Interview with

Antoine “Gerry” Singsen, III

Conducted by Victor Geminiani

November 1, 1991

Call number: NEJL-009
GEMINIANI: Today is November 1st, 1991. The interviewer is Victor Geminiani. The subject of the interview will be Mr. Singsen's background in legal services and his experience and knowledge around funding policies that were evolved under the OEO and Legal Services Corporation during the 1970s. Good morning.

SINGSEN: Good morning.

V.G.: Can you tell me a little bit about your background prior to becoming involved in legal services?

G.S.: It's not very long. [Laughter] I went to college at Brown University. I went to law school at Columbia. And I graduated from Columbia in 1967 and knew something about civil rights and had done some work in the civil rights movement, but not a lot. I knew something about legal services, but not a lot. I had read a report of a conference in '65, which had talked about poverty lawyering. And it turned out to have been a very useful conference in getting the whole thing going.

I got out of law school, and didn't know what I was going to do. I clerked for a year in the Second Circuit and heard about the Reginald Heber Smith Program. I applied to the Reginald Heber Smith Program as one of several possibilities but without much knowledge of what might be entailed.
The reason I'm in legal services is that a guy named Charles Aaron, who's now at Valparaiso, as a professor, came down to the federal courthouse and said he'd read my resume. I lived up in the Westchester County area, in a town called Pleasantville and he was a Reggie from the first-year Reggie group, in White Plains, in the same county. And so he said, “You look like a natural to come and be a Reggie in White Plains, and I want to recruit you to do that.” And so he said, “Why don't you come up to Westchester. I'll introduce you to people.” I was very young and very naive. I went up. And one of the major things that happened was he took me out to a nice French restaurant. I had grown up not going to restaurants. This was very neat. So we liked each other, and he recruited me. And that's how I started out as a Reggie. The Reggie program accepted me, and Charlie got me to go to Westchester; which was where I was living because my wife was teaching high school up there.

V.G.: Was that the 1968 class?

G.S.: This is the '68 class. Right.

So we went to Pennsylvania for a month. There were half of us there, and half were out in Michigan, I guess and got a very intense month. I mean, this is a whole separate discussion, really, how the socialization of new Reggies was done. But it was very effective. It was dramatic. It was substantively strong. And it was charismatically led by Ed Sparer, particularly. And Howard Lesnick and Tony Amsterdam. Bob Muntime taught ethics. He was a very young professor at the time. There was a lot that was very powerful. And a lot that focused on community advocacy, on the issues of representing a lot of people just a little, or a smaller group of people much more intensively. Of empowerment, of making choices in your advocacy strategies using your resources so it was very powerful. We all went out, charged up, and
because the Reggie program structured it this way, fully protected against program managements that might want to hold us in.

**V.G.:** Could you briefly describe any memories you might have had about legal services in OEO in those late 1960s? Specifically what you would remember about Westchester and the feeling that you had in practicing law in that program?

**G.S.:** I guess the first feeling -- and it comes right out of the Reggie program -- was that practically anything was possible. That you could tackle any legal problem that was being experienced by poor people. And that almost anything experienced by poor people could be understood as a legal problem.

I did a lot of welfare rights work. A guy named Gabe Kaimowitz came out to Westchester from the Center on Social Welfare Policy and Law, the backup center in New York, which was then run by a guy named Lee Alpert. And Gabe came out and trained me on welfare advocacy. And then, together, we trained a bunch of welfare advocates and welfare recipients to be people who could handle fair hearings, who could go and lobby at the welfare center. And then I would work with welfare rights groups around the country on, you know, solving basic problems and helping welfare recipients advocate on behalf of other welfare recipients.

It's a nice example of what might traditionally be understood, totally differently, from a lawyer's perspective. That is, you can go and make legal arguments and have fair hearings. But, instead, was seen as a much broader and deeper problem of empowerment of individuals who were poor, who were receiving public assistance, and who were -- unless enabled and supported -- going to continue to be very dependent.

And so, instead, the theory was -- and, of course, it's a much deeper question, in terms of the strategy about pursuing special grants and the result we got, which was a whole change in the
welfare system, away from the special grants. The strategy was too successful. It cost the states too much money to give all the special grants, once the recipients found out how to get them. But the strategy was to create tools in the hands of recipients that they could go and use.

Now, that strategy then got carried over into parents groups and education under Title 1. It got changed – carried over into housing areas, both public housing, tenants groups, and community pursuing better housing conditions. Improvements by landlords and individual housing apartments.

In health care, there were parents groups advocating -- all the way back then -- with support from legal services folks around the conditions of hospitals and access to health care. I mean, the very early movement was up in Dixwell, in New Haven, which had to do with patient advocates. Poor people working in hospitals as volunteers or as aids, paid slightly by Dixwell Legal Rights Association, who would go and advocate on behalf of patients in the hospital setting with doctors, with nurses, with administrators.

So, what I remember is the sense that what the work was about was poor people in their communities being able to successfully pursue their own goals, as the leaders of their own lives, with lawyers as tools for that work.

Ed Sparer always used to tell a story when he would train lawyers. And the story was about having represented a union leader, David Dubinsky. And as a young lawyer, working for Dubinsky, he had been told to find out what the law was about a certain issue and to come and tell Dubinsky how he could do what he wanted to do. Sparer came in and reported to Dubinsky that the law didn't allow him to do what he wanted to do. And Dubinsky blew up. He said, “What are you telling me that for? You've got absolutely no business giving me this kind of a
report. Your job isn't to tell me what I can't do. Your job is to figure out how I can do what I want to do. Go away and come back with a solution, not a problem.”

Sparer's point was that all legal services lawyers should approach their client's situations in the same way: with the goal of enabling their clients to accomplish what their clients wanted to accomplish. And anything less than that, he said, was paternalistic, was taking over control of the client's choice, and not acceptable. Just this basic lawyering perspective.

V.G.: You have spent much of your career -- among your many activities has been -- involved in a funding policy, the development of funding policy, the analysis of funding policy for the expenditure by OEO and legal services to support the activities of field programs. Can you tell me how you first got involved in funding policy issues?

G.S.: Yeah, it's kind of a strange story. There are two parts to it.

The first is that the deputy director, actually, of the program I was in, in Westchester -- a guy named Bernie Klein, who was my first mentor in legal services, had been a social worker, was now a lawyer, was not very comfortable with numbers. And I had some comfort with numbers. And one Sunday, I was up at his place in the country. He lived out in the woods, in an old church that he and his wife were gradually making over into a home. And he had to do the budget for OEO. And he couldn't get two and two to equal four. So we sat there all afternoon. And I basically took over the process of developing a budget. He would figure out what he wanted. And then I would figure out some way to say it on what were then -- seemed to be very complicated, messy forms, but I now know -- compared to the forms we're used to -- were incredibly simplistic application for refunding forms. So that's how I got started. That's probably '69.
Now, I lived in Pleasantville. And it turned out that across the street from me -- although I didn't know it for a year -- was a guy named Vaughan Gearan. Now Vaughan had been the regional director for New England and New York for OEO Legal Services. He had previously been the director of a program in Fitchburg, Massachusetts. Before that, he was actually mayor of Fitchburg for a little while. And actually, just to add an interesting piece, Vaughan has just taken a job as a staff lawyer at Cape Cod, in the islands, in Hyannis, Massachusetts, and is still in legal services all of these years later.

But Vaughan was the regional director for OEO Legal Services, working out of New York. And the way I found out he lived across the street was that Bernie Klein took me down to New York one day to the regional office, where I met Vaughan and Susan Tapper, who was working in the regional office. And in chatting, we learned that we lived across the street from each other. So we started to talk. And Vaughan kind of took me under his wing. He taught me about how the OEO system worked. And just casual conversations. Taught me the politics that he perceived in the system.

Vaughan had very strong feelings about the way legal services advocacy should be done. He was a very strong regional director. And so some of our conversations were about how regional directors could use money and their power, through evaluations, to create better legal services programs. And Vaughan started to use me to evaluate other legal services programs, including the New York City Legal Services Program, where there were like fifty-five evaluators who went for a whole week to examine this one-hundred-and-fifty-lawyer system that was spread throughout the city of New York.

So through Vaughan, I learned a lot that was structural. I learned a lot about the discretion of an OEO regional director. And then Vaughan started to tell me stories about things
he was doing. There was a bad program in New Jersey, I remember, where Vaughan constructed a monitoring team -- or an evaluation team, I guess, as they were called then -- to go in, fully briefed about what was the trouble in the program, and to come out and produce a report that documented the problems in the program. In hindsight, of course, it's the worst kind of fixed evaluation. But the purpose was to produce a better program.

Now, that one got him into a little trouble, because program got so angry at what it perceived to be a fix that it brought a lawsuit to bar him from threatening to cut off the funding of the program. And a guy named Lacey, who was a prosecutor in New Jersey, who had gone after organized crime and then been appointed to the bench as a reward for very good work as a prosecutor, got the case. And Lacey wrote this very strong opinion. I think it was Monmouth County Legal Services -- was the program. Probably '73, maybe? '72? In which he excoriated Vaughan for his high-handed approach, for his fixing the evaluation, for his refusing to act in what Lacey perceived as a fair way.

But at the end of all of that, he said that OEO Legal Services had total discretion over his grant making. And while he thought Vaughan had not done any of the proper things, there was no due process right for a grantee. And so the grant was cut, and Vaughan got his way. And that's the truth, I think, about how OEO funding policy was in that period. The discretion was almost absolute. The grants went -- Earl Johnson describes it in his book -- to the people that were perceived as likely to produce aggressive impact work, community representation, serious tries to provide empowering representation to poor people.

V.G.: Do you know if there were allocations through OEO by region of certain amounts of dollars?
G.S.: If I remember right -- some of this really dates back to Clint Bamberger, before I had any consciousness, before I knew Vaughan lived across the street, let alone some of what was in Vaughan's head.

The answer is they had initial ideas about spreading the money around. I don't think it was: this is the allocation for these states, so much as a sense of geographic dispersal. But what happened when they were making grants -- and, remember, after 1970, they weren't making grants. The whole grant system that prevailed until '76 had been established up through the late 1969 period. And at that point, Nixon, having been elected, the discretion started to go away in terms of having new money. They got up to seventy million bucks, and that was it.

And what Bamberger found -- and Earl Johnson after him -- and Johnson, I think, really did a lot of the grant making -- was they couldn't find grantees in some parts of the country who were willing to do the work the way they had articulated it. And so they ended up with more grantees -- the other thing, of course, is that there had been pre-existing legal aid societies, some of them going back nine years – established in many metropolitan areas. Particularly in the northeast and in some of the large cities across the country.

So between those two patterns -- that is, in some areas of the south, some areas of the mountain states -- really didn't want legal services. Thought it was a bad idea. Wouldn't apply for it. Fought it when anybody came in to talk about it. And the existing organization, some of which didn't get grants but many of which did, you got a pattern of distribution that was not at all equitable. Where the south, the mountain states, some parts of the plains that had relatively little funding compared to what, as we now understand and think about, compared to all of the poor people that were living in those areas. There weren't people ready or politically able to mount programs in the late '60s in those areas.
V.G.: Do you remember if there was any field involvement, at all, in OEO funding policy? Either in the formation of the policy, or the distribution the --?

G.S.: By "field", you mean existing funded programs?

V.G.: Yes.

G.S.: And --

V.G.: Or associations, such as NLADA, PAG.

G.S.: And I'll give you two kinds of answers. It wasn't at all what we know today. But the Project Advisory Group was originally created by the Office of Economic Opportunities Office of Legal Services. It was an advisory body. There was also a National Advisory Group, which was more ABA-ish; the PAG was programmed. And the National Advisory Group was nagging OEO right from the very beginning with representatives of interests participating in the policy making. Consulted about the impact orientation of legal services. So that you can find Bill McCalpin or -- oh, what's his name, from Covington & Burling? Howard Westwood, and others, involved in the earliest kinds of discussions.

And, of course, the Cahns, Jean and Edgar, were working for OEO but came out of a background in New Haven, working in a local setting providing advocacy for poor people. And Gary Bellow came out of a D.C. background of the same kind, went to CRLA with Jim Lorenz. They established CRLA. And that was a very cooperative venture with OEO.

So that there was some formal structure. But in terms of funding policy, it was all very discretionary or very much guided by a sense of the kind of work that mattered. And so what it really was, was interactive. People with ideas, people ready to go to work creating strong programs, worked closely with the OEO-Legal Services leadership. And it wasn't funding policy
in a rationalistic sense. It was *funding* policy -- where are we going to put our money to get something done?

I mean, if you want to think about it in modern terms, again, the concept of local priority setting didn't exist. What was going on was a group of people who were going to work locally, designing a program closely in cooperation with the OEO leadership and legal services, and determining what mattered together. I mean, in 1968, Johnson gives the talk that says law reform is our impact, is our goal. That's what we're about. Law reform, community representation. There were six priorities for legal services work. That's very inconsistent with today's model of local priorities setting. And that's how it's done.

Now, there's one other story that you need to know. The other kind of funding policy, as is exemplified by something called Jewish Legal Services in New York City. And it was the regional director's ability to jimmy the game. There was something called short funding. If you had a grant for twelve months for one million and two hundred thousand dollars, then you had a hundred thousand dollars a month that you could spend. And your year might run from January 1 to December 31. Well, Vaughan Gearan figured out that the fiscal year was July 1 to June 30, and he could make a fiscal year grant of a million two hundred thousand for less than a full twelve-month year, and thereby increase the operating level of the program.

Now, he started doing this in '70 and '71. So he gave an eleven-month grant, January 1 to November 30th, for a million two. And now you have more than a hundred thousand a month. You could hire a new lawyer. And then the next year he gave a ten-month grant for a million two. And so now the year was backed up to October 1.

Now, there was no national funding policy that looked like this. But, of course, Vaughan didn't keep his mouth shut, and other people started doing it too. By the time the corporation
came along in '75, it had a lot of short-funded grant years and a big money trouble because the grant years had now all backed up to the start of the fiscal year, and you couldn't make two grants in the same fiscal year. Fortunately, the corporation arrived just in time, and there was a bridge amount of about eight million dollars in the first corporation appropriation, so that these programs could go back on twelve-month grants, once a fiscal year, at their real operating levels in '75.

Now, the other thing Vaughan did was he needed three hundred thousand dollars to start a program in Brooklyn to serve Hasidic Jews. He was getting a lot of pressure from Jacob Javits to create this program. But there wasn't any money. So he short-funded the New York City program a month and used the money that was generated by that, in part, to put three hundred thousand dollars into funding this program that was colloquially known as Jewish Legal Services. Technically, it was Community Action for Legal Services Brooklyn Branch. So that was the other kind of funding policy. There were a lot of funding games.

V.G.: That was a policy that I believe became known as pushing snow?

G.S.: Yes. That's right. Pushing snow. [Laughter]

V.G.: As it's known around the country.

The FCC has been a major organizational entity which has dealt with funding policy from a field perspective for many, many years. Can you remember how the FCC was created and maybe a little bit about its original functions?

G.S.: Almost. I came into contact with the Funding Criteria Committee, I think, in the fall of ’74. But I could be wrong. It could be the fall of ’75. And I ought to have this clear. I think it was the fall of ’74. I was deputy director in New York City's program at that time.
The first chair of this thing called the Funding Criteria Committee -- must have been '75, must have been '75 -- was a woman named Elizabeth Rinscoff, who was the director in New Haven. And another member was Denny Ray. It was Denny -- I don't think Denny was in North Carolina at that point. He was either in St. Louis or Maine. I'm not sure where he was from.

And I don't know the story of how the Project Advisory Group decided to have a working group called the Funding Criteria Committee, because that happened before I was really conscious of the inside workings of PAG. I mean, I had been at some meetings and seen some things happen, but I don't remember the story of that first appointment. So when someone talks to Denny, why, they'll have to get that story.

But Denny called me up. We had met somewhere. And said would I like to be involved in this. A highly representative process, as you can tell. And I said, “What is it?” He told me about it. And so I went to a discussion with him and Liz Rinscoff and maybe one or two other people. And what it was about was developing some approach to getting money to legal services programs through the new Legal Services Corporation and to express the point of view of field programs -- the existing delivery system if you will -- to this new group of people who were the board of the Legal Services Corporation.

The reason I think it's got to be '75 is that the corporation was enacted in August of '74 but no board was appointed until the spring of '75. And they came in, in July of '75. There was a three-month transition period. And they were in full control in the fall of '75.

There was a deliberative process in the summer of '75 to educate the new board. And PAG, particularly through people like Alan Houseman, Charlie Dorsey, and Dee Miller, came in, told the story of legal services to this group of board members, many of whom really didn't know much about legal services. In that way, of course, board appointments don't change over the
decades, even. New boards generally don't know much about legal services. And educated the
board. Began negotiating. And the regulations process was a big process. That was the first
major PAG activity with the corporation, was to work with Bob Kutak on what the regulations
were going to be.

And the Funding Criteria Committee started working with Alf Corbett. Alf had been the
head of OEO Legal Services -- although he was technically a controller type -- for, like, three
years, there had been no active director for much of that three years, from '72 to '75. And with a
guy named Buck Hennigan, who came in as a staff person off the Hill, early in '76. And Tom
Ehrlich, who had been appointed president of the corporation in the fall of '75.

There was an initial set of discussions with Alf, and Lou Oberdorfer, who was the acting
president, the interim president, the first president of the Legal Services Corporation. Hired on a
temporary basis, whose job, among other things, was to find whoever would be the full-time
president, Ehrlich, and to manage the creation of this entity. I guess the other name to remember
from there is a guy named Tatel, David Tatel, who was the general counsel during that time on a
release time basis from, I guess, Arnold and Porter. So Tatel, Oberdorfer really ran things during
the transition period. And they had to figure out what they were going to say to Congress about
money. And they went to Corbett, who they decided would come over in a responsible budget
role to the new corporation, and they tried to develop an approach.

They brought Hennigan, in, I think, actually as a consultant, first. And he did a lot of
detail work for Alf in developing the budget approach. And the first budget approach had
nothing to do with minimum access. It had to do with ending the snow storm. It had to do with
some increases for cost of living. It had to do with getting some money, so that programs that
had gone from '70 to '75 without any increase in funding, could get an increase. Turned out to be
a ten percent increase. Simply to begin the process of making up for all of the cost-of-living pain throughout the first half of the ‘70s, which had been a high-inflation period. Programs had taken drastic cuts in their operating capacity during that time.

So they went to Congress for, like, ninety-six million dollars, and they got most of it. And then they got a supplemental to bring in a group of programs that the Department of Labor was funding. Primarily migrant programs. And that's where the migrant funding track comes from, is picking up those programs. OEO had a Native American funding track. That's why we've got a separate Native American funding track.

But when Ehrlich came in, Corbett was there, Hennigan was there. They had a support center on research with a guy named Len Goodman and a woman named Margaret Walker, who were asked by -- it may have even been by Oberdorfer. But I think it was by Ehrlich -- to take a look at the pattern of funding.

At the same time, the field programs are developing this Funding Criteria Committee. And we're trying to figure out what's going on. And so Margaret -- is actually the one I think who did a lot of the work -- develops some charts. And they tell us where the funding is by the old OEO regions. There were ten of them. And we look at these charts, and we can see that New England is funded at seven dollars and eleven cents per poor person. Which is, I think, an idea that Margaret or Len, or both of them, came up with in terms of trying to calculate out what was going on that way. There were also charts that said how many lawyers there were in programs. And, of course, it was all over the line. There was no rationality to this. It just was the historical pattern of places that grants could be made for people who were interested in doing the kind of work that the Office of Legal Services wanted done.
So we looked at the patterns. And there were regions that were less than a buck per poor person. I think the South was less than a buck per poor person. I don't remember what the number was. And New England was the highest at seven dollars and eleven cents. Now, this is probably 1975 grant levels. And we're talking about this early in '76.

And Corbett then adds to this information another piece of information, which is he goes and he looks at the distribution of expenditures in existing programs. And he figures out what the lawyers are being paid, what the paralegals are being paid, what it costs to have a secretary. And he comes up with a model, based on spending patterns -- again, I think '75 spending patterns. Maybe even '74. But say -- probably '75 -- of what it would cost to have an office with six lawyers. And the answer is two hundred and ten thousand dollars. So that's a piece of information that comes in here.

And then, somewhere, lightning strikes. You know, the -- it hits the yeasty brew, and there's life. And somebody realizes that seven dollars and eleven cents a poor person -- the New England level -- is awfully close to two hundred and ten thousand dollars for six lawyers; understood as three groups of two lawyers. Each group of two lawyers being a seventy thousand dollar cost. And that means seven dollars per poor person, if you think you should have two lawyers for every ten thousand poor people. Now, there's no database that says two lawyers is in any way relevant to anything you might want to accomplish in representing poor people. It's only relevant to the seventy thousand dollars. Seven, eleven has absolutely no value about service. It's just a figure that was sitting there. But they were so close.

V.G.: And that was the creation of minimum access --

G.S.: That's where minimum access came from.
Now, whether it was Ehrlich who saw the relationship, or Corbett -- I always suspected it was Corbett who saw it. Not field programs. I don't think we dreamed that up, although, Denny may come along and tell me how he did it.

But I remember a committee meeting -- a PAG meeting, the Funding Criteria meeting, probably in early '76, when we got together for two days -- as we used to do -- and argued for two days about whether to cop to this crazy idea. And where it would lead us, and all the troubles it would lead us distributionally. Because, of course, New England wasn't going to get anything at seven dollars a poor person; at least as a region. And programs around the country would be looking at very different growth rates, and we would be making some kind of a commitment to a national distribution, which was what was being suggested from the corporation. Ultimately, PAG concluded this was a good idea, and began to advocate for it. But as you could almost guess, the first reaction to this idea was to be a little skeptical, to be a little suspicious, to wonder what the motivation was for proposing it. You know, usual sets of questions.

And I mentioned the two-day meetings. And I actually want to say -- you know about this as much as I do. But I want to say a word about that. The way the funding committee used to work -- and money troubles makes it less possible today -- was that every month or two the group would get together somewhere. And the first day of two days of meetings was spent, if you will, on getting up to speed. On talking about the various problems. Georgia was losing some money because the legislature was angry about some impact work.

The question needed to be figured out whether you should equalize funding faster, bringing the dollar programs in Georgia up to four dollars or expand coverage. That is, add a new county -- or twenty counties, if it was Texas, or whatever -- to places that had legal services
programs. Because, of course, there was tension. Existing programs wanted to get up to seven dollars. And places without any programs wanted to get new programs, and they wanted to start them at seven dollars. And so a lot of the discussions would begin by taking a look at what these kinds of issues were but rarely resolving them on the first day.

Then we go out and overeat and talk over dinner. And then the next day, the group would get back together and have a discussion that was qualitatively quite different from the first day. At least this is my fantasy about how I remember it. I'm sure there were meetings that were very different than this. Because the second day, having had time to sleep on the information and the problems, the group was much more creative about possible solutions. By giving itself the time and by struggling with the numbers, the base was created for a choice, for options to really develop and to be contemplated and decided upon. It was, I think, quite a successful process.

Now, my role in that turned out to be to crunch numbers a lot. To come in on the first day, having played around in advance with numbers, and to try to explain what was going on in a way that was comprehensible, in a way that made sense, so that we could all get our hands on what the struggle was. And so, you know -- I mean, we began to make a lot of jokes about it, but, you know, that was a role that needed to be played. Now, other people on the committee were playing similar roles. People would come to the meeting, and you came to at least one meeting, halfway across the country on a motorbike, if I remember -- a motorcycle, if I remember right.


G.S.: That's right. Crazy. Which we all thought. [Laughter]

And, obviously, one of the things that happened is that by getting together as often as we did, we really got to be friends. We got to know each other.
There were weaknesses in this process. It got somewhat more representative in the sense that there were people from each of the regions. But it was almost all white men. And there wasn't -- although we began to have representatives of some other communities within legal services, it was quite a long time before a really complex representativeness came into this. And that was a weakness of this process, I think. There were voices and ideas not heard. I don't know that I could tell you who got hurt, how, as a result of this. But it's clear, in retrospect, because conversations today are more diverse, that it wasn't the conversation it should have been in terms of what probably were all of the options.

Nevertheless, there's no denying that the people who were involved in the conversations, over time, both became close and became effective at figuring out answers.

Now, where that would bridge for me -- you may want to ask something else, as to what happened in dealing with the corporation. Because, certainly, for the first two years, the corporation was understaffed and was very cooperative with the funding committee, if not dependent on the funding committee for figuring out answers.

I mean, we would come to our meetings knowing what the corporation was thinking about because Buck Hennigan, particularly, would tell us. He would sit down with representatives of the funding committee. Denny was the most often there. And there would be a day-long discussion about what the corporation was thinking about. We'd have the corporation's working papers. They would be part of the grist for the discussion.

The committee would get together and consider these options, and come up with alternatives for what could be done. And then people from the funding committee would go back to Washington and meet with Hennigan, or meet with Ehrlich, or meet with Charles Jones --
whoever were the -- Jones was the head of field services. Whoever were the active people on the issues -- and lobby for a position.

The corporation had a committee on audit and appropriations. I think Glenn Stophel was the head of it during these first couple of years that we're talking about, a guy from Tennessee. Glenn was a straight, sensible, responsible person, who didn't have any deep commitment to social change or empowering poor people, but who was going to make sure he did his job in a proper, professional way. So he listened. He encouraged input.

And what would happen at committee meetings of Stophel's committee is that PAG would come in and the staff of the corporation would come in. And Hennigan would make a report, which had already been affected by the lobbying done by the field community, through the funding committee. And then the funding committee would present counter-arguments on those things that hadn't been able to already get incorporated into the staff plan.

And then the debate would be to whether or not the committee would go with the staff proposal or with what was being proposed by the funding committee. And frequently the answer was a negotiation, which worked out a position because that was closer to the field position. So that the rate of equalization, the choice between equalization and expansion issues, about cost of living increases, concerns about funding levels for Native Americans, the count for migrants, all of those kinds of issues were essentially negotiated. The final decisions weren't negotiated decisions. The committee and the board made those decisions. But it was a very cooperative, deliberative process, where the folks from the field were understood to be the people in possession of a great deal of relevant information about what to do.

V.G.: The seven dollar poor person formula was a process of explaining to Congress that -- the needs across the country. It was not necessarily a distribution process and suggested
process for distributing whatever money Congress gave us. There is a clash inherently between
obtaining money under one plan and distributing it under a variety of different scenarios.

Can you remember some of the issues that arose while the funding in 1976 went from
seventy-one million dollars to 1981, a total of three hundred and twenty one million dollars for
nominal growth over that period of time? What were some of the issues, on the distribution side,
which were created?

G.S.: Hm. I'm not sure I would agree quite with your first statement. At least not in this
context.

I smiled as you started to talk because I had a memory, which we clearly ought to capture
somehow. A memory of Tom Ehrlich in front of Neal Smith's subcommittee, in the House, with
large maps of the United States. And each year there would be a new set of maps. And they
would be up on these big plaster board or paper board, whatever they are, sitting on easels. And
the first year the map showed large parts of the country not shaded in at all, and other parts
partially shaded in. And only New England fully shaded in. This was '76, going for money for
fiscal '77. And then in the second year, he could show growth. That is, he showed the old map
and the new map. And he could show a map about what it was going to be when they gave the
appropriation for the next year.

And so, oop, about four or five years, these maps gradually got filled in. And that part of
the promise to Congress was kept. That is, when they went and asked for and got two hundred
and five million dollars -- for what would have been about '78, I guess -- there was a map there
that represented what they were planning to do with -- if they got the two hundred and five
million. And indeed, the next year, when they came back, they had done what they said they
were going to do in terms of expansion, covering new parts of the country, and equalization, raising programs up.

    Now, that is, which part of the map got filled in -- that was a little vaguer. The maps, while they were specific, weren't really that concrete. They didn't live up to every promise in a projected map, because some places turned out not to be ready for funding. So there were issues about where the expansion would happen. And the issues that the funding committee was involved in, more, were also issues about how fast it would happen.

    There was a big battle in New Orleans, where the board met -- I would guess it was '77, sometime -- over whether to try to complete expansion in one year or two years. And Ehrlich said -- I think Ehrlich may have wanted three years, originally. Came down to two under pressure. And the field said, “Go for three hundred million dollars right away.” And Ehrlich said, “Go a step slower. Go for 205, and then go for 300,” or 280, whatever it was.

    V.G.: This was ’75?
    G.S.: The next year.

    And Ehrlich prevailed with the board on a very close vote, after a very acrimonious day and a half of off-to-the-side and in-the-room negotiations. And so it went for two years. Now, of course, what we all learned afterwards was we had a hell of a time getting the money out as fast as it came in. And if we had gotten all of the money from one year of growth, it would have been an incredibly difficult thing to live up to.

    Now, on top of the basic questions of equalization and expansion, there were a whole lot of issues about distribution. And that's what I take your question to really be about. And some of those issues were, for example, cost of living. The seven dollars was fixed in the request for ’76, ’77. And then it became clear that seven dollars didn't buy what it used to. Remember, it was a
'75-based number. And you're going into '78. You've got three years of inflation; you stay at seven bucks, you're not getting two lawyers.

And so they began to put five or five and a half percent cost-of-living increases in on top of seven dollars. So the seven dollars in '78 funding wasn't seven anymore. It was seven thirty-five, or something like that, that was the base funding amount that was being sought for two lawyers for ten thousand. Of course, it really didn't -- seven thirty-five wasn't going to do it anymore. If you were going to take into account inflation, you were well over eight bucks by then. So already they were falling behind of what the real cost of two lawyers for every ten thousand people -- or a unit like two lawyers -- was going to cost.

So one fight that continually happened was how much the cost of living should be. And PAG would come in with a number, pushing for a higher number. The corporation would push for a lower number. Field programs that had an interest in equalization or expansion would be leaning towards the lower cost of living number because it would mean more money in expansion or equalization, as opposed to money going to those programs already at seven bucks to raise them up to seven thirty-five. A familiar discussion. We continue to have it to this day.

Programs began to look at the costs of delivering services and to realize it wasn't the same everywhere. There was something you were involved in, which was the costs of travel and telephone. That rural programs would have higher costs for travel than an urban program, just to get together, to go represent a client, to go from where the client lived to where the court was. These were significant costs in a program serving a wide-geographic area. Urban programs had much less of that.

Costs of long distance telephone -- well, you know, I was in New York City. I could call everybody locally. Didn't cost me much. But somebody who was in Kansas or Colorado was
looking at pretty high phone bills just to do business. And so that was a cost that seemed
different.

What that discussion led to was a realization that there were some other differences. One
that I got involved in was a study, ultimately, of what it costs to run a law office in different parts
of the country. It was called the cost variation study. And PAG had an advisory committee that
I chaired that worked closely with Hennigan on bringing a consultant in, devising the study, and
overseeing it being conducted.

And what it showed was that it was more expensive to have a law office and hire people -
- and I'm not talking just about legal services. I'm talking about any law office -- in larger cities
than small cities; small cities than rural areas. And particularly California. Although we also got
the information for California, for Alaska, and Hawaii. But particularly that California was
much more expensive than other parts of the country. So if you were in Los Angeles, the cost,
because it was a large city and in California, was astronomical compared to the costs, say, in a
medium-sized city in New York, like Rochester, or a small city, Tupelo, in Mississippi. And the
difference was as much as fifty percent between Tupelo and Los Angeles. But our funding
treated them all the same.

So we began to understand, in a more complex fashion, and to argue about what to do
about it. And the answer on the last one was it was too complex to take all of these cost
variations into account. And so, ultimately, the formula wasn't modified to pay attention to the
difference values, the purchasing power of a dollar in different parts of the country. But over
these five years, we had this increasingly complex understanding of costs. We did do special
needs grants for a while on telephone and on travel.
And, of course, special needs grants were a much bigger subject. The concept was how can you give a program with a creative idea for improvement encouragement if you're using formula funding, where all they're going to get is a dollar-per-poor-person amount. And one of the answers in the time of the '70s, when there was money coming in, and new money, was to take a piece of it -- a few million bucks in a year -- and create a special needs pool. Where programs, either defined regionally or nationally, could apply for special purposes and get money above their seven bucks. Either for just this year, or if it was something like a director of litigation, money that would be annualized, that would continue as part of the program's funding. Now --

V.G.: Those were competitive grants?

G.S.: They were competitive grants. Again, either within a region, or some of them, I think, on a national basis. And programs came up with applications, said, “This is what we'll do, and this is why it's important.” Sometimes, even, “This is what it will change in what we're doing and what it will be worth to make the change.” And maybe it was for a specialty focus, to develop a unit that did certain types of work, or a litigation director, or a computer.

V.G.: Well, in the south, it was one of the major sources of funding for the creation of state support centers. And [inaudible] also.

G.S.: Right. There's another argument. We had a long series of policy discussions -- this is probably now '78, '79. The beginning part that I'm thinking about that ended up in the report on state support, which the corporation produced -- when? '80? Is that when that was done? 1980. Looking at a rational understanding of state support -- But where we began was that there were five or six support centers -- state support centers created by OEO:

Massachusetts, New York --
V.G.: New Jersey.

G.S.: New Jersey, Michigan, Ohio, and California. New York's, of course, got created differently. That was another Vaughan Gearan, back a little money out, and create something new move. That's where gulp came from.

Now, we also had statewide programs with funding tracks that didn't say state support, but they were doing state support. When I was in New York City -- and we were clearly doing functions in our central office that were very much like state support function. And then you had some states that had money provided through special needs to do state support activities.

And it was a mess because there was no rational understanding of state support except that everybody was doing it. Or ought to be doing it. Everybody ought to have coordination, ought to have training, ought to have some legislative attention, ought to have some litigation backup. It was a clear necessary part of a good delivery system. And some states had money for it above seven bucks, and other states didn't. And so there was a policy debate about what was called "back out."

And the choice was either to meld in the state support money everywhere to the base funding and rearticulate the total funding level, so that, for example, in Massachusetts, somehow they would take Mass Law Reform’s six hundred thousand dollars and give credit for it in the Boston funding and the Lind funding. And they would go from being seven or nine dollars a poor person to being eight and ten dollars a poor person.

Or to go to New York and treat the money that was going for -- to Rochester -- which was the grantee that had the state support money -- and back it out, so that Rochester wouldn't, anymore, look like a twelve-dollar-per-poor-person program. It would look like a six-dollar-per-
poor-person program and a four-hundred-thousand-dollar-state-support unit but not calculated on a per-poor-person basis.

And ultimately the corporation made the decision to take the back out route. To pull out of basic field funding the state support funding. Which exposed the fact that in some places they couldn't do that without driving the program under seven bucks. And so some programs began to get equalization money to bring them back up to the current equalization level and separately identify state support. Other places -- unless you were involved in it much more than I was -- turned out not to have state support functions. There wasn't anything to back out. There had been no special needs, they weren't doing the functions, and they weren't ready to do functions. And so we're really still dealing with parts of that now, in a few states, that have never had identified state support funding. And I guess we're going to get seven of them some money this year for the first time.

**V.G.:** There were at least two other targeted funds that I recall during that period of time. One was salary comparability. And the other escapes me. I just had it on the tip of my tongue. Restoration. Can you briefly talk a little bit about those two? The theory behind the two --

**G.S.:** Sure.

**V.G.:** – the theory behind the two target funds?

**G.S.:** These actually ended up together, if I remember right, although parts -- I would have to go back and look at notes to really remember this part of it.

Obviously salary comparability was about a problem that's always been with us. That is, programs make different choices about how they use the funds they get. The corporation made a bunch of choices in the middle ’70s with -- you know, thinking contributed by the Funding Criteria Committee. Not to dictate the delivery model. Not to direct how much money went to
salary, how much money went to offices, how many offices you should have, how few lawyers or many lawyers ought to be in every office. Those were all local program decisions.

But what it led to was programs right next to each other in the same state with very different philosophies about how much to pay staff. Programs that were maximizing the count of lawyers and the number of cases by keeping salaries dramatically low. Compared to other programs, whose approach was to pay higher salaries -- still not very good salaries, but higher salaries, relatively -- have fewer staff, but staff that was compensated a little bit more reasonably, given the economic times along the way. What became clear was no programs were funded up at the levels of assistant district attorneys or other public attorneys that were in their communities.

And so we looked at -- in several different ways, we required programs to do salary comparability studies. I say "we." I think this is something that the PAG committee went along with, and the whole PAG steering committee went along with. And the corporation required actual studies to be done to examine comparability. And then a pitch was made to Congress. And the pitch was particularly supported by programs with very low salaries. That there ought to be targeted money coming in from Congress for salary comparability, for raising the salaries in programs with very low salaries.

Now, I remember the restoration side of this better than I do the politics of the comparability argument. For example, I'm not clear -- maybe you are -- whether comparability was something the corporation sought. My recollection is that some field programs, and PAG maybe, the funding committee, made the pitch direct to Congress that there ought to be money for comparability. And that it was an agreement reached with Congress, perhaps, that put language for comparability in one year's appropriation.
What I know is clear is that another concern got into Congressional language that way through, I believe, Teddy Kennedy and at the urging of Boston and California programs. And that concern was like the one I described before in 1976, where the programs for five years had had no increases. And the corporation came in, and in the first year, everybody got a ten percent increase. Well, after that first year, for two years, there were no cost of livings. And then the cost of livings were small.

And I think in '78, Bill McNally, and --

V.G.: Roger Koontz.


V.G.: Ralph Abascal or [inaudible].

G.S.: I can't remember whether it was Ralph or Alberto Saldamando. I think Saldamando actually carried the water on that. Talked to folks in Congress, and said, “We have been stagnant, except for that ten percent increase, since 1970. We're programs funded above the seven dollars or seven thirty-five or seven seventy, whatever it was each year, and we're declining in our capacity. Because of inflation, we've got less lawyers now.”

And they made that case to Congress. And we began to hear, in the funding committee, which hadn't originally supported this, that there was real pressure coming to put money into what was -- came to be called restoration. To restore some of the service capacity of the higher funded programs that had had no increases over these -- or just the ten percent increase over the six-, seven-, eight-year period. And the funding committee was very queasy about this. Wasn't really in support of it. But it was a political reality. It was coming in some fashion.

The corporation wasn't at all happy with this. Wanted to fight restoration. And probably -- sometime late '78, I think, that this was all worked out. And what I remember about it -- I was
then a consultant to the corporation; I had left the New York City program -- is sitting in a room, up on the --was it the eleventh floor? I think it was -- whatever the top floor of whatever the building was -- the corporation was in. There was a conference room up there. And sitting in a room with McNally and Koontz and Hennigan and Denny and some others. And there were pages of material all over the table. And McNally was running his number.

And I'm sitting there. And Hennigan’s over here. And I say, “You know, I think if I understand what's being proposed and what you might accept, that it's possible to find a common ground that will only cost 2 million dollars.” Now, I asked Buck, “You know, two million dollars, could the corporation swallow two million?” And I asked McNally, could he get along if it meant whatever the percentage increase it was? And he said yes.

And so Hennigan took it to -- I guess, it was to Ehrlich, yeah it was Ehrlich, and got an agreement for this 2.1 million dollars, or 2.8 million dollar agreement. And McNally said it was okay. So the political battle was over. Teddy Kennedy wasn't going to weigh-in on the corporation. And the appropriation came through with the deal cut.

It actually cost a good deal more than I thought it was going to, for which I took some grief later on. But that was how the restoration money got settled. And then there was a process of deciding who would actually get it. Where, of course -- the reason it cost too much is because it turned out a lot more programs, could qualify, under the formula we agreed to, than anybody thought in that room, when the deal was cut.

But, essentially -- and it's really like the other processes I've been describing. The corporation negotiated with field programs, both with the funding committee -- which I was representing in there and Denny was representing in there -- other field programs, like McNally or Saldamando, from CRLA, who were lobbying for their own interests and had broken the field
programs for their own interests, and worked out an accommodation, listening to all of the issues. Now, that process of kind of cooperative negotiated agreement seeking, of course, is long gone now.

We don't have the ability to bring together the kind of perspective that a CRLA or a Boston in that particular instance had about its own situation with the perspective of the whole field community about equality, about treating everybody fairly. Which was, of course, the problem with the McNally approach, was it was treating his program differently than a lot of other programs felt they should be. And it was de-equalizing the system. And with the corporation's interests. Interests in quality work, in development of the whole program, in a way that reached a rational political solution. We don't really have the ability to do that anymore.

I know that the corporation feels badly. People within the corporation, today, feel badly about the fact that we talk directly to Congress.

Clearly, a major part of that is that we've got much more information about what's going on. We've got a very strong commitment to the clients and to the programs. And there is no basis for reaching decisions sensibly, most of the time, with the current corporation management. So we end up talking to the group that's going to make the real decisions, which is the Congress.

V.G.: Gerry, you have been a central force in the development of funding policy for twenty years, and much of the credibility that the field has in its relationships with Congress comes from the work that you have done. On behalf of the entire community, I wanted to thank you for your participation and your active participation and your vivid memory and sharing those details with us this morning. Thank you very much.

G.S.: It's been fun.