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Interview with

Robert Spangenberg

Conducted by Ted Gottfried

November 15, 1990

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. . . interview being conducted at the National Legal Aid and Defender Association convention in Pittsburgh, Pennsylvania on November 15, 1990 at approximately 1:30 p.m. Bob, why don't we start out with your law school experience where did you go to law school?

BS: I went to Boston University Law School, began in 1959 after two years in the military when I decided I wanted to go to law school and I graduated in June of 1961. I had been on the law review for two years and in my senior year I was editor-in-chief of the law review at Boston University Law School.

TG: Were you involved in any clinical programs while in law school?

BS: That was a long time ago 1959-1960-61 in fact when I reflect back upon it I reflect in terms of what I call the dark ages of clinical legal education. Nothing like we have today 30 years later. We in fact established in my senior year the first criminal justice criminal clinical program in Boston University in 1961. I had no idea how many there might have been in other law schools around the country but I doubt if there were very many. I was involved with five or six law students and a professor going to the Roxbury District Court under a new court rule Supreme judicial court rule 3-11 where we could provide representation in misdemeanor cases under supervision in the district courts of Massachusetts.

TG: And in those cases the defendants had a right to trial de novo is that right?

BS: They did have a right to a trial de novo. They also Massachusetts by the way had a very early right to counsel in both felonies and misdemeanor cases going back at least as far as 1935 so there had been an organized public defender program on a statewide basis not well funded but on a statewide basis beginning in 1935 in Massachusetts called the Voluntary Defenders Program.

TG: After law school what was your first legal job?

BS: My first legal job was with a trial firm basically a civil trial firm in Boston and I spent two years there trying mostly civil cases in both state and federal court, a little bit of criminal but mostly civil over that period of time.

TG: How long were you with that firm?

BS: I was with the firm for approximately two years. And then one of the associates and I formed our own firm called Schwartz and Spangenberg in Boston. And that lasted for about a year and a half and I think that was the end of my private law practice primarily.

TG: I know you went to the work in the legal services area, was it directly after that?

BS: Actually when I left the law firm that I was involved with I left to go back to my law school, Boston University Law School, to become the director of something called the Legal Studies Institute which was a program at the law school primarily devoted to clinical legal education and expanding the clinical legal education work that we began back in 1961. That was around 1964 and over the next two or three years I

spent all my time at Boston University Law School with the clinical program and teaching law until 1966 I think it was '67.

TG: Being involved with the clinical program were you starting to then to have some feelings about delivery of services to indigents?

BS: Yes and one of the things that happened right at that time was the first grant that we received for clinical work was a grant from the National Defender the NLADA program that General Decker was involved with I've now forgotten the exact name, it was the National Defender Project, Ford Foundation. We were one of the first grant recipients at Boston University on the defender side for our defender clinical program in the Roxbury District Court so and that occurred very shortly after I returned to BU Law School thus I was kind of thrust into the defender community along with the other defenders who had received or who were receiving those grants as well as my first involvement with NLADA back in probably 1964-65. At the same time we became part of something called the Ford Foundation Gray Area Project which was a mid-60s program of community based legal services to certain pilot cities around the country and Boston was one of those programs and we through Roxbury Defender Project was part of that Boston Gray Area project which includes funds to at that point to the private legal aid society that had existed since the turn of the century, the Boston Legal Aid Society and other civil programs. So almost at the same time I learned about and was exposed to the defender community as well as the civil community through my work with the Gray Area Project.

TG: Did you meet John Cleary at that time?

BS: Oh sure. John was General Decker's deputy. I sure did.

TG: Was your project evaluated at that time by Cleary and others?

BS: Yes it was and actually General Decker was also personally involved in that evaluation and John likewise and probably a couple other defenders but that part I just don't recall.

TG: What happened to that program? Was it eventually become part of the state system or did it remain independent?

BS: Well, it's now 25 years later and the Boston University Roxbury Defenders Project is still alive and now has two full-time clinical lawyers that are involved in the program and law students in their second and third year are still operating under rule 3-11 and providing representation to indigent defenders in the Roxbury District Court 25 years later.

TG: Where did your career take you after you left Boston University?

BS: An interesting thing happened to me in the summer of 1964 there was all this new activity was circulating around. What was the then the federal Department of HEW Health Education and Welfare in the I believe September of 1964 decided they were going to hold a national conference on the delivery of civil legal services. I think the impetus a good part of the impetus came from Ford Foundation Gray Area grants and the work that Jean and Edgar Cahn had done and articles that they had published that really were the predecessor for the first national OEO Legal Services Program. But HEW decided to hold the national conference on the delivery of civil legal services, I believe it was in September of 1964 and one of the staff members who was responsible for putting the conference together was Jack Murphy who is now a law professor at Georgetown and Jack was given responsibility of putting this conference together in what I call kind of the

early days of civil legal services and he just looked at a list of people that he knew who were doing anything at all that appeared to be relatively innovative and so forth and he called me up one day and told me about the conference and asked me if I would come and participate and I did and he was calling other people around the country and in September we had this two-day conference in Washington on the delivery of civil legal services and the Cahns were there and Gary Bellow and I think Earl Johnson was there and a number of people from around the country which I looking back I look upon as really upon the beginning days of OEO legal services. President Johnson had not yet signed the Poverty bill, legal services was not yet part of OEO but this was kind of the precursor I always felt of the development of OEO Legal Services program.

TG: What came out of that conference in terms of your participation?

BS: What came out of the conference was the passage of the Economic Opportunity Act of 1964. My recollection is that it passed in the late fall or early winter of 1964 along about October shortly after the conference and if you go back and dig out the legislation you will find that there is no provision for the delivery of civil legal services, there is no mention of the legal services program in the act nor the authorization for legal services. But Sargent Shriver was the head of the agency appointed by the president to be the first head of the agency and he started to gear up in October or November of 1964 and on his transition staff as I recall was Edgar Cahn and he went to Sargent Shriver, as I hear the story, and said you cannot really have a war on poverty without a legal services component and Sargent Shriver said I agree with you, that's a good idea but we don't have any appropriation we don't have any authorization in the legislation to create a legal services program so Edgar looked at the legislation and

determined that there were certain provisions that if you were willing to reach just a little bit might include legal services and Sargent Shriver said okay let's do it but there is no authority in there for an administrative staff to get this program started, to develop the guidelines and get the word out and to process the applications and so forth and so on. And Edgar said well let's borrow some people from HEW like Jack Murphy who ran the conference and a couple of other people and we'll bring them over on a consultant basis and they can help get this thing started until we figure out how to get a permanent staff. And that apparently was agreed upon because one day probably in around December of 1964 I received a call from Jack Murphy who said how would you like to do some consulting work for the new OEO Legal Services Program and I recall saying to him but Jack there isn't any authority for it and he said we're making the authority for it. I said well it sounds interesting and he said can you be in Washington for a meeting with Sargent Shriver two weeks from Monday. And those were very exciting days and I was very excited by the opportunity and said of course I'll be there. And as it turned out Jack had called around the country and came up with somewhere between 12 and 15 people who had had some relationship with civil legal services, laws schools. I remember Fred Cohen who taught many years in Texas, I think is now in Albany was part of that group, Judge Frankel from the federal courts, . . . I believe at that time was part of that group, there were was three of us from Boston, Joe Dee who had much do to with setting up the Ford program in Boston and Bill Wells who was a consultant lawyer consultant was part of that group. There were about 12 or 15 of us. Robinson Everett from North Carolina who now I think is the chief judge of the Military Court of Appeals was part of that group. As I look back it was a pretty distinguished group although we didn't think of

each other as distinguished we were much younger, it's almost 25 years ago. We all arrived in Washington for a meeting with Sargent Shriver who gave us a big pep talk and that was very exciting but then it was time to get down to business. And we didn't have any blueprint, we didn't have any plan, we just had this Edgar Cahn kind of concept of neighborhood legal services with the concept of working in the neighborhoods doing community education, law reform and that kind of things. And over the next three or four months until Clint Bamberger was actually hired I think it was probably June of '65 and Earl Johnson came on shortly thereafter as his deputy for that five or six month period this band of 12 or 13 consultants ran around the country following up every lead we could find from bar association or legal aid organizations and really started to put the OEO legal services program together over that period of time.

TG: It sounds as though you were really one of the founding fathers.

BS: There were people that I would describe as founding fathers that people like Edgar, people like Jack Murphy that probably a lot of people don't know that history. Sargent Shriver should have said no, he could have said let's wait until next year and go in for the proper authorization, get an appropriation, get a staff. I view those people as kind of the fathers. We were I like to feel that and I do firmly believe that we played an important role in getting the thing started so that when Clint and Earl came there was something there and something for them to pick up and run with and I think they did a great job once they were on board.

TG: Did you go around the country at that time?

BS: I went around the country. I wrote grant applications for the statewide program in Vermont, for a program in northern New Hampshire, for the program in

Hennepin County, Minnesota and the program in New Bedford, Massachusetts. In the first six months I actually wrote grant applications in 12 or 15 jurisdictions around the country with these very, very vague guidelines and what we were trying to do was we were trying to get these new legal services programs established in a number of communities and spend the little bit of money that we had so that when it came time for the next appropriation Sargent Shriver could go to Congress and say look we've spent \$7 million on legal services this year we need another \$14 or \$15 next year and back in those days the fiscal year the government fiscal year was July 1 so we didn't have much time to get out there and get these programs funded and established and all and we had in our travels we had in some cases a lot of resistance from the local bar, resistance in some cases from the existing private legal aid societies that didn't want this federal program invading their turf and things like that, so we went to a lot of communities that actually at that point did not develop applications, most of them did at a later date. The message for us was to get out there, get these applications written, get them funded, get the programs up and running and go back to Congress next year for more money

TG: I can remember even when I first started practicing law that there seemed to be a lot of resistance in the bar to having a legal services program do anything that lawyers thought they could make money. Two areas I recall were personal injury cases and divorce cases. Were those some of the areas of concern to the bar?

BS: The issue of tort cases was one that we all agreed ought to remain in the domain of the private bar at least in terms of plaintiffs' injury. There was never any thought throughout the time that the program was being put together about trying to build in some kind of program that would permit legal services lawyers to do plaintiffs tort

work. Nor do I think there was ever any idea of to the extent there was any other plaintiff contingent fee activity there was never any consideration of building those in. You're right there was a lot of initial opposition to divorces because the private bar was getting paid even by poor clients some amount of money and that generated an income for the private bar and different than it is today that was viewed as gravy as gravy work and so there was resistance to doing very much divorce work that might otherwise bring in fees for the private bar.

TG: There had been I think at that time a number of legal services programs that some of them were created or controlled by the local bar associations but and I think there were vast differences in the quality of legal representation that was provided though some of them seemed to be more referral services to the local lawyers and others seemed to take an aggressive approach to really providing full quality services. Is that what you found when you started?

BS: Yes if you're talking about preexisting private legal aid societies around the country. I recall that the first time I walked into the New York Legal aid Society office which would have been probably in the mid 60s and talked to the director and some of the staff lawyers and so forth I was very impressed with the quality of work that was being done there. I remember, however, a program in upstate New York which was primarily a referral to the private bar and they had all these restrictions and they wouldn't take second divorces and they wouldn't take a divorce of a woman with no children. They had all these barriers that were built into the program, some of them might have been religious barriers or social barriers and I remember spending a day in this office and wondering what was really going on, what kind of legal assistance and advice poor

people were really getting in that community and I know I was real discouraged after that visit as compared to the Legal Aid Society visit which was very impressive for me.

TG: Well eventually you left to work in a legal services office yourself. When did that occur?

BS: Well in the summer of 1967, just very brief history in Boston, we had one of these preexisting legal aid societies that was very much supported by the Boston Bar Association which is the bar association that has a lot of involvements from the major law offices in Boston, and the Legal Aid Society had a lot of support for a number of years, its board was reflective of the large law offices and all and when this legal services program came along the question was will the Boston Legal Aid Society expand its board membership as was required by the act to bring in low income persons and so forth and in effect make application for the OEO funds or will it not. And there were those who felt that the combination of the Boston Legal Aid Society and the Boston Bar Association was so strong that if they chose to they could resist any OEO legal services program coming to Boston if it didn't go directly to the Legal Aid Society. And there was a period of time almost two years in which this debate went on from 1965 to the summer of 1967 which we had no OEO legal services program in Boston, as I said there was great resistance to it by some of the folk at the Legal Aid Society and some of the members of the private bar but over time the pressures grew and the seriousness of the problems of the delivery of services to low income people on the civil side grew in Boston and finally like so many things a compromise was developed between the bar association, the Legal Aid Society and what I call the community and the Boston Legal Assistance Project was given birth. That had a typical at that time OEO Legal Services board which was

representative of the Boston bar, the communities, the neighborhoods and all and was I think the grant was first awarded August 15 of 1967. Just prior to that time I was still at Boston University doing my clinical stuff and continued to do consultant work for Clint Bamberger in OEO after he arrived and I got a call one day from the president of the board of the new Boston Legal Assistance Project which at that time had only a board, was waiting for its grant, had no offices, no staff and so forth and asked me if I would be interested in putting in an application for the executive director's job of the Boston Legal Assistance Project. And it took me about 20 seconds most of which time I really felt flattered by the president asking me if I would be interested before I told him I would love to do that. And so I did, I put my application in and they went through the process of interviewing and all that and sometime toward the end of August of 1967 I received a call from the president who told me that I had been selected as the executive director of the Boston Legal Assistance Project. We had a budget, we had a grant and we had a budget of \$640,000 and we had positions for I think 42 legal services lawyers and 15 or 16 social workers and 15 or 6 secretaries and we had a commitment to open 12 neighborhood offices throughout the neighborhoods of the city of Boston and how soon could I come to work and get this whole thing started.

TG: Those were good resources at that time. If you multiple that in terms of today's dollars it's an awful lot of money going for that purpose.

BS: It was a very well funded program once the decision to go ahead with the program in Boston. You also have to understand at that time Boston was like a major gap in the OEO legal services program nationally. We're now talking August 1967 when you think about the fact that funding began for OEO legal services in probably January of

1965 here we are two and a half years later and Boston still does not have a civil legal services program. It may be if we went back into history we would find out that Boston was the largest metropolitan area at that time without an OEO legal services program if it was not it certainly was one of a very few. So there was a lot of incentive from OEO to provide a good sized budget, to provide incentive to get the ball rolling. They had been involved in the negotiations over a period of time and they were very anxious to get the program started so I think we very much benefited in a kind of strange way of not having started up a year or two earlier.

TG: What were some of the challenges you faced once you came to that shop?

BS: Well I was given an office, one room, in the Community Action Agency, ABCD it was called Action for Boston Community Development in Boston, I was given as I recall a desk, and a telephone, a chair, a filing cabinet and a book case and the first day I walked in late August in 1967 the desk was empty, the book case was empty, the filing cabinet was empty, there was nothing on my desk except the grant award and so there I was the first employee of the Boston Legal Assistance Project committed already committed because I didn't plan the grant but with a commitment to open 12 neighborhood offices as soon as possible and to begin hiring lawyers as soon as possible, civil lawyers to start getting cases and starting work and all and to this day I remember that first day sitting there saying what a mammoth I've undertaken where do I start. And where we really started was to actively begin recruiting for lawyers and that's really we started.

TG: How about the office space, was that a problem finding the appropriate space in the communities you were going to serve?

BS: It wasn't that bad because the way the program was designed several of our offices were either one lawyer or two lawyer offices, so all you need was three rooms some place and given conditions of many of the neighborhoods to find a little space for a very small band of lawyers. We had a couple of offices with probably six or seven or eight lawyers which was more difficult to find space for.

TG: How long did you stay there at Boston Legal Services?

BS: I was there from August to 1967 until January of 1975 somewhat short I think of eight and a half years.

TG: While you were there I would imagine that you got somewhat involved with the National Legal Aid and Defender Association. Had you started going to their conventions and

BS: I had started going to their conventions I think the first convention I went to was in 1964 I don't remember exactly where it was but that's 26 or 27 years ago. I think I've missed two or three since that time for one reason or another but I became more involved with NLADA after becoming the director of the Boston Legal Assistance Project although I had had a pretty good involvement with them up until that time. And [GAP] . . . described as the young Turks, looking at me today I may not look like a young Turk but back in the mid 60s I was given the nickname of one of the young Turks. And when we first became involved with NLADA it was a different organization than it is today. It was an organization of a number of very well meaning, very dedicated lawyers, private lawyers from large law offices around the country who had built the organization which was mostly a private organization and had done good work over time but basically had a constituency in terms of programs of private legal aid societies with a different

approach to the delivery of legal services and a few what I would call old line public defender agencies and so the first convention I went to I felt out of place and immediately looked for people I could befriend and many of them were people like myself later also labeled young Turks that were coming in out of OEO legal services programs and it wasn't very long before the tension began to develop at NLADA between the so called young Turks and the older folk who had brought this organization to the level it was in and who had been working out there when we didn't even know about legal aid and legal services. There was a lot of conflict and some of the conflict surrounded age some of the conflict surrounded this new policy of OEO legal services of neighborhood law offices, delivery of law reform of community education, of group representation and we were very much of a threat. I think at first not an institutional threat, I don't think were viewed really as an institutional threat but just a threat to the way that NLADA operated and the things they were engaged in, the programs they were involved with and so forth along comes through no fault of their own this band of young Turks with different kinds of ideas that our threat to the way we have done thing and the way we want to do things in the future and that was 1967 1968 along in that era.

TG: Would it be fair to say that some of the older programs felt that the mission was to deliver services to an individual client and not necessarily to worry about the problems of a class of clients? Was there a division?

BS: There was a division, there was a clear division in that direction. I think there was another primary point of division and that was at least among the older private legal aid society folk, there was a feeling that their funding which was all private virtually all private there were a couple of cities where there was some municipal funds but most of

the legal aid society money was private either coming from private bar donations or the United Way, United Way was a big supporter of legal aid in the old days. There was this fear or this philosophy was that what you didn't want to do is you didn't want to upset the funding source. You didn't want to upset the private bar, you didn't want to upset the United Way, you didn't want to upset in any way the established judicial community so the thing to do was to do some divorces that were not controversial, to do some evictions, we did a lot of work around debt collection, except my recollection it wasn't a question of defending the law suit it was the question of developing some payment plan and a good legal aid lawyer in those days was one who could develop a good payment plan, make sure that the plaintiff got paid but help out the client by developing some payment plan. So I think it was very much a concern about the institutions that they were involved with like the funding sources, like the courts, like the county, like the municipality, like the private bar that if they did anything would be upsetting to those institutions or organizations they would lose their funding.

TG: Then you must have been part of the changes in NLADA which saw those young Turks gaining more and more control and more of a voice in the legal services community.

BS: I was directly involved with that group of young Turks and I cant' tell you the years that it all came to a head, my guess is it was around 1970 somewhere around that point in time and we by that time had figured out that either we wanted to form our own organization and challenge NLADA or just assume for our purposes they didn't exist, they were not useful or what have you or figure out a way to change them. And there was a lot of debate about that among our group. There were some who felt there

was simply no way to change them. There were some who felt that we would not be able to in any legal way change their institution or their bylaws or what have you so that was all a waste of time and that would take our energies away so why not form our own organization which would be at the start solely for OEO funded civil legal services programs and that would be our organization that we would pay dues to and they would do our lobbying for us in Washington and they would do our networking or us and those kinds of things. And there was a pretty heavy debate about that. I think it was 1970 so we had to make a decision. Meanwhile we had obtained the bylaws of National Legal Aid and Defender Association and looked at them pretty carefully in terms of lawyers to try to figure out if we are going that route if we are going to try to make institutional change to the legal process at NLADA let's figure out what our rights are and those of us and I was one who favored trying to change NLADA in some fashion rather than going off on our own. Those of us who had that view prevailed and the others joined in and basically what we did was we prepared another slate. There was at that time bylaws establishing slates and the times for slates and there was a nominating committee and so forth and they had put out their nominations and we had some period of time before the annual meeting to submit our slate and so we put a slate together. Contrary to what people may recall we didn't spend an awful lot of time figuring out who we were going to put on the slate this person who would represent this part of the country or this particular view or whatever we just threw a bunch of names together and put in a slate sufficiently in advance to meet the bylaw requirements and all. And we came to the convention as young Turks viewed as young Turks and were determined to stand our ground and change this organization. And in the early days the first couple of days of the convention

I recall were pretty nasty, it wasn't a happy time, we were very vocal and probably in retrospect unfair, too loud, too demanding, too threatening. I remember one speech that one of us gave with the former American Bar Association president sitting in the office and very nasty words about this president which were clearly unfair at the time I thought they were unfair and we had a very, very hot climate going on the first couple of days of the convention. But they, being the regulars, the board, the nominating committee and all they had decisions to make too. What you have to remember back in those days is that members or member organizations voted and we had a lot of member organizations, I mean compared to the private legal aid societies we had outnumbered them, our civil legal services program and we were working on a defender somewhere frankly hopeless but we were getting some defender support public defender support and so forth and we thought we had enough votes to win. And then like all stories that end happily and they don't all what really developed was a true statesman came forth and that statesman was John Brooks of Boston who interestingly enough was my board chairman and who had much to do with the creation of the legal services program in Boston, president of the Boston Bar Association, involved in the Boston Legal Aid Society and all and John decided that the time had come to put this thing together and to really open the window and open the light and all and over a period of couple of days John negotiated with us the board and we finally reached a compromise and we had I think at first four or five seats or something like that a clear minority but that was a very important time I think for NLADA and very important decisions made and I happen to be one of those three, four or five or whatever it as that went on the board in 1970 and I was on the board for 10 years.

TG: Do you remember was that back in the San Antonio convention?

BS: I would have thought it was New York but I could be wrong because I don't have the dates of the conventions with me. The reason I think it might have been 1970 was that I recently had to redo my resume and I was just kind of reading through it and it sticks in my mind that the resume said that I had been on the NLADA board from '70 to '80. I know I went on the board at the time of that confrontation whether it was '70 or '71.

TG: Of course the NLADA board at that time was a huge board.

BS: It was mammoth.

TG: About 1,600 or so. What are your memories of some of the battles that you experienced while on the board of NLADA?

BS: Well we had a kind of continuing tension between the defenders and the civil legal services folk, something I suppose in some sense will always be there. I think it's not nearly what it was in those days but I recall when I first came on the board that we were the civil lawyers the OEO legal services lawyers looked at the defender folk as being old line county plead them, politicians, didn't care so much about the sixth amendment or what have you, just move the cases, were rough and tough, could make speeches and all but didn't have from our standpoint didn't have what we thought of was the real sensitivity of the client and the client's needs and so forth and so we immediately came into conflict with a lot of defender folk.

TG: Part of it was a generational kind of thing, those people were 20 years older than you young Turks

BS: Exactly

TG: And they looked upon you as a bunch of Communists out to destroy this country.

BS: Exactly. And that was a defender committee. Those were the people that were on the defender committee. And they thought that we were just the crazies that came along and there was that tension and we thought that we were really something special and that they needed to do what we told them they ought to do and they ought to develop a neighborhood public defender program, I remember preaching that message. And then also there was at that time a lot of resentment from the defenders towards all this new federal funds for civil legal services. You see before that came along while there was not that much money on either side civil or criminal there was more money on the criminal side rather more substantial more money on the criminal side than there was on the civil side so the defenders were kind of riding high in terms of their of NLADA before OEO legal services came along and then all of a sudden we came along and there was all that money, here are all these issues, here is all the time taken up on the board dealing with civil problems that they didn't do a couple of years ago or three years ago or whatever and defenders felt like they couldn't get their issues addressed because of all this stuff about the legal services people and that they needed money and that you know the new kids on the block had all this money and that was a lot of tension on those issues.

TG: Of course around that time the defender side started to change too because LEAA money started coming in and new offices were created and younger directors than the other traditional defenders who had different ideas and so you probably saw those kinds of changes occurring too.

BS: Yeah and some of us were a little put out, a little bit peeved saw that new federal funds becoming available for public defenders and the board in those early LEAA days the board spent a lot of time trying to help public defenders get LEAA money plus the fact that the defender staff began to get national grants from the discretionary program of LEAA they had the defender TA project, that's probably not the exact name but they were the National Center for Defense Management which had a lot of federal money or from our standpoint had a lot of federal money and they did the Other Face of Justice which was also LEAA funded and then along came the National Study Commission which was I think a two-year quite well funded LEAA project and so there they were there were the defenders back in the limelight with the federal funds, with the national projects and all and here we were with a little bit of the bloom gone and our funding not increased as we would want from year to year and so it was the defender's day at NLADA and I can remember over the ten year period from time to time the civil folk would be up on top and dominate the issues and have the money and then the defender folk would come up and it would be back and forth and back and forth and all until I left.

TG: Now when you go around to some of the meetings and hear some of the discussion do you think it's deja vu all over again.

BS: Yep, as I said some of the general issues that were going on then are still being debated today and probably will go on for some period of time. One of the good things is that there is a lot more friendliness today among civil folk and defender folk and that has to do with a whole bunch of factors but there are a lot of communities where the chief defender and the project director of legal services are working together on the same

bar committees concerned about the same issues of supporting each other and funding an things of that nature although I've got to tell you that there are other communities where that doesn't exist and there is still tension and competition between the projects civil people and the defender people, but within NLADA while there is a division I think there is much more friendliness today and much more concern about each other and each other's clients than certainly there was in my time.

TG: Let me ask you while you were working for your legal services offices did you get involved in evaluating doing technical assistance for other legal services offices around the country?

BS: I did a lot of that around the country. I would say in the eight and a half years I was there probably I evaluated 15 or 20 programs around the country.

TG: Did you develop a sort of style or technique for doing that sort of a way in which you could in quickly and identify the problems?

BS: Well I was always slightly troubled by the process or if not the process by the idea that we would be evaluating each other. I was one of the early members of PAG, Project Advisory Group and we were as it turned out locked together in a group effort to try to support the programs nationally and to deal with the national office even though we had a friendly office friendly national office but there we were fellow PAG members evaluating each other programs and I was always uncomfortable about that although it didn't stop me from doing it and I look back now and wonder how objective were we really or to what degree were we at least in our public written documents and so forth highlighting the positive and downplaying the negative, and I think that we were capable of going in and figuring out what was going on and what was good and what was bad but

I think that we were too protective of each other. We might well have exchanged information at the end of the evaluation but I'm not sure they were totally objective and at least for public consumption.

TG: That's interesting because I've been involved in some of the defender self evaluation and it always seemed to me nobody really cared about the head of the program, you're probably familiar, I was involved in the Massachusetts evaluation and afterwards the head of that program left and there was a whole line of like that I guess of defenders who you would normally think would have great sympathy for the head of the program had no sympathy at all just felt you had to call them as you see them.

BS: Let me tell you what I think is different. I agree with what you say about defender evaluations and I have found that myself on ones I have done. I'm looking back now to the late 60s and early 70s when we were extraordinarily tight knit sort of folk fighting the war on poverty, fighting discrimination working closely with clients, getting clients involved in our work and that kind of thing we were really a close knit group and there were probably 20 or 30 or 40 of us involved in a national way in the effort to improve the delivery of legal services but we were real close and we knew each other and we spent a lot of time together and I think honestly did a decent job and worked hard, none of us were perfect, none of us did a perfect job but I think that we had a good philosophy, our goals were good goals and it is within that context of a new program a group of people a force that the evaluations probably were not as objective as they might have been. Where the defender thing is kind of different. There is a defender committee but today the defender community if you talk to the defender community in terms of all the public defenders all over the country only a certain percentage of them belong to

NLADA and there are many public defenders out there that you never see that I never see for example there is a public defender in every county in Pennsylvania and I wonder how many of them have ever come to a NLADA conference or have ever seen anybody from the outside at all. And there are many more public defenders than legal services programs which is interesting. I think that there upwards now of 1,200 or 1,300 public defender programs around the country and there so there is a separation there is not a commonality except for those who are closely allied with NLADA and all so you are going to find all types and shapes and so forth and I had visited many of them and have seen the best and the worst so I think that if we and I can tell you in evaluating legal services programs today which is civil which I also do people are much more apt to complain when they feel they have something to complain about whether it's the director or what have you, they are more than willing to do that today. We didn't do it because I think to be perfectly honest we were trying to protect each other we were trying to survive we were trying to make this program last and be a firm lasting institution.

TG: Let me ask you about the corporation because if you were on the board at that time you must have been involved somewhat with the creation of the corporation.

BS: I was through both the Project Advisory Group and Action for Legal Rights which was a lobbying corporation that we created when the first major attempt to create a Legal Services Corporation was started I think two or three years before the program actually was signed. And the Action for Legal Rights was basically a group of legal services lawyers and private bar members that received contributions, private contributions from some individual legal services lawyers in a private way and the private bar may have had a little bit of foundation money but if we did it wasn't much

and we had a staff person who was Mickey Kantor who was our lobbyist a former legal services lawyer and that was really the lobbying force outside of the ABA that was pushing for the Legal Services Corporation and trying to get the independence that most of us felt was necessary to take it out of the executive branch and to put it in a private nonprofit corporation and I was engaged in that effort over a couple of years and I remember many, many meetings, many decisions that were made, joint decisions that were made about are we willing compromise here are we willing to compromise there, what are the things we absolutely will not compromise over and some of those decisions had to be made in very quick fashion as the bills were being marked up and passing through committees and there were many days that Mickey and others were on the Hill by the telephone calling us saying well we've got this problem or that problem what do you think and not that we were the final arbiter or final decision maker for lack of anybody else being available in a very short period of time we were involved in lots of those decisions that Mickey made and I remember when the decision came to the question of do we kill the bill for this year and that was a really tough time and we did kill it or we authorized its killing and it was killed and I remember one of the things that someone said and I don't remember who it was who was arguing that we should go for it and that was we will never get anything better, it will be worse. You may get it next year or the year after but very time we kill it it will get worse.

TG: . . .

BS: It was exactly but you have to understand what those days were like and how people were feeling and all and we some of us weren't willing to give up on anything

TGH: Finally I think there was a feeling that the so the called movement that may have started in the 60s was going to continue and expand if people would have know what was in store

BS: Oh sure, we felt that that this corporation was going to give us the political independence that would last forever and we would no longer have to worry about someone like President Nixon or the executive branch, we would have to go to Congress but we would be viewed as an independent agency and we would have a good board and we have a good CEO and a good staff and there certainly would be more money. We always felt that this was the only way to get more money. We had for the last couple of years under OEO leveled off, we had gone up in the early days and then we leveled off. In fact I think the first year appropriations to the corporation were at least twice the amount of the last year of the appropriations of OEO legal services so from that sense we were right but we had no idea what the future would bring and I don't recall any discussion about or any thoughts that we would get directors who would not be sympathetic to OEO legal services. There might have been some discussion but it wasn't serious discussion.

TG: Let me ask you, you eventually left that legal services office did you go to APT Associates then?

BS: No I left Boston Legal Assistance Project in January of 1985 and was very fortunate for a year and a half to obtain a foundation grant in Boston to look back at the civil legal services program and look to the future and what we did we did a civil legal needs study one of the first civil legal needs study in legal services and that was exclusively for the city of Boston. We had a foundation from the Permanent Charities

Fund, it was run through the Boston Bar Association, I was the project director and we had a couple of other staff and we did civil legal needs studying Boston. We went door to door to 500 apartments or homes in four neighborhoods in the city of Boston in person interviews of legal needs and unmet civil legal needs and access to lawyers and things like that and half way through that study we were approached by the Criminal Justice Planning Agency the LEAA state planning agency in Massachusetts and asked whether we would be willing to expand the work to statewide study of criminal defense services in Massachusetts. At that time we had the Massachusetts Defenders Committee which while a statewide agency had perhaps only 30, 40 or 50 lawyers and most of the work was done by the private bar. And we were asked if we would be interesting looking at the whole indigent defense system and make some recommendations to the governor's committee on indigent defense and went ahead we ultimately produced two reports called Action Plan for Legal Services I and II. I was civil and II was criminal and some very good things came from the civil program including the Voluntary Lawyers Program that Esther Lardent ran for many years and Meg Connelly is running now was a direct outgrowth of the study that we did and there were other bar programs that developed and interestingly enough the criminal study that we did the recommendations that we made ultimately became the blueprint for what some six or seven years later became the Public Council Services Committee, our current statewide indigent defense program. You can find the origins of that program in the guidelines in the blueprint for that program back to our action plan II in 1976. It was then after that study was through it was time for me to do something else that someone told me that there was a consulting firm, a private consulting firm in Cambridge, Massachusetts called ABT Associates and they were a

social science consulting firm and had a criminal justice division and they were looking for quote a practitioner and I was told they had statisticians and social scientists and all but they didn't have anybody who had actually practiced in the court system and they were looking for someone [END OF SIDE ONE OF TAPE] . . . and I had enjoyed my first research project the Action Plan I and II and I went and interviewed and liked what I saw and in August of 1976 I joined the staff of the criminal justice division of ABT Associates where I stayed for ten years.

TG: Is ABT still in existence?

BS: ABT is still in existence, they are overall they are doing very well, their focus on criminal justice now has shifted into two areas. One is research in the federal court system and the other is the legal problems connected with AIDS. They are doing very little on the state court system side.

TG: When did you start with ABT?

BS: I started in August of 1976.

TG: And how long did you work

BS: I was there until January of 1986 about ten years.

TB: Did you do studies on both the civil side and the defender side with ABT?

BS: When I first went to ABT in August of 1976 I was doing studies of all components of both the civil and the criminal justice system both through federal grants and state grants, just to give you an idea I was involved in the first demonstration program for grand jury reform the so called one day one trial system where jurors come in just for one day and satisfy their jury duty assuming they do not get empanelled which was an early idea in the time that I first came to ABT. I was involved with the

beginnings of the promise system the information system program for prosecutors and I helped in a small way to develop the promise system. I was working with all components of the courts system in the first couple of years that I was at ABT. Then an event occurred which had a major impact on my professional life from that day to the present time. And that was the national contract that NLADA had for technical assistance in indigent defense was up for renewal. You understand at this time I was on the board of NLADA, I was on the executive committee of NLADA here I was in a private capacity working at ABT Associates and one day I opened the mail and there was a request for a proposal from LEAA for the National Technical Assistance Contract for Indigent Defense and I more than anyone knew the history, knew that NLADA had had that contract for maybe five or six years. You mentioned the National Center for Defense Management and I was really confronted. It was one of the major professional decisions that I have to make in my life because I had ten years with NLADA, I had come into the system, felt that I was an important person in what I felt was reforming the system, I had given a lot of time and effort to NLADA over the ten years that I was on the board and I didn't know exactly what to do. One thing I knew was that I would love to have that contract and I would love to get into that kind of TA work. So what I did was I made a few telephone calls and what I learned through the grapevine that was for one reason or another there was very, very little chance that NLALDA was going to get renewed, that someone described it to me as a zero chance so here I was in the position on the NLADA board and executive committee with the information that there was quote a zero chance that NLADA was going to be able to renew their technical assistance contract and what I decided to do was I decided to call up the executive director and share without

identifying the parties the information that NLADA might not get it and propose a joint bid between NLADA and ABT. Feeling that that would obviously would satisfy some of my selfish reasons and I clearly had them but it would also solve some of my really deep professional concern about the whole thing and maybe in a way I could help them survive and then that we could work on this thing jointly and wouldn't that be exciting and wouldn't that be fun and wouldn't that be great and I thought that was a great plan. And I was told on that telephone call that this is NLADA's grant no one is going to get it, if we have to go the president we'll go to the president if we have to go to the attorney general we'll go to the attorney general but it's our money no thanks.

TG: Who was the executive director then?

BS: That was the woman from Atlanta

TG: Betty Kerr?

BS: Yes so and I was told that in no uncertain terms. I was told if you want to be a traitor good luck to you or words to that effect. So there I was trying to I didn't have much time because you know you only get about 30 days to write these proposals and so forth and so on and I ultimately made the decision that and I'm not sure if I can sift out all of my motivation I know one of the things I was thinking was with my background I believed that the programs in the long haul will be better off with us ABT and me as project director than anybody other than NLADA. And that may have been a way for me to justify my guilt feeling and all I don't know and I'm not sure at this point it's that important but I ultimately decided we were going to bid. And I sent a letter to the president of NLADA explained all this in three or four pages, resigned from the board and executive committee effective immediately, which I felt I had to do and filed the

application on behalf of ABT Associates, and to make a long story short we were successful and were given the contract. And there was a lot of hard feelings at NLADA about that.

TG: But you began then doing a lot of important work after you got that contract.

BS: Well what happened, one of the things I'll never forget is that there was a gap in time between the time that the NLADA grant ended and our contract began. It seems to me it was almost a year and what had happened in the meantime a number of requests had come in to LEAA for technical assistance and at first I recall LEAA gave NLADA a little bit of money to do a few of those but not nearly enough to do them all and then they stopped completely, so there was five or six months worth of requests for technical assistance lined up when we finally got our grant papers signed and so forth and so on and our grant monitor at LEAA was Dennis Murphy who turned out to be an enormous friend of indigent defense who is now in private practice in Tucson, Arizona. And Dennis was a great guy and really innovative and really concerned about the delivery of defense services and so forth and I remember going to his office my first visit to Dennis's office and he had something like 15 or 18 requests on his desk for technical assistance from all over the country and he said to me, I remember him saying to me, Bob, I like the staff that you bid but nobody's got any experience in this work other than you so what you've got to do for me is you've got to go on the road personally you've got to go on the road to all of these sites spend a day figure out what's going on, set priorities and come back and we'll sit down and figure out where you start in terms of doing the substantive work and what the priorities are and so forth, how soon can you go. And I spent upwards of two months traveling. I had one trip where I was at 11 sites in 8 days, 11 states in 8 days. I remember

going into Montana in the morning, Missoula at the airport I had a meeting with a couple of bar people and a legislator, we met for a couple of hours and I got on a plane and I flew over to Wyoming to Casper, Wyoming, where I met with the then state public defender, flew over to Denver that evening, met with the state public defender in Colorado so I had done three sites in three states in one day. Needless I was really exhausted when I finally got back but it did give me an opportunity to get around and begin to get the picture and get an idea of what the requests were all about.

TG: Let me ask you about the bar information project and the ABA because I think it was probably while you were at ABT that this was created and you started getting involved in that, can you sort to brief me on how you were involved.

GS: The Bar Information Program I think began in something like 1983 about 1983. I was still at ABT. The technical assistance project had died with LEAA although we my group was spending all of its time on indigent defense studies or projects or TA through grants with state government or local public defenders or state bar associations or whatever. From the time I started with the technical assistance project the LEAA Technical Assistance Project in 1979 that is when it started to the present day I had devoted virtually 90 percent of all my professional time for 12 years in the delivery of indigent defense services on both the civil and criminal sides. So all that period of time from when LEAA died until BIP started I was still involved with indigent defense around the country and civil projects although the vast majority of my time was on indigent defense. I did a little bit with BIP but a very little in the beginning days '83 '84 in part because the original BIP plan was different. One of the original ideas was to stimulate local bar activity by giving them small grants, actually giving them dollars so they would

submit an application on an annual basis and based upon review by the BIP advisory staff and Ford small grants would be given to local bar associations by small I mean six, eight, ten thousand dollars, I think maybe \$15,000 was the largest grant that was given out to local bar associations. That went on for a couple of years, '83 '84 I think. Toward the end of '84 as I understand it and I was not directly involved in this decision there was a feeling among the BIP advisory committee that maybe they would get more bang for their buck if they provided the developed the capacity to provide on site technical assistance because they felt in some cases these bar associations really didn't know what they wanted to do, they saw an opportunity to get some money they were not well monitored, it was difficult to monitor them, they were having difficulty in some cases getting reports quarterly reports and those kinds of things back and it was a fair amount of money laid out. So they decided that maybe they would try some technical assistance, take a chunk of the BIP money and provide technical assistance and these decisions were made in the spring of 1985. In June 1985 I decided for lots of reasons that I was going to leave ABT. I was really thinking about two possibilities. One being an independent consultant single person operation doing the same kind of thing I had been doing for a long period of time or joining another organization like the National Center for State Courts or Rand or some other social science firm trying to bring the indigent defense and civil legal services stuff with me. In fact I had a couple of serious offers after I announced that I was leaving ABT for employment in other agencies and one day in July of 1985 a few days before I was going out the door John Orango called me and he said Bob we've got a couple of technical assistance assignments here or requests for technical assistance. I remember one was in Maine, another was in Austin, Texas, and he said would you have

any time available to go down to Austin and to go up to Maine on behalf of BIP on a consultant basis and look at this at these issues or problems and see if you can help out. And I said yeah I would be real interested and by the way John I'm leaving ABT and he said well that's real interesting because we're looking for someone that can spend a fair amount of time doing this technical assistance over the next year and I think that people would respond favorably to you if you were interested. Well that's all I needed to make that decision about what I was going to do. I wasn't going to go with another social science consulting firm, I was going to go off by myself and do the BIP work plus whatever other defender or indigent defense or civil legal services I could get and that was July of 1985 and people have asked me when did you start our firm the Spangenberg Group and I say well it depends on how you count. I left ABT at the end of July, I began the BIP work immediately I worked out of my home, out of my dining room from August until January of 1986, had all my files piled up on the dining room table, with my wife wondering when I was going to take over the kitchen and that is where I worked for that period of time for BIP going to Austin and Maine and a number of other places around the country in response to BIP requests.

TG: How did you eventually develop the staff at the Spangenberg Group?

BS: Well there came a time in November actually and I had started the BIP work in August there came a time in November and we got a request from Virginia from a legislative committee in the Virginia General Assembly that was charged with looking at the indigent defense system in Virginia and coming up with recommendations in the next session the 1986 session for change and that request came in and John called me, I was at home, to this day I remember standing in my kitchen talking to him over the telephone

about this Virginia thing because it was real exciting, we weren't doing any work in southern states the one thing in Texas but we were interested because we thought or we knew that there were serious problems with indigent defense in the south and here is a call from Virginia. So John said let's give them whatever time they need. At the same time I was working in Austin, Texas and Portland, Maine with the Maine task force and all and I figured I just didn't have the time myself to devote to all of those activities so I called up my old friend and colleague Patricia Smith, Pat Smith who had worked with me at ABT from 1980 until I left in '85 full-time on all the indigent defense stuff, did all kinds of TA on indigent defense who was headed off to a new career, she had just graduated from Fletcher College at Tufts she was going into international relations, was looking for a job in the international relations area I said Pat, we had kept in contact so it wasn't a surprise she heard my voice but I said I have this if you have a little bit time a few days or whatever before you get a job I have this technical assistant assignment through BIP in Virginia do you have a few days that you might devote to it and she said oh sure yeah I will. So she did and that was probably in September and then more requests came in and Pat liked the Virginia thing and to make a long story short by January we are partners working full-time in the new Spangenberg Group office in Newton Highlands, Massachusetts and within the next couple of months another formal colleague of ours Bill Rose joined the staff and we were the Spangenberg Group with Rose, Smith and Spangenberg doing TA.

TG: How many people do you have on staff now?

BS: We have eight people now, eight full-time people. We have consultants that we use and we have a statistician who has his own firm who probably works half of his time for us but we have eight full-time people.

TG: Let me ask you about I know one of the things the Spangenberg Group got involved in was legal needs studies and you talked about how even before this you had something similar in Massachusetts but now you've really expanded that. Where have you gone?

BS: The first project under the civil legal needs project under the Spangenberg Group umbrella was in Massachusetts. And that began in actually at the conference the NLADA conference in Washington which I think was in November of 1976 when Lonnie Powers who was the head of our . . . program in Massachusetts came up to me and said you know I reread the legal needs study that you did back in '76 and here it is ten years later and I think we ought to really do a statewide civil legal needs study in Massachusetts. Are you interested? And I said sure. We got together and met with the president of the Massachusetts Bar Association who was very interested. One of the things about this first civil legal needs study was how easy it happened. Mike Greco who has been a very important person in civil legal services and the preservation of legal services, I never get the title exactly right but I think people will know what that is, Mike was the president of the Mass Bar Association when Lonnie and I went to him and I remember him saying to me after he read our concept paper it's not a question of whether this is going to be done the only question is how soon it can be done. And I think for the first time in all of my history with funding sources we went to a foundation who gave us more money than we asked for, a rare event. Lonnie called me one day and said you're

not going to believe this letter I just opened from Permanent Charities, he said you know we asked for \$50 they gave us \$75. In any regard that was the first civil legal needs study that I had been involved with in ten years. And I said ten years because in that interim of ten years I had done a few things with legal services but not a lot, most of my professional life was devoted to public defense and indigent defense. I had read a lot of about civil legal services, I had read a lot about the problems in the early 80s with the Reagan administration program and all that restrictions of Congress and all that kind of stuff. I had read a lot about it but I hadn't had a direct in person involvement so in one sense it was slightly remote and I was full-time on the defender stuff and all. But we got the Massachusetts study which was followed in consecutive order by statewide civil legal needs study in New York, in Illinois, in Ohio, in Wisconsin for elders, in Maine and working closely with Bob Rudy in Maryland. We have also done a national telephone needs assessment for the ABA in connection with their conference on justice two years.

TG: In doing with these legal needs studies what are some of the things that you found with respect to civil legal services needs and the programs that meet them?

BS: Let me put that in the context of a ten-year absence from civil legal services because I think it's important from where I come from because understand I as a legal services lawyer for a good many years I was involved in the battle for the Legal Services Corporation, this was my life, my professional life full-time for 12 or 13 years and then I exited the scene and spent ten years in defense indigent defense stuff and so forth and then came back afterwards so when I left legal services it was the hey day so to speak the corporation had been established, there was going to be double the funding, there was an excitement, the board looked great, I think Bill McCalpin was president of the board, the

staff looked great, Clint Bamberger was coming back from the dead so to speak to be the executive vice president, everything looked rosy and I left legal services. I come back in 1986 at the mid point of the second term of President Reagan after all the cutbacks, the PAI situation, after all the restrictions, after the battle with Congress, the battle with the administration over regulations and all that kind of stuff, I've read all this, I talked to folk about it. Ten years later I get in my car in Massachusetts and I drive out to the legal services office in Framingham and in Hampden County which is in the western part of the state, and I get re-introduced to civil legal services and I am blown away. And that feeling continued I don't quite feel that today simply because I'm enmeshed I'm back into kind of legal services thing but all through Illinois particularly southern Illinois and through upstate New York, through western Massachusetts, and many other areas of Massachusetts one state after another over a two and a half year period I was blown away in terms of what had really happened to legal services civil legal services and what I mean by that is the number of offices that had closed, the lack of access to legal services particularly in rural areas where there is no public transportation and a legal services program closed up and gone in three weeks is forgotten in terms of access. The fact that salaries had grown only slightly since 1980, six years later, seven years later, that lawyers had been in legal services lawyers I knew for 15 year and they were making \$26,000 \$27,000. I saw when we began to compare the legal services staff and budget from 1980 to 1986 and '87 that not only was there no increase in real dollars but in some cases there was a decrease in actual dollars from '80 to '86 and '87. When I came back and went out to the field I was appalled initially to find that legal services was doing so much brief advice, referral, deflecting cases because that is not what we did or that at least what we

thought we did and you know how time passes by and I saw serious cases of clients with serious problems clients who if eviction would mean they would be homeless clients who loss of the source of public funds would mean that they would be on the street, clients who were foreclosed in rural areas from homesteads that had been in the family for years losing those homes and legal services not having enough resources even to deal with those folks and those clients. It's what I call the safety net and one of the things that I've been not angry during the course of this interview I don't think I have been relatively clam and all but I get very angry and I'm not a person that is loaded with a lot of anger but I get very angry when I go out to civil legal services offices in all of these states and I see first hand what is really going on and I'm talking about interviews with lawyers, clients, client groups, judges, social services agencies and so forth. I'm telling you I see first hand what very few other people have seen in the last three or four years as I have traveled these states and I get enormously angry when I hear the critics of legal services talking about things like all the legal services lawyers are concerned about are their own social agenda, they are not concerned about the every day client, they are not concerned about the person who is being evicted and so forth and they are doing all of these class action cases and they are only interested in law reform and all that, that makes me very angry because that is not what is going on. And sometimes I want to jump up and shout and go on national TV and say let me tell you what's really going on in legal services because I have seen it myself in the last three and four years. Let me take some of the members of Congress, let me take some of the board members of the Legal Services Corporation, let me invite them to travel with our group to Wisconsin, Ohio or Illinois southern Illinois and let them see first hand what's really going on. Now I suspect that in

some sense it's essentially a political issue it wouldn't matter but we're not even meeting our safety net obligations in civil legal services and that is what is the most discouraging thing for me.

TG: Let me ask you about the death penalty because I know you've done some studies on death penalty representation and what have you found there?

BS: Well in my TA work on indigent defense over the last 10 or 12 years death penalty was always an element of our work, always a piece of our work but not a major piece frankly until about 1985 and '86 when we got in BIP. We had done some death penalty work but it was really '85 and '86 when we first got into the question of representation the cost of the death penalty and so forth and we did a study in Florida in which we were asked to do a survey of private lawyers and the time it takes them to handle post conviction death penalty cases. And the results of that study were dramatic for example private lawyers told us that on average they were spending over 1,000 hours in the federal habeas corpus piece of a death penalty case. On average, we're talking 40 or 50 lawyers on average. I knew the time would be a lot but I had no idea it would be so immense. And we took time and developed a money formula to see how much that time really cost and all and that piece of work in Florida lead to some work for the Administrative Office of the U.S. Courts as they were considering ways to improve capital representation in the federal courts and federal habeas and we did further time studies for the Administrative Office of the Court and then we did work in North Caroline, In Georgia, in Texas on the question of costs and I guess we had done as much work or more work than anybody has done on the cost of the death penalty at least as it relates to counsel.

TG: And I take it you found the states were not meeting the responsibility to provide adequate representation.

BS: I think that there is an enormous disparity between what states are doing and I try to make that point. There are some states like New Jersey, states like Maryland, I think a lot of the work that you are doing and in particular with the new Resource Center I think that Ohio to a degree, California to a degree, if I lump all those states and you asked me that question I would say they are not doing a bad job, there are certainly a long way to go and many more resources going but when I compare those states with Arkansas, Louisiana, Georgia, Oklahoma it's just an enormous gap and in all those states I say to you there is a real crisis in death penalty representation.

TG: Where do you see both defender offices and civil legal services now and where do you feel they may be in the future?

BS: Two years ago I was criticized by some defenders for painting too rosy a picture of public defense and where public defense was in this country and that I was too positive about things that had been accomplished in the last few years in the public defender field and that things were much worse than I portrayed them. And those comments were important to me because I spent all my professional life doing this kind of thing and I'm very interested knowing how people feel about our work and how people feel about our views and I want to hear their views but the despite all that they were saying to me I maintained my position that all things being equal public defender community or the public defender system in the country was in better shape than it had ever been in stating very clearly there were lots of exceptions to that in the south and other places which I would tick off and I was hopeful two years ago that things would

improve and that in part through things that we were going or NLADA as doing, the ABA was doing it would be an upswing. I come this year we're here in Pittsburgh in November of 1991 and I'm going to make a presentation tomorrow to the BIP advisory board on what Jim Neuhard calls the state of the union in indigent defense. And I've taken quite a bit of time in putting it all together from where we see things and right now I'm discouraged about public defense, two years ago I was encouraged about public defense. Now I say it's almost a flip the flip side because I say overall nationwide I'm discouraged about indigent defense but there are some systems that are really doing great things so it's not an all or nothing. But I find that the crush the enormous crush I say public defenders are drowning in a sea of drug cases. And one of the remarkable things is to find the number of drug filings that exist in rural areas of our country many folk just think it's the large urban centers or it's the connection between Miami and the east coast or it's the west coast connection but drug filings are up all over this country in all parts of most of our states. And we are in a law and order frenzy, state legislature right now are creating more crimes, toughening sentencing, providing more programs and more resources for victims, providing more resources for law enforcement and prosecution and not paying much concern to the fiscal impact of all this on the criminal justice component and particularly indigent defense. What I am seeing for the first time local initiatives, citizen referenda, increasing sales taxes in five counties in Washington states for funds to go directly to supplement law enforcement and prosecution having to do principally with drug cases and no money for public defense. I see the federal formula grant program up to this recent positive change with 99 percent of those funds going to prosecution and law enforcement at the local level, it may be a little high but 75 percent at least, just creating

this volume of cases in the states court for public defenders to respond to and they are being drown. And what I have physically seen in the last year and a half in several public defender offices around the country is I've seen public defenders who are not visiting with their clients, who are not doing any legal research, who are not ordering investigations in cases that investigation would be important, who are not looking for witnesses, who are not trying cases. One public defender in a large metropolitan area told me when I started here a dozen years ago in this public defender agency I looked for a way to win every case, now I look for a way out of every case. And public defenders in many offices when you reach 1,000 cases a year when you have 700 felony cases a year what can you expect is going to happen and many, many, many of our public defenders are getting drown in cases and caseload with no relief in sight. I hope the federal program helps some I think it will in some areas but also I think that gap that always existed between the programs that have a good funding base and has a good political base and the others is just growing and growing and growing. On the civil side I like so many others was very hopeful a year ago with the thought of a new board for the Legal Services Corporation, that there would be a different attitude, morale would come back, I never expected there would be a huge increase in funding but my hope was that there would be a friendly environment and climate and legal services lawyers could get back to representing clients and away from defensive mechanisms they need to develop to stay alive and unfortunately that does not appear to be have happened. Certainly a positive result is IOLTA on a national basis. I don't' know where legal services programs would be today without IOLTA. But I think that that civil legal services nationwide with a few exceptions is in very serious shape in terms of being able to provide quality service to

civil clients particularly when they get as I said before to the point where they cannot do the safety net cases and I think that I see no panacea, I see no enormous hope for the future for civil legal services, I know people stay and fight and make progress but in the next two or three years anyway I hope we come out of this cycle and the federal program increase its funding but I'm not too optimistic about substantial improvement over the next two or three years. For the future, the long haul I am but I'm a born optimistic I must tell you.

TG: Bob I want to thank for both agreeing to do this interview and I want to thank you for everything you've done both for defender services and for the civil legal services and I ask that in spite of that it's energy draining that you continue in the fight, will you.

BS: Well it's what keeps me going and some people say to me I don't understand how you can possibly do what you do you're doing the same thing over and over again isn't it boring. I say no it's exciting because every place I go it's a new situation there are new faces, new politics, there is a new battle to fight and I can't think of doing anything else. There is nothing else that I would want to do right now anything more than what I'm going to do for as long as I can and thank you for inviting me and I've enjoyed it.