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TRAINING LAWYERS FOR THE POOR, AND OTHER ADVENTURES IN THE SKIN TRADE

HAROLD R. WASHINGTON*

INTRODUCTORY NOTE

The following article is a distillation of a portion of experiences during the period that the author served as Assistant General Counsel in charge of Training and Special Projects for the New York City Legal Services Program (CALS). After directing one of the most effective local legal services (Morrisania LSP), the author was asked to set up a training program for young LSP lawyers. As the paper indicates, he attempted to cope with the various problems that tagged along with the main issue. As a concluding note, the author is still not quite certain that the problems were solved. The first group was put through the training program in the fall of 1970.

I. INTRODUCTION TO THE PROBLEM

Law schools, by their 100 year adherence to Christopher Langdell's myopic edit that, "All available materials of the science of law are contained in printed books," have neglected their primary function: the training of lawyers.¹

There are two primary weaknesses in the law schools' approach to the training of lawyers. The first obvious one is that of all the things that law may be, it is definitely *not* an exact science. This factor is beyond our scope of concern at this time.

The other weakness is the law schools' undue dependence upon the traditional case-study method, with its emphasis upon appellate litigation. This emphasis negates the role of the lawyer as counselor, negotiator,

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¹ Quoted in Frank, "A Plea for Lawyer Schools," 56 YALE L. J. 1301. Christopher Columbus Langdell was the founder, first teacher, etc. of the first law school (Harvard). Langdell disliked people intensely, felt that law was an exact science and that only those who could go through his rigorous system of training were qualified to practice law. During this period the majority of lawyers were admitted to practice after certifying that they had "read the law." Langdell, who had never practiced law himself, also believed that all there was to know about law was contained in books.

draftsman and evaluator of fact, the roles most often played by counsel for indigents.

Applying the rule of law, as set down by some appellate court, is too often far removed from actual situations that the practitioner faces in his daily pursuit of "the law." The practical machinations underlying an appellate decision never crop up in the opinion. Appellate court decisions do not frankly reflect the political climate of the nation or a particular region at the time the decisions are rendered.² These opinions may be further removed from reality by the manner in which the facts are presented to the court and any social myopia that may affect the judge or judges sitting. This conglomerate of appellate decisions, based upon often grossly distorted sets of facts, then comes to play the major role in the legal educational process. The few so-called clinical programs in existence in law schools are generally inadequate or misdirected. The clinical programs exist at the sufferance of "more academic and scholarly pursuits."

There is then, the necessity for a transition from the "Alice in Wonderland" world of truncated appellate decisions to the mundane world of clients and *their* problems. At present, the transitional stage in Legal Services is provided through practicing *on* the poor.

If, "litigation is the ultimate reference for the lawyer, [and] a lawyer who has inadequate acquaintance with the litigious process is an impotent lawyer,"³ then it is incumbent upon Legal Services to complete the training of its lawyers in order to obviate the possibility of sending "impotent lawyers" to do battle for the poor.

Community Action for Legal Services, Inc. (CALS) is the largest office of Economic Opportunity funded legal services program in the country. Under the CALS "umbrella," approximately 160 lawyers service indigent communities in New York City through ten local operating corporations. CALS was established pursuant to an order of the Appellate Division of the Supreme Court of New York. It was designated the "umbrella corporation" with functions concerning channeling of funds, disseminating information for "public education," rendering technical assistance to the operating corporations, gathering statistics, evaluating pro-

² See the decision in *Sostre v. McGinnis*, 442 F.2d 178 (2nd Cir. 1971) *reversing* Judge Motley's decision in *Sostre v. Rockefeller*, 312 F. Supp. 863 (S.D.N.Y. 1970). The Court of Appeals case was argued immediately subsequent to the Auburn (N.Y.) prison "riot." Several of the judges commented on the "riot" from the bench and mention was made of the necessity for disciplinary measures by prison officials in order to control such outbreaks. The decision does not mention this point, even in passing.

³ Frank, *supra*, at 1305.

grams, setting standards of professional conduct and training lawyers and paraprofessionals listed as its primary responsibilities.⁴

The operating corporations, under the CALS "umbrella" were to engage in the actual day to day representation of indigent clients in the target communities. Unfortunately, both CALS and the operating corporations, to a great degree, failed in the accomplishment of their missions.

The CALS governing board, with the exception of three or four persons, are individuals with no concept of what legal services for the poor are all about. The Board comprises five classes.

Class "A" is made up of ten attorneys chosen by the Association of the Bar of the City of New York (!!!) and the five County Bar Associations.⁵

Class "B" is supposedly comprised of ten "representatives of the poor." Over the past three years, these "representatives of the poor" have included at least one attorney, one City Deputy Commissioner, one employee of a brokerage house (who was by no means indigent) and the wife of one of the most conservative judges in the city.

Classes "C," "D," and "E" members are all attorneys chosen from the various ethnic bar associations, law schools, and a rather nebulous "at large" category.⁶

Members of the local operating corporations' boards of directors are "elected" by a formula which insures that the board has a composition which is one-third "representatives of the poor" and two-thirds attorneys. The "representatives of the poor" are generally either those with some minor political status in the community or the ubiquitous "poor" who conveniently sit on virtually every poverty board in the given community.

Starting with the CALS board and moving down (or up, depending upon perspective) one finds ignorance, apathy and often antipathy toward the problems of the poor and representation which would effectively

⁴ The initial petition submitted to the Appellate Division of the New York State Supreme Court for approval of a city-wide legal services program for the poor was rejected. *In Re Community Action for Legal Services*, 26 App. Div. 2d 354 (1st Dept. 1966). The reason that the court gave for rejection was that under the submitted proposal, laymen would have an equal voice with lawyers in running the program. The revised proposal and order, giving lawyers a two-thirds control of the project was approved in October, 1967.

⁵ Until quite recently, the Association of the Bar of the City of New York (the ABA affiliate in New York City) exhibited quite open hostility toward black and Puerto Rican lawyers. Now the hostility is a bit more subtle.

⁶ See *In Re Community Action for Legal Services* petition approved October 10, 1967 and "Proposal for New York City Legal Services Program" as approved by the Office of Economic Opportunity on June 6, 1967.

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attack (not necessarily alleviate, merely attack) these problems. No amount of propagandizing has been able to overcome attitudes of racial and class superiority and the desire to protect vested interests that these boards exhibit. Unfortunately, these crass attitudes seep into the advocacy baggage of legal services attorneys who are hired by these boards of directors.

II. NECESSITY FOR TRAINING

We cannot gainsay the fact that young attorneys placed in the local operating corporations are generally thrown into the maelstrom of the case load "derby" with little or no explanation of functions, goals, priorities or procedures. The rather tepid justification for this practice is that training is an expense of time that the local offices cannot afford.

This is a rather spurious argument in light of the fact that time spent in training becomes a necessary expenditure toward providing more than mere lip service for the stated goal of quality services for the poor.

However, since the local corporations were unwilling (or unable) to accept this task, CALS had to design the prototype program and means of implementing such a program.

Twenty of the larger legal services programs throughout the nation were contacted in order to determine the nature and extent of their training programs for young lawyers.

Of the twenty LSP's contacted, one replied that it did have an in-service training program in existence and would forward details of the program at a later date. Two others replied that they were in the process of initiating programs, but had not developed plans as yet. Nine others replied that no programs existed.

All L.S.P.'s contacted had been in existence for at least two years.

The National Institute for Education in Law and Poverty had no ideas on the point other than the fairly esoteric conferences that they had run from time to time.

All of the executive directors and attorneys-in-charge of the local offices were contacted in order both to determine their resistance, if any, to a CALS directed training program and to solicit possibly in-put for such a program. All feasible suggestions were incorporated into the final program format (i.e., "feasible" meaning that the suggestions did not run counter to the overall thrust of the training program.) All conceded that a broad-based training program was necessary.

The continuing education projects for "older" lawyers were deemed

necessary for exploration of new developments. There was some resistance to the proposal to shut down all offices in the city on given training dates to insure maximum participation and attendance. This problem will be dealt with *infra*, in the section devoted to "Cyclical Training Program."

Three of the local programs had instituted what they referred to as training programs. Each of the programs used local office personnel for their training. With the exception of Mobilization for Youth Legal Services, Inc. it appeared at first blush that the local training sessions suffered from incestuous in-breeding of rather limited points of view.

Each of the local training programs revolved around one to two hour seminar discussions, one afternoon per week. The local office "expert" would generally cover an aspect of the substantive area and try to highlight some of the problems in the field.

In one situation, a person with six months' experience and four appearances in Family Court was held out as the "expert" on Family Court problems and proceedings. This person's limited experience and exposure would not in and of itself be grounds for denying his expertise, but the fact was that he was just not very knowledgeable about the field.

III. THE INHERENT MANDATE

Among the "Powers and Functions of CALS" set forth in the "Proposal for New York City Legal Services Program" is the duty to ". . . design and either conduct or contract for a city-wide training program for all lawyers financed under the grant from O.E.O. This will be primarily an in-service training course for lawyers."⁷

This inherent mandate to CALS was reflected in the initial Appellate Division, First Department court order and Certificate of Incorporation which set forth at sections (d) and 3(d), respectively, provisions for "a training program for lawyers"⁸

As noted in Part I, *supra*, lawyers are in continuous need of training because of a dereliction of duties of law schools. While the greater proportion of attention should be directed toward training young attorneys who have had a modicum of experience, the older attorney who has entered legal services after a number of years in private practice should neither be neglected, nor allowed to buffalo his way out of additional training with the saw that "you can't teach an old dog new tricks." It may well be that the older attorney is as much in need of training as the younger ones.

⁷ "Proposal for New York City Legal Services, Sec. 3(A).

⁸ See *In Re Community Action for Legal Services*, *supra*.

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An unfortunate indication of this may be the fact that he had to relinquish private practice for the definite income of a salaried position.

It would appear to be counter productive, on the one hand, to opt for a standard of professional service for indigents which is comparable to services rendered by private counsel to paying clients, and then not offer supportive services for maintaining this standard of representation.

As indicated, many of the executive directors and attorneys-in-charge of the operating corporation offices felt incapable, due to case load or other problems, of conducting or administering any training program. The few training programs which had been instituted on local levels suffered from parochialism of both input and outlook.

There was then, not merely an operational mandate (as embodied in the working documents of the organization) but also an ethical mandate to persist in the provision of quality legal services for the poor.

BUDGETARY LIMITATIONS

The feasibility of designing and implementing an effective training program was circumscribed by the budget available for such a task. The effectiveness of such a task depended upon much more than giving lip-service to any pedagogical ideology; the program had to be one which fit within the fiscal framework.

In view of the truncated budget for the O.E.O.'s program year, it was incumbent upon one to determine training alternatives which could be implemented at modest expense. The use of training devices such as video-tape, filmstrips, training classrooms with two-way mirrors and special consultants could be utilized only where facilities and material were made available on a *gratis* or greatly reduced cost basis.

V. GENERAL AREAS OF TRAINING

The areas of training needed were almost as diverse as the number of persons to be trained. A great number of LSP attorneys are deficient in the areas discussed. Unfortunately, many of the attorneys do not want training, but indeed want instant solving of all case problems.

The general training program was designed to give at least an introduction to the practice of poverty law. As ludicrous as this may sound, the fact remains that invariably, LSP attorneys will either feign ignorance (or more than likely *be ignorant*) in an area that by definition (consumer L & T or welfare) they should have at least a modicum of expertise in.

A. Interviewing Techniques

This first area, although by far the most important phase of any practitioner's existence, is also the most woefully neglected of all skills that attorneys supposedly possess.

Unfortunately, white middle-class concepts and values generally deter attorneys from effectively dealing with poor clients. Too often, the attorneys' first utterance upon hearing a client's recitation of the facts is, "Why did you do something stupid like that?" Attorneys of this ilk tend to view indigents with condescension, at best.

Proper interviewing skills and techniques cannot be over-emphasized in the Legal Services setting. Indigent clients are generally distrustful of lawyers, since the law has too often been used as a sword against them.

There is no doubt that attorneys can be trained in proper interviewing skills, *if* a disability (i.e., condescension) is perceived as such. That is the primary reason for limiting the training and materials in this area: those who perceive will correct deficiencies; those who do not perceive will never correct that which they do not recognize as deficiencies.

There is, of course, the opposite extreme of the "ghetto naive," who responds to indigent clients with utmost deference, attempting to serve as the vehicle for a panacea for each client's problems.

There is the possibility of steering the middle course of utilizing the client interview primarily for the gathering of facts pertinent to the matter at hand. Establishment of rapport is an aid to this central purpose, but the prime motive for conducting an interview should never be to convey the "nice guy" image.

Irrespective of background, basic psyche or personal prejudice, this is a skill that can be learned with the proper attitudinal approach. After all, since time immemorial, lawyers have been able to parrot, "May it please the court," as the roof caves in on their clients. It is not that much more difficult to form a proper mind-set which places the indigent in a framework which identifies him as someone important to the case.

The question of economy of time becomes an important factor in client interviews in a Legal Services Office. With general caseload problems, it is vital to grasp the problem in a minimum of time in order to work toward a rapid solution.

The most wasteful animal, from both the client's and the office's point of view, is the attorney who has not gotten to the heart of a problem after a two-hour interview. Other factors may arise during the interview

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which may contribute to an extended interview (i.e., an abusive, disruptive, or non-English speaking client), but after a two-hour period, these can also contribute only to the counterproductivity of the interview.

B. Court Procedures

This area encompasses not only statutory provisions, but also practices of the clerks and other personnel in the various courts and administrative agencies.

Court procedures have often proved a stumbling block to Legal Services attorneys who either fail or refuse to learn the procedures and rules of various courts. Quite often the refusal to learn is based on nothing more than the lack of sex appeal that this area presents. It is always a rather dull business to learn with which clerk to file a motion or what time to appear for submitting papers or argument.

C. Litigation

This area would tie in with the prior one, but should be handled in a more extensive manner. Litigation is, of course, the crux of practice in a Legal Services Office. Notwithstanding the fact that the vast majority of cases handled by an LSP do not go to litigation, the possibility of litigation should always be foremost in an attorney's mind, either from an affirmative or a defensive stance.

It is true that some attorneys shy away from litigation as an additional make-work device. However, the bulk of them do so from ignorance of procedures and legal concepts. Training can be devised to impart information concerning procedures and concepts. Such training necessarily enhances the quality of legal services for the poor.

D. Appeal Procedures

Closely allied to the qualms concerning litigation is the reluctance attached to appealing a case. While caseload plays a crucial role in how many cases, and what cases are to be appealed in a local office, too often the overriding consideration is the fact that the attorney has never filed an appeal before and either dreads the work or the embarrassment of blundering through his first appeal.

E. Training Local Corporation Boards of Directors

Many members of local operating corporations' boards of directors have no concept whatsoever of what legal services are all about. There is

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zero correlation between functions and goals of the legal services office and any impression of the role and function of the board of directors.

The Class "A" representatives to the boards are supposedly "Lay representatives to the poor." They either (1) have some minor political status in the community or (2) are the ubiquitous "Poor" who sit on the various poverty program boards.

The Class "B" representatives are from the various bar associations and the Legal Aid Society. (Legal Aid Society representatives are anomalous creatures, since no one from Legal Services sits on any of the Legal Aid Society boards.) These representatives are uniformly conservative in their outlook vis-à-vis the goals of legal services.

The Class "C" representatives are supposedly neighborhood lawyers. Their ostensible function appears to be to serve as watchdogs on acceptance of eligible clients. This function may well be to the advantage of the neighborhood practitioner, but there is no decided benefit to the goals of the LSP if the one "good" case involves a client who is two dollars over the income limit.

VI. VEHICLES FOR TRAINING

A variety of vehicles for training can be utilized in either simulating actual situations or bridging the time-gap between actual situations and the period for presentation. These mentioned vehicles are not to be deemed exclusive nor exhaustive. As with the training plans (*infra*), the use of various vehicles may be altered, depending upon the size of the group in training.

A. Visual Aids

Encompassed within this category are the video-tape or filmstrips mentioned earlier. These devices offer an opportunity for presenting optimum situations and acceptable methods of handling them. The advantages of the devices are that they can be used repeatedly for different training groups with little fear of alteration of situations. The fact that the entire setting can be controlled, as opposed to actual settings which cannot in any realistic way be governed, is an additional plus factor in the use of these devices. They also add to the flexibility of training as dictated by group size.

Film and filmstrips were the media initially explored for possibly recording lecturettes (short lectures around which discussions could revolve). The lowest cost estimate for such a production was \$12,000, for

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the slide strip with synchronized audio tapes. Sixteen millimeter sound film would have cost upwards of \$25,000 for the series of lecturettes projected.

Through a combination of cross-contacts, with persons with whom the author had previously worked, peculiarity of ethnicity and pure luck, he was able to have the entire project of seven lecturettes video-taped, plus use of the video equipment, for \$205.00—\$105.00 was spent for video-tapes (at \$15.00 each) and \$100.00 for one of the lecturers who was from a community based organization which was in dire need of funds to meet operating expenses. The video-tape equipment and facilities were the property of the Human Resources Administration.

Two technicians were used who, at \$15.00 each per hour, would have cost at least \$720.00 otherwise. The video-tape player and the console were borrowed. (The Director of Educational Services and the writer were youth vocational counselors together six years before.)

The taped sessions were done after 5:30 P.M. in order to avoid the noise of traffic and area construction. The technicians were extremely cooperative and helpful in all phases of the taping; (especially so in view of the fact that they were not being paid overtime by H.R.A.). Taping sessions generally started at 5:30 P.M. and ran for approximately four hours, one evening going until 11:15 P.M. The technicians were most helpful editing, dubbing, phasing in "highs" and "lows" (in the sound track), providing material for background shots and even giving ideas on the format of some lectures.

The combination of luck, past association and ethnicity permitted the writer to put together a package that would have cost \$1,600.00, even with H.R.A.'s official cooperation, for the \$205.00 already mentioned.

None of the video-taped lecturettes ran for more than 20 minutes. All of the lecturers were surprised to find that they could telescope a great deal of information into such a short period of time.

B. Apprentice Training

This training was established in order to benefit trainees through an initial central office placement (at CALS) followed by an on-the-job situation in local offices.

Emphases were placed upon maximum supervision (a one-to-one ratio) and a non-involvement with case load.

The entire on-the-job training situation was coordinated through the

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CALS central office with periodic central office training to reinforce the learning process.

C. The Court as a Laboratory

The author did not overlook the fact that the courtroom is the ultimate crucible for testing a lawyer. Courtroom observation of all attorneys (new and "old") should be one of the factors by which we judge the competence of a legal services attorney "in the line."

Dry runs of cases to be tried were held with experienced attorneys serving as judge and/or opposition. Criticism of presentation of argument and form was made by trainer and the other attorneys participating.

Judges were brought into the training program both as lecturers on courtroom procedure and as postmortem (or partem) commentators. Of invaluable assistance would have been an after trial, in-chambers commentary by a judge on the strong or weak points of an attorney's presentation. This latter possibility was never fully realized, although some judges did perform this service for a few attorneys, outside of the training regimen.

D. Materials

The *CALS Handbook of Poverty Law*, and the O.E.O. *Poverty Law Reporter* were the basic materials used in the training sessions.⁹ These materials were supplemented by additional materials for substantive areas where the guest lecturer deemed such materials necessary.

The National Institute for Education in law and poverty materials (Handbooks on Welfare, Consumer and Housing) were not used. These materials were considered too esoteric for Tyros, such as the trainees in the project. These materials are excellent subsequent to developing a specialty in a particular substantive area, even though that was not the stated purpose underlying the design of the materials.

The *CALS Handbook* gives a sufficiently broad overview of the areas of welfare (including Social Security) housing, consumer protection, marital problems, workers' rights and rights of juveniles as they are developed in New York. The annotations and reading lists include other additional information for any who wish to specialize in particular areas.

The OEO *Poverty Law Reporter* furnishes a broad base for con-

⁹ The *CALS Handbook of Poverty Law* was edited by Prof. James Graham (formerly of New York University School of Law) and published by CALS. The *Poverty Law Reporter* is published by Commerce Clearing House, Inc. under an OEO grant.

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sidering various national issues and is an excellent compilation which as a rule suffers from lack of usage. This lack of usage on the part of local office personnel often stems from an unwillingness to face what seems like the monumental task of keeping the *Reporter* up to date. This is spurious reasoning for bypassing such a wealth of material.

VII. TRAINING PLAN FOR NEW LAWYERS

All lawyers entering Legal Services after implementation of the program, and all attorneys in service less than three months, were placed in the training program. (The arbitrary three month cut-off point took into consideration the fact that lawyers in local offices for any longer period generally had a case load which was so disproportionately high as to preclude pulling them out of the office for intensive training.)

Initially, all new attorneys were placed at CALS for orientation (indoctrination and propagandizing) and substantive training. During the orientation period, tours were made of various local offices and the courts (including clerks' offices).

While the initial training group, consisting of fifteen Reggie's (Reginald Heber Smith Fellows) and six new attorneys from two separate local offices, received first hand training from experts in the various fields, subsequent groups generally proved too small for high level expert availability to be feasible. Video-tapes were made of certain of the lectures in order to provide presentation for smaller training groups.

A. Interviewing Techniques and Community and Staff Relations

Even a *coup d'oeil* revealed that the areas in which legal services attorneys were obviously deficient were client and community relations.

Whether it is the natural proclivity of attorneys to respond to laymen in general in a condescending, paternalistic manner is open to debate. The fact is that too often legal services attorneys, who by definition should have high frustration thresholds, are more inclined to berate clients for making "foolish" errors than to addressing themselves to the legal problem at hand.

1. *Interviewing Techniques*: Two days of training were devoted to techniques involving introductory, exploratory questioning; basic courtesy toward clients (not as "indigents," but as individuals); directing and controlling interviews for purposes of eliciting specific information; deal-

ing with the abusive, recalcitrant or non-communicative client; and explaining feasible alternate courses of action for selection by the client.

Role-playing was the tool used most frequently in the sessions. Model interviews were scheduled in order to contrast with blatantly poor interviews. The senior training attorney at CALS conducted these sessions.

2. *Community Relations*: One day of training was devoted to community relations, which included problems, of the black and Puerto Rican communities.

Various community representatives, some of whom had prior contact with Legal Services, led the discussions. This "sensitivity" training was not directed toward "getting into the psyches" of the trainees, nor to permit the community representatives to vent their spleens on the young lawyers for past injustices (real or otherwise) perpetrated by other LSP staff. The sole thrust of such a session was toward attempting to dispel some of the myths that many of the trainees certainly brought to the situation as part of their cultural baggage.

3. *Staff relations*: While this session, to which one-half day was devoted, was entitled "staff relations," the primary concern of the training was an emphasis on attorneys' relationships with clerical and paraprofessional personnel. This emphasis was necessary in view of the posture that attorneys generally take vis-à-vis those who are "less than equals" in the program.

Clerical relation concerned itself with problems of work load and case load in the local office and the clerical's role in dealing with both. The role and function of paraprofessionals in the local office was the subject of the remaining section.

The clerical section was conducted by secretaries who had worked in a local office and central CALS. The paraprofessional section was led by a trainer of paraprofessionals and a paraprofessional assigned to a local office.

B. Field and Court Visits

1. *Housing visits*: Field trips were made to substandard housing in the "inner-city." The purpose of these trips was to permit young lawyers an opportunity to view conditions which give grounds for New York Real Property Actions and Proceedings Laws defenses or article 7-A proceedings. Local office attorneys, other than a handful who specialize in organizing tenants, never see the insides of these buildings and have no concept of the elements required for proper presentation of specific

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cases. Emphasis was placed upon this area because a substantial proportion of case load throughout the city comprises housing problems.

2. *Civil Court*: Landlord-Tenant part and one trial part were visited in the Civil Court. As indicated previously, housing matters make up a substantial portion of caseload and Landlord-Tenant part is usually the one court that a young lawyer sees immediately upon being placed in the field.

3. *Motion Terms, Supreme and Federal Courts*: Visits to these parts were important in view of the fact that the two most often used litigative devices in the poverty area have been Article 78 proceedings (state court mandamus) and injunctive proceedings (State and Federal Court).

4. *Welfare Hearings*: Visits were made to the Department of Social Services fair hearing site, most importantly because this is the assignment that young lawyers pending admission can accept. Incidentally, the visit was necessary to assist in locating the place, since it is situated in a ridiculously obscure location.

C. Trial Tactics

The trial tactics session on civil procedure was conducted by Judge Irving Younger of The New York City Civil Court. Prior to his appointment to the bench, Judge Younger was a brilliant trial lawyer and law school professor. Judge Younger's emphasis on the preparation and vigorous advocacy on the part of legal services attorneys was directly in keeping with the overall thrust of the training program. The session was not designed, nor advertised, as a "how-to-do-it" program. This was one of the complaints that the attorneys involved in the cyclical training program had concerning the video-tape of the session. (See *infra*, Cyclical Training Program).

Judge Bruce Wright of the New York City Criminal Court conducted the trial tactics session on criminal procedure. The session was held at the Criminal Court Building after Judge Wright had held several arraignment proceedings.

Although Legal Services attorneys were precluded from participating in criminal trials, they were often called upon in emergency situations to handle criminal cases through the pre-trial stages. Judge Wright's discussion centered on these pre-trial proceedings. Because the New York State rules excluded cameras from the courtroom, this session could not be video-taped.

VIII. SUBSTANTIVE TRAINING

The initial training group, because of the size, had the benefit of the luxury of live lecturers who are all considered experts in their fields. As stated, subsequent groups were trained through the use of audiovisual devices.

The areas of concentration were chosen with an eye toward giving as much of an introductory insight as possible into the areas that affect operations in the local office to the greatest degree.

A. Housing

Two sessions were devoted to housing in view of its prominence in case load. One session dealt with the landlord-tenant court, its inherent biases and methods of dealing with them. Also included in this section were an overview of landlord-tenant law in New York City and new developments in the field. Nancy LeBlanc's *Handbook on Landlord-tenant Law* (M.F.Y. Legal Services, 2nd Ed., 1969), was used as supplemental material for this section.

The second section was devoted to public housing and the role that government plays in housing for the poor including Model Cities and Urban Renewal.

The video-tape for the cyclical training program was done by a member of the CALS staff. The basic objective of the lecturette was to set forth "minimum standards" for representation of L & T matters. Points covered were motion practice, pleadings, trial practice and appellate practice.

B. Education Law

Two sections were devoted to this area. The first section was conducted by Haywood Burns, Executive Director of the National Conference of Black Lawyers. General rights of students were covered and specifics of New York State court rulings and Department of Education regulations were dealt with briefly. A video-tape was made of this section which proved to be a boon because of its wealth of basic information.

The second section was devoted to litigation under ESEA Title I and structure and powers of local school boards. This section was conducted by CALS staff members.

C. Consumer Problems

This section, conducted by Phil Schrag, the Consumer Advocate of

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the New York City Consumer Affairs Department, covered all aspects of the problems poor persons have as consumers in New York City. Use of the new truth-in-lending laws, consumer class actions and dilatory tactics in consumer situations were discussed.

Supplementary materials for this section were Professors Kripke's and Schragg's articles in the New York University symposium on the poor as consumers in Vol. 44 of the N.Y.U. Law Review.

The video-taped consumer lecturette was delivered by Mrs. Florence Rice, President of the Harlem Consumer Educational Council. Anyone conversant with the field recognizes that Mrs. Rice was in the vanguard of consumer education and protection and stands head and shoulders above all the Meyersons and Furnesses (whose prime talents seem to be opening and closing refrigerator doors and holding sidewalk press interviews).

This taped lecturette was introduced with an anecdote concerning a welfare recipient who had been lured into purchasing a \$1300 color television set which did not work and then found herself saddled with a default judgment. She went to an LSP office in Brooklyn where she was advised that it would be best if she paid the debt and not question it.

The first group that viewed the tape suggested that maybe the debt was valid and there was no sense in challenging a valid debt. The author stated categorically (and set forth a challenge based on the statement) that there is some basis for attack involving *any* debt of an indigent consumer. Any LSP attorney who cannot find basis for attack is not performing his job.

D. Family Court Proceedings

The section included the structure of the Family Court and an analysis of proceedings other than juvenile delinquency hearings. Proceedings reviewed were neglect proceedings, child abuse laws, truancy and support proceedings. The section was conducted by Sue Ann Shay, who succeeded the author as Assistant General Council at CALS.

E. Juvenile Delinquency Proceedings

Two sections were devoted to this subject. They included an analysis of the Family Court as an instrument of repression against minority group youth, juvenile delinquency proceedings and trial tactics and techniques.

The section was led by Mrs. Evelyn Williams, an adjunct professor of

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law at New York University, who has had extensive experience in juvenile proceedings and trial practice.

The video-taped lecturette given by Mrs. Evelyn Williams was designed as a propagandizing vehicle. Those involved still do not know if it achieved its purpose in pointing up the inconsistencies in juvenile delinquency and Family Court practices. We are at a loss to properly evaluate the reaction at this time since part of the first viewing group said, "We know that," and another part of the group asked, "what was that all about?"

F. Welfare

Two sections dealt with welfare law and fair hearing procedures. The first section was conducted by the General Counsel for the City-side welfare rights group. The remaining section was conducted by Mrs. Beulah Sanders, then President of the National Welfare Rights Movement. This section dealt with the welfare rights groups, their goals and how lawyers relate to these goals.

The lecturette for this section was given by David Gilman of the Columbia Center on Social Welfare, and was probably the most practically directed of all the segments. The thrust of the lecture was how to try a fair hearing and coming from the person who has tried more welfare fair hearings than anyone else in Legal Services, it was of great immediate benefit.

G. Federal Litigation

A CALS staff member delivered the lecturette on the benefits and pitfalls of federal litigation. The informative aspect of this segment hopefully had a propagandizing effect, since most LSP attorneys shy away from affirmative federal litigation out of sheer ignorance. "Article 78" has become the by-word of all too many LSP attorneys. Evidently, all most persons have learned from past experience is that we have been sand-bagged in this same forum before (State Court), but one of these days we will get "justice" out of them. A little more preparation, a few hours of extra typing will put you into federal court, where you will at least be heard, and some people have even been known to win.

H. Litigation Seminar

Subsequent to the substantive training period, the new lawyers were sent to the local offices for on-the-job training. The specific training period lasted two weeks. During that period the trainees were in the office for three days each week and at central CALS two days during the week.

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While at the local office, the trainees served as intake interviewers (depending upon local office policy), sat in on interviews and took no more than one case per day. (This latter limit was raised or lowered depending upon the complexity of the issues or the speed with which the matter was resolved.) Each of the trainees was under the supervision of an attorney in the local office who was approved by CALS.

The remaining two days per week were spent in a litigation seminar at CALS analyzing issues raised in the cases that the trainees had handled in the local offices and exploring alternative routes of resolving those issues. CALS staff conducted the seminar.

For a three-month period following the formal training session the lawyers were observed in the field by CALS staff during each phase of activity (interviewing, court appearances). This function was performed by the liaison staff at CALS.

IX. CYCLICAL TRAINING PROGRAM

As initially reported, the cyclical training program for LSP attorneys was carried forward only after consultation and contact with the project directors in order to determine their resistance, if any, to a CALS directed program. Resistance was limited, on a verbal level, to scheduling of training sessions. However, resistance on the more meaningful level relating to actual participation was evident.

All of the project directors, and several staff attorneys, conceded that a broad based training program for all LSP attorneys was necessary.

Suggestions were made to all project directors concerning scheduling and in-put for such scheduling was requested. Training schedules were done on a borough-wide basis.

The three choices put to the directors were:

1. Close down all offices on a given day during the week and have all attorneys in the borough attend;
2. Schedule the session on a Saturday or Sunday for all attorneys in the borough; or
3. Hold two sessions per borough for which half of the attorneys in the program would be freed on each training date for attendance.

All project directors opted for the last of these choices. Objection to the first was reasonable in that it might prove counterproductive to have all offices close down for a full day and then do double duty to make up for missing the day. (Although the celebration of many holidays, especially

religious, brings about the same result.) Objection to the second choice the writer found objectionable, but he did not press the point. The stated objection was that the attorneys worked exceptionally hard on weekdays and should not be subjected to weekend training sessions.

The third choice was the unanimous choice, although attendance proved to be lower than anticipated. Evidently arrangements had not been made as per suggestions in the author's memoranda to schedule in advance so that at least half of the attorneys would be free for training. The suggestions were evidently not followed (or considered?) because the afternoon sessions were fairly well attended by persons who had been in court in the morning.

The author is still not certain as to how one deals with "compulsory" or "mandatory" training sessions. It is not merely antiauthoritarian philosophy that dictates this (that's a pun), but his genuine view that one does not learn unless one is interested, and he still questions the interest of a great many LSP attorneys in the advocacy of the rights of the poor. At least a form of disinterested approbation would be preferable to the total lack of eagerness displayed by too many of the "young lawyers for the poor."

Conclusions

Often to his chagrin, the writer is proved correct in his observations concerning LSP's. His earlier observation that LSP attorneys, by and large, are basically misfits practicing *on* the poor for the couple of years preparatory to private practice still stands valid. Those remaining numbers who are failing to measure up to acceptable standards are generally timid souls (without soul) who perfunctorily "represent" poor people out of some warped sense of social conscience which eschews vigorous advocacy. There are, of course, the one or two advocates remaining in the program who are competent and offer vigorous advocacy on the part of indigents, but the author is hard pressed to think of the names of more than three.

The question then remains, what can one do in a training program geared for LSP attorneys. The alternatives are:

1. Set forth informational materials; or
2. Try to devise motivational approaches for instilling more aggressive attitudes in LSP attorneys.

The second is exceedingly difficult, given the background and training (law school is designed to inculcate and perpetuate white middle-class

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values and respect for property rights) and the first merely entails disseminating information, which is available to any LSP attorney who is interested in either perusing the *Poverty Law Reporter* or contacting OEO back-up centers on his own.

To this writer's knowledge, no one has resolved the issue of how one *effectively* trains lawyers for the poor; however, he feels that the subject is of such a crucial nature that we must continue trying.