

**Transcription of the Oral History Interview with
Gary Bellow
March 17, 1999**

Hostetler: This is an oral history interview with Professor Gary Bellow, professor at the Harvard Law School. The interview is being conducted on the campus of the Harvard Law School on March 17, 1999. I am Zona Hostetler from Washington, D.C., and I will be conducting the interview.

Gary, I know that in the early 1960s, soon after you graduated from Harvard Law School in the class of 1960, you were working for the Legal Aid Society, or Legal Aid Agency, which is now the Public Defender Service in Washington, D.C. This was not a typical career choice for Harvard Law graduates in the early '60s. Can you tell us how you happened to begin this work?

Bellow: That's a good question. I'm honestly not sure..I was interested in the treatment of
0:01:00 criminal defense. I was interested in learning how to be a trial lawyer. I liked being an outsider, and I felt that a criminal defense lawyer would be an interesting thing to do, particularly in a place like the District of Columbia that had lots of problems between police and the population. And I didn't want to do – go where my friends were going. I didn't want to go to the firms. I wanted to see what I could do on my own, and the ways I could use the legal materials I learned, and ways I could at least explore a possible different path. But it wasn't as developed as I went in for a career. It simply was curiosity, interest, a sense of being young enough to try again.

Hostetler: How did you happen to develop an interest in criminal law at that early age?

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Bellow: Courses I took here, and a graduate program I was engaged in at Northwestern University. I got a Ford Foundation fellowship in criminal law and spent a year at Northwestern University Law School studying the criminal process. By the time I finished that I knew that I wanted to try out being a public defender.

Hostetler: Was there someone at Northwestern who was particularly influential or persuasive?

Bellow: There were two people. There was a professor named Claude Sowle, and there was a professor named Fred Inbau. Both of them had very different views on the criminal process than I had, but I liked them enormously. They were fair, they were open, they were very well informed. They made arguments that I had not heard before and had difficulty answering, and they opened up this world in a way that forced me to try to understand why people did what they were doing, why they accommodated in the particular ways they did, why the plea bargaining system [worked the way it was]. So I owe them a debt, just like I owe debts all through my career.

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Hostetler: Had you before you began the job with the Legal Aid Agency done any work with low-income people, either legal or non-legal?

Bellow: In the Army I did a lot of – I was a private in the Army, but a lot of my fellows got into trouble – Article 15, and other kinds of courts-martial, and I was already a lawyer, so I did that kind of work. And that was a pretty good cross-section of the population of the United States. And even then I began to realize I love being on my feet in a courtroom, although the Army situation is different. And I think it was a good beginning. But that's about all. Besides, I hitchhiked across the United States twice, I worked on Pepsi-Cola trucks, I delivered chairs in Kansas City. I was curious, and I wanted to see how the world really worked. And so I went everywhere.

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Hostetler: Which came first, Northwestern or the Army?

Bellow: Northwestern came first, then the Army.

Hostetler: And then Washington?

Bellow: And then Washington.

Hostetler: And how did you land in Washington?

Bellow: Well, that's a long story. My mother was ill. I actually got a job in the appellate division of the Legal Aid Society of New York and worked there two days. And then her illness, for complicated reasons, meant that she had to be out of New York. There were just too many strains on her in the New York environment where she'd

grown up and where she'd lived and where she got into trouble. And so we drove south. I wanted to be a criminal defense lawyer, but I didn't go to the Legal Aid Agency in the District of Columbia. In fact, we first went to Baltimore and looked around and couldn't find either a place to live or a defender system that would hire me. Wound up in Washington D.C., was told that there might be a job. It turned out there was only an investigator's job. So for the first six months I did nothing but investigate cases at night and watch trials in the afternoon. Again, that was the head of the Legal Aid Agency, a fellow named Sheldon [unclear]. He said, "This is a terrific education. You should sit in a courtroom every chance you get, and then you'll do the work for us at night because you can't investigate these cases in the daytime anyway." So I both learned Washington and I learned the court system.

Hostetler: What sort of staffing resources and public support did the Legal Aid Agency, now called the Public Defender Service, have in those days?

Bellow: There were five lawyers, two investigators. I think the original budget was \$70,000 a year. I got there about a year after it was established by a statute. It had never gotten an acquittal at the time I came. And although the lawyers were good, the system was so stacked, and it was so obvious that the reason they had backed the public defender system was to help the processing of cases, that they simply couldn't find a way to resist. So my experience in the public defender was finding a way to resist this culture that forced everything into plea bargaining.

Hostetler: And how did you do that?

Bellow: Well, we started out by getting to know each other, and by struggling together with a mass of cases that we were appointed to – that is, I think I was appointed to 60 cases
0:07:00 in the – I was an investigator first. But by the time I became a practitioner I was given 60 cases. There was no way to prepare the cases – impossible. And they all had the same problems. What we agreed to is that we would go to our clients and say, “We can’t properly prepare your case. What we would like to do is we would like to say to the judge, ‘We can’t prepare the case’ so that we’ll have more time to actually prepare and have a better argument for reducing your caseload which will help other people.” Now we were told the defendants would never go along with it, but many, many did. And when they did, we would go in front of the chief judge – his name was Maguire – each of us, and say – when the case was called, we’d say, “Your Honor, we are not prepared to go to trial. We have not filed any motions on this case. We have not checked on all of the police reports. We have not visited the scene of the crime. We have only seen the defendant twice. We hadn’t seen any of the witness lists he gave us.” And I would go through a rap like that. He simply
0:08:00 blew his top and sent us out to the various trial judges where we’d repeat it. And in about a week, I wound up in front of Judge Klein, the judge who enjoined Harry Truman in the steel conflict. And he looked at me and he said, “You understand, counselor, you’re putting this on the record?” I said, “Your Honor, we’re putting it on the record intentionally. This is not going to be a fair trial.” He said, “Well I

don't know if you're right or wrong, but I'm not going to try the case with that other record. You go back to Judge Maguire and tell him he can't do anything about this because we'll get reversals." This is the D.C. Court of Appeals. "We'll get reversals by the caseload. And if you guys want to be stubborn, you'll probably pay a price. But I'm not trying cases where you say you're not ready to give effective assistance and counsel." And we stopped it.

Hostetler: And the other judges took the same line?

Bellow: The other judges took the same line. We publicized it. The other judges took the
0:09:00 same line and we – our caseload reduced. Now, there's a constitutional right to counsel in a federal court. Other lawyers had to be appointed. But to create an operative and effective public defender which would set standards that would be appropriate for the rest of the bar taking appointed cases, we had to have a reasonably limited caseload, because we had to prepare the cases in a way that demonstrated what you could actually do. And pretty soon we were running acquittal after acquittal.

Hostetler: What percentage of the caseload did the Legal Aid Agency handle?

Bellow: I think about 30 percent.

Hostetler: Did the other lawyers in the communities begin to follow along your example?

Bellow: Not right away. And I would say not ever completely. But as we began getting results, lawyers were curious, right? I mean, the entire system had been just a defendant processing system. And we were making motions that people had not
0:10:00 been making. I mean, this actually began – not the strategy of sort of taking on the judges directly, but it began with the Prettyman program at Georgetown some years earlier. And that’s another debt I owe; that is, I was encouraged to do this by Ken Pye, who became dean of Duke Law School and I guess general counsel to the university, and a fellow named George Shadoan, who’s the –

Hostetler: And he was a Prettyman fellow?

Bellow: No. He had been an instructor in the Prettyman program. He was a private practitioner. He worked up in Maryland. Kentucky Law School. And I showed him a memo I wrote on some issue, I think it was under the Jenks Act. And I remember
0:11:00 vividly he and Ken were there. They began laughing, and they said, “Who ever taught you how to write a motion before a United States district court trial judge?” You know, I had string cited and – and they began instructing me on how you do trial work, and I was grateful to them. And some of my later work in clinical instruction came from that experience, because I was taught in that setting and we shared a lot of the same ideas. Came up with a huge number of challenges to

existing practices.

Hostetler: How long did you stay at – in the criminal world?

Bellow: Maybe three and a half years? And by the end of two and a half years, I was doing murder cases which, although I think a lot of criminal defense lawyers don't admit it, is much easier than armed robberies.

Hostetler: Oh, really, why is that?

Bellow: Because all those other crimes have an eyewitness. And homicide cases don't.

0:12:00 They're all built on circumstantial evidence. There's no comparison. So as lawyers get into more complicated cases, their records get better. But if you've gone through it, you realize why. So let's imagine different kind of case.

Hostetler: So did you see any changes in the Public Defender Service as an institution when you were there?

Bellow: A lot; a lot. We systematized – we took over the appointment of counsel outside of the cases we could handle ourselves. We developed a series of review techniques for reviewing the quality of performance by the appointed bar, and we developed a lot of training programs. So the Public Defender – the Legal Aid Agency at the time became a key player on the defense side. And the atmosphere in the place just

0:13:00 altered. That is, we were to aggressively assert the rights of criminal defense. I mean, the work is full of moral issues and ambiguities, and I won't say we didn't experience them like everyone else. But there was a general motion that this was a role worth doing.

Hostetler: To what extent were other Public Defender Services in the country following your example in Washington?

Bellow: I would say very little. I mean, that was my first experience with the National Legal Aid and Defender Association. The public defender services around the country were a range of accommodative to more aggressive. But I don't think they were following our example. It always seemed different. There was the United States District Court that we could do things that other people couldn't do, that it was new agency, that the Congress basically supported this kind of approach. Who knows?

Hostetler: What role was NLADA playing in that in those days?

Bellow: NLADA was a combination of public defenders and civil legal aid programs. And it
0:14:00 was my first exposure to the possible nexus between public defender work and civil legal aid. Although the organization accomplished both, there was very little communication.

Hostetler: Was it a very active organization at that time?

Bellow: Yeah, I think it was active within a very limited vision of legal services. I think many, many presidents of the ABA had served as presidents of the NLADA way back, you know, and it was the elite bar. It was Reginald Heber Smith and a lot of fine New York and Philadelphia and Boston lawyers.

Hostetler: And you met them?

Bellow: And I met them and participated with them. But they still held onto a view of legal services for the poor as a charitable enterprise, and certainly not one that ought to be funded by the federal government. So that became a big split.

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Hostetler: How did you come to be interested in working on civil legal matters?

Bellow: It was being in the houses of defendants. I mean, I'd always been on the streets. We had two investigators and I used students from Georgetown. But I was out there a lot myself. I mean, I think that if I'm going to cross-examine somebody about the scene of a crime, I want to have seen the scene of the crime. And if I want to understand more about the defendant, I ask the defendant whether I can go to his home or visit his brother or talk to him. And I saw life experiences that I won't say shocked me. It's not my way to be shocked. But they were really moving and nothing was being done. And it is a complicated thing, criminal defense work, because, I mean, I represented some defendants three and four times, even in the three and a half years.

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And I felt we had to do more, and that the civil vehicle might be a better vehicle for bringing about change.

Hostetler: What were the civil legal aid programs in those days doing about those problems that you saw?

Bellow: Well, let me try to be fair. I think they cared about them. I think they tried to handle the individual cases that came from them. They were overwhelmed with caseloads. In every city in the United States they were unbelievably understaffed. You know, there'd be three lawyers for an entire city. And they also were caught in a vision that seemed to have very sharp boundaries. This is all that the bar will accept. This is all we can do to keep doing the funding. A little good is better than no good at all. And they were very dedicated people. But I'd have to say they didn't – they weren't

0:17:00 doing much. They had never filed an appeal in the United States Supreme Court. They had hardly ever filed an appeal in appellate court. They were not systemic in their orientation, whereas we – I learned this from criminal defense work – if there was a practice up for police suddenly finding dropped heroin every time they came after [to arrest a] defendant, you had to get at the pattern. You couldn't just do it case by case. You had to complain to the chief of police. You had to expose this in the paper. There were many, many institutionally systemically-oriented problems in the criminal justice system. And that's what sort of got me started in thinking this way.

Hostetler: As I recall, it was during this period that you met the Cahns, Edgar and Jean Cahn?

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Bellow: It was in 1963. I had reserve duty after my Army, and I fell off a truck unloading latrines. We would go away for two weeks, and the latrines were in these long, long – on racks. And we'd unload them off the trucks and put them in various places because we would go away on bivouac for huge periods of time. And the guy that was unloading the truck with me dropped his end and flipped me off the truck, and I wound up at the Army hospital in – What's the name of it?

Hostetler: Walter Reed?

Bellow: Walter Reed Army Hospital in the amputee ward, because I hurt my back badly, tore up some of the disks, and I needed the traction. So I was in that ward where I talked to a lot of soldiers about – they had amputations there. It was rough. So I laid there for about six weeks. In fact, I saw Martin Luther King's march on Washington from a bed at Walter Reed Army Hospital. And a friend of mine named Dan Freed brought me an article in draft. He said, "You might be interested in this." And I read this article, and as soon as I got out of the hospital, I called Edgar.

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Hostetler: Was he in Washington at that time?

Bellow: He was in Washington. He was working for – I don't think he was working for

Shriver. He was working for the head of then HEW.

Hostetler: What did you say to him when you called him up? Can you remember?

Bellow: Yeah. I said, “This is going to sound really weird. I’m a public defender, right. I’ve been thinking about civil legal aid practice, and I really liked your article.” It was still in draft. In fact, I’m in a footnote for helping with it. And Edgar, Jean, and I used to meet at night and sort of work through the problems in the article. And when
0:20:00 it came out that they acknowledged me – but [we had] by the time we worked through the article, we already had a strategy which was brand-new to me. But Edgar had this all in his head – and Jean – a strategy to get the new Economic Opportunity Act which was passed in 1964, or for sure, not that long after that. The march on Washington was ‘63, John F. Kennedy was killed in November. Everything turned around in Washington, and I helped develop this article and a strategy for getting the new Office of Economic Opportunity to start funding legal services.

Hostetler: Now tell – describe a little more of your strategy. What did you see you had to do?

Bellow: Well, it was Edgar’s notion. It followed the following pattern: You had to get Shriver to start speaking on the subject. You had to get other people in the liberal wing of the administration to start speaking about the need for legal services along
0:21:00 with the other needs. The poverty program was beginning to gel, and every chance

we had we put on the table that issue. He did that from the inside, because he was a speech writer, and he could really write these speeches. Then we had a number of conferences. There was a White House conference on legal services. There was a smaller conference. He brought together a kind of a group with Adam Lewinsky and Abe Chayes. They had a feel for how you move in the Washington bureaucracy that I had no idea about. And gradually we began to make headway. And what Edgar and Jean felt what we needed was support from private bar. I said, "You'll never get support from the private bar for federal support of a legal services program ." And Jean said, "Oh yes I will. I'll get Lewis Powell to do it." And sure enough they went, met with Lewis Powell, and met with John Cumiskey, met with the early big firm leadership in the bar who came around. And it's complicated. We don't know whether or not – the experience of the medical profession felt; that is, Medicare and Medicaid were on the horizon. They're not passed in '65, but it looks like they were going to be over the objection of the American Medical Association. And I think that the leadership of the ABA felt, "This is going to happen, and we should be in on it instead of fighting it because the federal government is just going to do it in that atmosphere." And a lot of them, to their credit, really believed that we had to provide better access for people. Now the social change dimensions of legal services, I think they had more doubts about it – although they came around on it. But the need to have federal support to actually make some kind of dent in delivery of legal services to the poor, that was there from the beginning, and we didn't have to persuade them on it, so it's to their credit.

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Hostetler: Did you have – did you go with them to meet some of the bar leaders?

Bellow: Yes. I was in on several of the meetings and wound up as a member of the OEO advisory committee, which is made up of many of this group and the so-called reformers.

Hostetler: Do you remember some of the people who were there, the so-called reformers?

Bellow: Elizabeth Wigginton; myself; Bruce Terris, who's a Washington lawyer who wanted to do economic development for the poor. I think the advisory committee – we hammered out in the early years of the program a lot of the policy decisions that Earl Johnson writes about in *Justice and Reform*. What should be the indigency standard? What's the right mix between direct service and – law reform hadn't really – wasn't really expressed in the way that Earl eventually expresses in '67, but it was there. And I think many of us wanted to see an aggressive community action oriented legal services program. Other didn't.

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Hostetler: And what role was Sargent Shriver playing during this period?

Bellow: He was guiding – he felt he couldn't do it without the ABA, and he was guiding this merger of the young critics and this big, furry bar leadership who were coming around so that there'd be a cooperative [view ?]. And so it would not make war on

community action. Many of the lawyers – I was in a real minority – really looked skeptical at community action. But I had gone from the Public Defender to the United Planning Organization, which is a community action agency and became deputy director of that organization. So I was involved in the protest activity. I was involved in the federal money from OEO that went into housing and employment. And I didn't have nearly the same negative response, and argued hard for a combination program that was reform-oriented and as well as –

Hostetler: You didn't have the negative response because lawyers weren't – didn't have their vested interest affected? Or what are you saying?

Bellow: I didn't think it would, A, cause a backlash against the program of the sort it actually did – but people were worried about that; B, I didn't think that the community action agencies would try to take over these nascent, nonprofits that the OEO program would fund. There was tension between them, but I thought it would work out cooperatively. And I thought the biggest problem, which turned out to be the problem, was that the lawyers would resist actually working directly with community organizers and community action people, not the other way.

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Hostetler: How did you envision OEO attracting lawyers to participate in the newly funded, federally funded legal services program?

Bellow: If the jobs were there, they'd come. This was a long way before the Reginald Heber Smith program, before OEO really took a stand as to what the program should look like. And I didn't think we'd have much trouble attracting young people. One, the salary gap was not nearly as great. I mean, a lawyer would start at Legal Services at \$4,500, \$5,000, I think, a year. That's where I started in the Public Defender. Justice Department employees got \$6,000 a year. The firms started at \$10,000 a year

0:28:00 – I mean, it was a lot more. But now the starting salaries in the firms is five times what many legal services programs can start with. So it was not that huge an economic difference. The country was filled with energy about actually doing something about poverty. Lyndon Johnson was a legitimate populist – he was – I mean, I wound up protesting against him on the war, and I was critical of him. But, in retrospect, this man wanted real change in the country, and I heard him give a speech – I guess it was at Howard – where the reality of poverty was so palpable for him in a way that it wasn't for many, many very supportive political leaders. He seemed to have seen it, understood it, felt it. It really caught my – not many people

0:29:00 say this. so I'm not sure I'm right, but I remember being very moved by him.

Hostetler: What about Howard Westwood, who had been president of the National Legal Aid and Defender Association? Did you meet with him?

Bellow: Yeah, because the real conflict at the beginning was between the old legal aid societies, several of whom actually turned down federal money, and the new

organizations that were being funded, along lines that had to do with you're going to kill the legal aid movement as they understood it. But it was also about they – we attacked them in a way you sometimes choose enemies in order to get energy for your own vision. They were much more committed and much more stuck by the environments around me than we gave credit for. In fact, I remember I debated [Mort Getzels sp?] at a – he's from the New York Legal Aid Society – and after the speech, he said to me, "Gary," he said, "you may be right. But I guarantee you when you look back at this program, it's going to look a lot like the legal aid societies you're now hammering us about."

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Hostetler: How long did you stay at the United Planning Organization?

Bellow: I think just a year.

Hostetler: And what happened during that year? What were you able to do, or what change did you see happen?

Bellow: That's tricky because I'm not – that is, we did a lot of protest. I think we genuinely improved public housing in the District of Columbia – at least got more money put in. We began welfare rights organizing. I remember we used to have – one of my students has written about this – we used to have rat campaigns in the District of Columbia where we would get an exterminator to come in and exterminate a whole

0:31:00 block. And there'd be a party, and we'd get all the rats and put them in the middle of the street. I learned a lot about how you get publicity, how it works. And I learned a lot about the barriers to business development in low-income areas to the real difficulties of developing employment law that gives – that involved job ladders for poor people. The problem is the money poured in too fast. We couldn't build institutionally solid programs. There was a lot of waste. And there was an unclear relationship between the protest activity and the programmatic development. And it turns out that the programmatic activity was more important. We ran an entire school system, a sub-system in the Boston schools that included, I think, three elementary schools, one middle school, and a high school. And I learned a lot about what reading stuff seems to work; what kind of teachers teach. We were in Head Start programs. It was my policy education – that only reinforced my notion there was – a clear connection between doing legal services work and thinking hard about policy. It seems more tenuous now.

Hostetler: What did you do after that year?

Bellow: Well, we've skipped a lot of things that happened.

Hostetler: Oh. Well, let's go back then. What did we skip?

Bellow: Well, I don't know. I mean, OEO funded at the beginning – Clint and Earl Johnson

had gone to school at Northwestern. Clint appointed him the deputy director. Clint and I got to be really good friends.

Hostetler: While you were at Washington at UPO?

Bellow: While I was at UPO, and I watched him struggling over getting the bar – and I mean, I think Clint and Earl did an amazing job in that first year and a half when they got these programs started up against unbelievably hostile opposition. And a program
0:33:00 that had the policies as the foundation for the overall program. And it was Earl that – at UPO I was – one of our programs was a legal services clinic. I couldn't get it to change.

Hostetler: You couldn't get what to change?

Bellow: The legal services program in Washington. We had set it up as one of the programs that was funded under the UPO umbrella, just like community action agencies funded the programs in New Haven and Boston and a number of places on the Eastern Seaboard. This is part of the Ford Foundation Gray Areas project. But the D.C. program did some appellate work. We had a lot of landlord/tenant work. *Edwards v. Habib* – but the cases were isolated from the day-to-day work of most of the lawyers who simply did it – were not looking for anything but servicing
0:34:00 individual cases.

Hostetler: Were these mostly staff lawyers or volunteer lawyers?

Bellow: Staff lawyers. And I wasn't sure that this model of a policy-oriented, direct action-oriented, community action connected legal services program could really work. And Earl said, "You know, there's a young lawyer in California who's setting up an organization called the California Rural Legal Assistance that has been opposed by the state bar. You might want to talk to him." So I called up Jim Lorenz.

Hostetler: Jim Lorenz?

Bellow: Jim Lorenz is his name. He was a Harvard Law graduate, had worked for O'Melveny and Myers, left O'Melveny and Myers to develop this very large statewide program that had offices from the Mexican border to North of San Francisco, Santa Rosa.

Hostetler: And did he do that because it was OEO money to support it, or did he have other ideas for raising money?

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Bellow: He raised money from a number of sources. But the big issue was to provide legal services for farmworkers. Now how Jim got involved in that, that's another interview. It's a long way from his experience, as it was a long way from my experience. But when I spoke to him on the phone, he said, "We could use

somebody with your trial experience, because we're getting a lot of young lawyers interested in this, but they can't do very much. Why don't you come out and we'll get to know each other?" So I came out and I liked him immediately. He and I went on a drive up to Delano to see César Chávez, stopping at various places where they were picking lemons where they were along the way. Sat down with Chávez, told him what we were going to do. This is probably – I guess it's long enough ago – that we couldn't represent the union, that we would not represent the union directly and never did. But that we represent individual cases that would take on issues of importance in relevance to the union. And Chávez was interested but skeptical. And Jim and I drove back, and I was sold. And I think it took me three or four months before I – off I went. In fact, my mother was better, and she said, "You should go." She went to Florida and I went to California and started a new life.

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Hostetler: What was the basis for Chávez's skepticism?

Bellow: Lawyers don't understand what he was trying to do. He was trying to build a community movement. He had had some experience with lawyers. They always over-lawyerized the problems, didn't involve clients enough, were not interested in organizing or organization. We're too interested in winning and not interested enough in the experience that people had and the way the cases were handled. He was very shrewd. He had not been a lawyer himself, but he really saw what I had to learn over the next few years.

Hostetler: And how much did you interact with him?

Bellow: A lot. A lot. I'd see him every day and had some great experiences with him. I mean, my wife worked at the Union Service Center. We would get many referrals through the union. They could be anything from divorces to consumer debt. And he'd say, "That's a problem you ought to take over to Gary." I would take a look at it, and sometimes I would see that there is a pattern. Some company was selling pots and pans on a door-to-door basis and suing when there wasn't payment. They would sue in Los Angeles under a clause in the contract that permitted them to bring suit where their main office was as opposed to where the sale took place. No farmworker from Delano would go down to Los Angeles to a Los Angeles court. They all defaulted, and pretty soon their wages were being garnished. I said – I remember saying to César, "Do you have any other people who are buying pots and pans that have judgments?" Well, Helen was running the credit union, and I think a quarter of the credit union debt was wrapped up in people that had to pay judgments from Los Angeles. And so I took this case; brought a class action against the company and got them to stop. So that altered some of their practices. And I also forced an agreement that there would be no lawsuits in either San Francisco or Los Angeles, but in the county in which the property was sold. And then eventually this became California law.

Hostetler: And did this case and other cases get publicity in the California newspapers?

Bellow: It started out in the local newspapers. We weren't allowed to live in Delano, which is where the Union Center was. Ronald Reagan was governor. He strongly opposed the funding of an organization to help farmworkers, and the state bar similarly opposed the organization. In fact, I think the famous quote from the state bar is, "This looks like the financing of one side of an economic struggle by the federal government." And Shriver, to his credit, said, "I would hope so. That's exactly what we're trying to do." And apparently Shriver – I mean I know Clint had some conversations with the California people, and they funded it. They continued to fund CRLA in the face of huge opposition, both at the county level – we were sued, I think, in three counties in California – and at the state level, and at the Board of Governors of the Bar level, and at the governors.

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Hostetler: And you – he was sued by whom?

Bellow: We were sued by the Stanislaus County Bar Association before we began taking cases on the ground that we were allowed to take cases we would act unethically. There were a raft of these suits. I think there were 15 ethics suits around the country that Legal Services lawyers would solicit. Legal Services lawyers would be subject to some outside influences, that they would not be able to be loyal to clients, that they would be over-aggressive, that they would be under-aggressive. They lost them all, but it was a very, very hostile atmosphere.

Hostetler: So a good deal of your energy must have gone into defending yourselves as an
0:41:00 institution against these lawsuits?

Bellow: Right. And that's how Jim and I made a split. He said, "This isn't going to work. I
will handle San Francisco, Los Angeles, and the outside bar. You –" I then moved
to McFarland – "You've got to help in the training and development of the staff as
well as being the one closest to where the union was based." And there was a series
of lawsuits filed. There's a Kennedy School study if you want to get a list of them,
or I can probably tick some of them off if I should. But they began getting publicity
in the *Fresno Journal* and the *Bakersfield Times*. And then we began in many of the
0:42:00 cases. For instance, it was the policy of California to release students into the field
during the picking season, to force convicts to go into the field during picking
season, to relax rules regulating bringing people from Arizona and Texas to struck
areas. In other words, everything – this is a big fight about the labor market at a time
when they were struck. Now, it's no surprise into our office walked a lot of
individuals saying, "We have gone on strike, or we've – were thinking of trying to
organize a ranch committee, but we can't do it because there's people laying in the
wings that they're just going to bring in and take our jobs. Can you do anything?"
And from McFarland we filed a series of suits to stop the release. They closed
welfare offices exactly at the time that there were jobs. There had to be jobs, and
0:43:00 therefore you couldn't get welfare, which was not the rule at the time. Those suits
picked up publicity in the San Francisco and Los Angeles papers because Ronald

Reagan was a defendant. And remember these are state agencies. And he always held a press conference. And suddenly what Jim did really intelligently is to set up small offices – up and down the California central valleys suddenly began developing liberal support in the big cities in California. California is two different worlds. From the Mexican border to Sacramento in the center is a multi-billion dollar agricultural industry and a key to conservative political power in the state; on the coast, a relatively much more liberal urban areas, and much more cosmopolitan. Orange County is not quite the same as San Francisco, but they certainly made differences, and we became sort of – I don't know what you'd call it – kind of the darlings of the liberals in the big cities. And Jim would simply tell us when we were to come in from the field, you know, hopefully reeking with dust and manure. We used to go to these meetings to keep the support up. And I think if it weren't for that alliance we would have been squashed, because, Who are these kids and what were they doing? And, They don't know what they're talking about. It was, you know, obviously, you know, these issues are more two-sided than we ever painted them. And not everybody wanted to join the union. But if there was a clean case of a group that was left out because they were excluded from the National Labor Relations Act, it was the United Farm Workers.

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Hostetler: About these kids, where were they coming from, and what were their backgrounds?

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Bellow: They were from a range of schools. We hired credentials. This is a very

controversial choice we made, and it's not necessarily required. But Jim, I, and a number of the program leadership decided that we should hire from people with credentials if we could get them. High grades, elite type schools. Because we were so controversial, this allowed the California Bar to say, "Well, these are young people that went to, you know, reliably legitimate places, and they're not all socialists and radicals." And we were very successful at it. We were very successful. We had many, many applicants – way more than we could possibly hire.

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And the people we hired did very well. People sort of drifted around some, [weren't sure] – were unsure what they were supposed to do, and then gradually began to really take on in their own areas issues. So in Modesto the program stopped Ronald Reagan from cutting a major chunk of what's called MediCal that affected farmworkers who had injuries in the field. And we sued the Department of Labor, who was bringing braceros into the country in violation of the Immigration Act, where there was a long settlement. There was a lot of litigation, and the litigation was different in each of the local offices, and the degree of connection with the union was different in the local law offices, although the claims that we represented – just like the claims, they just misunderstand what it was like. The offices were full of people. You didn't have to solicit cases. All you had to do was – and the patterns were there to be picked up.

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Hostetler: Did you intersect with Governor Ronald Reagan at the time yourself, personally?

Bellow: No. I had some intersections with Ed Meese, which apparently he never forgot. He was the person in the Reagan group that really dealt with us, and there were some meetings.

Hostetler: And what were they like?

Bellow: They were cordial, but extremely distant; that is, I couldn't tell whether the administration was doing it because they wanted to be able to answer yes to the question had they met with us, right? – or whether they were actually curious; interested in working on some accommodation. I think it was the former. I think
0:48:00 there was no real attempt – right? – to talk about – I mean, when they would lay out their objections, the objections didn't make any sense in terms of what we were actually doing.

Hostetler: I know you have written about and taught in your classes the importance of involving the client as a partner in deciding what to – how to prosecute the client's case. When and how did you develop that concept?

Bellow: Well, I mean, I don't know exactly, but I can name a person that had a lot to do with it. You know, I think you partly learn that from criminal defense work where the
0:49:00 reason for doing it is to protect this individual. And I always felt from the very beginning that I didn't just decide – I mean, the stakes were very high and people

could go to jail for a long time. I tried to involve them in the strategic decisions I was making. So I had a background that my instinct went that way. But it was a union member named Ernesto Loreda that said, “You know, you still do – you’re still too much a lawyer. Right? You don’t do enough teaching. People are not leaving the work you do knowing a lot about how the law works or what you can do with it. They know you’re good, but” – and he really hammered on me. I’ll give you two examples what he thought. He was around, and we were having cases. By this time we had cases from Buttonwillow and places you wouldn’t know and people watching this tape probably never heard of – and Wasco. He drove me down to a little town called Wasco, where people had really bad drinking water. There was something wrong with the connection between the main water system and this little town and the section of black and Chicano residents, a little section of maybe a hundred people – I don’t know, 30 families or something like that – that lived there in a connected set of houses. And the water was just awful. And when they opened it up it – junk would come out, right? And they had been complaining for a long time and no one did anything. And I said, “We can go to the Public Utilities Commission, right? – bring a claim against the Public Utilities Commission, and try and get this water company to do something about the pipes.” It turned out the pipes had to be torn up and replaced, because they’d gotten so moldy and rotten. But Ernesto [inaudible], “You can go to the Public Utilities Commission. Most of these people have never been out of [inaudible] County” – right? – “They’ll just go up there and watch you. Why don’t you get someone to come here and talk to them, and talk

to the clients about what they want to say?” Now you would think I would know that? [Inaudible] But he reminded me it isn't that I couldn't give a speech on it, but I didn't think of it all the time. And so I had a meeting in a church with these families, and I talked about Ernesto and in my conversation said, “If you want me to try and get the Public Utilities Commission to come down here, or even anyone else, I will try to do that. And then we got to plan what we're going to do.” And someone said, “We don't want the Public Utilities Commission down here. We want the water company. We want somebody from the water company.” I said, “Okay. And what should I say to get them down here?” “Tell them that we have a lawyer, we're going to sue.” This comes from the clients, right? “But we want to talk to them first.” And they said they'd been meeting all day before my meeting with them. And one of the things that they wanted me to do was make this meeting not soon. They wanted it in about three or four weeks, because they wanted to collect samples of the water. Now that was from the client.

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Anyway, Ernesto and I went out and bought a huge number of empty milk bottles which you could get from the place that delivered the milk, and we gave them that, and people filled them up with the water and dated them. So some families had 15 of them, some families had 10. And I got the vice president of the company to come out here on the ground that we're not going to the Public Utilities Commission – we will work it out with you if you are in good faith. And they came, and they sat at a table in the front of this room in the church hall, and people one right after another

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brought up their bottles, put them on a table in front of there, and each one talked about what they'd gone through. And I looked at this vice president, and he looked at me and he said, "You won your case." He says, "We're not going to have to bluff you on this." And sure as hell they had an appraiser out. And I don't know who does the – pulled up the pipe, found out what was wrong with it, and gave them a new water company. That came out of Ernesto and the clients.

0:54:00 He then took me to Linnell Woodville. Linnell Woodville is the public housing project the Joads go to in *Grapes of Wrath*. And there was a rent strike going on, because they raised the rent I think \$7 a month or something. I met with the tenants. The company, the Tulare County Housing Authority, was planning on just locking up these shacks. You could always tell a kid that grew up in Linnell Woodville because they had these open gas heaters, and every kid ever grew up in Linnell Woodville had scars on their arms from falling against these open gas heaters, and we needed better housing – this one I suggested. By this time Ernesto said, "What can we do?" I said, "Well, there's a lot of facts we need to know. Why haven't they fixed it? Why haven't they covered these gas heaters? Why did they raise the rent? Did they really have an economic problem, or do they have large money in reserve, which is some of what the clients said?" And I took depositions in the rec hall in which I treated each of the families as a client. They all came into the rec hall and were able to give me questions that I asked. That was the first time in maybe 15 years that the Public Housing Authority had to respond to the questions. People

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were so high – I mean, what I saw was, there’s an experience in doing casework that’s as important as the legal outcome. And by the time I finished, Ernesto said, “You are getting to be a good student.” So I had a feel for how this works, and it did work. And many of them joined the union after that because they liked the experience of collective action. They saw what they could do with each other. It is not an accident that in the 1974 Legal Services Corporation Act organizing was prohibited just like we had at every CRLA office voter registration materials. Voter registration in 1974 was prohibited as a service that Legal Services could provide. We became extremely controversial, but I learned a lot about delivery. So that’s my interest in the clients.

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Hostetler: Well, looking at the legal services movement over those first heady days as it has evolved over the years, and as it has drawn controversy and opposition from people like President Reagan and others, what do you see today as significant developments, both positive and negative?

0:57:00

Bellow: Well, how far off do you want to go? I mean, the elimination of the infrastructure in Legal Services. It’s not only the restrictions. The elimination of the backup centers, the clearinghouse, the national support centers, the regional support centers is a disaster. Right? Legal Services was a system, and it mixed a lot of different functions, and it mixed a lot of talented, different kinds of people. So the recent assault on Legal Services, which doesn’t leave room for virtually any kind of support

– Alan Houseman feels it does – but I think it produces [a poor level of service?] that’s very bad.

0:58:00 On the other hand, I think a legal services program was put in place that will last and grow, and it will take different forms. I mean, Earl Johnson did not support organizing a group representation as the major focus in Legal Services. He rightly pointed out that most lawyers don’t know how to do it, and don’t do it well. And he also pointed out that it was the most politically volatile of the various forms that Legal Services would take. And he came down on the side of law reform. That was a brilliant move, because law reform gave lots of room for the social reformers, but it also was much more acceptable to the [inaudible] supporters; the kind we were doing at CRLA. So there were a lot of wise decisions made that were not necessarily the vision I had for Legal Services that I looked back on. And I’m glad we have the balance – glad we have talented people with different views, glad they were willing to argue them out, and glad on some of them that I lost, and not so glad that on some of them I lost, because I think the program has lost some of its energy and some of its commitment to do something about the systemic problems of the poor, and at the same time has lost some of the energy and some of the commitment to individual client service. See, I’ve always felt that they fed each other, and that you couldn’t do one without the other, but both had to exist and had to exist at very high levels of quality. That did not take place. The more experienced Legal Services lawyers moved to the law reform activities, denigrating, I believe, the direct service. I mean,

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there was nobody for the young lawyers – there was no one to teach the young lawyers who came into the Legal Services programs all through the ‘70s. And although, you know, the numbers dried up some, that’s always been the case. We
1:00:00 pull our best people out of direct service, leaving the, quote, “helpers” to do what is highly routinized work. Well, there’s no reason why it should be routinized. It’s a different job.

Hostetler: Do you see that pattern continuing today?

Bellow: Yeah, yeah. As a matter of fact, I see it more than continuing. It’s locked into a particular narrowing of possibility which is very hard to sort out because the program has been under assault for so long. I mean, the budget was cut in 1982. Every time the budget begins to go up again, there’s another attack, most recently 1996. It’s very hard to know whether that mentality that that breeds produces a kind of a drawing back and an unwillingness to try out new things. It’s hard to know whether or not you just get worn down by the amount of need on a basis, or people find ways
1:01:00 of living with the job. They need some leadership and some energy that the programs do not have.

Hostetler: And would money alone bring back that energy?

Bellow: I don’t think so. You have to do a lot of new things.

Hostetler: What kinds of new things?

Bellow: We have to reinstitute training programs. I think we can't do the same training programs we were doing with this heavy policy-oriented, but we have to improve the quality of practice. There has to be a much tighter and better relationship between the law school clinical programs and the delivery of legal services. I really think the legal services people missed the boat on the possibilities available on clinical education in the law schools, because like everything else clinical education in law schools has stopped growing. But there was a window where it was growing extremely rapidly and needed the connection with the outside offices. There are 30,000 to 40,000 law students graduating each year. Never has there been more than 6,000 Legal Services lawyers in the entire United States. We had a chance to capture a huge amount of resources if the Legal Services people were willing to supervise. Now, it's true you had to be willing to give up the direct work. You had to take on that job as an important job in the programs. Didn't do it. Has to be re-established. So if the law schools make deeper commitments, and there's more – we have to do something about turnover. Now it's interesting, in the '70s I said we had to do something about turnover and that there was too much. Now there's too little. We've got to open up the doors. I mean, this doesn't mean that I don't think the people that are there aren't wonderful. It's that it's not – you need new blood in a system. You can't get so locked in that only the most inexperienced people can be hired because there's no money to hire people at minimum range level. And we have

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to find ways of moving people into small firm practice, which would do a lot of even paid pro bono work. I think we have to institute a substantial program. It would get the support of a large amount of the bar, and we have many former Legal Services lawyers now who could go into private firms with that kind of subsidy – could create private firms with that kind of subsidy. We can't deliver anything, you know, like a large volume with a staff system that never had more than 6,000 lawyers. We have to change the ratio between lawyers and paralegals. This is a long tale. We have to do something about mandatory pro bono that doesn't make the bar at odds with the Legal Services. Practice – Legal Services people are extremely ambivalent.

Hostetler: What's your view about mandatory pro bono?

Bellow: I support it.

Hostetler: You do?

Bellow: Yeah.

Hostetler: Are you not concerned about the client having a lawyer who is less than enthusiastic or less than committed to the client? I think the Legal Services client has many lawyers who are less than enthusiastic and less –

(Side A of the tape ended here. Side B began as follows:)

Bellow: As I think the quality of practice has gone down enormously in my own experience
1:04:00 with people who do it, I think that I would have some releases, and I would have
different kinds of mandatory pro bono that meet both the willingness of the clients –
mandatory pro bono doesn't have to mean [either/or] to be a complicated system of
assignments in which people take action. I mean, I'm against the ideologues who
say, "I should never be required to do anything." But it's perfectly reasonable to
have differential requirements for people, and to make sure the clients are protected.
And Legal Services has never been willing to have the joint work. First of all, they
have not been willing to give up the high publicity cases. But the firms do the high
publicity cases extremely well. And the Legal Services people are needed in the
offices to make the quality of practice and day-to-day – Once the quality of practice
goes up and the private firms go into offices with standards, they will do extremely
1:05:00 well. [That's how they got them in private practice.] I don't believe there is this
huge body of expertise that only staff attorneys can do. It's disingenuous.

Hostetler: How do you feel about mandatory pro bono in law schools?

Bellow: I'm less interested in it because the law school models have such a small amount of
commitment. I mean, maybe it's okay. I probably would vote for it if it was
proposed. But I think in law schools we have to train people to practice. We have to

have much more extensive work for the poor. The message that this is charity will only revisit the old legal aid society weakness. This is hard legal service. This is hard lawyering work. It's hard to do it well. It's hard to do it thoughtfully, and it's hard to do it over time. I mean you saw yesterday, right? – those students were really struggling with what you'd have to do to do well in the two cases I showed them on the videotapes. So I would like mandatory clinical. But mandatory pro bono in which they have a little taste, I'm not against it, but I'm not enamored of it.

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Hostetler: When did you start teaching?

Bellow: I started teaching in – well, in 1968 I left CRLA. I actually left CRLA to do Legal Services – to do legal work, not Legal Services work – legal work for the union. And what César said – I mean, by that time I was really committed to union organizing – César says, “Go to Los Angeles and do the legal work for the boycott” – because the boycott had started – “but they pay five dollars.” The union pays five dollars a week. He said, “Get a job that will pay you. Get a job that has an office and a telephone, and get a job where they'll let you do it.” I went to the University of Southern California and I said, “This is what I'm going to do. I'll be glad to try. I'm very interested in trying to teach young people how to do this work because we got unbelievable amounts of commitment from young lawyers, you know, in their third year of law school, in their second year.” And they couldn't do anything.

Hostetler: Did you go to the dean of the law school?

Bellow: I went to the dean of the law school. In fact, the dean of the law school is Dorothy Nelson.

Hostetler: And she encouraged you?

Bellow: She encouraged me. And so I – the arrangement I made was I would try to set up a clinical program at USC that they had actually a history of. Earl Johnson also – they had a clinical program under a guy named John Bradway many, many years ago who had many of these ideas. I discovered sort of a treasure trove of material on John Bradway in Harvard Library. I was astonished. He taught at Duke and the University of Southern California and started a clinic many years ago. It had gone out of business. CLEPR money was – that's the Council of Legal Education for Professional Responsibility – was just coming in, and it was agreed that I would try to set up a clinic in conjunction with the local Legal Services program and start the process, which I eventually taught here. At the same time I was going to work for boycott, which I did. Loved USC – wide spectrum of political ideas, a lot of differences of opinion, a willingness to argue with each other that didn't involve denying that there were human beings on both sides – we went to each other's classes, we took on issues in front of the students. It was really great. And there was an organization called the Western Center on Law and Poverty which the University

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had gotten. And one of our clients through – the head of it, Derrick Bell, was the head of the Western Center on Law and Poverty. Derrick Bell took on the Black Panther Party, and I became counsel to the Black Panther Party in L.A. But I did a lot of work for the Black Panther Party at the same time, partly fed by César’s desire to have people working for him, have connections with urban African Americans.

Hostetler: What were some of the issues you were dealing with?

Bellow: Well, the biggest issue was a call from Chávez within a month of me coming to Los Angeles saying there was a shootout in Los Angeles, and two Panthers were killed, two police officers were critically wounded. And a young boy, 18 years old, had fled and was hiding out as a fugitive – would I go to see him? And César said, “I want this connection. This is a good thing for us to do. For the farmworkers to send a lawyer to help is a great thing to do – they are really in trouble. And [inaudible] went to this church where I met this kid – I mean, he was scared to death. There was a dangerous, armed [inaudible] – so he was afraid he was just going to get shot right on the street. And I made an arrangement with the court for him to surrender. He was terrified of being in the custody of the LAPD. We agreed that he would be in the custody of the sheriff’s department. And I went to this judge, and the judge agreed that it would be done after hours. The LAPD would not be notified, and she would then – she could deny bail until we made motions for bail, and that he would be placed into custody of the sheriff’s office. We laid out in the back of a

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Volkswagen bus – come across the city together. His uncle and me – and his name is Anthony Bartholomew – we get out of this bus, and we start walking up. There’s a big vista in front of the Los Angeles Courthouse. And on all sides there’s LAPD – armed LAPD tactical squads. And down the stairs walks three LAPD policemen all with their guns unholstered with their hands on it; right? – looking at us. And Anthony, who was just a kid, right? – he starts to run. And I grabbed him.

1:12:00 [Inaudible] My hands would have gone right through his arm. I said, “If you run we’ll be dead.” And so I just held him. And everything – I mean, all the guns went up. You could just see them around. And I went up and I went in front of the judge. I was strip-searched, and I gave one of the angriest arguments I’ve ever given in my life. And I explained to that judge that’s why the courts aren’t trusted, “because you don’t keep promises, because you’re so sure that the other side is lying that you creating a spiral that will never end. There’s going to be more violence.” I was furious, just furious. I was furious enough that she ultimately let him out on bail.

1:13:00 And then a year or two later I tried the case and got an acquittal. Anyway, that issue caused the head of the Panther Party in Los Angeles to contact me. And I got involved in a whole bunch of other stuff which is a long, complicated story. And not without it’s downsides. And in the middle of all of that, I get a call from Derek Bok, who was then the dean, but was soon going to become president of the university, saying, “We hear you’re doing some very interesting things in Los Angeles. Would you come and show us how?” I think what happened was there was a protest here. The students did a – the students had a protest. It was mild by anything that we – by

any of the standards that we had in California. But it really shocked its faculty, and the students said the education is irrelevant, and you should get people that have actually done things. And I think they began looking naturally for Harvard Law graduates – right? – who knew something about street work for poor people. It was a very small pool. Maybe there were two of us. And I got invited to come.

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Hostetler: To give a speech or what?

Bellow: No, to come for a year as a visitor. And I think my wife at that time was [inaudible] ready. We had done farmworkers, and then we did the Panthers and continued doing the boycott with the farmworkers, and she wanted to move. And I think I did too. I came here. I had a good experience teaching. They asked me to stay. I told then-Dean Al Sacks I'd stay for five years and help build the clinical program here – started a teaching fellow program with money from CLEPR that actually placed a good many clinical teachers from around the country in positions to start – starting a growth of clinical programs. And this was a very good group of people, and they did interesting things, and have continued to do interesting things. And five years later I went to the dean and I said, "I'm leaving."

Hostetler: And why? Why did you do that?

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Bellow: Because it didn't – this isn't what I wanted to do. What I wanted to do – I liked day-to-day neighborhood work. I don't think I've had a year, until I went into the

hospital, where I didn't do 20 or 30 of my own cases every year from 1961 on. Everything I've been describing, I've always done my own as well. I like clients, I'm interested, and I learn from it. And so I was going to go back to a neighborhood office. And Al Sacks said to me, he said, "What would you like to do? I don't mean what would you like to do here – I mean what would you like to do?" I said, "Well, I think the thing that's most needed are legal services schools – I mean institutions that will bridge the gap between the absence of training and legal services; offices for poor people, and the law school's research that touches none of the theoretical and policy issues that we need to deal with, to have to do something about poverty. And I had gone to Tom Ehrlich, who was then head of the Legal Services Corporation, and told him this is what we need. It was sort of built on my analysis of an article called, "Turning Solutions into Problems." And he was very interested and agreed to fund one at Harvard and to consider funding ten others around the country. And it was opposed by every single legal services program in the United States.

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Hostetler: Because?

Bellow: There was testimony – Hillary Clinton was then chairman of the board – it was – they said I was wrong about the critique, that the quality of practice was much better than I had said. Maybe right. That the needs were not for internal training in the offices, the need were for more resources, that this would simply channel a certain amount of Legal Services money out of the expansion of Legal Services. And the

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law schools are rich enough and should do it on their own. This is – as you know, I think that was a mistake. Someday I’m going to write an article about this. But it was in good faith. It was well felt. They really disagreed. And there was a parade of opposition at the Legal Services Corporation Board opposing the funding of this. But Bob Kutak was on this board – I don’t know whether Hillary Clinton was the chair, but she certainly was on it and asked a lot of good questions about it. And the board voted to fund it. So we started. Then we came – in the meantime, Harvard’s Al Sacks, said, “We will match” – I think it was one to three – “We will match funds for a Legal Services institute at Harvard Law School.” And I took the position that it had to be open to other students besides Harvard students. And Al Sacks took that to the Harvard faculty, and the Harvard faculty voted unanimously to support a 25-person institute in which every single course was taught at site. So we had the entire third year in which clinical work and classroom work was integrated. Anybody who came – there were students from the University of Maryland, there were students from a lot of different schools. And the most – there were a lot of students from Northeastern with whom we jointly did the program. The bulk of the students were Harvard students, but at least almost half were not – from other places as well. I think Northeastern did have about a third. And the faculty supported it and hired as the first Legal Services Institute faculty Clinton Bamberger – did you know this?

Hostetler: No.

Bellow: Clinton Bamberger, Jeanne Charn, myself. And we for a couple of years really started down this path of an integrated experience in which you do housing work and you study housing policy. You do welfare work and you study welfare policy. And anybody who came there had to agree to do two to three years of legal services work afterwards, and virtually all of them did. And then in 1981, January '81, Ronald Reagan became president of the United States, and this was cut off. Funds for this were cut off right after, early in the spring of '81. I think we had money to carry us through '82. And Harvard could no longer keep this going without the federal money, but they did say, "If you want to build the Harvard program, continue to do it." And I stayed and did it.

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Hostetler: So it had to be limited to Harvard students? Is that correct?

Bellow: After '82. That is, if we're going to put a lot of money into this.

Hostetler: Have you seen any diminution in interest in students in the last – well, since '81?

Bellow: It's gone up and down.

Hostetler: How?

Bellow: I think student culture is variable, and I don't really understand all of the ways in

which its ebbs and flows, changes. We at first attracted the most radical students

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Then it became known that this was very good education, and useful. And as the firms have become less interested in moving each person they hire up to partnership, I think it's a case that at the end of eight years, 50 percent of Harvard students leave the firms they're with and go with the smaller firms. We get a wave of interest in professional education. Then I think there's been changes in which professional education has been not as important in the Harvard curriculum as graduate-type education, something that I'm at war with. I think like everything else you have to integrate the two. This is a big school, and students need both to understand the practical and the theoretical the same. But it's changed as the leadership for the program has changed, and younger faculty's interests have changed as well as the students' – that – the firms that have – The debt is so high, and the firms have offered so much at the front end that we're having trouble having people jump into this when they're afraid they're not getting the courses they need to do the firm work. So we're in the throes of a lot – I don't believe that – I think this is a generally important way to be educated. And we'll turn it around. We're in the middle of another set of changes within the clinical program here, which is very large. I mean, over 300 students a year do actual client work. And if you add simulations, it's in the – you know, it's about 80 percent of the class that's done some work like that. But I like the client-oriented work, and that's the stuff we want to expand to 400.

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Hostetler: Three hundred students do clinical work with you or in various clinics?

Bellow: In various clinics that we've created. The program is much larger than the – the
1:23:00 Legal Service Center is the largest institution within the clinical program, but it's not
the only one. We have a Criminal Justice Institute which is run by Charles Ogletree
who does criminal work. We have an immigration center – refugees and
immigration center – that does that kind of work. We do place some students at the
Attorney General's Office who are interested in government work.

Hostetler: And do the rest of the faculty members in these clinics share your vision that
practical, hands-on experience is as important as the theoretical?

Bellow: Well, not as sharply as I think I would articulate it. But, yeah, I think they do share
it. Now there are different versions of it. A number of members of the faculty allow
clinical placements to make [inaudible] because they feel that the clinical work
deepens the student's understanding of the doctrine and the policy, which is perfectly
1:24:00 reasonable. If you see the way the institutions work, you understand law better as a
human enterprise. Others have a greater interest in the students actually learning
skills and professional development. And it's at that end that we're making the
changes.

Hostetler: Do you intersect with clinical programs around the country in other law schools?

Bellow: Yeah, but we're a different model.

Hostetler: And how different are you? In what ways?

Bellow: Well people claim we're very different. The biggest difference is the clinical movement. This is – again, these are my views, right? – I mean, almost all of them would disagree – most of the – 50 percent of the clinicians in the first round in the '70s – late '70s, early '80s – were Legal Services people. I think what happened was the vision of Legal Services and the law schools having a joint enterprise in which students would learn a lot about doing pro bono work and legal services would increase their capacity to do that fell apart. I mean, there's a long tale about who is at fault and how it happened. But that left the clinicians in ambiguous statuses in the law school where they were not treated like real faculty, and they felt their move was to strengthen their positions at the law school by creating clinical tenure, or insisting on regular tenure, or enlisting the bar in protecting them on long-term contracts that had elements that were like tenure. It was a perfectly reasonable move. The problem is it set an upper limit on the amount of clinical work you can do through that model. That meant we have about 30 percent of the students in the United States actually doing hands-on client work, and it won't get any bigger, because the clinicians have insisted that every time the law school hires somebody the person be a regular member of the faculty in some way. The Harvard model, which is a huge school, right? – 1,500-plus students – what we have is we have 36 clinical instructors. They are not members of the faculty. But they're teaching practitioners who work in the clinics and connect to the courses. I think the clinicians feel this is a major threat to

the model that they've evolved in other parts of the country. And there's been a lot of tension between the so-called "Harvard model" and the rest on the ground that we both weakened their position at other schools, and it is not – you don't get as good an education. Now, what it is that turns the clinical instructors all from who are talented lawyers and pretty good teachers into something different – because they do or do not have clinical tenure – is one of my disagreements. But it's controversial. It turns out that many, many schools are starting to add staff because they can't deal with the demand. Many students want to actually learn how to do this otherwise – you know, maybe not at Harvard where there's – as much at Harvard where there is a pretty sharply defined career line and you go against the grain when you go to a different one. But many schools in the United States, you're going to wind up in a small firm, and no one's going to teach you. And so there's a lot of demand around the country and there isn't enough teaching resource and supervision resource. And maybe, you know, this is a question of – there's no doubt that the clinicians were badly treated by the regular faculty, that they drew this line of theory and practice which I don't actually agree with. I mean, practice has theory, and academic theorizing has a practical dimension. It has to have something to do with the world that operates in it, although sometimes I wonder. It might change because many schools use teaching fellows and other kinds of supervisors because the Harvard model is the – we couldn't add 36 people to the faculty. The faculty only had 70 members. This faculty would not – and I can't say I'd blame them – would not add a huge number of people. And those numbers – if anything I want more. We just

1:29:00 chose a different model for the circumstances that exist here, and I think it's a more workable model for the nation. But we're a long way from it.

Hostetler: But you say other schools are adding staff. I assume you mean –

Bellow: They are starting to add staff – non-tenure – non-tenure staff, or – they're part-time, they're short-term. Our clinical instructors, some of them have been here a very long time and do very well. They're experienced teachers and supervisors. It's a question of whether the profession can evolve a new role of a teaching practitioner. We do not have enough mentoring in the profession generally. People can learn to do so much from bringing them to training programs, or bringing them around the table to discuss something, or partners lunches. You have to mentor people. You have to watch their work and see whether there are patterns emerging, and show them and supervise them and give them feedback. I mean, we need a lot of teachers in the
1:30:00 legal profession, and that's not been the tradition.

Hostetler: And you do that for your students in your clinical program?

Bellow: Right. And the doctors do that, and the social workers do that, and the senior teachers do that. We're practically the only profession in the country that doesn't deal – The practical application of the professional work has got to have guidance from experienced people. It just can't be learned in a classroom. I mean, we did our

best yesterday, right? – and I think it was pretty good. But if that’s all the students were experiencing, it would go away in no time. The reason it has some bit – they’re actually counseling clients. They’re actually seeing clients. They’re actually struggling with this. And if I can get the supervisors to really open up – in other words, the teaching goes on all the time. The clinical instructors translate what goes on in courts. Now it depends on what the teacher wants in the courts. But –

1:31:00

Hostetler: Well, if you were to look in your crystal ball, as we close this interview session, for the next decade, do you have any predictions? Or do you have any hopes and wishes for what might happen?

Bellow: Well, I just touched on a big one from my perspective. There’s something about the experience of human service, whether it’s people who work in nursing homes, or teachers in ghetto schools, or – that just wears people out. They don’t feel valued. They don’t feel that they’re growing. They don’t feel that there’s places to go after what they’re doing. I don’t have high hopes for this, but I certainly – for as long as I can do it – I’m going to hammer on this, because the profession – quality of practice in the profession is generally very bad. One of the things that throws the students somewhat is as much as they need to know, there are many practitioners that are out there that have been doing it for 20 years, and they don’t know anything. They never look up a rule. They never look up a law. And we see it every day. And so you get comparisons that actually are erased from the bottom in which each one compares

1:32:00

themselves to the least competent. So my hope is that the Harvard model will actually have some influence elsewhere. And I'm going to clearly write about it. In legal services delivery itself, we have to get freer of these restrictions, because it's – we have to build back both the infrastructure, and a less- restricted operation. And new people coming in, as much as what I said for the last whatever it was – there's still a lot of needy people out there that don't ever get any help, I mean, by the millions. And although not in my lifetime will we solve it, we need enclaves, programmatic initiatives where people can use paralegals more, try to involve the private bar more, experiment with [inaudible] more, let go of the single models that we've had and have multiple models.

Hostetler: And what about systemic reform? Do you see the legal services programs continuing to provide leadership in that? Or do you feel they're – .

Bellow: Well, you know what's happened? The federal money in many parts of the country has been turned down because of the restrictions, and they're going forward with non-federal funds and they're doing a good deal of the – particularly the law reform and class action work, much less the group work and the organizing work. Now here's what I'm worried about: I think it's naive to believe that the state and local funding will simply permit the most controversial of the legal services methods to stay exactly where they are funded by IOLTA. I think we're going to get a backlash that says if the federal government won't fund it, why should the state of Massachusetts? It's a fight at the local level. So it's a very unstable situation. I

1:35:00 don't believe we're going to have – anyway, they think this will preserve this kind of systemic-oriented – and I think until the federal government – at least until an infrastructure is put back in place in which there's training capacity, there's clearinghouse capacity, this large case litigation capacity, I don't think we'll be doing a lot of systemic work, although there's a lot of systemic work to do. The courts are less receptive, the problems are more complex. The amount of fact-oriented problems as opposed to law interpretive problems is much greater, which means you need much higher levels of trial skill to put on these kind of change cases. The sense that it's all been used up and in the past is just palpable and loaded with nostalgia, which is a shame because there's work to be done right now, and it could be done well, although we need other fora and we need creative ways of presenting these issues. One possibility, for example, is you can do impact work as a day-to-day service by focusing which areas you work in and hammering on local institutions. That hasn't really been tried. We have several examples of that in Boston that work very well. I mean, it hasn't been tried as a national model. So that might happen.

Hostetler: Do you have any example from the Boston experience?

1:36:00

Bellow: In the 1980s – well, can I tell a story?

Hostetler: Sure.

Bellow: Okay. We had our own version, *BHA v. Hemingway*. And then I worked on an

amicus brief in a case called *Berman v. Jefferson* that established the right to get damages for breach of warranty. There's a panoply of protections. In 1980s, early '80s, we were just coming out of the institute. We were doing the regular program. I represented a woman. In fact, one client came in and asked me to go to this woman's house. And I stop and I go to this woman's house, and I knocked on the door, and she's a 55-year-old Hispanic woman who lives in this apartment because it's right near where her children live. And the entire apartment is clean as a whistle, and everything's in boxes. And she's sitting there and she gives me a cup of coffee, and she says – her name was Petra Rosario, I'm sure. I know she once said, "You can tell this story." And she says what many tenants say. And I hadn't done Boston cases in the landlord/tenant area, because I'd been focusing on welfare and disability, although I'd done a lot of it over my lifetime. She says, "I just want a couple of months before I move." And it turns out there are all kinds of code violations in the house. And I call up Greater Boston Legal Services and say, "What do you do with this kind of case?" The lawyer says, "Well, the best you'll get is two months. If you agree to move out, you'll get two months without rent." And then I call someone from Cambridge Somerville Legal Services – same thing, you know, the judges won't give damages, it'll be unresponsive, you won't have the chance. I get into the court and I'm in mediation with a mediator, and he says, "You're going to get killed. The judge is going to rule against you. She's going to be out in no time." The guy was offering nothing. And so I sat down with her and we became friends. I said, "I don't – I'll tell you, honestly, I have not tried a case in this court. Petra, this is the Boston housing court. But it seems to me they're offering you very little. We can

probably delay it long enough for you to get two months. Do you want to take a chance?" She says, "I do. I'll come with the one who brought me." And so I tried the case and I won. I didn't win huge amounts of money. I won \$3,000, \$4,000.

1:39:00
Hostetler: Arguing code violations?

Bellow: Arguing code violations. And I kept her from being evicted. But I got no – nobody believed you could do that, and it was obvious that the judge was going to apply the rules. He once said to me some years later, he said, "No one ever raised these issues." The program had just settled down. Well, we knew that we could do this. The question is could we do it in large numbers. It's a question of could we – we certainly couldn't try every case. But if we tried enough cases and the reputation was, "If you go to court with these people, you'll wind up having to pay money and you won't get the client out anyway," then the settlement levels would change, because one of the reasons I had to go to court is the guy wouldn't offer anything. So we declared an eviction-free zone, leafleted an entire area and said, "We will try your case. If you want to settle it, you can settle it. If you don't want to settle it, we'll try it. But we will give you aggressive defense, and we'll do it always in one court, the Boston Housing. You can transfer from Boston Housing Court. And although it's a longer story, in some cases we appealed and increased the exposure of landlords. In other cases we got tenant organizations started. And in many, many cases, we tried the cases and won exactly the way I won so that the aggregate effect in the atmosphere of the Boston Housing Court was a reputation that you ought to

1:41:00 settle these cases. Once people start settling, the [inaudible] solidifies. And so by having a bunch of cases strategically handled this way – we can do anything different than I did in the individual case. But we did case after case, talked out what we were doing from the clerks. Once, Jeanne and I are going down in an elevator and there are two lawyers in the elevator at the Boston Housing Court, and one of them says, “Yeah. You’re better off settling than going to trial. You’ll really get burned. And settlement means the client’s got to stay there, although you might be able to save yourself some damages.”

Hostetler: When was this? When did you do this?

Bellow: I think this went up to ‘88. Then the judge changed at the Boston Housing Court, the staff changed, the market changed – I mean, I can give you a long history as to why it didn’t work as well for a while. But that’s what I mean by aggregate impact. We did the same thing at the welfare office. We just took case after case after case at the local welfare office, and every time I went down there I talked to the social – the case worker about why she’s not reading the regs right. And after winning several hearings and giving her the hearing decision, which by the way is rarely done, we turned her around. She called up and she said, “You know, I don’t know a lot of these rules. Would you spend some time with me?” This is the direct product of doing case after case, but making her feel that she wasn’t evil, but that she really had to learn these rules better. It wasn’t fair to people. And I did a training session for her and two other workers that were in the office, and helped them out constantly.

1:42:00

And we increased, or rather decreased, the amount of terminations that were going on in that local office. They eventually closed the office.

Hostetler: This is very reminiscent of where we started in the criminal area in Washington, D.C. when you were the first with the Legal Aid Agency.

Bellow: Absolutely.

Hostetler: And had to change the whole mind-set of a lot of people and bring case after case.

Bellow: Right.

Hostetler: And get your fellow colleagues to do that, which suggests perhaps that that's an activity that's ongoing.

1:43:00

Bellow: Yeah. It's not amenable to class action. It doesn't work as a class action. The ordinary resolution processes in the court, you can't get a handle on them in the same way. But you can do impact.

Hostetler: Well, I think we will close there. Thank you very much, Gary Bellow, for speaking to us today—

Bellow: We did two hours.

1:43:00

Bellow: Great. You can stop.

Transcription of audio taken from video -- By: Sabrina Hilliard