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# Ensuring Fair Play From the Law

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*An examination of the deconstruction of President Johnson's Legal Services through the Legal Aid Foundation of Chicago*

**Cori Tingstad**

Submitted to Natalja Czarnecki and Dr. Sorcha Brophy  
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## **Abstract**

I study the Legal Aid Foundation of Chicago through oral history style interviews to demonstrate that in order to live up to the American promise of equal access to the law, we must fund a legal services program that is permitted to and capable of suing government bodies.

## Introduction

One of the founding tenets of American government is equal access to the law. It is why we enshrine in our constitution that our rulers are still subject to the same laws as their constituents and that no one can be tried for a crime without the opportunity to provide a defense. It's the basis of the Miranda rights so often repeated on cop shows: "You have the right to an attorney. If you cannot afford an attorney, one will be provided for you." Yet this only applies to criminal defense, leaving a massive gap: While those with sufficient funds to obtain an attorney are able to file civil suits against parties that have harmed them, those who cannot afford a lawyer are left without the ability to make a case asserting that their rights and the laws protecting them have been violated. This is especially egregious as it is well documented that poorer citizens are more often in contact with the law, especially because of the vast minutiae of legal restrictions for people receiving welfare.<sup>1</sup> Thus those who are in most need of attorneys often have the least access to them.

To address this gap, the team writing Lyndon B. Johnson's War on Poverty legislation in 1964 designed a Legal Services program that eventually came to be called the Legal Services Corporation.<sup>2</sup> Its early construction emphasized community control and "maximum feasible participation of the poor"<sup>3</sup>: A grounding premise of the War on Poverty was that local community groups would apply to the Office of Economic Opportunity (OEO) for funds to institute anti-poverty measures, and the Economic Opportunity Act of 1964

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<sup>1</sup> Goffman, *On the Run*,

<sup>2</sup> Gillette, *Launching the War on Poverty*

<sup>3</sup> Gillette, *Launching the War on Poverty*; Johnson

permitted that such funds may be used to hire small teams of lawyers to be housed within community agencies to provide legal assistance to their clients.<sup>4</sup> This placed thousands of lawyers--mostly young idealists activated by the rhetoric of the Kennedy administration and then subsequently the Johnson administration--into the hearts of the nation's poorest communities.<sup>5</sup> They were connected to each other by the overarching OEO Legal Services Corporation and the publication of the poverty law journal the *National Clearinghouse Review*, and together they provided a broad range of assistance, enforcing tenants' rights, assisting in divorces and family law, and perhaps most critically, holding the government accountable for actually implementing the laws it passed through welfare rights cases. For the next three decades the LSC was highly effective, completely revolutionizing access to the law for the poor and bringing forth multiple successful cases to the Supreme Court.<sup>6</sup>

Johnson's Legal Services Corporation thus essentially gave birth to the field of poverty law as we know it today, but despite its success from a policy perspective, it was never particularly popular in Congress. Community control was essentially stricken from War on Poverty legislation before Johnson even left office,<sup>7</sup> and the LSC was reorganized, restricted, and finally in 1996 under the Gingrich/Clinton Contract With America, prohibited from suing the government, taking on class action cases, immigration cases, or

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<sup>4</sup> Gillette, *Launching the War on Poverty: An Oral History*.

<sup>5</sup> Bouman, John. Interview. John Bouman is the current president of the Shriver National Center for Poverty Law, which was founded by former Legal Aid Foundation of Chicago (LAFC) leadership in 1996. Prior to that, he worked for the LAFC. For more information, see Table 1.1 (Methodology section)

<sup>6</sup> Lawrence, *The Poor In Court*,

<sup>7</sup> Hazirjian et al., *The War on Poverty...*,

prison condition cases. What remained was an almost entirely defunded, comparatively impotent shell of the program at its height.

How can a program succeed from a policy perspective and simultaneously fail from a political standpoint? I look to provide an answer--albeit a partial one--by studying the work of the Legal Services Corporation in Chicago. By closely examining what this program accomplished and the role it played in delivering equality under the law, I hope to persuade my readers that providing legal services to impoverished communities is a crucially necessary obligation of the American government. In doing this I attempt to illuminate the consequences of the Gingrich-Clinton Contract for America in 1996--which I find significantly altered the nature of government-funded legal aid. Ultimately, I find strong support among subject area experts for the idea that a fuller provision of legal aid to the poor is critically necessary as a matter of equity and to provide a practical safeguard for federal programs administered by states. To that end, I outline in my conclusion a few potential policies that could help enable a program like the pre-1996 Legal Services Corporation to operate effectively in the 21st century.

## Background: The War on Poverty

When Johnson took office in 1964 after the assassination of President Kennedy, he needed a way to provide the grieving country with a sense of continuity while simultaneously defining his own individual leadership style and legacy.<sup>8</sup> At the time, a whopping 22% of Americans were living in poverty, and for many, that poverty was extreme.<sup>9</sup> Meanwhile, the journalistic coverage of the Civil Rights Movement made increasingly visible to the entire nation what exactly endemic poverty looked like.<sup>10</sup> Addressing poverty had been one of the late President Kennedy's unfulfilled goals, and so when President Johnson took it up in his first State of the Union address he was promising a continuation of the liberal idealism JFK represented while also selecting the stage on which his own presidency and legacy would play out.<sup>11</sup> He declared,

This budget, and this year's legislative program, are designed to help each and every American fulfill his basic hopes: His hopes for a fair chance to make good, his hopes for fairplay [sic] from the law, his hopes for a full-time job on full-time pay, his hopes for a decent home for his family in a decent community, his hopes for a good school for his children with good teachers, and his hopes for security when faced with sickness or unemployment or old age. Unfortunately many Americans live on the outskirts of hope--some because of their poverty, some because of their color, and all too many because of both. Our task is to help replace their despair with opportunity.<sup>12</sup>

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<sup>8</sup> Hazirjian et al., *The War on Poverty*...,

<sup>9</sup> Cited in *Ibid*

<sup>10</sup> Cited in *Ibid*

<sup>11</sup> Cited in *Ibid*; Johnson, *Justice and Reform*, 39

<sup>12</sup> State of the Union, 2

In order to do this he needed an experienced policy designer who understood how to make this kind of idealism both practical and politically viable.<sup>13</sup> To this end, he recruited Sargent Shriver.

Shriver was JFK's brother-in-law, which is how he made his entrance into public life when the former President selected him to design and implement what eventually became the Peace Corps. Despite a somewhat rocky start, by 1964 the Peace Corps was a relatively successful program, working abroad to alleviate poverty and improve the world's image of the United States through a kind of hands-on, grassroots diplomacy.<sup>14</sup> Johnson was determined to have Shriver replicate his Peace Corps success for the War on Poverty, but Shriver was reluctant and initially actively resisted the President's request: He argued against his own appointment because the Peace Corps was still young, and he worried over its future if he had to give it up to work on another program.<sup>15</sup> Ultimately, Johnson didn't really give him an option, finding a workaround to allow Shriver to maintain his position with the Peace Corps--As Shriver recalls, "Because it is illegal to pay a federal office-holder for two jobs at the same time. In fact, I wasn't getting paid for either, because I was a dollar-a-year man for the Peace Corps. That's all I needed; a dollar-a-year man for two jobs at the same time."<sup>16</sup>

Shriver was crucial to Johnson's plans for the War on Poverty not only because he wanted to utilize Shriver's proven record at getting idealistic, liberal programs to pass and spectacularly succeed: Johnson also wanted to replicate elements of the Peace Corps

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<sup>13</sup> Gillette, *Launching the War on Poverty*, 35

<sup>14</sup> Kennedy, "The Founding Moment: President John F. Kennedy's University of Michigan Speech."

<sup>15</sup> Gillette, *Launching the War on Poverty*, 33

<sup>16</sup> Cited in *Ibid*

program, utilizing its planning structure and returning volunteers.<sup>17</sup> As became evident with the War on Poverty's Volunteers in Service to America (VISTA) program, part of the concept for addressing poverty was to create a domestic service program that mirrored the Peace Corps' Foreign Service aspect.<sup>18</sup> Johnson's determination to have Shriver write the Economic Opportunity Act (which established the Office of Economic Opportunity as an administrative body), as well as his own leadership style, is perhaps nowhere more evident than in a transcript of the telephone call from when he convinced Shriver to work on the War on Poverty, telling him, "You're Mr. Poverty, so take it and run with it."<sup>19</sup>

Because of Johnson's delegation of the poverty program to Sargent Shriver, Shriver's own individual ideology and personality proved crucial in the early design process for the War on Poverty. A big part of the Peace Corps and ultimately the War On Poverty centered on Shriver's philosophy of community control, and treating affected communities as the ultimate experts on how to effectively combat poverty. From the start, President Johnson supported the philosophy of localized programs that Shriver created.<sup>20</sup> As he said in his State of the Union Address, "Poverty is a national problem, requiring improved national organization and support. But this attack, to be effective, must also be organized at the state and local level and must be supported and directed by state and local efforts"<sup>21</sup>

As for Legal Services, Shriver brought Jean Camper Cahn and Edgar Cahn onto his team for creating the Economic Opportunity Act. Both lawyers had previously worked on a local program funded by the Ford Foundation for providing free legal counsel to the poor

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<sup>17</sup> Gillette, *Launching the War on Poverty*, 37

<sup>18</sup> Gillette, *Launching the War on Poverty*, Chapter 11

<sup>19</sup> Gillette, *Launching the War on Poverty*, 42

<sup>20</sup> Johnson, *Justice and Reform*,

<sup>21</sup> Johnson, "The State of the Union Address of the President of the United States 1964.", 3

.<sup>22</sup> They championed expanding this sort of program nationwide as, "a basic tenet of the principle of equal justice under the law."<sup>23</sup> Initially, President Johnson wasn't a fan: Edgar Cahn recalled, "I had the feeling maybe [Johnson thought it] would clutter up what appeared to be the simplicity of a war effort to mobilize all resources to solve a problem."<sup>24</sup> However, as another member of Shriver's team remembered, Shriver thought Legal Services, "would possibly be the single most important thing that he could do in the poverty program [because] for the courts to recognize the rights of the poor never before recognized would have such a far-reaching and continuing effect on the distribution of power in society."<sup>25</sup> Ultimately, by reaching out to the American Bar Association for support and sliding Legal Services into the Economic Opportunity Act in an understated, more implicit than explicit way, the Cahns and Shriver got to develop their program.

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<sup>22</sup> Gillette, *Launching the War on Poverty*, 295

<sup>23</sup> Gillette, *Launching the War on Poverty*, 293

<sup>24</sup> Gillette, *Launching the War on Poverty*, 295

<sup>25</sup> Gillette, *Launching the War on Poverty*, 296

## Literature Review

Especially given the recent fiftieth anniversary of the official start of the War on Poverty (as defined by the passage of the Economic Opportunity Act in 1964) there is robust modern debate on the success and legacy of Johnson's Great Society. Until recently, the prevailing economic and political wisdom held that in numeric terms the War on Poverty was largely a failure: Despite its reduction of poverty levels from 22% to 15%<sup>26</sup> and its more dramatic success curtailing poverty among elders,<sup>27</sup> it was broadly discussed both politically and economically as an incredibly expensive mistake with minimal return.<sup>28</sup>

Jorgenson calls this into question in his article, "Did we lose the War on Poverty?" He claims we have been incorrectly measuring the effects of the War on Poverty by focusing on income as a measure of poverty instead of consumption. Looking at Johnson's legislation through a consumption lens, poverty--though not eliminated as per the stated goal of the War on Poverty--is far more dramatically curtailed.<sup>29</sup> Myer, Sullivan, Hoynes and Hurst also declare government anti-poverty programs from 1960 to 2010 effective through tracking how much a household spends instead of how much it earns.<sup>30</sup> They argue this consumption metric is more accurate because income can be hard to measure, as it does not count government benefits received or anything earned through the informal economy

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<sup>26</sup> Jorgenson, "Did We Lose the War on Poverty?"

<sup>27</sup> Bailey et al., *Legacies of the War on Poverty*,

<sup>28</sup> Jorgenson, "Did We Lose the War on Poverty?"

<sup>29</sup> Cited in *Ibid*

<sup>30</sup> Meyer et al., "Winning the War: Poverty from the Great Society to the Great Recession."

which is not reported to the IRS.<sup>31</sup> They also point out that consumption is a better quality-of-life indicator than income.<sup>32</sup>

Yet regardless of how poverty is measured or defined, the War on Poverty obviously didn't eliminate it. A number of scholars argue that this failure is due to how poverty was understood and addressed within the Johnson administration. Bell and Wray revive the late economist Hyman P. Minsky's argument in "The War on Poverty Forty Years On" that the Johnson Administration failed because it focused on skills training, education, and other programs to 'improve the poor' on an individual level rather than on a societal, structural level.<sup>33</sup> They claim the War on Poverty relied too heavily on, "Keynesian" economic theory--the idea that a growing national economy will inherently create more jobs, often expressed as "a rising tide lifts all boats."<sup>34</sup> They argue that poverty is essentially an issue of unemployment and that to address it, the government would need to make a commitment to "total employment" and engage in direct job creation instead of seeking to manipulate the job market through the private sector.<sup>35</sup> Stricker comes to the same conclusion that the War on Poverty focused too much on individuals instead of structures through a Marxist-informed perspective in *Why America Lost the War on Poverty--And How to Win It.*

Raz explains how this myopic focus on individual poor people and families became embedded in anti-poverty efforts in *What's Wrong with the Poor? Psychiatry, Race, and the War on Poverty*. He concludes that contemporary psychological and psychiatric theories of deprivation in the 1950s-60s informed policy, arguing that a focus on what poor

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<sup>31</sup> Cited in *Ibid*

<sup>32</sup> Cited in *Ibid*

<sup>33</sup> Bell et al., "The War on Poverty Forty Years On",

<sup>34</sup> Cited in *Ibid*

<sup>35</sup> Cited in *Ibid*

communities lack led to the theory of "cultural deprivation" underscoring War on Poverty reforms.<sup>36</sup> He problematizes this theory, saying, "cultural deprivation was based on race and class specific interpretations of sensory and material deprivation."<sup>37</sup> He maintains that instead of focusing on character flaws or deficits in poor communities experts should have paid more attention to structural processes.<sup>38</sup> Hazirjian and Orleck make a similar point in *The War on Poverty: A New Grassroots History*: the rhetoric of "a culture of poverty" that the Johnson administration utilized espoused premises which effectively blamed the poor for their situation, justified discrimination against poor communities, and ultimately aided the philosophy which underpinned defunding welfare in the 1980s and 1990s.<sup>39</sup> However, Hazirjian and Orleck also argue for a bottom-up, grassroots analysis of the War on Poverty's legacy, writing,

As seen from the alabaster buildings of Washington, D.C., the antipoverty crusade's failures can seem glaring and its successes insignificant. But to truly understand its impact on American cities and rural areas, on men and women, on children and the elderly, on blacks, whites, Latinos, Native Americans, and Asian Americans, requires looking from the bottom up.<sup>40</sup>

From this perspective, the War on Poverty's early grounding in "maximum feasible participation of the poor" and structural support for desegregation made a significant impact. As for Legal Services in particular, they note that,

With the help of the Legal Services program and of college-educated vista volunteers, poor people learned not only about newly created programs such as Medicaid but also about New Deal-era programs

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<sup>36</sup> Raz, *What's Wrong with the Poor?*,

<sup>37</sup> Raz, *What's Wrong with the Poor?*, 6

<sup>38</sup> Raz, *What's Wrong with the Poor?*, 8

<sup>39</sup> Hazirjian et al., *The War on Poverty...*, 23

<sup>40</sup> Hazirjian et al., *The War on Poverty...*, 4

such as Aid to Families with Dependent Children. In the process, millions of poor people became politicized.<sup>41</sup>

The effects of this politicization were far-reaching, including Supreme Court cases and the increasing visibility and role of women--particularly mothers--in dictating anti-poverty law.<sup>42</sup> In their eyes the main letdown of the War on Poverty was the Johnson administration's willingness to abandon community control as it became increasingly politically unpopular when both local and national elected officials saw the revolutionary potential of such a program, going so far as to call it a threat to the stability of the state.<sup>43</sup>

Quadango also argues that the sociopolitical environment in which the War on Poverty took place was integral to its downfall. In *The Color of Welfare: How Racism Undermined the War on Poverty*, she argues that the War on Poverty is part of an established and persistent legacy of connecting racial issues to social policy in a way that hampers the nation's ability to actually meaningfully address poverty or provide, "the basic protections other industrialized nations take for granted"<sup>44</sup> to its citizens. In the context of the 1960s specifically, Quadango claims, "No longer a regional embarrassment, racial inequality had become a national malady. What the War on Poverty represented was a well-intended but poorly executed effort to treat that malady."<sup>45</sup>

Cust takes the blame for the War on Poverty's lack of absolute success even more squarely off the Johnson administration's shoulders, claiming that the transition to the

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<sup>41</sup> Hazirjian et al., *The War on Poverty...*, 11

<sup>42</sup> Cited in *Ibid*, 20

<sup>43</sup> Cited in *Ibid*, 10,15, 17

<sup>44</sup> Quadango, *The Color of Welfare*, 5

<sup>45</sup> Quadango, *The Color of Welfare*, 4

Nixon administration essentially initiated the deterioration of War on Poverty programs.<sup>46</sup>

He illustrates how Nixon and the people he installed to run the Office of Economic Opportunity and the Legal Services Corporation were ideologically opposed to the War on Poverty and utilized the political opposition to anti-poverty efforts that was previously subdued by the Johnson administration to restrict programs, preventing them from thriving and succeeding.<sup>47</sup> Kiffmeyer also cites factors external to the War on Poverty legislation and programming that contributed to its demise, and claims that an increasing focus on the Vietnam War led the Johnson government to underutilize commissioned poverty reports, such as the one assembled by the National Advisory Committee on Rural Poverty.<sup>48</sup> He claimed that had these reports been more actively read and better utilized, the country would have had an opportunity to meaningfully address poverty and dissipate, if not destroy, the divide between urban and rural American communities.<sup>49</sup>

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<sup>46</sup> Crust, "Reigning in Legal Services..."

<sup>47</sup> Cited in *Ibid*

<sup>48</sup> Kiffmeyer, "We Are Ordered to Do Everything..."

<sup>49</sup> Cited in *Ibid*

## Methodology

An integral part of the founding ethos of the War on Poverty was treating those most involved and affected by an issue as experts, as is demonstrated by the idea of 'maximum feasible community participation' in all programs including Legal Services.<sup>50</sup> In keeping with that ethos, I am conducting oral history interviews of people involved in the Legal Services Corporation (LSC) in Chicago. While the vast scope of bureaucratic and legal documents certainly tells a compelling story about the LSC, the 'ground-floor' view of an organization always differs from the paper trail it leaves behind. Who better to explain the promises and faults of a government program than those who worked within it every day?<sup>51</sup> By treating those I interview as experts instead of sociological research subjects, I am able to personalize the questions I ask, as well as more flexible in who I talk to and how I find interviewees. As a consequence, none of the information I gather will be generalizable beyond the group interviewed, but this does not negate its usefulness. In fact, treating interview responses as specific and individual instead of as a marker for the presumed response of the broad group of 'lawyers working in public interest law in Chicago from 1964-1996' is more in keeping with viewing those I speak with as authorities on my topic in any case. The downside is that while I am able to pursue depth in the information I gather about my subjects' experiences with Legal Services programs across time, I sacrifice breadth in terms of the diversity of subjects included in my research.

I narrowed my focus to Chicago for a few reasons: The most immediate of these is practical: looking over a 32-year period and spanning the entire country, an overwhelming

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<sup>50</sup> Hazirjian et al., *The War on Poverty...*

<sup>51</sup> Lipsky, *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services.*

quantity of people worked in Legal Services. Minimizing the scope of my project to Chicago allows me to gain a foothold as I seek interview subjects, making the task at hand manageable within the timeframe of this thesis. Selecting the city I currently reside in provides a number of logistical benefits: Many of my subjects stayed in the area, making it possible to interview them in person and easier to coordinate interviews over phone because we are in the same time zone. We also share a common geographical frame of reference: Some of the people I've reached out to worked in neighborhood offices, and having been to Auburn-Gresham, for instance, I am better able to ask informed questions about what the community was like while my interviewee worked there and how it was similar or different from what exists in that area today. Focusing solely on urban Chicago also crisply delineates my research within the contested urban/rural distinction made throughout the War on Poverty,<sup>52</sup> since questions such as , "Is poverty fundamentally different in urban and rural communities?" or "Can poverty in urban areas and poverty in rural areas be successfully addressed in the same way?" merit their own in-depth investigation and are beyond the scope of my project.

Beyond these logistical conveniences, Chicago occupied a unique position within the national framework of the LSC. The *National Clearinghouse Review* was (and in fact, is to this day) organized and published in the Chicago area--originally it was based out of the law school at Northwestern University and now it is independently run. This means that a wealth of historical material to support my interviews is readily available to me within brief driving distance. Additionally, when Legal Services was ultimately dismantled, the Shriver National Center for Poverty Law (SNCPL) was created to continue War on Poverty

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<sup>52</sup> Hazirjian et al., *The War on Poverty*....; Kiffmeyer, "We Are Ordered to Do Everything...",

era legal aid programming and the legacy of Shriver's dedication to equal access to the law<sup>53</sup> persists here in Chicago. This opens up another wealth of material and interview subjects for me to access, and also provides a unique example for me to consider as I build my own policy recommendation and compare public and private funding for poverty law. Because of the distinct, purposeful similarity and even continuity between the Chicago Legal Aid Foundation during the War on Poverty and the SNCPL now, comparing the two entities allows me to isolate and explore the role of government funding much more clearly and immediately than I could by comparing the Legal Services Corporation to some other privately funded, poverty law organization.

Having defined the scope of my project both geographically and temporally, I began to identify interview subjects by searching for 'Chicago' in a database of volumes of *The National Clearinghouse Review*. As I worked, I found that the earliest edition of the *Review* was in 1967, creating a slight discrepancy between the parameters I use to qualify individuals as interview subjects and the source I primarily identify subjects through. This discrepancy is mitigated by the fact that I often found the same lawyers working on multiple cases over multiple years, which viewed from an employment perspective makes intuitive sense, as most lawyers probably work for a given organization for more than one calendar year. Using my first search methodology I still received an unmanageable amount of results, so I narrowed my search by looking only at the 'Case Developments' section of the *Review*. This section provides brief summaries of ongoing or recently closed public interest law cases, as well as listing the lawyers arguing each case and their organizational

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<sup>53</sup> Bouman, John. Interview

affiliation.<sup>54</sup> By scanning through these cases for mentions of Chicago and the Legal Aid Foundation of Chicago in particular, I generated a list of names to contact. Due to time constraints, I did not read through every copy of the *Review* published between 1967 and 1996: While the unstructured approach I took to identifying subjects would damage the results of any formal sociological study, since I am not seeking to generalize or quantify the responses I gather from this project, this is far less of an issue.

Ultimately, I put together a list of about 45 lawyers based on my reading of the *Review*. I then searched online for contact information for each one. As is likely unsurprising given the intervening time between the present and the War on Poverty, not all the names I identified are still alive or have accessible contact information. Of those first 45 names, I was able to find contact information for 26. As I reached out, most commonly by email or phone, but occasionally through website contact forms for organizations my subjects appear affiliated with, I utilized snowball sampling and asked if my contacts knew of anyone else I should talk to. This would not be an appropriate way to garner subjects in a randomized study, but since my project is not a randomized study, I decided to use this technique, especially since it was emphasized by Jaime Price of the Sargent Shriver Peace Institute as a way of developing and foregrounding knowledge based in a community of focus. Dr. Price's work seeks to formalize methodology based on Shriver's ideology of sociopolitical change arising from the needs and wants of the community most affected by a particular issue<sup>55</sup>—the basis of the War on Poverty's early focus on community control.<sup>56</sup>

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<sup>54</sup> Law Journal Library Clearinghouse Review - HeinOnline.Org

<sup>55</sup> "The Shriver Report – Jamie Price, Ph.D."

<sup>56</sup> Gillette, *Launching the War on Poverty*

In adapting that ideology to my own study of the Legal Services Program, it seemed appropriate to utilize the pedagogies Dr. Price taught me.

Ideally, a complete oral history of the program would also include community organizations that partnered with LSC offices and clients the LSC represented, as they could most accurately assess if the program successfully met their needs. However, as clients are not fully listed in summaries of court cases, and records of organizations partnering with the LSC are not published in one concise location, it is extremely difficult to accurately identify and locate them. As such, for now I am focusing on lawyers, because the information about them listed in the *National Clearinghouse Review* is often sufficient to correctly identify them more than twenty years after that information was first published, which is regrettably not true of clients and community partners. If at some point I have more time and resources and am able to return to this project, identifying and interviewing clients and community partners would be my first priority, especially since by focusing on lawyers I regrettably play into an often-problematic relationship dynamic in public interest law whereby lawyers are treated as authorities over the communities and individuals they represent because of their professional status.<sup>57</sup>

Ultimately I successfully contacted and conducted interviews with ten public interest lawyers who worked in Chicago in the relevant time frame: Seven of these worked primarily for the Legal Aid Foundation of Chicago (LAFC) and three worked for other organizations. Two of those other organizations (the ACLU in Chicago and the Mendel Legal Aid Clinic at the University of Chicago) had formal or semi-formal relationships to LAFC, and the third (Uptown People's Law Clinic) did not. Below is the full list of people I

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<sup>57</sup>Sauté, *For the Poor and Disenfranchised*; Bouman, John. Interview

interviewed with a summary of their professional biographic information. It also contains the initials I use to refer to each interviewee in my results section.

**Table 1.1: Biographies of Subjects Who Primarily Worked for LAFC**

Alan Alop (AA):	Began working for an LSC-funded organization in Florida from 1971-1976. Specialized in consumer class actions. Moved to Chicago and started working for LAFC in 1977. Worked on consumer class actions there in a variety of management positions through 2010, eventually becoming Deputy Director.
Anonymous 1 (A1):	Received a Reginald Heber Smith community law Fellowship to work at LAFC from 1972-75. Moved to another state and continued working in an LSC-funded program there until 1981, at which point he went into private practice. Specializes primarily in Medicaid/Medicare benefits.
John Bouman <sup>58</sup> (JB):	Worked for LAFC from 1975-1996, at which point he joined the (newly founded) Shriver National Center for Poverty Law (SNCPL) as the leader of its advocacy program. In 2007 he became President of the SNCPL and continues to work there today.
Tom Grippando (TG):	Began working for LAFC in 1967 and continued there through the early 1980s before going to the Public Guardian's Office. Switched back and forth between the Public Guardian's office and LAFC for a handful of years before settling at the Public Defender's Office. Appointed to the Cook County Department of Administrative Hearings in 2009, where he continues to work as an Administrative Law Judge.
James Lattner (JL):	Worked for LAFC from 1969-1995, when he left to work for a private firm. Specializes primarily in consumer class actions.
Robert Lehrer (RL):	Worked for Legal Aid in Vermont from 1970-1973 and when he came to LAFC, where he worked until 1996, ultimately becoming Deputy Director and then Litigation Director. Specializes primarily in welfare litigation.
James Weill (JW):	Worked for LAFC from 1969 until the 1980s, when he joined Children's Defense Fund. He now works as the President of the Food Research and Action Center in New York.

**Table 1.2: Biographies of Subjects who primarily worked for other organizations**

James Chapman (JC):	Began volunteering in 1972 for what eventually became Uptown People's Law Clinic, which he remains involved with today. Originally the clinic was
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<sup>58</sup> I spoke with Mr. Bouman in May of 2017, and in many ways that conversation inspired this project. However, because I spoke with him approximately nine months before I spoke to the rest of my interviewees, the questions I asked him did not follow the questions outlined later in this section, and some of the references he made to contemporary politics may be comparatively out of date.

focused on securing Black Lung compensation benefits for former miners who had moved into the Uptown neighborhood: Over the years its practice has expanded to include a variety of issues including housing law, prisoner's rights, and social security benefits.

David Goldberger (DG): Worked for the ACLU in Chicago from 1967-1973, then worked briefly at LAFC (1973-75) before becoming the legal director of the ACLU and then, ultimately, going to teach at Ohio State University in 1980.

Anonymous 2 (A2): Worked primarily on establishing and running legal aid clinics at law schools, first at the University of Chicago, and later in Philadelphia and Boston. In all three cities the clinics he ran worked closely with and sometimes were formally included within the organizational structures of federally-funded legal aid programs.

I intentionally left my interviews open-ended so they could be tailored to the specific experiences of my subjects: From previous experience I know that some of the most valuable or interesting information to come out of an interview can stem from off-the-cuff follow-up questions instead of questions I have planned in advance. Nonetheless, I needed a starting point for my interviews, and to that end I drafted a series of questions:

- When did you start working in public interest law and what organization[s] did you work for?
- How did you come to be involved in Legal Services/in public interest law (for those who worked for privately funded organizations)?
- Looking back, what stands out to you about your experience? How would you characterize the environment of the program/the country at the time?
- What was most critical to the efficacy (or lack thereof) of Legal Services?
- What was most challenging or difficult for you?
- Why do you think Legal Services was dismantled?
- Are you familiar with/involved in poverty law today?

- How would you compare current poverty law with poverty law under Legal Services? What's easier/what's more difficult?
- Do you believe the government should fund legal services? Why?
- If you were to recreate Legal Services now, what would you change? What would you keep the same?

Utilizing these questions and having these conversations will help me identify the key components that led to both LSC's success and also to its ultimate political failure. Knowing these components--as well as asking about downsides to publicly funding poverty law--allows me to create a policy recommendation informed by the lived experiences of those who worked within the War on Poverty's Legal Services framework.

## Results and Analysis

Looking broadly at the ten interviews I conducted, I identified three conceptual categories my subjects speak to: Individual motivations, local function and structure of LAFC, and the relationship between the LAFC and national policy and politics.

### Individual Motivations

This category illuminates who worked at the Legal Assistance Foundation of Chicago and why. In understanding this topic I encountered four themes: demographics, law schools, service abroad, and the Civil Rights Movement. For this topic in particular the downsides to an oral history approach are especially pernicious: My subjects' motivations and understanding of the broader demographics of their peers are likely influenced by the fact that they are all white men. Even though this seems to be broadly reflective of who was working for legal services at the time for reasons I will address later, it still leaves considerable gaps: For those women and people of color who did work at LAFC in the Legal Services Corporation era, why did they chose their field and workplace? Were their motivations similar to their white male colleagues? These are certainly meaningful questions to investigate in further research.

In the meantime, the table below summarizes each of the themes I identified and indicates which interviewees contributed to each of the claims I make. It also provides a few key quotes.

**Table 2.1: Individual Motivations**

Demographics	According to interviews, mostly middle or upper-middle class white men (RL, JW, TG)	"The crowd that started in the late sixties, early seventies was like ninety-five percent men. It was only in the mid seventies, late seventies
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		that women became lawyers in legal services in large numbers [...] Because they weren't in law school [in the sixties]. [...] That [differential access to law school] was part of [why the LSC lawyers in that era were mostly white], yeah. African Americans of that generation who aspired to be involved in social change may also have had other outlets like organizing." (JW)
<b>Law School</b>	<p>Most interviewees and many LSC lawyers in general according to interviews went to elite law schools like UChicago, Harvard, Yale, etc (RL, AA, A2, A1, DG, JW, JC, JL)</p> <p>Most interviewees began to work in poverty law in law school and/or joined LSC programs upon graduating (JW, JB, AA, A2, A1, DG, RL). They report that many of their peers also began working directly for LSC programs after graduation (JW, A1)</p> <p>Some report that networks created during law school remained important throughout their career in Legal Services (DG, A1)</p>	<p>"The elite legal services attorneys, if I can use that term, were from my background: White, middle-class, [...] they sort of went to the elite law schools and sort of came of age in the 60s which were turbulent political times because of the Vietnam War, principally, and because the Civil Rights Movement moved a lot of people" (RL)</p> <p>"My generation of people came in in '68, '69, '70, '71 straight out of law school. Had very little experience." (JW)</p>
<b>Service Abroad</b>	A1 served as a combat medic in Vietnam and decided while there to become a lawyer, TG served in the Peace Corps for two years, and DG originally planned to go into the Foreign Service.	"I like litigation, I like the adversarial process— maybe it's because I liked combat or something in Vietnam. That's what I enjoy doing." (A1)
<b>Civil Rights Movement</b>	Half of the interviewees directly tie their own choice to go into legal aid to the Civil Rights and/or anti-war movements (A1, AA, JB, JW, JC) and others mention these movements indirectly (RL, JW)	<p>"In many respects why I ended up there [at LAFC] was that I had marched against Vietnam and been very upset by that war and it essentially drew me into public interest work I think. And I know it affected lots of people and lots of the folks that we hired in those days had backgrounds in civil rights, anti-war activities, and just went from law school right into legal services. It was almost a natural progression." (AA)</p> <p>"The Civil Rights Movement and the War on Poverty attracted large numbers of people to what they saw as an effective way to attack discrimination and poverty." (JW)</p>

The combination of the powerful social movements of the time and the overarching 'spirit of volunteerism' cultivated among college students by President Kennedy<sup>59</sup> appears to have impacted the Legal Services Program by providing it with well-educated attorneys highly motivated to work in comparatively low-paying, government-funded positions in order to 'do good' for the people around them and perhaps their country as a whole. The prevalence of graduates from elite law schools in my sample (and thus, perhaps, my interviewees' perception of elite law school graduates within the program as a whole) may be because I am conducting this research as a student at the University of Chicago: UChicago graduates may have been more likely to respond to my interview requests and connect me to people within their social circles, who in turn might be more likely to have gone to Ivy-league (or similar) law schools.

That said, there may also be an explanation based on the structure of how legal services attorneys were (sometimes) funded: At least four<sup>60</sup> of the lawyers I spoke to were recipients of a Reginald Heber Smith Fellowship. This fellowship was funded by the Legal Services Corporation through 1985.<sup>61</sup> It provided law school graduates with some poverty law training and placed them in LSC-funded programs for two years.<sup>62</sup> As Anonymous 1 explains:

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<sup>59</sup> Kennedy, "The Founding Moment: President John F. Kennedy's University of Michigan Speech."

<sup>60</sup> Having not directly asked about this, I am unsure if this number is fully inclusive. There may be some fellowship recipients that simply did not mention the program in speaking with me. From my email correspondence and what biographical information I could find on my subjects online before speaking with them (often these are blurbs on the websites of a firm or organization they currently work with), I think JW, RL, A1 and A2 all received this fellowship.

<sup>61</sup> Legal Services Corporation, "Finding Aid for the Reginald Heber Smith Community Lawyer Fellowship Program Papers."

<sup>62</sup> Cited in *Ibid*

And then I got a national Reginald Heber Smith fellowship. This fellowship was to get--I don't know, it had been administered by Penn for a decade or something like that--it was to get hotshot lawyers to go into legal services. Where did Penn get all the students? From Ivy League law schools, all the hoitsy-toitsy law schools. (A1)

Considering that all of the fellowship recipients (sometimes referred to as "Reggies"<sup>63</sup>) I spoke to remained in Legal Services after their fellowship ended, it is quite possible that the program did significantly steer graduates of elite law schools into careers in Legal Services, thus increasing the representation of elite law school graduates within LSC-funded programs. Since, as James Weill explains in Table 2.1, the demographics of Legal Services lawyers were shaped in part by who had access to law school, the Reginald Heber Smith fellowship could have also impacted the overall demographics of at least the LAFC by drawing from the unique demographic pool of 'graduates of elite law schools' and steering them into programs like the LAFC's. As is discussed in more detail later in the "Relationship to National Politics and Policy" section, not all Legal Services programs were as successful in attracting Reggies as the LAFC was: Whether this is because of the unique space in the national field of poverty law that the LAFC occupied, a contributor to it, or some combination of the two is unclear.

Given the era I am focusing on and that most of my interviewees graduated law school in the late 1960s to mid 1970s, it is not surprising that the Civil Rights Movement and foreign service were mentioned as contributing factors to why some of my interviewees went into poverty law in general and LSC programs specifically. In fact, given the huge quantity of Americans of that generation who served in the Vietnam War,<sup>64</sup> I am more surprised that only one of my interviewees was a veteran. Though there is nothing to

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<sup>63</sup> Cited in *Ibid*, Interview: Anonymous 1

<sup>64</sup> Belew, "Warfare and Aftermath"

suggest from my interviews that backgrounds of service abroad impacted Legal Services attorneys in any sort of unique way compared to other fields in this era, it bears mentioning because it may have impacted the personalities and priorities of the people I spoke with. This is particularly relevant because individual personalities and priorities are later discussed as factors in why some programs engaged in impact litigation and others did not (see tables 3.3 and 4.1). It was also especially interesting to me to learn that Tom Grippando began working in an LSC program directly after returning from service with the Peace Corps because these programs were both designed and overseen by Sargent Shriver-in fact, as discussed in the Historical Background section of this paper, Shriver was intentionally selected in order to create War on Poverty programs that mirrored aspects of the Peace Corps. When I asked Mr. Grippando if he knew at the time that both the Peace Corps and the LSC owed a large part of their creation to the same policymaker, he told me he'd had no idea. This could point to a fundamental similarity in culture or ethos between these two programs, and thus indicate a success for Shriver and LBJ's aim to engage similar groups of young Americans in service work both at home and abroad.

## **The Legal Services Corporation in Chicago**

In this section, I broaden my focus from the individuals who worked for the LAFC to the organization itself, which is to say, the main LSC-funded program(s) in the city, as initially there were actually two separate local programs receiving funds.<sup>65</sup> The bulk of my interviews focused on the LAFC specifically, and thus this section is split into three separate parts with corresponding tables displaying my interview results and key quotes.

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<sup>65</sup> Interviews: Anonymous 2, John Bouman, Thomas Grippando, James Weill, Robert Lehrer

## Part I: Organization of the LAFC

**Table 3.1: Organization of the LAFC**

Leadership	<p>Two interviewees noted that the lack of litigation and management experience among agency leaders was detrimental to the organizations' efficacy and ability to best serve their client community. (RL, TG)</p>	<p>"That's another feature of Legal Services in the early years, the 70s or 80s, the <i>most</i> experienced attorneys, the really experienced attorneys had like seven years experience." (RL)</p>
	<p>Local leadership may have been a driving factor in whether an organization engaged in impact litigation. (AA, A1)</p>	<p>"We had no management skills whatsoever. It was just sheer chaos. And a lot of unfortunate incentives were given, so everyone was in there wanting to hit a home run and so a lot singles we could have hit [we missed]" (TG)</p>
		<p>"It takes an executive director who has some good litigation experience and the will [to do law reform work]." (AA)</p>
Structure	<p>Initially, LSC lawyers were placed directly in neighborhood offices, and due perhaps to political pushback they then transitioned to a system of neighborhood offices under one organizational structure (LAFC) and ultimately into one centrally located office. (JB, JL, AA)</p>	<p>"In the seventies and eighties, almost all, I would say ninety-eight percent of intake came through the neighborhood offices [...] we probably had eight neighborhood offices, which now there's none [of], by the way." (AA)</p>
	<p>Operated under a 'triage system': because they lacked the resources to take every case, they met regularly to pick which potential clients they would represent. Related to this system for choosing cases was a series of required pre-litigation strategy meetings that were especially beneficial for law reform/class action cases. (AA)</p>	<p>"We truly had the luxury of a triage system [...] we only got involved in cases where we could make a difference, essentially, because resources were so scarce, you know, we needed ten times the amount of lawyers we had" (AA)</p>
	<p>For a sense of scale, while quantity of lawyers fluctuated with available funds (RL, AA) at its largest LAFC employed approximately 100 lawyers. (RL)</p>	
Benefits to Neighborhood Offices	<p>Keeps work grounded in community needs and better enables outreach to client community. (JB, DG)</p>	<p>"It was a very community-based model where everything starts with someone walking through the door with a problem [...] they've identified. So you had a very legitimizing source for the agenda of the policy work, it wasn't top-down, it wasn't board-driven..." (JB)</p>

		[Countering the complaint that community-based offices limit specialization and therefore efficiency] "It strikes me that so long as you have a cadre of lawyers in neighborhood offices who know the rules and regulations of the welfare codes, everyone's going to have a feel for landlord/tenant law and so forth, so there needs to be some specialization but it doesn't need to be specialized like you'd have in, in my view, a major law firm" (DG)
Benefits to Centralization	<p>The primary benefit is that a central office is much more efficient and therefore better able to serve client needs. (TG, AA, JL)</p> <p>Sometimes working with community groups is not the best way to actually engage community members. (TG, A1)</p>	<p>"When the programs were started in the sixties, they were supposed to be community based. [Because of the original legislation?] Exactly. But I think that original legislation was flawed. I came to run a neighborhood office and then later I spent twenty years, [as the] the deputy director in charge of all the neighborhood offices. I had a bird's eye view of how vastly inefficient these neighborhood offices were. Terribly, terribly, inefficient." (AA)</p> <p>"There was all this mystique about being with the community, living with the community, etc. And it turned out to be a denial of a large number of services to a large number of people." (TG)</p>

The 'lack of experience' issue discussed for leadership is quite possibly related to the fact that so many people began working for LSC programs directly out of school (see table 2.1). It is possible that the LSC in general and the LAFC in particular simply did not do much to attract or retain more established attorneys. Robert Lehrer held a variety of leadership positions with the LAFC, including ultimately Director of Litigation. He discusses his promotion within the organization in terms of this deficit of experience:

The structure of the program, and particularly the limited funding even at its height, imposed significant deficiencies on what could be done because you couldn't either attract or hold on to really experienced attorneys. Why I was able to rise so quickly and so far, well it'd be nice to say I was talented. Well no, I had some talent but, there wasn't a lot of people ahead of me. So that helps you rise. (RL)

Because lawyers are well-paid and in demand in the private sector, inadequate government funding for salaries makes it especially hard to compete for more experienced attorneys in comparison to other professions. Alan Alop discussed this as well in the context of disagreements between management and the union of LAFC employees. He recounts that a perennial struggle occurred because legal secretaries and lawyers belonged to the same union.

For example, the management would suggest a seven percent pay raise for lawyers and the three percent pay raise for secretaries. [...] And we would justify that saying, look, our lawyers are paid nothing near what the market rate is, whereas our secretaries are paid very close to what the market rate is. [...] But because it was a unified union, that is secretaries and paralegals and lawyers were all in the union, they would always come back and say, no, we want a five percent raise for everybody. And we would say, no, you can't do that even though it costs us the same amount of money because we need to attract lawyers and we need to attract secretaries. We don't need to raise the money to attract secretaries. We were having no problem there. But to attract the lawyers, we got to keep up. (AA)

From the perspective of policymakers and management of government-funded programs this poses a particular challenge. On the one hand, with limited funding subject to the political approval of Congress and the President (discussed in more depth in table 4.2), it makes sense to keep pay lower in order to fund as many positions as possible. On the other hand, for highly skilled positions and positions requiring high levels of education, low pay means sacrificing ability to attract employees, especially employees who have more experience.

In this regard it is impressive that so many of my interviewees graduated from elite law schools: Their alma maters may mean they are especially in demand and thus capable of earning a lot of money in the private sector, but they worked for the LAFC anyway. This once more points toward the potential impact of a program like the Reginald Heber Smith

Fellowship funneling graduates into the LAFC, and it suggests as well a culture or ethos among LAFC employees that places a high premium on public service and the concept of 'making a difference.' Commitment to public service and social change are indeed reflected throughout all of my interviews as explanations for why interviewees initially joined and then remained with the LAFC.

In considering the history of the structure of LSC programs in Chicago, political approval again plays a key role. As noted in the above table (3.1), one of the explanations for why the LSC was separated from the Office of Economic Opportunity and thus why LSC lawyers were separated from Community Action Agencies is political. John Bouman explains,

[1975] was the transition time from the original concept for the legal services part of the war on poverty. It was originally located in Community Action Agencies [...]. And that was the compromise I think reached in 1974, because the original OEO--Office of Economic Opportunity--legal services program located in community action agencies had been astoundingly successful. And the funding came directly from the federal government to the community action agencies which was...didn't sit well with mayors and sort of traditional political powers who were used to being the ones who dispersed the funding. (JB)

Bouman's explanation for this transition is a powerful one, which is supported by the history of local political opposition to Legal Services in particular and to how War on Poverty funds were handled in general.<sup>66</sup> However, his assertion that the original program model was 'astoundingly successful' is a bit of a complicated one: Many of the lawyers I spoke to held that a diffuse structural model with lawyers located in neighborhood offices throughout the city was wildly inefficient. Overall, one of the major debates within legal

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<sup>66</sup> Johnson, *Justice and Reform*.

services organizations throughout the country was over centralization, and this debate remains reflected as a point of contention throughout my interviews.<sup>67</sup>

While there are countless variations and nuances, there are two main arguments in the centralization debate. First, locating lawyers in distinct neighborhoods better allows the organization to understand the unique issues in different, diffuse areas of the city, thus better reaching and serving local organizations and clients. Second, centralization is much more efficient since a diffuse, local model limits the ability of the organization to serve as many people as well as it would be able to from a well-resourced central office. Part of the reason this debate may remain important and perhaps also memorable (or even of current concern) for my interviewees is that both positions relate back to what methodology is best in keeping with the overall purpose of legal aid organizations.

In support of the diffuse model, Bouman elaborates that, "Shriver's own original concept in putting legal services into community action agencies was clear: He was putting it there as a tool *for* the community leaders to use as they saw fit to do what they thought was necessary to fight poverty." When I asked if that concept was more difficult to realize through a centralized structure, he replied, "Yes, because you were no longer in the community organization context." While this is in reference to the reorganization from the OEO to the LSC in the seventies, the same thread seems to hold across the argument in favor of a diffuse model: The intention of the program was to provide lawyers to serve communities, and leaving those communities in favor of a central office delegitimized that work by creating further separation between lawyers and the communities they served.<sup>68</sup>

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<sup>67</sup> Shdaimah, *Negotiating Justice*.

<sup>68</sup> There are ways to mitigate this while in a centralized model: Bouman adds, "LAF in Chicago has a downtown office. But, they're much more aggressive and conscious about

Proponents of a centralized model tell me that the original concept of partnering with community organizations turned out to be a flawed one. As the quotes from Mr. Alop and Mr. Grippando in table 3.1 highlight, the inefficiency of a diffuse model resulted in a denial of services that they felt was unjustifiable. One way in which the diffuse model is inefficient is that it disrupts the ability of lawyers to specialize in particular areas of poverty law and thus provide more experienced and effective counsel. Mr Alop explains,

The problem is you're supposed to be covering these five areas [of law], but you only got 10 lawyers [in a neighborhood office]. And the most efficient way to cover areas is to have specialists, but you really can't do it if you have six lawyers or seven layers as we ultimately went to and you're better off having a centralized group of lawyers. Then have you the consumer unit of 10 lawyers who did only consumer and bankruptcy law. And that was efficient. It was not efficient to have people in the neighborhood office is trying to cover everything for all the people who came into their offices. (AA)

Another efficiency issue is the lawyers' travel time. Most of the courtrooms, judge's offices, and agency hearing offices LAFC lawyers appeared in were relatively centralized. When the offices are not, Mr. Grippando tells me that traffic and travel times meant that, "It was totally ineffective". In the earlier era, all intake work was done by lawyers and in person in a neighborhood setting. Today, intake staff receive the initial complaints (either in phone or in person, whether downtown or in a neighborhood setting). Mr Alop also recalls that the old system was not a good one. He told me that with phone interviews and intake staff, "You're saving lots of people lots of time because every hundred people who came to us in Pilsen for in-person interviews, we were rejecting 90 out of 100. You're saving all that by

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developing relationships with community-based groups and they do intakes out in the neighborhood. So I think, even though their only office is in the Loop, I think they're actually better at this in many ways than we were, or at least some of us were back in the 70s when the office was located in the neighborhood."

doing the telephone interview." To me, it seems that with increasing access to phones for poor communities,<sup>69</sup> it is much more feasible to have telephone intake be the norm now than it was fifty years ago. In this sense, it would be interesting for future research to study how technological access and information access (in the form of the internet) impacts the relationships between lawyers and clients, particularly for low-income communities.

In addition to their support of centralization<sup>70</sup>, Mr. Alop and Mr. Grippando are both big proponents of training non-lawyers to do as much work as possible in an LAFC-like setting, a position James Chapman also holds. Mr. Grippando even advocates for social workers to be trained in administrative hearing procedure, since admittance to the bar is not required to act as an advocate in these hearings. He tells me, "As long as we--the legal aid lawyers--take the idea that this is a guild and you're not a member of our guild, we're not helping the poor because there's not enough of us." Mr. Alop seems to agree, telling me, "You want your lawyers to litigate, not sit there and screen intake."

## **Part II: Local External Environment and Relationships**

With this in mind, understanding the relationship between the LAFC and other groups in the city (government and not) becomes all the more crucial.

**Table 3.2: Local External Environment and Relationships**

Politics	The political environment of the city, county, and state was important in that the political views/appointments of judges make a big difference in case successes. (JW, JL, JB, A2)	"There was a time when at least in Illinois the federal courts were very, very responsive. [...] it was a period when we accomplished a lot because we were pushing the envelope and because the judges were good judges" (JW) " [...] the Illinois courts are so political. You can
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<sup>69</sup> Alstott, "Why the EITC Doesn't Make Work Pay.", 290

<sup>70</sup> To clarify, I do not mean to imply that they are my only interviewees who hold this position--reference table 3.1

	<p>Especially in the program's earlier days, trying cases in federal court was a successful way to combat local machine politics and complex 'loyalty' relationships between local judges and the executive branch agencies sometimes sued by LAFC. (JB, A1)</p> <p>Similarly, Chicago may have originally been home to two separate LSC programs because of decisions based on patronage/machine politics. (A2)</p>	<p>win some things there, but if it's against a state agency and it is controversial or would cost a lot of money, you're not going to get a straight read on it by the judges. [...] State court is just, very hard because of the politics. So here the calculation tent leans more towards going to federal court for some of these cases." (JB)</p>
Managing Lawyer/Non-Lawyer Relationships	<p>Because of different automatic approaches to making change, lawyers and community organizers in particular can sometimes run into miscommunications and conflict, especially in the early days of their relationships to each other. (JB)</p> <p>These relationships were most fruitful when operating on a basis of mutual respect, which is built through experience. (JL, JB)</p>	<p>"There's a tendency [for lawyers] to say, 'Okay, turn this problem over to me and I'll take care of it' which is a natural impulse and you think you're being helpful and oftentimes you are, but what community leaders and community organizers are trying to do is to build the power of community-based leaders and organizations [...] Litigation, just by its nature, undermines that because it disempowers--it takes all the agency away from the client unless you're really careful about how you manage it" (JB)</p> <p>"We basically represented people and even organizations who had no concept of the law or what could be accomplished. We went in and worked with a lot of them and they'd learn from us that we could achieve things and that binds the relationship between us and them. It's also a mutual respect attorneys and clients share." (JL)</p>
Importance of Partnerships with Privately-funded Organizations	<p>Two interviewees (RL, JC) reported relationships between LAFC and other organizations in the city being relatively informal and sporadic--RL was ultimately high up within the organizational leadership of LAFC, and JC worked for an external organization.</p> <p>In contrast, six interviewees recalled cooperation with external organizations as frequent and very important with regard to identifying cases and referring clients to other places if their needs would be better met there. (JB, DG, JW, AA, TG, A2)</p>	<p>"Even inside of Chicago there's not that many entities that do that work [poverty law]. [...] There was occasional collaborations but usually not." (RL)</p> <p>"There's all sorts of legal aid organizations and it didn't make sense for us all not to cooperate. So we knew who would do what and who wouldn't do what and sometimes there were cases that we just knew the best place for them wasn't us. [...] The truth is, when I started in the seventies it wasn't that close, and we started working on it in the eighties and now of course there's a fantastically close and collegial relationship" (AA)</p> <p>"Not only were we working together on some cases like prison litigation, but I was on the Illinois Civil Liberties Union board. So there</p>

was a lot of cross-fertilization of work and ideas. [...] I think it was very productive." (JW)

"[When working at the ACLU] I was constantly cooperating with those folks." (DG)

The political environment of the city and the state is an important factor that interviewees noted as contributing to their success and efficacy as attorneys at the LAFC. This is closely related to the effect of the national political environment discussed later (see table 4.1). As outlined in the above table, many felt the support of federal judges for poverty-law-based initiatives was crucially important. A couple also noted that the federal circuit court in Illinois proved particularly useful in combating machine politics and party loyalty in Chicago, which especially during the Daley administrations had a national reputation for patronage judicial appointments.<sup>71</sup>

In terms of the relationships between lawyers and non-lawyers, Mr. Bouman spoke with me about the challenges of establishing a working relationship because while community organizers and legal service lawyers may have the same goals, their methodologies are very different. To illustrate this, he provided an example of a press conference: While the lawyer may want to handle press questions because they have the most detailed, technical knowledge of the case, the community organizer will likely want a community member to speak because this helps build visibility for the affected group and can have a stronger emotional impact on the audience through the conveyance of personal, lived experience. For him, managing these situations comes down to mutual understanding between lawyers and non-lawyers through remembering that, as a legal services lawyer, one is intended to be a tool for poor communities to utilize more or less as they see fit.

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<sup>71</sup> Interview: James Chapman

As far as the importance and frequency of relationships between the LAFC and other local organizations, there is a discrepancy in my interviews. As you can see in the table, Mr. Lehrer and Mr. Chapman both told me the LAFC worked pretty much independently while most of my interviewees report close relationships between the LAFC and other proximate groups of lawyers and/or law students. Mr. Chapman worked for Uptown People's Law, and while there was also an LAFC office in Uptown in this time period,<sup>72</sup> because Uptown People's Law was originally quite a radical group that in fact grew out of a chapter of the Black Panther Party,<sup>73</sup> it is possible that they didn't overlap with LAFC because of political or tactical decisions made on either side. Mr. Lehrer's disagreement is a bit more confusing because he worked within the LAFC. It is possible that when I spoke with him he was mainly recalling a different time period than my other interviewees--Mr. Alop told me that the LAFC did not start seriously collaborating with other groups until the 1980s. It is also possible that the collaboration others discussed occurred more on a 'ground-level' scale and less within management, at least not upper management.

### **Part III: Law Reform Litigation and the LAFC**

My interviews often focused on law reform litigation for two main reasons. First, the LAFC's successes with law reform litigation--also referred to by my interviewees as impact litigation or class action cases--make it relatively unique among LSC-funded programs. Additionally, the main impact of the 1996 Clinton/Gingrich reforms to the LSC was to create a full ban on this type of litigation. To understand why that occurred and what the consequences were for the LAFC and the country as a whole, it is imperative to understand the law reform litigation the LAFC once engaged in.

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<sup>72</sup> Interview: Anonymous 1

<sup>73</sup> Interviews: James Chapman, Anonymous 1

**Table 3.3: Law Reform Litigation and the LAFC**

Overview of Law Reform Litigation	<p>Initially, all LAFC lawyers did both law reform and routine work to varying degrees. (JB)</p> <p>Most time/money spent on routine work, which was also the basis for class actions. (DG, JB)</p> <p>Nationally, LSC was very successful in law reform litigation because of a "handful" of programs, including LAFC, which, combined with their Supreme Court of the United States cases, made them a major national player. (A1, A2, RL)</p>	<p>"It was a tremendous practice model at the time where there was a devotion both to individual representation and to problem solving on a wider scale, addressing root causes of poverty." (JB)</p> <p>[To recreate LSC now,] "I would replicate what they had in the mid-70s before the pushback from the Governors [...] where about 80 to 90% of your resources would be devoted to day-to-day representation in the neighborhoods and 10 to 15% would be devoted to law reform." (DG)</p> <p>"If there were 50 cases that were up on plenary review [...] I bet those were brought by like, no more than 6 or 7 programs. Legal Assistance Foundation of Chicago, the Philadelphia program, California Rural Legal Assistance [...] it was a handful of programs doing most of this litigation." (RL)</p>
Success Factors	<p>Staff and leadership who were dedicated to doing law reform litigation and considered it critical to social change overall. (RL, A1, JW)</p> <p>Thorough, mandatory pre-trial litigation (including careful selection of which cases to take to trial at all) structurally contributed to law reform successes. (AA)</p>	<p>"It was the leadership we had from a couple of these older lawyers, plus it was that we had a critical mass of lawyers who were interested in doing that impact work [that allowed us to be successful]." (JW)</p> <p>"The truth is we won about 85% and it's probably because we were careful which ones we brought. Pre-litigation strategization was incredibly important." (AA)</p>
Benefits to Law Reform	<p>Court cases could bypass an intransigent/machine political system. (A1, TG, JW, JB)</p> <p>Similarly, could effectively get the attention of lawmakers. (TG)</p> <p>Sometimes, state agencies were especially unwilling to change without a court mandate. (JW 3)</p> <p>All interviewees mentioned that, as is inherent in the nature of law reform cases, this kind of litigation is a systemic reform that helps lots of people at once instead of offering individual, incremental aid through more routine casework. (All)</p>	<p>"I liked litigating. I'm not a community organizer, because it's the leverage you can gain without the politics of organizing and getting people to vote [...] it's the leverage you gain by walking in, you've got this judge who you hope is appointed by the party opposite the governor of the state you're suing about or yah de yah da, and you've got federal law. Fuck 'em! You know, we can do it." (A1)</p> <p>"[Illinois state agencies] had gone for decades without anybody looking at them closely. So creating change in these very enmeshed bureaucracies was often very hard to do [...] It was like, you had to win your case in court before they would start to consider actually reaching an agreement on how to change things." (JW)</p>
Limits to Law Reform	<p>Four interviewees expressed disillusionment with what social change is achievable through the court system. (A1, RL, JC, A2)</p>	<p>"For all its distinguished and wonderful accomplishments, for all its great attorneys, about the best Legal Services did during its glory years was to sort of put its finger in the dike." (RL)</p> <p>"Social change involves much more political clout</p>

	Court/court orders in general can't address all the problems of the client base. (A2)  Lost cases in federal court risk setting precedent that might inspire some states to restrict benefits (for welfare/entitlements cases). (AA)	and power. Law can be helpful as a catalyst of putting issues on the agenda. Sometimes as a clean up operation when things have already progressed, sometimes as a pressure point [...] but by itself it's probably not going to be ultimately very successful." (A2)  "I sort of realized there as a difference between the lived experience [of clients] and what I can deliver. In a fair amount of welfare rights work I wanted to bring what I call the 'be-nice lawsuit'. Could people in the welfare office just be nice to my client?" (A2)
Compliance Challenges	With regard to state agencies in particular, compliance in court orders was neither automatic nor something to take for granted. (JW, TG, A2)  In contrast, compliance was much easier to insure for consumer cases. (JL)	"We went before Judge Parsons and Judge Parsons entered an order saying, 'you can't do that, it's unconstitutional.' And then I got distracted and never did anything else. What I did turned out to be kind of meaningless because [the state agency] just ignored it [the Judge's order]." (TG)  "Sometimes the compliance part is a several years if not longer negotiation over compliance between you, the party you're trying to get to comply, and the judge. You almost have to convince the judge that these people are never going to do it before you use ultimate sanctions like contempt." (A2)  "[in consumer law] If we win the case we move on. They're all going to have to comply with it. If they're not they're going to get sued and they'll lose. We deal class actions to a large extent to major nationwide defense firms, and if they lose the case they're going to go back and tell their client, 'okay you gotta do this now'." (JL)

As mentioned in the table above, a few interviewees noted that they were successful in their impact litigation work because of extremely careful case selection. I have the impression that this is inherent in this type of litigation--though the same is not necessarily true with 'test cases', all class actions choose one person or a small handful of people to represent the group in question. This both makes possible and requires that those chosen complainants be sympathetic<sup>74</sup>--to the judge, to the jury if the case involves one, and to the media covering the trial. In these situations the 'triage system' that legal services utilized, as discussed in table 3.1, may have been particularly useful. Mr. Alop told me,

<sup>74</sup> Hammond, "Temporary Assistance to Needy Families (TANF)"

Most lawyers can't say that they look back upon their career and have a few regrets or don't have any regrets. I don't have any regrets because I never represented somebody who I thought was on the wrong side of a case. We had truly the luxury of a triage system we would only take a case if the client was on the right side, if the client hadn't done anything nasty, and if there was a reason to bring the case. (AA)

In this sense, the upside to the resource scarcity the LAFC operated under may have been that the organization and their lawyers were able to cultivate and maintain a reputation of bringing major cases with sympathetic clients to court. In a justice system where the impression and perceived trustworthiness of both clients and lawyers can make a significant impact on the outcome of a case, this could have been beneficial for more than just the morale and reminiscences of the lawyers who worked at LAFC.

The overall impression gained from my interviewees was that, while impact litigation could make a considerable difference in national policy and the day-to-day operations of a variety of major entities, it has more limits than they had initially imagined. When I asked them to describe themselves and their peers at the beginning of their career, they often used phrases like, 'idealistic' and 'naive'. While my subjects still discussed the power of impact litigation and seemed to take pride in the cases they were a part of and the changes they helped realize, in talking to them I heard a lot of disenchantment in their current understanding of the power of the legal system. A major factor in this disenchantment seems to be the struggles over compliance that many of them described. My interview subjects who focused on consumer law seemed to have less trouble with winning a case only to then have the opposing party simply not comply with the ruling (see JL quote in table 3.3). I suspect this may be because of the differences between suing a government body and a private entity: While private entities might fear fines and enforcement measures as an extension of the power of the state, the consequences of

noncompliance are not always as clear for a government agency, and likewise instead of perceiving a powerful state as in charge of enforcement, the group responsible for monitoring compliance often remained the legal services lawyers who brought the case in the first place. There is an inherent difference in how government agency officials might view the power of legal service lawyers and how a business might view the power of the entire state apparatus as embodied in the court.

One major issue for compliance was access to data: A few interviewees mentioned that because state agencies do not always collect, much less publish, data that would indicate compliance with a court order, it could be hard to tell if a prior court ruling had made any tangible difference in how the agency operated. In response, LAFC lawyers sometimes tried to convince the judge to require periodic reports of relevant information as part of the final ruling. Even when a structure that allowed adequate transparency into agency operations to check for compliance was in place, monitoring compliance remained ongoing daily work for legal services programs like the LAFC. There simply was little to no independent oversight structure to compel state agencies to actually change their policies and practices in accordance to court rulings.

Ultimately, this is a feature of how our government is fundamentally organized: The courts just do not have any real power of enforcement. For cases like *Brown v. Board of Education*, this can mean deploying the National Guard to desegregate local school districts--which relies wholly on the will of the executive branches of states or the federal government. For the entitlement/welfare rights cases that pit individuals or classes against government agencies, the American legal system relies on outside parties like Legal Services programs to ensure compliance by dragging the agency back into court on

contempt charges if necessary. Even then, the structures of those agencies and the ability of individuals within those structures to defer decision-making (and therefore responsibility) up or down the bureaucratic chain of command<sup>75</sup> increases the difficulty for tangible fiscal or criminal consequences to be realized for even the most egregious and unjust policies or practices.

## Relationship to National Policy and Politics

Finally, I investigate the national context the Legal Aid Foundation of Chicago operated within, including their relationship to the national organizing body of the Legal Services Corporation.

**Table 4.1: The Legal Services Corporation and National Politics**

LAFC/LSC Interactions	<p>Over time, LSC policy generally followed a pattern of restriction that ultimately became extremely limiting. (More information in Table 4.2) (JL, JB)</p> <p>Sometimes these restrictions and requirements actually ended up being useful. (JB)</p> <p>The existence of the LSC (and particularly the National Clearinghouse Review) facilitated partnerships between federally-funded programs. (JL, JB)</p>	<p>"The Legal Services Corporation basically set the rules. Most of the time that I was there, they were favorable. They then became unfavorable when they kicked attorneys from politics, the laws that govern us. But we worked well together [...] They kept restricting what we can do. And it wound up very, very restrictive." (JL)</p> <p>"[The LSC under Reagan] imposed some things that they thought would limit [class actions] but actually made it better. For example they said, "You cannot file a class action without first sending a letter to the government entity that you would sue explaining what the problem is and offering them a chance to work it out." Well, that's just a good practice. And it actually quickly led me into lobbying, because the first time I sent a letter like that I got a call from the general consul for the welfare department here in Illinois and he said, 'Okay what do you want?'" (JB)</p> <p>"From day one, part of Earl Johnson's concept was that this all needed to be connected. He didn't want isolated storefronts, he wanted legal aid to be a national law firm for the poor and to do that you had to have a communications organ. And that was the Clearinghouse." (JB)</p>
Variance in LSC Programs	As mentioned earlier (see Table 3.3), a minority of LSC programs did considerable law reform	"[At non-LAFC program] the sad thing was I left Legal Services because you could not attract anybody who wanted to do...you could force people to do a little

<sup>75</sup> Lipsky, *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services*.

	<p>litigation. (RL, A1)</p> <p>Interviewees tie this to the individual leaders of local offices, their personalities and priorities. (A1, AA, JW)</p> <p>Another potential reason for this disparity is that not all programs were equally equipped to attract "high power" lawyers or recent graduates interested in law reform. (A1, RL)</p>	<p>litigation but I was the lead person and they'd complain I made them write the brief a fifth time. I said, 'What are you talking about? You've got to write ten drafts of a brief if you want to win this thing.' [...] It's the ideology of the person running it, who's like everybody else: 'I want to maintain my funding, I like my job...'" (A1)</p> <p>"Chicago is gonna attract, that and the fact that it has more money, Chicago is gonna attract in general more high-power folks than some program in rural Idaho. Most of the programs were, in terms of the stuff they did, much more like rural Idaho than Chicago." (RL)</p> <p>"The Reggies [Reginald Heber Smith fellows] all went to much larger urban programs." (A1)</p>
Benefits from Political Landscape	<p>The War On Poverty was a historical moment where the federal government was generous with regard to anti-poverty programs, which allowed LAFC attorneys to utilize federal law to challenge state laws and practices. (A1, RL)</p> <p>Similarly, new War on Poverty laws created a lot of 'low-hanging fruit'. (RL, A1 A2 all use this exact term)</p> <p>RL recounts that, for cases that were against state agencies in particular, the legal opposition in the form of the Attorney Generals' Offices were 'notoriously weak' in earlier days of the LAFC. (RL)</p>	<p>"There was just a lot of low-hanging fruit, right? ["In that people were doing things that were blatantly illegal?"] Yeah, that's the way to put it. And a lot of the things that were blatantly illegal were incorporated facially into things like statutes and rules. When an illegal policy is incorporated in a statute or rule, you don't have to <i>prove</i> anything because the illegality is dictated by the statute or rule. [...] A lot of these cases went off of what's called summary judgment, which is a much easier, cheaper, and quicker way to litigate. [...] A lot of the litigation was made a lot easier than it would be and particularly much less expensive than it would be if the cases would have had to be tried." (RL)</p> <p>"Until, I don't know when, sometime on or about the early 90s, the states who were the principal defendants in a lot of these legal services cases--states, not the federal government--were represented by the State's Attorney General's Office, who historically are notoriously weak." (RL)</p>
Challenges from Political Landscape	<p>Political opposition always existed--this may be why the LSC became a separate entity from the Office of Economic Opportunity. (JB)</p> <p>Major opposition became increasingly powerful with President Reagan's election. He was vocally opposed to Legal Services because one of their programs saw repeated success suing him while he was Governor of California. (JB, JW, AA)</p> <p>This position was supported by major agribusinesses, collection agencies, and landlords--all of whom were vulnerable to high</p>	<p>"Legal Services came under attack almost immediately. Part of the attempt to calm that down was to shift out of the OEO and into the Legal Services Corporation and funding expanded during the late '70s." (JB)</p> <p>"Reagan was always anti-federally funded legal services because of what happened in California when he was governor. [...] Mainly we're talking about welfare class actions and it cost his budget in California hundreds of millions of dollars. So he zero-budgeted Legal Services when he came in around 1980 and he didn't succeed because there was a democratic Congress. However, I can recall he cut the budget 25% from 400 million to 300 million around his first budget and the Democrats had to stomach that. That was a huge loss. [...] It meant we lost 20 lawyers in the Chicago area." (AA)</p> <p>"There were a lot of businesses that were advocating,</p>

costs associated with losing class action suits to LSC-funded programs. (AA, JW)

Though Reagan considerably cut funding to LSC in his presidency, he was not successful in his goal of eradicating it because of the democratic majority in Congress. (AA, JB)

you know, consumer collection agencies and landlords and employers of farmworkers and others who put pressure on the government to reduce the scope of what legal services could do. So it was in many ways a pushback by businesses that were a bit better when there was nobody on the other side to challenge any of their practices that ultimately led to the restrictions on Legal Services." (JW)

From the perspective of policymakers, the considerable difference between LSC-funded programs is particularly compelling to study. What about the policy allowed programs to differ so much? How could we replicate the most successful programs across the country? Given Shriver's emphasis on community control, I suspect the variation in LSC programs was intentional and in keeping with his ideology that blanket solutions rarely work when the problems between different places can be so dissimilar. While this is an understandable impulse, I find the idea that some communities benefit from law reform litigation while others simply do not highly dubious, and this is the primary difference between the LAFC and other LSC programs that my subjects highlighted. Because of the importance interviewees placed on the personalities or wills of local program leaders, considering the recruitment process and which programs were able to attract what kind of lawyers may be key to understanding the variation in LSC programming.

To an extent, some of the difference may be geographic. It makes sense that lawyers who went to elite law schools may have been more interested in working in urban programs because being in or at the very least near a major city often seems to have a higher practical and cultural value for Americans. This is supported in particular by Anonymous 1's impression that Reginald Heber Smith fellows (as discussed in detail in 'Individual Motivations') mainly practiced in urban programs. However, two of the programs participants mentioned as being peers to the LAFC were not urban-based:

California Rural Legal Assistance (CRLA) and Texas Rural Legal Assistance. Both of these programs--especially CRLA--had a reputation for doing impact litigation. So in a sense some of the draw to various programs may be circular: CRLA has done impact litigation in the past so it had an easier time attracting young lawyers interested in doing that kind of work.

In looking at the benefits and challenges of the political climate, it is crucially important to note that, in keeping with the interviewees' impression that national policy followed a 'pattern of restriction' from the 70s to the 90s, most of the benefits they mention are true or most true during the earlier days of the program and most of the challenges increase or arrive later. Both from my historical understanding and from the impressions of my subjects, Ronald Reagan's inauguration in 1981 seems to be a turning point marking the beginning of an era notable for increased restrictions and decreased funding for Legal Services programs. While David Goldberger told me that most governors tended to oppose Legal Services because they headed the state executive branch LSC programs so often sued, Reagan stands out in history as the harbinger of a new era of conservative politics and in particular as the President whose deeply anti-welfare stance did in fact end the War on Poverty.<sup>76</sup> The Democratic Congresses he had to work with throughout his presidency successfully tempered his virulent opposition to the LSC, and according to my interviewees (see Mr. Alop's quote in the above table 4.1) this is the only reason Legal Services survived at all.

Reagan's presidency did not just change the available funding and policies LSC programs acted under, it also marked a nation-wide cultural shift. Anonymous 2 explains the impact of this in saying,

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<sup>76</sup> Hazirjian et al., *The War on Poverty*...,

There was a heady day where there was sort of a welfare rights movement and a sense that maybe there would be change in how we supported poor people. And that all dissipated. And part of that dissipated because you didn't have a federal government that was responsive and part of it dissipated because people in society started believing things like welfare queens and we stigmatized welfare recipients. And ultimately we ended with Clinton signing, ending welfare as you know it. So what I guess I'm saying is you can't separate funding and isolate it as a causal factor. It's an important causal factor, but there's also a reason why funding declines.

I asked him if the increasing stigma through the 80s and into the 90s prevented potential clients from reaching programs like the LAFC, and he told me the opposite was true: As stigma increased, welfare recipients were treated worse and demands on LSC programs rose as funding decreased.

This brings us to an examination of funding for the LAFC and LSC programs in general, as well as the 1996 reforms that Anonymous 2 mentions President Clinton signing into law as part of the Clinton/Gingrich Contract With America.

**Table 4.2: Federal Funding, 1996 Reforms, and the Future of Legal Services**

Overview of Funding pre-1996	Funding was never adequate to meet needs of impoverished community. (RL, AA, TG, A1)  Mostly paid for routine work. (see table 3.3) (DG, RL)	"I believe the most ever provided by the federal government was 400 million each year. By the way, that's the cost of one B1 bomber. I think the federal government has never provided sufficient funding." (AA)  "The amount of legal resources being devoted to the needs of low-income people, as compared with the amount of legal resources being devoted to just the top twenty of the Fortune 500 companies is trivial. It's trivial! [...] If you took the combine number of attorneys for just the top corporate twenty of the Fortune 500 [in Chicago] there'd be more attorneys working on their business than were working for legal services throughout the country. It's a gross imbalance." (RL)
Impact of 1996 Reforms	Prohibited federal programs from doing class actions, voting rights cases, prison condition cases, abortion cases, welfare reform, immigration cases and a number of other kinds of casework specifically listed by name. (JB, JL)	"The majority of the staff left shortly before or as in my case, on the day of [or around when] the restrictions went into effect, which is March 1, 1996. [...] If there's a golden age of legal services-- and I've tried to temper what that golden age was--it ended in 1996." (RL)  "Any idiot could see there was no future in [non-

	<p>A2)</p> <p>A lot of staff (especially leadership) left the LAFC in anticipation of or just after the changes went into effect. (RL, JL, AA, A1, JB)</p> <p>This exodus was partially because of funding, but from those I spoke to who left LSC-programs around this time (JL, A1, RL) the driving factor seems to be that they could no longer do the things they specialized in or cared most about. They felt they could not make the kind of difference they wanted to without engaging in class actions.</p> <p>Along with the radical reduction in potential cases for LSC programs, this exodus of senior staff/leadership precipitated a major structural and cultural change. (AA, A1)</p>	<p>LAFC legal aid program] What am I going to say [to driven staff]? Stay at Legal Aid for a shitty salary with no job opportunities?" (A1)</p> <p>"I left LAFC in '95 because of government restrictions. It was losing the interest I really had in it [...] Legal Services in '95 was very different from when I came into it. [...] [Regarding '96 restrictions] Restrictions had been tightening for a period of years before that. Everybody knew it was coming." (JL)</p> <p>"The mentality [has changed]. I don't know, maybe it was just the people coming in didn't realize what had been done in the past. [...] Now there's nobody there who was there before 1996 or very, very few [people]. It's just a different ballgame now. I don't think anybody realizes what could've been or what still can be because they've never experienced it." (AA)</p>
Downsides to Federal Funding	<p>As exemplified by '96 changes (see above), program can be radically changed due to external political interests at pretty much any time. Two of my interviewees who primarily worked for privately funded organizations (JC, DG) and one from LSC programs (A1) mention that with federal funding and with foundation-based funding, the need to maintain the program by not alienating funding sources can impact case selection or dull political aggressiveness. (JC, DG, A1)</p>	<p>[Note: This is not in reference to Chicago or the LAFC, but to another Legal Services program]</p> <p>"The county is paying the Legal Aid Society trying to get people to qualify for SSI, the federal program for the aged/blind/disabled poor, so they can shift county [welfare costs] to the federal government. Now has legal aid ever sued the county? I mean, not one single suit against the county in the last twenty-five years. Bite the hand that feeds you? I don't think so." (A1)</p> <p>"One of the challenging things was that you had to be sure--I felt, and this is my view of the ACLU too--that your case selection had to be devoid of...I suppose it was the frustration of making sure you didn't do anything that was politically explosive so that you wouldn't hurt the entity." (DG)</p>
Necessity of Federal Funding	<p>Some interviewees believe that providing legal services to the poor is a fundamental matter of equity (JL, AA, JB) and that having seen or experienced privately-funded legal services, government funding is the only way to get adequate representation. (JL, JW, A1)</p> <p>Federally-funded Legal Services acts as a way of correcting errors and is a safeguard on the federal system (especially with regard to entitlements). In some ways it acts as an enforcement arm of federal</p>	<p>"The Supreme Court held that due process, procedural due process applies to public aid benefits. And the whole idea of setting up the system with a safeguard so that if we make a mistake it can be corrected, that's the whole appeal process. And that is very important, but again most clients are unable to use this process by themselves." (TG)</p> <p>"I think that the country and all the various issues are best served when we have good lawyers on both sides. If you don't have that then the debt collectors and all those companies just run wild over the consumers. [Public funding] is the only way to give them some kind of symmetry." (JL)</p>

	<p>law by ensuring that money distributed to states for anti-poverty programs is used as intended/fairly. (TG, AA, A1)</p>	<p>"Does it [what Legal Services can do post-1996] have any significant impact on reshaping how some segment of the poor population is treated in general? Not a bit. Would anybody do it if Legal Services didn't fund it? Absolutely not, nobody gives a shit about the poor. So in some sense, if you have nothing, I'll take the breadcrumbs." (A1)</p> <p>"If you don't have fairness you're threatening democracy itself." (JB)</p>
Future of Legal Services	<p>Generally, interviewees do not seem optimistic about the feasibility of reviving legal services from a political perspective. (JW, RL, JB, A1, DG)</p> <p>Additionally, some feel the success of the program in its 'golden age' were dependent on a confluence of factors, from the personality and childhoods of the lawyers who worked for the LSC, to Federal student loan policy, to the national socio-political environment (See Table 4.1) (JW, RL, A2)</p> <p>However, most explicitly express support for federal funding for legal services and express a desire for the 1996 reforms to be reversed. (JW, JL, TG, DG, A1, AA) (see above, "Necessity of Federal Funding")</p>	<p>"I certainly have hope that these new movements will drive social change and revive movements for social change. I don't think it's likely that will do anything like the degree that was true in the 50s, 60s, 70s recreate a legal offensive as a core strategy. I think that was a strategy of its time that came about in part because a generation of kids grew up knowing that the Supreme Court through <i>Brown v. Board of Education</i> and other cases was reshaping things." (JW)</p> <p>"Not only is there less low-hanging fruit, but a lot of the trees are gone." (RL, discussing how welfare programs are now generally smaller and rights for welfare recipients are less enshrined in federal law)</p>

With regards to the 1996 reforms, Robert Lehrer told me that the restrictions LSC now operates under are the result of a compromise-ofsorts:

In that final battle there were people of great ability and great faith working on behalf of Legal Services and at some level the decision was made: Is it worth saving what they recognized to be a rump program, you know, with the hopes that someday under a different administration and different politics it might be revived, right? Live to fight another day. And the decision was made by people with great faith and great ability that yeah that was worth it. But that was a debatable decision, right? If they had let the whole thing go who knows what might have sprung up. (RL)

Now, over twenty years later, this understanding of the strategic decision made on behalf of the original Legal Services programs bears questioning: Given that 'another day' to fight has not yet come, and as Mr. Alop notes in table 4.2 above, many of the lawyers who worked for Legal Services at the height of its glory days have moved on to other positions,

or retirement, or unfortunately have passed on, is there still any hope of reviving the program?

Most of the people I spoke with seem to wish it were possible to undo the 1996 reforms. As noted in table 4.2, their reasons for this generally center on the idea of equity, and the assertion that for all its limitations, class action work and welfare rights work has the capability to act as crucial methods in correcting errors and ensuring the enforcement of federal statutes. A number note that without federal funding this work is not feasible or simply does not happen on the scale it once did. James Latturner added that sometimes funding legal services can be in the best financial interest of the taxpayers: He gave me an example of a consumer rights case he tried while at the LAFC involving a fraudulent technical school. Because none of this schools 'graduates' were actually qualified (and thus able to) secure employment, the federal loans they took out to finance their education would never be repaid. Challenging their practices in court and forcing them to refund tuition money minimizes those losses. In the sense that taxpayers also have a vested interest in state agencies functioning appropriately, this idea of government efficiency and equity as a reason to fund unrestricted legal services may be persuasive for those not swayed by the ethical implications of limiting how poor citizens access the justice system.

The one person I spoke to who does not support federal funding for Legal Services is James Chapman. He told me,

When you're working for an agency that's depending on grants from the government and from other funded sources, you're always worried about alienating your funders by your politics. We did alienate funders, and cursed them, and went on anyway. So it depends on your focus. I mean if you're really interested in revolutionary change, in really changing the way that people live in the city, I don't think a funded legal organization is the way to go, but that's an extreme view. (JC)

This speaks to a trade-off between the ability to help larger groups of people by utilizing funds from the government or private organizations and a desire to remain so that the only interests you need to be concerned with are those of your clients. The idea that government or foundation funding could disincentivize poverty law practitioners from acting in the best interests of their clients is a very old concern: In conjunction with the formation of federally-funded legal services the American Bar Association began publishing practice and ethical guidelines for lawyers involved in poverty law.<sup>77</sup> As Mr. Goldberger and Anonymous 1 attest to in table 4.2 above, even with these guidelines in place alienating funders is a very real concern for public interest law organizations that does impact the work they do and the cases they take.

Even for those willing to accept the political and activist limitations accepting government funds can bring did not seem to have much hope in the potential for the Legal Services program to return to its 'glory days'. For some, this is deeply related to their impression that those glory days were made possible by a very specific combination of political and social factors including the Civil Rights Movement and the creation of the welfare and social safety net programs for the poor that for the most part still exist today. Sometimes I got the sense that my interviewees saw their generation of lawyers as uniquely positioned by their willingness to work harder and do more for programs like LAFC than can be done now. Sometimes they tied this to things like federal student loan programs and the rising costs of education.<sup>78</sup> After explaining that, "The people in LSC in that era were zealots. I'd go in Saturday, Sunday, there'd always be people in the office." Mr. Grippando told me,

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<sup>77</sup> Johnson, *To Establish Justice for All*.

<sup>78</sup> Interviews: Anonymous 1, Thomas Grippando

When I worked in Legal Services the salary was not great. But, you could get a modest home in Oak Park, and for many people with kid's education a priority...that was all doable in that era. Today it's not doable. And a large part of it of course was the government's generosity with respect to student loans. So the legal service lawyers I dealt with in that era, my colleagues? Did not have huge debts. Because the government didn't trust them!

In addition to this, a handful of the lawyers I spoke with seemed particularly despairing of the possibility of reinvigorating the LSC with Donald Trump in office as President. Regardless of whether their discouragement stems from the immediate political climate or longer-term, systemic changes that both socially devalue working in programs like Legal Services and make such a career much more difficult to maintain financially, there is very little sense among the men I spoke with that the 1996 changes can be overturned in the near future.

## Conclusions and Policy Recommendations

Given that the LSC has not already been revived and the possibility of it doing so currently looks grim, we must return to the question Mr. Lehrer posed with regard to the passage of the 1996 legislation: Is it worth continuing the fragmented, near-powerless program that continues today, or should that program be let go of in the hopes that something else will arise in its place that better addresses access to the legal system for the poor? In many ways, my instinct is to agree with Anonymous 1, who told me, "In some sense, if you have nothing, I'll take the breadcrumbs."

My interviews have confirmed for me what I suspected when I began this project: If we want to live in a true democracy where everyone has equal access to the law, then we need to fund a Legal Services program that is able to sue the state. The fact that there is no transparent, existing enforcement mechanism that ensures state agencies comply with federal regulations and court orders is a problem for poverty law practitioners in that it forces them to continue to fight for compliance over a period of many years with scant resources. At the same time, this also points to poverty law practitioners performing an essential function for the state that no other group or government office does. Without lawyers like those at the LAFC, how can state agencies be held accountable to the people they serve or to the federal government, which often provides at least part of their funding?

Viewing publicly funded poverty law offices as an enforcement mechanism for the federal government in a system that often defers law enforcement responsibility for both criminal and civil laws to states (and sometimes even more local governing bodies) also helps reduce concerns about potential conflicts of interest between maintaining funding

and best serving impoverished communities. While I am sure that sometimes it is necessary to sue federal agencies on behalf of impoverished communities and that eventually would have to be accounted for in any legislative design, my interviewees spoke exclusively about suing state and private entities. They often specifically cited their ability to use federal law to pressure these bodies into improving their practices. All of this fits with the idea of a government organization like the LSC being utilized as a mechanism of federal enforcement. For this to work, the funding for the program must be Congressionally-based: It cannot come even partially from the state, because then Governors would be able to retaliate against the program by striking their state funding if they brought cases the Governor found burdensome.

On the subject of funding, a few of my interviewees mentioned that legislation now prohibits legal services attorneys from being awarded statutory fees when they win cases, particularly cases against government bodies. This does not make much sense to me: Isn't part of the goal of statutory fees to dissuade the state agency from reverting to the same practices forbidden by the court? Given the difficulty of ensuring compliance from state agencies, wouldn't awarding statutory fees to the individual lawyers and the legal services organization help provide tangible consequences for state agencies that break federal law? Allowing Legal Services attorneys access to fee awards could also help Legal Services programs attract experienced attorneys. Anonymous 1 currently practices welfare law privately, and told me, "I make a six-figure income, this is not a poverty practice for the practitioner." It may be wise to award some portion of the fees directly to the agency (like the LAFC) instead of to the practitioner. In this way, the agency would be able to raise salaries and attract lawyers for areas of poverty law that are less lucrative for the attorney.

Regardless, it seems nonsensical to disallow publicly-funded lawyers and law practices from accessing the same compensation for their work that privately-funded lawyers are able to receive. It does not make sense to purposefully disincentivize working for the government, nor is it fair to allow states to be punished less harshly in suits brought on behalf of the poor.

In terms of enabling legal services offices to attract lawyers, the support my interviewees express for the idea of 'de-mystifying' and in some sense de-professionalizing law seem quite appealing. Of course there are a wide variety of cases legal services programs handle that require bar-certified representation. But taking non-lawyers and training them to perform tasks such as case intake, client support in administrative hearings, community outreach, and education, allows the lawyers one is able to hire to spend all their time doing things only they can do. Increasing the roles of non-lawyers within poverty law practices--especially when so often these practices are expected to perform a variety of non-legal work, as my interviewees repeatedly expressed--has the potential to bridge the divide between lawyers and non-lawyers (one that, as John Bouman mentioned, presently contains a power-dynamic that can disrupt potentially fruitful relationships and work). It is also fiscally sound: Considering the added cost of education for lawyers and the private market rate for their skills, organizations will likely always need to spend more to attract lawyers than to attract workers without law degrees. Given this, why not maximize the work non-lawyers are able to do, as long as it does not damage the quality of the representation you provide your clients?

As far as the debate over centralization goes, individuals far more qualified than I have been battling that out for decades. The impression I get from both my readings<sup>79</sup> and my interviews is that programs similar to the LAFC across the country tend to have landed on a centralized structure, though intake may still be performed in neighborhoods across their cities. Thinking about the tasks non-lawyers could perform, most of those seem like they might best take place in a community setting in order to build trust and relationships between community members and organizations and their legal services program. Since these tasks do not require specialization the same way that representing clients in legal proceedings do, there seems to be less of a downside to decentralization. By having these services grounded in a neighborhood office that then communicates and collaborates closely with a centralized office of lawyers who are able to develop specialties and provide good, efficient counsel, perhaps the legal services program could access a kind of 'best of both worlds' where they are able to be in the communities and thus understand client needs and build robust relationships with them while also efficiently providing high quality counsel.

Returning to the question of maintaining a program that is not able to do what the nation needs legal services to do, for all my youthful exuberance on this topic I am nonetheless swayed by the hopelessness many of my interviewees expressed. I genuinely believe fully funding legal services and removing the 1996 restrictions is the right thing to do from the standpoint of what the state owes its citizens. I believe we owe impoverished, marginalized communities equal access to the law, and I believe we owe recipients of public benefits a functional enforcement mechanism to ensure that state agencies are

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<sup>79</sup> Particularly: Shdaimah, *Negotiating Justice*.

operating appropriately and in accordance with federal law. Is it possible to realize this program again? What is the path for doing so? Along that road lies the question of what to do with the current program, which is one of political strategy. If we allow the LSC as it exists now to be further broken down and defunded I fear that all we would doing is further limiting the already scant legal resources available to underserved communities. It is very hard to reasonably justify a stance of "I believe that the American government must fund this service as a matter of equity and justice, and to that end I propose completely eliminating existing funding for similar services." I might support completely replacing the existing Legal Services framework with something new: I fail to see any benefit to eliminating the current structure before a new one is in place.

Ultimately the debate over providing Legal services is a debate about what the state owes its constituents. It speaks to the heart of the dynamic, reciprocal relationship that must be healthy for any free and fair democracy to succeed and thrive. It underscores the ideals of our nation's founders and the generations of citizens that have followed them. Our government services should be guided by these ideals, and should seek to empower the disenfranchised rather than bend to the economic self-interest of private enterprise. They must truly serve our people.

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## **Objective**

To work in an organization that engages in civil or human rights law.

## **Experience**

**University of Chicago Community Service Center Program Coordinator for Summer Links**  
**June 2017-September 2017**

Created curriculum for, organized, and facilitated twenty students meeting twice weekly to consider different ways of effecting social change through meeting with non-profit, government, corporate social responsibility, and activist groups while exploring Chicago neighborhoods and the various issues impacting the city. As part of this work, I researched and wrote informational handouts, facilitated dialogue sessions with student groups of various sizes, moderated panel discussions with guests, and managed relationships between the Community Service Center and forty partner organizations.

**University of Chicago Institute of Politics Sargent Shriver Program For Leadership in Public Service Fellow**  
**September 2016-June 2017**

With a cohort of my peers, I investigated the mentality of solving large-scale problems through developing individual relationships by learning about the Peace Corps and training in Insight conflict resolution. We then researched issues that face South Side of Chicago and met with established organizations and stakeholders before designing a pitch for our own organization to address the community-identified need of after school activities for high school students by providing college and career counseling.

**University of Chicago Office of Multicultural Student Affairs Emerging Minds Project Cohort Facilitator**  
**January 2016-present**

Attending dialogue facilitation trainings and facilitating 10 weekly dialogues through the winter and spring quarters on issues around social justice and identity with approximately fifteen undergraduates to better enable them to converse meaningfully about their own values and identities and understand those of others.

**Chicago Commission on Human Relations Intern**  
**June 2016-September 2016**

Research and data analysis into both the history of the department and current issues the department deals with as the city's primary enforcement structure for civil rights. I also assisted the office's Inter-Group Relations unit on community outreach, conflict mediation workshops, and hate crime victim support.

## **Education**

**University of Chicago, Chicago IL**  
**Graduating June 2018**

Bachelor of Arts majoring in Public Policy and minoring in History.  
GPA: 3.74/4.00

## **Volunteering And Leadership**

**Brent House (Episcopalian campus ministry) Peer Minister**  
**September 2016-June 2017**

I helped organize twice weekly community meals and weekly discussions addressing issues relevant to our church community, from doctrinal perspectives, integrating religion with a wide variety of social justice considerations, and special topical events. Overall I helped communicate what is happening on campus, how my fellow students are reacting, and what our needs are to our priest.

**Urban Juncture Bike Box Volunteer**  
**May 2016-September 2016**

Over the summer I volunteered for approximately six hours roughly once a week to once every two weeks providing basic bike maintenance to Bronzeville residents at low cost to address a gap in affordable services in the community and encourage independent transportation.

**Bike Works Member of the Board of Directors,**

### **June 2013-May 2014**

I served on the Board Development Committee and lead the Youth Advisory Committee to the board, a group of youth age 10-18 and coordinated between board and youth members/youth programming. In this role I also designed surveys, collated and analyzed demographic data, and acted as Master of Ceremonies for the Bike Works Annual Auction in the spring of 2014

### **Skills**

*Languages:* Highly proficient in Spanish, conversant in American Sign Language, beginner in Modern Greek

*Computer:* Experienced in MS Word, PowerPoint, and with data analytics tools in Google Spreadsheets, Excel, and Apple Numbers. Familiar with Adobe programs such as InDesign, Photoshop, and Acrobat. Coding experience in python and block-coding, some additional experience with R and MATLAB.

*Other assorted interests:* Peace circles/restorative justice practices, photography, baking, bicycle mechanics