State commissions and AAA's what services ought to be provided. These services may be classified into seven categories:

1. ASSISTANCE IN OBTAINING PUBLIC BENEFITS

Millions of senior citizens are receiving or are eligible to receive the benefits of social security, supplemental security income, food stamps, veterans benefits, homemaker services, medicare and other public benefits. Despite extensive efforts to bring these programs to the attention of those who may utilize them, there are still many who are not aware of them. Moreover, the eligibility qualifications for these programs are in some cases quite complex. Assistance in filling out applications, understanding eligibility factors, and in taking steps to become eligible (such as disposing of certain assets) are matters on which skilled assistance is often required.

Those who are receiving public assistance are by no means beyond the need of help. Eligibility factors constantly change; Congress frequently amends the law or administrative changes are made. Thus, in any given year public benefit recipients may be subjected to reduction or termination of their benefits, often based on complex adjustments to the Federal statutory scheme (or on administrative error). For example, it has been estimated that during the coming year 800,000 recipients of SSI will be subjected to a reduction of their benefits because of alleged overpayments to them.

2. INCOME MAINTENANCE

Perhaps the biggest threat to older Americans, aside from severe illness, is the falling off of income which accompanies age. Thus the maintenance of the highest possible level of income for each individual is crucial. Public benefit programs may provide part of this need, but senior citizens need assistance in reviewing their entire financial status, including matters of insurance, pensions, tax, purchase of medicine and health benefits, transportation, mortgage financing, debt and credit, and other factors bearing on the maintenance of their income level. Access to such advice should be consolidated in one place so that an informed overview of the individual's income maintenance situation can be made.

3. PREVENTIVE LAW AND EDUCATION

All citizens suffer from lack of knowledge about the consequences of legal commitments they make or about the remedies available to them under the law.

This lack is particularly damaging for senior citizens who are functioning on fixed incomes where a bad financial bargain can mean the loss of essential resources. In the areas of consumer law, landlord tenant, real property, and debtor-creditor law, there is a need for both general education, and basic counseling prior to entering into bargains and legal commitments.

4. PROTECTIVE SERVICES

This subject encompasses the range of legal rights and remedies available to assist senior citizens in preserving their health, assets, independence, and well-being. It includes guardianship, commitment, third-party payees, powers of attorney, and health-homemaking services. There is an extensive need for counseling, assistance, and advocacy, on behalf of senior citizens in this area. In the absence of such assistance, millions of seniors may be stripped of their rights, their resources, and their liberty.

5. NURSING HOME ADVOCACY

While the subject of protective services deals with preventing commitment, this area focuses on those 1.2 million older citizens who are placed voluntarily or involuntarily in nursing homes. The Administration on Aging has recognized this area of need by funding State developmental programs to promote and develop ombudsman programs which will coordinate and provide advocacy, representation and law reform on behalf of residents of nursing homes.

6. CRISIS INTERVENTION

This is the area traditionally served by legal services programs and private attorneys. It cuts across many of the problem areas mentioned above, and involves intervention at a time when preventive law, education, counseling, assistance, and protective services programs have either failed or led to a confrontation. Traditionally, people seek assistance from attorneys when their affairs reached a crisis state, and litigation or representation by an attorney (or an attorney's assistant, the paralegal) is needed. It might be added that because of the structure of the legal services delivery system in the United States, and the limited resources available to the federally supported Legal Services Corporation program, the intervention of the lawyer or legal services project must, in the nature of things, be reserved for a crisis.

7. TEST CASES AND LAW REFORM

In addition to providing people with assistance to obtain their legal rights, benefits and remedies already available to them, there is a need for changes in the law through selective litigation calculated to correct injustice and promote more favorable legal interpretations.

IV. CONCEPTS FOR THE FUNDING AND DELIVERY OF LEGAL SERVICES

It seems clear that there will be insufficient funding under title III of the Older Americans Act to provide the foregoing broad range of services needed to meet the needs I have described. Competition for title III funding is severe and legal services is only one of many program priorities under the Older Americans Act.

Title IV training moneys can be used to supply an essential element to expanded delivery of legal services. The greatest potential for dramatic expansion of service is to draw upon the energies, common knowledge, and experiences of senior citizens themselves. The National Paralegal Institute and other entities with the support of the AoA have been experimenting with the training and utilization of senior citizens to deliver legal services. There are now tested training materials and techniques designed specifically for senior citizens which can be used to create an entirely new work force of advocates, counselors, and administrative representatives. The funding of training under title IV-A is essential to achieve this expansion.

Although moneys now being made available under the Older Americans Act are critical to the initiation of new programs, these moneys are minimal in relation to the needs in the field.

Effective implementation of the legal services mandate will require a merging of a variety of programs and resources.

Title XX of the Social Security Act establishes social services to prevent or remedy abuse, neglect, or exploitation of adults as well as children. Legal services have been established in several States as one of the major social services. In fact, title XX moneys have been used to create statewide legal services for older people in States such as Pennsylvania and West Virginia. The potential of using this program and funding resource to meet the legal needs of older Americans is clear.

The funding available from the Legal Services Corporation for its projects also can play an essential role in strengthening legal services for senior citizens. For many years, it has been recognized that while older Americans comprise approximately 20 percent of those in need of legal assistance, only 6 percent of the caseload of legal services projects has been older clients. Without changing their funding structure, Legal Services Corporation projects can be encouraged to provide more adequate representation of this class of clients. Moreover, as will be discussed in more detail below, Legal Services Corporation projects are frequently the best source for crisis intervention, test case and law reform activities. Thus they may supply a crucial element in the total picture of legal services delivery.

There are other sources of funding which can be tapped for expanding legal services for senior citizens. Programs enhanced by moneys from ACTION, the Comprehensive Employment Act and from other manpower programs such as the senior community services employment program will be described by others at these hearings.

Since none of these programs alone can provide the funding necessary to establish and maintain the comprehensive legal services network needed to meet the needs of older people, it is crucial that the promotion and eventual use of such funds is coordinated through the network established to serve people under the Older Americans Act.

The expansion of legal services is not to be achieved by the wholesale creation of the new delivery network, nor by creating or funding entities outside of the existing network of senior citizen programs. The thrust of the Older Americans Act is to strengthen state agencies and AAA's, so that they may effectively build and coordinate a coherent and interrelated delivery system of all services. An underlying theme of this strategy is that senior citizens must be given greater responsibility and authority in their own affairs. Thus, wherever possible delivery mechanisms ought to be directed and coordinated by senior agencies. Above all, the program should be designed so that senior citizens themselves are involved in the direction and control of the programs, as well as the direct delivery.

It follows from this that legal services needs cannot be met consistent with the Older Americans Act by turning over the responsibility to bar associations, law schools, private law firms, or Legal Services Corporation projects. Instead the special talents and skills of those groups are to be coordinated into the overall system, with direction and control being provided by a strengthened senior network.

Thus, through the creative combination of funding resources, and creation of new relations of cooperation with existing legal services delivery systems and the expansion of capacities of senior citizens and their agencies, a full range of legal services delivery may be achieved.

V. SUGGESTED FRAMEWORK FOR LEGAL SERVICES DELIVERY SYSTEM

The legal services delivery system needed for senior citizens can be viewed as a pyramid, with the width of any cross section representing the numbers of people needing direct assistance.

At the apex of the pyramid would be law reform, test case litigation and handling of complex legal matters including design and analysis of legislation. This is an area in which Legal Services Corporation projects have been most active through the aggressive litigation of individual projects, and the backup of national support centers. In addition, considerable work has been done through law schools and in cooperation with bar associations (particularly those with special committees or panels dealing with senior citizen matters).

A second level of the pyramid is crisis intervention and handling matters where a legal confrontation has occurred or is imminent. These are the kinds of

matters for which citizens seek out attorneys, and conversely, which attorneys are trained to handle. Within the Legal Services Corporation projects, attorneys with the support of paralegals provide this service as do some bar association referral programs, law school clinical programs, and specially funded senior citizen legal services projects. (For example, those located in Santa Cruz, Dallas, Tex., and St. Paul, Minn.)

The third level representing the widest need and, unfortunately, the least available service are those matters discussed earlier under the heading of public benefits, income maintenance, preventive law, education, protective services, and nursing home advocacy. For the top two layers of the pyramid, some available services exist, presenting problems of coordination and strengthening. This third level of need is one which has yet to be fully defined, although AOA has undertaken a number of important experiments to explore this area. It has funded the National Paralegal Institute to create training materials and give technical assistance in this area. Under a current grant, NPI is designing, and will test in three separate training programs around the country, the concept of the non-lawyer community service advisor. This person will generally be a senior citizen employed by a senior agency, and trained to give assistance to older Americans. Emphasis will be on public benefit eligibility assistance, income maintenance, preventive law, community education, and protective services. Related experiments have been conducted by the American Association of Retired Persons under an AOA grant in which a training program for volunteers has been designed; and in California where an intensive statewide training program was conducted by the western subsidiary of NPI. Under that California program, area agencies on aging and senior projects within the State were given technical assistance in designing a legal services delivery system, training materials were prepared, and during 1976, 60 paralegals and CSA's were trained. Another 60 will be trained in the next 12 months. Careful monitoring of the work of these trained senior citizens indicates that they have caused a dramatic and rapid expansion of available legal and law-related assistance, and have established an extraordinary record of success in gaining benefits and remedies for senior citizens.

The services that are needed under this third layer of the pyramid may be provided out of multipurpose centers, nutrition sites, senior citizen housing developments, health care centers, home care agencies, and other social services agencies. The expansion of this third level promises a massive involvement of senior citizens in the policymaking and actual delivery of services.

This concept of legal services needs suggests a framework which can be developed within each State. The "sprinkle grant" policy of AOA (which creates a legal services developer for each State) can provide the impetus for the creation of an efficient statewide network. The developer may find it useful to analyze needs in terms of the suggested three-level pyramid. At the first level some entity within the State should be focusing on selected test case and law reform activity, as well as legislative and regulatory agency monitoring. Whether this should be a legal services project, a bar association committee, or a law school based project will depend on which of those entities is available and able to undertake the function. In some States, it may be necessary to create a statewide unit to perform this function.

At the second level, the crisis intervention and more traditional legal representation, it will be possible in many areas to build upon existing legal services delivery systems. Legal Services Corporation projects are traditionally underfunded and stretched to the limits of their capacity. Moreover, Federal funding has been insufficient to provide total coverage, and vast geographic areas in the country have no effective legal services projects available. Accordingly, even where Legal Services Corporation projects can be involved, there may be a need for supplemental assistance. An alternative to utilizing Legal Services Corporation projects is to provide senior citizen programs with their own attorneys.

I believe that one of the most serious pitfalls facing the development of senior citizen legal services is the failure to stress the third level of need, and the error of believing that the provision of services at the second level is sufficient. Achievement of a full range of legal services for senior citizens may require coordination and utilization of existing systems for law reform and crisis intervention, but for broadening the base of delivery it will require expansion of current senior citizen agencies capacity by creating a new person, trained to supply the assistance which no other entity is now equipped to deliver.

VI. POTENTIAL ERRORS IN SELECTING THE WRONG STRUCTURE FOR LEGAL SERVICES DELIVERY

The concept of legal services delivery is generally new to the senior citizen network. AOA has funded NPI and several other national organizations to provide technical assistance to State commissions and AAA's on various aspects of legal services delivery. NPI concentrates on providing technical assistance regarding paralegal CSA's, and on designing training techniques and materials.

Knowledge and understanding of legal services needs and delivery systems has risen dramatically as a result of the AOA funded technical assistance. Nonetheless, within the senior citizen network (State commissions, AAA's, and service delivery projects) there is even now a lack of indepth knowledge on many aspects of legal services.

One of the most common problems we have encountered in providing technical assistance is the question of which entity within the legal system can best provide a particular service.

For example, there are lawyers, paralegals, CSA's, and program supervisors who need training. As potential trainers there are colleges, law schools, on-the-job trainers, national and local training specialists, continuing education programs, and schools of gerontology. Which of these is best suited to train lawyers? Paralegals? CSA's?

There is a need for service delivery in the form of information and referral; nursing home advocacy; public benefit applications; test cases and law reform; income maintenance; and crisis intervention. Potential delivery resources are law school clinics, private attorneys, bar associations, Legal Services Corporation projects, senior citizen projects, or newly created agencies. How is a State or AAA to make a wise decision as to which of these many choices is best?

We have seen choices made which we believe were not for the best. Are law schools the best place to train paralegals? Are bar associations the best source of counseling on public benefits? Subject to some exceptions, the answer is probably not. Errors in such matters are, however, understandable. Do not law schools teach law? Are not bar associations made up of lawyers who know "the law"? The problem is that the decisionmakers within the senior network sometimes need guidance in asking more pointed questions. For example, should paralegals receive the same training as law students? Does the average lawyer know social security law?

These choices of the proper vehicle are often difficult.

A question currently being faced by AOA and the State agencies is the extent to which Legal Services Corporation projects should be utilized as the statewide legal services developer. Despite the strong language of the AOA technical assistance memorandum which specifies that the developer should be employed as part of the State agency on aging staff (unless there is some clear barrier to such employment) it appears that a number of States will propose to subcontract the statewide legal services development function to a Legal Services Corporation project.

NPI has no specific policy or recommendations as regarding such a decision. In some States, Legal Services Corporation projects have been involved in senior citizen matters to such an extent that subcontracting the function to them can result in highly effective developmental work. It has been the position of NPI that we should assist a State in making a careful and informed decision on whether to subcontract the developmental function and if so to whom.

The developmental function is essentially one of coordination, stimulation, program development, instigation of training, and leadership. It is not viewed by AOA as expansion of service delivery. Accordingly, consistent with AOA policy it will be important for any subcontract of the developmental function not to result merely in expansion of one service delivery program. Moreover, because of the nature of the developmental role, it should be given to a person familiar with the senior citizen community, and its structure, functioning and politics. It must also, in the nature of things, be someone with a history of involvement in the senior community. While some Legal Services Corporation projects fit this description, many do not. We are concerned that some States will contract away the important function of the statewide legal services developer without getting more for it than a slight increase in the level of service being delivered to older citizens through Legal Services Corporation projects.

One problem looms as a potential conflict of interest for a subcontracting statewide legal services developer. The person or organization occupying that position will have considerable influence over the granting of funds under title III, and perhaps over title IV-A training money, title XX social services, and nursing home ombudsman funding. If the developer function is subcontracted to an operating program which is also applying for program operation funds, there may be an actual or apparent conflict of interest over where the programmatic funding should go. There may also be an irresistible impulse for any service delivery program to utilize the position of the developer as a way to obtain funding for itself.

Once they are installed, perhaps the most difficult question facing State legal services developers is the question of the appropriate role for Legal Services Corporation projects in the overall expansion of legal services to older people.

To understand the potential role of such projects, it is necessary to understand their history, and their place in the legal delivery system.

The legal services program initiated by OEO in 1965 was unquestionably the most effective of all the war on poverty programs. Its ambition was to provide to the poor a form and quality of legal services similar to that which could be purchased by the well-to-do. Despite earlier efforts to establish considerable community control over legal services programs, they have evolved as essentially lawyer controlled and dominated instruments.

Legal Services Corporation projects are run by attorneys whose background and predisposition is toward the more technical aspects of legal practice. Thus, they are particularly competent at crisis intervention, law reform, test cases, litigation in general and the handling of complex legal disputes. Many Legal Services Corporation projects now employ paralegals to work in support of attorneys and also to extend the projects' range of services, particularly in the administrative law area.

In many parts of the country, Legal Services Corporation projects represent an important potential for supplying part of the overall functions of the legal services delivery system for older citizens. One mission of the State legal services developer will be to help the Legal Services Corporation projects focus more of their attention, and a greater proportion of their resources upon serving older citizens. According to the statistics cited earlier these projects could triple the time and energy devoted to older citizens, without additional funding.

Legal Services Corporation projects share with other lawyer-dominated entities such as bar associations and law schools certain deficiencies which militate against their being the principal resource for senior citizen legal services. They are not usually an integral part of the senior community. They are neither controlled by the senior citizens, nor do they employ substantial numbers of them for delivery of services. Moreover, they are generally not in close working relations with other elements of the senior citizen network, and this lack of familiarity may make cooperation difficult.

Most Legal Services Corporation projects are not geared to handle the broad array of income maintenance, public benefit, preventive law, education, protective services, and nursing home matters which senior citizens need. This is partly a result of lawyer education and professional attitudes, which focus on handling crisis rather than what lawyers may view as less difficult and sophisticated legal problems. There is also an extraordinary pressure on legal services offices to handle crisis cases, and most Legal Services Corporation projects make the perfectly rational choice to handle only those matters which are *in extremis* or close to it.

Under what circumstances, then, would it be appropriate as a general rule to involve Legal Services Corporation projects in the expansion of legal services for senior citizens? As described above, one element of such expansion is the increase of access by senior citizens to the kind of legal services in which these projects specialize (essentially law reform, test cases, and crisis intervention). It seems entirely appropriate that the title III service funds could be utilized to strengthen the involvement of Legal Services Corporation projects in the senior citizen community, particularly in a coordinated relationship with other service delivery instruments. It will, of course, be a difficult judgment in individual cases to determine whether such additional title III funding is necessary or whether an expansion of service can be achieved through better coordination, and by educating older citizens as to the services which are already available.

In those States where a statewide law reform unit is indicated, it may be wise to turn to existing Legal Services Corporation projects which already have the general expertise and staff capability to engage in such activity.

As to the expansion of the area we have called the third level of the pyramid, for all the reasons mentioned earlier, the State developer should create a strategy for training older citizens, for the expansion of the current service capacity of existing senior citizen agencies, and for employing older citizens to deliver the service. It is the perception of the National Paralegal Institute that the strength and effectiveness of the national program to extend legal services to older people will depend upon the success of the creation of this third level of the pyramid.

To achieve this, the developer should look to the senior agencies themselves rather than to a mere expansion of lawyer-services through bar associations, law schools, or Legal Services Corporation projects.

Partly it is a matter of geographic coverage. Older people have special difficulty in getting themselves physically to a service office. There are numerically perhaps 10 to 20 times as many senior agencies in communities as there are Legal Services Corporation projects. (For example, there are about 30 LSC projects in California compared with well over 1,200 senior agencies.)

There is also the question of strengthening the senior network, a goal of the Older Americans Act. Such strengthening cannot occur unless senior agencies have a substantial role in the delivery of services.

Finally, there is the nature of the service, and the need for locating it in the most appropriate entity. The greatest numerical need for services is on the lowest level of the pyramid; the kinds of problems CSA's can handle, but the kind of problems LSC projects and lawyers generally are not geared to handle and probably cannot handle given the pressure of crisis cases.

This strengthening of senior agencies and creation of a third level delivery mechanism, through CSA's, requires training.

VIII. THE NEED FOR TRAINING

In order for any expansion of legal services to older citizens to occur, training is necessary. Many of the legal issues affecting senior citizens, such as protective services, disability, and SSI are not generally known or taught in law schools. Thus, training will be needed for lawyers as well as for paralegals and community service advisors.

The most compelling need for training, however, is to bring into the delivery system nonlawyers in the form of paralegals and CSA's, who ought to be the principal resource for the expansion. These people need fundamental training not only in the substantive areas mentioned above, but in the skills and techniques of rendering assistance, including the fairly sophisticated art of administrative representation (which is permitted to nonlawyers under Federal regulation).

I should hasten to add that the Administration on Aging has already recognized the foregoing proposition. In three separate fundings it has mandated the National Paralegal Institute in Washington, D.C., to develop national training materials for paralegals and senior citizens legal problems, and to provide technical assistance around the country to help states train and utilize paralegals. A separate grant to the State of California has enabled the western division of NPI in San Francisco to provide technical assistance to deliver training designed specifically for California.

These training materials and techniques should now be made available throughout the country. AOA has funded some efforts in this direction but success in expanding training has not been impressive. In delivering its technical assistance NPI has been made aware of a fundamental defect in the approach to training currently taken by AOA. Consistent with the Older Americans Act, AOA has sought to develop training through the network of State and area agencies on aging. NPI, while authorized to design training materials, has not been funded to deliver training on a national or regional basis (except for three demonstration and testing training events under its CSA grant). AOA has hoped that, through technical assistance and other forms of guidance including the provision of prepackaged training material, training would emerge on a local level, but unfortunately this has not happened, for a number of reasons.

The resource AOA looked to for legal services training for paralegals and CSA's was to be the network of community colleges, universities, and law schools. To date, very few of these entities have undertaken to provide the

needed training. Except for some law schools, the other educational entities have no one on their staff with a good comprehension of the substantive law and skills for which training is needed. Most of these educational entities serve a specific geographic area. There have not been sufficient numbers of people in such areas to justify an educational institution creating a specific training program for that audience. Perhaps the greatest numbers of paralegals and CSA's can be found in California, where NPI's western office received several hundred applications for places in their training program. These applicants came from all over the State. In any particular California town where universities and community colleges serve the population, the likelihood of finding more than a half dozen candidates for such training is slim. Given such a limited audience for one-time training only, there is little motivation for a college to undertake to create and produce a training program. Finally, there is always the risk of duplication of effort and inordinate expense associated with splitting training up into small local elements. If every community college in the country were to undertake to deliver training to its local paralegals, the administrative expense would be enormous. Even if the colleges were all to adopt the materials developed by NPI without modification (an unlikely event) the expense of operating the separate programs would be extremely inefficient.

Thus, while the structure and control of senior citizen programs is, under the Older Americans Act, given to the grassroots level of the senior network, it does not follow that the delivery of training should not be on a national or regional level. In providing its technical assistance to States for setting up training programs, NPI is constantly asked to provide training to the States or AAA's, since they do not believe they have the capacity to generate such training within their own areas. There is no efficient way for NPI to respond to such requests. The only way that NPI or any other organization can provide effective training to all the States is through a coordinated national level effort. This would permit the scheduling of regular training programs, the creation of an ongoing training capacity and the most efficient delivery of training to all those desiring it. In the absence of such a national or regional training capacity (which could be on a statewide basis in the base of a few large States) the training of older citizens to deliver legal assistance is likely to be sporadic, or mixed quality, and inordinately expensive.

Senator WILLIAMS. Thank you very much, Mr. Fry.

We could be well served with a long discussion here. You are in the center of what impresses me as vital, essential social activity, albeit legal service. Now I wonder, just to get a broad picture here of the resources that make your activity possible—each institution that you are associated with has Federal funding and I just wanted to see if I could understand so that we could rationalize the sources of the funding. We started with Ms. Brodsky. Could you go down the line again? You all gave that, now let us run through it again so I can see how funding sources relate one to another because you are all on a similar mission, basically.

Ms. BRODSKY. We currently have two sources of funding. We have a model project grant from the Administration on Aging. Those funds are used for our technical assistance project which provides help to State agencies and other jurisdictions to set up programs based on our District of Columbia model. We also have some funds from the District of Columbia Office on Aging, the State agency on aging. These funds are used to continue the operation of the model project office which offers services to citizens in the District of Columbia. Those are our two sources of funding.

Senator WILLIAMS. It is all Administration on Aging money at two levels, is that correct?

Ms. BRODSKY. Some of it is coming through the District of Columbia Office on Aging.

Senator WILLIAMS. But their resources depend upon the national AOA.

Ms. BRODSKY. That is right.

Senator WILLIAMS. It is all AOA, two levels.

Ms. BRODSKY. Yes.

Senator WILLIAMS. All right.

Mr. SIRULNIK. We have three basic sources of funding. One is a research, training, and continuing education grant from AOA. We call it the training grant to distinguish it from our earlier model projects grant.

The second source of income is from the District of Columbia Commission on Postsecondary Education through title I of the Higher Education Act.

The third is the contribution the law school itself makes to the clinical program.

Senator WILLIAMS. You are all within HEW except for the law center at George Washington University itself?

Mr. SIRULNIK. That is right.

Senator WILLIAMS. The Commissioner of Education and the AOA is all within HEW.

Mr. SIRULNIK. Yes, sir.

GRANTS FROM AOA

Mr. FRY. We have two grants from the Administration on Aging, one under title III as a model project to do technical assistance around the country and another under title IV, a grant for training to develop and test the training concept for community service advisers. In addition, we have a series of contracts from various entities around the country: one from a division of the State of Texas, another from a legal services program, several from places in New York. All of these involve training or training related matters.

Senator WILLIAMS. Are these governmental programs that come to you from the States?

Mr. FRY. They all originate with the Government. In Texas, we work with a State agency, the department of public welfare, to train their staff in senior citizen problems relating to technical services. The arrangement with the legal services program involves manpower funds with a subcontract to us to develop training programs. There are several New York City smaller contracts which are using Legal Services Corporation funds.

Senator WILLIAMS. Let me ask you this. You are all, as individuals, Washington based?

Mr. SIRULNIK. Yes.

Mr. FRY. I might add that we have a west coast office in San Francisco, which is currently running on several grants and contracts in the State of California doing senior citizen training and technical assistance and is just for that State. So, while our main office is here, we also have another office.

Senator WILLIAMS. Do you see a thread of common purpose in all of your individual activities?

Mr. FRY. Yes, I think I do. I think we are all working at different aspects of the expansion of legal services through the use of non-lawyers.

Senator WILLIAMS. Under your title that is exclusively your mission because it is the Paralegal Institute.

Mr. FRY. Yes.

Senator WILLIAMS. But now the others are broader—legal services furnished by lawyers and paralegals.

Ms. BRODSKY. We also are using nonlawyers in that our volunteers are not lawyers.

Senator WILLIAMS. In addition, under this supervision.

Ms. BRODSKY. That is correct.

Senator WILLIAMS. Your program really does not get direction from the legal community.

Mr. FRY. Paralegals by definition are directly supervised by attorneys. The third group that we spoke of as community service advisers, would be linked to lawyer backup and referral but not directly under a lawyer controlled organization.

SHORTAGE OF "TRAINED" LAWYERS

Mr. SIRULNIK. I think the common thread is that this is the first time in recent memory that I have heard three people make the statement that there is a shortage of lawyers in this country. I think that perhaps the explanation is that there is a shortage of lawyers with the proper expertise to effectively serve the client community in which we are all interested. We are developing, all three of us, alternative means of providing legal services—some with nonlawyers, some by better trained lawyers, and also by certain law reform activities which might simplify the procedures and ameliorate the need for any lawyers.

Senator WILLIAMS. Let me ask you; do you all meet formally or informally and communicate your problems and your answers and the situations that you face in your prospective work?

Mr. FRY. Yes. As a matter of fact, we will have a meeting of all the national grantees of AOA next month in Philadelphia. We meet regularly three or four times a year to discuss what it is we are doing, how to cooperate, whether there is any overlap, and we will be doing that this year.

Mr. SIRULNIK. There is also, I would state, a good deal of informal communication on a weekly basis, referral of cases or consultation among problems especially between the three groups that are presently here in the same city.

Senator WILLIAMS. So you think if anyone should look at your activities, your organization, and your funding, you would successfully withstand an attack about wasteful, complex, and duplicative efforts and all of those other charges that we hear leveled at Government-sponsored activity?

Mr. FRY. I don't think it is any of those things, Senator. I think we are working in different areas for a common purpose. We are using some of the same conceptual bases. We all believe in training and we all believe in the expansion of services through training with the utilization of laymen but that is a very big universe. We, for example,

don't work with volunteers. AARP is an organization that works with millions of volunteers in the country. We don't work with them, and if we were the only one around, nobody would work with us. We work essentially with people employed in agencies.

Mr. SIRULNIK. I think our program is unique in two particular fashions. The first is that it is law school based and we are training not only the traditional young law student in the traditional way but also the paralegal trainees who are retired or semiretired along with the law students. The two groups work together in clinical programs. This is significant because there is a tremendous problem, as I am sure you know, with the sensitivities of many professionals in treating elderly people.

I am talking about medical treatment, as well as legal treatment. For instance, the term in many law offices for older clients is "crazies" because their problems are complicated and alien. There is a problem of attitude that I think programs such as ours at George Washington try to approach by putting younger persons alongside of older persons in a mutual attempt to solve some problems.

Senator WILLIAMS. I will come back in a moment.

Senator Hartke.

AVAILABILITY OF LAWYERS QUESTIONED

Senator HARTKE. Let me ask you about the one statement you made there. The last witness was talking about there not being enough lawyers around to handle the cases. Is that what you said?

Mr. FRY. Yes.

Senator HARTKE. Is that a situation which should be remedied? In other words, are you saying the lawyer should be supplemented or the lawyers should be increased?

Mr. FRY. I am not really saying that the lawyers should be increased. I think the number of members at the bar in the country may be increasing slowly. I don't see any possibility of an answer or a solution by increasing lawyers. The legal profession will always be limited in size, and, in addition, the structure of the legal profession—the price scale, for example—makes it virtually impossible to think of lawyers dealing with these problems. It costs too much money.

Third, these are not problems that require a lawyer. We have done a great deal of experimentation and analysis around that subject over the last 4 or 5 years and the majority of problems faced by poor people are problems that can be handled by a trained nonlawyer.

The public benefit area is one that is mentioned most. There are issues concerning eligibility for all of the public benefit programs. Those are questions which lawyers are not trained to handle and which many laymen are now handling, and I might say very successfully.

Probably it would help if I gave you a brief example. We trained, about 6 months ago, a group of 30 senior citizens. We trained them, among other things, in handling a current, very difficult problem for older people. A lot of SSI recipients have been told that they have been overpaid and they have to pay back to the Government. There are about 800,000 such cases.

These overpayment cases are coming up this year and, of course, for poor people that is a terrible blow. They are barely living on what they get and they are told they have to give some of it back. There are Federal regulations governing the overpayment demand and explaining what one has to do to get the overpayment waived. It is moderately technical, and it certainly takes someone who understands the overpayment situation to represent a client.

We trained paralegals in handling overpayment cases. In one case a paralegal trained by us came back a couple of months later and said he had six such cases and won every one of them. Now I would like to assume that those were six people who would have been under a severe hardship if they had not had the representation of this person. This was not a lawyer. There are not enough lawyers around to handle those cases.

Senator HARTKE. Are you really drawing a distinction between a legal and a nonlegal situation? I can see under section 3 that the priority for money to have people other than paralegals—volunteer or whatever you call them—is one of two things. Either you offer castoff second-class treatment to those cases not really justified as needing legal representation or you go ahead and give legal representation.

Mr. FRY. I certainly agree with you on the point that if, by definition, paralegal is one that can do these things, these are not legal problems.

Senator HARTKE. Would it not be better advised then to draw that distinction very clearly?

Mr. FRY. Yes. It is a matter of definition. I like to refer to these as law-related problems.

“BUREAUCRATIC MESS”

Senator HARTKE. I understand that. After all, what we are trying to do is deal with specific problems of individuals and I think this is where the Government gets itself into many traps and where you get this so-called bureaucratic mess accusation. I can see from what you have said and in Senator Williams' statement here that most people out in the public arena would say yes, that is a mess, that is a bureaucratic complicated mess; I don't understand it at all.

It looks to me like it is one agency trying to duplicate what another is doing without any clear-cut definitive arrangement. What I am saying is that you could do that very clearly if you would go ahead and deal with the situation. For instance, you would not have a nonlawyer doing a lawyer's work any more than you would have a paramedic performing major surgery on somebody.

Mr. FRY. These people are certainly not practicing law or doing the work a lawyer must do.

Senator HARTKE. Why not call it what it is in every senatorial office and congressional office; pure and simple casework. Isn't that right?

Mr. FRY. I think that is right. In fact, the category that I described earlier, the community service advisers, is an effort to do just what you suggested, to create a category of people who are clearly not related to practicing law.

Senator HARTKE. Would you not, in your funding efforts, be more apt to have a successful operation if you had that definition clearly recognized—naturally there are a lot of gray areas—so that you could have good, competent legal representation where you need it and competent caseworkers where you need it?

Mr. SIRULNIK. Senator, if I might. We are all dealing with the sort of problem which I don't think is fair to categorize as "legal" or "nonlegal." The two are not always mutually exclusive. A lot of the cases which we handle require an interface between a paralegal and a lawyer. Oftentimes a case which begins as a social service problem develops into a legal problem. The social security administrative procedure itself calls for an exhaustion of nonlegal remedies and then at some point one may turn to the courts. There is a need to provide people with training which enables them to recognize legal issues as well as provide nonlegal social services. I think only in this way can the individual who we are the most concerned with, the client, be prevented from falling through the cracks, or getting lost in the woodwork.

Senator HARTKE. The person may not fall through the crack if you get that type of theoretical discussion done but the fact is that the bureaucratic mess does fall through the crack.

You are describing exactly what the people out in the countryside in Indiana are complaining about Washington, D.C., which is that you want to take every single thing and hold it up into a situation where no one knows how it comes out.

DUPLICATION WITHIN THE SYSTEM

Mr. SIRULNIK. What they are saying is that the need for this type of duplication is because there is such duplication in the Federal bureaucracy. Some problems may be perceived by some people as being nonlegal and very simple until they try to extract themselves from the quagmire of the applicable program. It turns out what one day was an administrative problem the next day is a legal problem.

Senator HARTKE. A nurse says, "You have a high fever and a pain in your side and I am going to operate on you for appendicitis." What I am trying to say is that in the medical field you have this type of clearcut definition.

Now there is not any question that the nurse can give you a shot and a doctor can give you a shot. There are certain legal situations which could be defined and I can see where as long as you keep the situation sufficiently confused as to determining when you are telling me it is not legal, and doing social services and characterizing them as legal services, that the net result is you are going to have no one wanting to do anything, although that need may be there and certainly is there.

The purpose of the hearing is to find out how that need is being met, not whether the need is there. That already has been decided.

Why redecide that issue unless there is something that needs to be done. What you are trying to find out is how do you solve that problem? The problem has been identified and specified, an agency has been directed to do it. Now we are trying to find out what happened.

Mr. FRY. Senator, I think a great deal has been done to meet that problem and I, aside from any—

Senator WILLIAMS. We have the conference report on the bill involving toxic substances which will create a lot of work for you, I have a feeling.

We will go over and vote and pass another necessary measure.

This has been extremely helpful to the committee. We greatly appreciate your work. The fact you are doing this, it seems to me, shows that the national response to this need has been comprehensive. Much more, of course, remains to be done. But we have a beginning and something worthwhile to build upon. I like the idea concerning the title to deal on a comprehensive basis with the subject matter of legal services and the companion questions. It just impresses me. I think one of the missions of law is to define rights and duties precisely so an individual knows what his rights are and what his duties are. Any contract you read or insurance policy is a complicated business.

This may be especially true of older persons, many of whom have little experience with legal matters and some sense of reluctance to become involved in them. It is a very, very difficult mission that you are trying to work toward and equip people to handle in a social setting that certainly is greatly needed.

My congratulations.

We will recess at this point.

[Whereupon, at 12 noon, the committee recessed, to reconvene at 10 a.m., Wednesday, September 29, 1976.]

APPENDIX

LETTER FROM STANLEY DI ORIO, DIRECTING ATTORNEY, LEGAL AID FOUNDATION, LOS ANGELES, CALIF.; TO SENATOR FRANK CHURCH, DATED SEPTEMBER 17, 1976

DEAR SENATOR CHURCH: It has come to my attention that you will be holding, in the very near future, hearings on improving legal representation for older Americans. I would like to bring to your attention a disgraceful example of blatant discrimination in the ability to retain legal representation between two different groups of older Americans. Various proposed solutions to the problem will be mentioned in the hope your committee can promptly move to correct this problem.

Under the social security disability program Congress provided that attorney's fees "shall" be paid out of past-due benefits. [42 USC 406(a)—referred to as title II] Applicable regulations provide for direct payment from the Social Security Administration to the attorney.

Since attorneys are guaranteed they would receive the money awarded them if they win, Congress in effect established a contingency fee arrangement for title II cases and private attorneys are therefore practicing in the field and available for older claimants.

The supplement security income program (42 USC 1381 et seq.—title XVI) on the other hand makes no mention of a similar fee arrangement in the legislation. Regulations enacted by the Secretary of HEW however specifically state "the administration assumes no responsibility for payments" (20 CFR § 416.1510(c)). Title XVI was modeled in large part after the title II program and in effect either incorporates or copies the exact language of larger portions of the title II legislation. Older Americans and those fast approaching those years are potential and actual claimants under title XVI.

The effect of this arrangement on the availability of legal representation is precisely the opposite of title II. Because those applying for benefits under title XVI have usually little or no money or assets of their own, private attorneys not being guaranteed the ability to receive the money awarded them in a successful case, generally do not represent title XVI cases. The burden then falls to lay advocate groups and legal service attorneys. I personally know in the entire city of Los Angeles only a couple of private attorneys who just recently began to risk taking a few of these cases. If they do experience problems in collection of their fee, I am sure they will discontinue that practice.

Reliable sources have informed me this difference in the legislation resulted from Representative Wilbur Mills' feelings in 1971 that the war on poverty was over and that legal services to the poor had had its day. There is no fair rationale for making the distinction between the two groups. The old stand-by excuses that attorneys will cause a delay in the process of cases and will cost the government more money do not stand up under close examination. Social security has managed on its own to create a 6- to 12-month delay in setting an administrative hearing after a request has been filed. If, as a result of conducting a skilled, fully documented hearing, people become qualified who ordinarily would not have without an attorney, I suggest that it is only a just result and a reflection of the true intent of Congress.

This situation of legal representation becomes critical not only because people who apply for SSI are at the bottom step of the ladder, but from my information in California, approximately 40 percent to 60 percent of those cases initially denied are reversed at the administrative hearing level. This figure is even more significant when you consider at a maximum about 25 percent of those cases have any type of representation at these hearings.

Two obvious solutions are clear at this point: (1) either add specific authority for the withholding of payments in 42 USC 1383(d) (3), or (2) change the regulations to permit such a withholding since the statute itself does not specifically prohibit such a practice. The former would be preferable; the latter would be quicker (if possible).

Given the large numbers of people applying and potentially eligible for SSI, this is a problem of significant proportion. While I am not an advocate for increasing the business of the private bar, they would certainly support such a change. In addition, the limited resources of legal services could be more effectively utilized on cases where the ability to obtain attorney's fees and private attorneys is not available.

The above description is hopefully significant to illustrate this irrational distinction between the ability of senior citizens to obtain legal representation on social security disability versus supplemental security income.

Your prompt attention to this problem may give applicants for SSI a fair opportunity to present their case in a full and effective manner and achieve at least a minimal income to live on.

If I can be of further assistance, feel free to contact me.

Sincerely yours,

STANLEY DI ORIO, *Directing Attorney.*

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