

**Federal
Practice Manual
For Legal Aid
Attorneys**

Federal Practice Manual For Legal Aid Attorneys

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FOREWORD

The publication of this FEDERAL PRACTICE MANUAL FOR LEGAL AID ATTORNEYS is a testament to the most wonderful qualities of legal services people: generosity, determination, dedication, brilliance, and commitment to a transcendent goal and those who share it. The legal services world is one in which the ideal of a “beloved community” often comes close to being realized, and this MANUAL is evidence of that spirit.

This MANUAL exists because people saw a crucial need and were determined to satisfy it. The production of this MANUAL was driven by justice forces, not market forces. The people who created this MANUAL did so because they knew that the MANUAL was essential for the continuation and enhancement of advocacy to end poverty, inequality, and oppression. They researched, wrote, reviewed, and edited these pages as volunteers, adding this substantial burden to their already crowded schedules because they knew that their labors would improve advocacy efforts on behalf of millions of poor people now and for years to come.

The origins of this MANUAL lie at the very beginning of the legal services program, with the creative thinking and writing of Gary Bellow and Edgar and Jean Camper Cahn.¹ That the person who directed the preparation of this MANUAL was a student of Gary’s—Jeffrey S. Gutman, now a professor of clinical law and associate dean for academic affairs at the George Washington University Law School—is particularly appropriate. This connection is a vivid reminder that today’s antipoverty advocates build on the achievements of past generations of fighters for justice. It also symbolizes another important relationship—that between legal services and the legal academy.

Although this is called a FEDERAL PRACTICE MANUAL, its authors anticipate that it will be useful for all forms of advocacy: litigation in state as well as federal courts, and persuasion of legislative, administrative, media, and other decision makers.² In the best legal services practice, every form of advocacy is enlisted in the service of “vision-making” (as Gary Bellow called it) that seeks “radical extensions of democracy, equality, and racial justice, . . . focused on deep-seated, structural, and cultural changes,” through “an enduring alliance between server and served.”³ And this change-making is founded on, as John Calmore said, respectful attention to “the client community’s voice, vision, and humanity.”⁴

The history of this MANUAL illuminates its significance. Training has been an important part of legal services since the beginning of the federally financed program. In the late 1960s the Legal Services Program of the Office of Economic Opportunity (OEO), directed by E. Clinton Bamberger, instituted a national training program and created national “backup” centers whose mission included teaching legal services lawyers about the fields in which the centers specialized.⁵

¹See EARL JOHNSON JR., *JUSTICE AND REFORM: THE FORMATIVE YEARS OF THE OEO LEGAL SERVICES PROGRAM* 28 (Russell Sage Foundation 1974). Gary Bellow, formerly deputy director of California Rural Legal Assistance, was a professor of law at Harvard Law School when he died on April 13, 2000. Edgar S. and Jean Camper Cahn were intellectual godparents of the federal legal services program and Antioch Law School. Jean died in 1991. Edgar is Distinguished Emeritus Professor of Law at the University of the District of Columbia David A. Clarke School of Law. Earl Johnson Jr., formerly director of the Office of Legal Services of the Office of Economic Opportunity (OEO) and then a professor of law at the University of Southern California, now is an associate justice of the California Court of Appeal.

²With respect to state court litigation, see two articles by Helen Hershkoff, *State Courts and the “Passive Virtues”: Rethinking the Judicial Function*, 114 *HARVARD LAW REVIEW* 1833 (2001), and *Positive Rights and State Constitutions: The Limits of Federal Rationality Review*, 112 *id.* 1131 (1999). Hershkoff, formerly with the Legal Aid Society of New York City and associate legal director of the American Civil Liberties Union, now is a professor of law at New York University.

³Gary Bellow, *Steady Work: A Practitioner’s Reflections on Political Lawyering*, 31 *HARVARD CIVIL RIGHTS—CIVIL LIBERTIES LAW REVIEW* 297, 300–302 (1996).

⁴John O. Calmore, *A Call to Context: The Professional Challenges of Cause Lawyering at the Intersection of Race, Space, and Poverty*, 67 *FORDHAM LAW REVIEW* 1927, 1955 (1999). John Calmore, formerly with the Western Center on Law and Poverty and the National Housing Law Project, now is Reef C. Ivey Research Professor of Law at the University of North Carolina School of Law.

⁵See JOHNSON, *supra* note 1, at 177, 182; John A. Dooley & Alan W. Houseman, *Legal Services History* 12 (Second Draft, Nov. 1985) (“The national training events played a key role in assuring effective coordination among programs over newly-emerging issues and provided a means of linking key substantive advocates within local programs to each other and to the national experts in the support centers or elsewhere.”). E. Clinton Bamberger, first director of the OEO Office of Legal Services, went on to be vice president of the Legal Services Corporation (LSC), staff attorney at the Legal Services Institute at Harvard, and director of clinical programs at the University of Maryland School of Law. John A. Dooley, formerly executive director of Vermont Legal Aid, has been serving on the Vermont Supreme Court since 1987. Alan W. Houseman, formerly associated with the Law Students Civil Rights Research Council and the National Welfare Rights Organization, founded Michigan Legal Services and was director of LSC’s Research Institute. He has been executive director of the Center for Law and Social Policy since 1982.

OEO's own training program was directed first by Craig W. Christensen and then by Richard E. Carter.⁶ When the Legal Services Corporation (LSC) took over administration of the program in 1975, LSC continued and expanded the national training program.⁷

From 1975 through 1982, LSC funded an ambitious program of federal litigation training.⁸ Led by Arthur B. LaFrance, a national corps of experienced litigator-trainers developed materials for and conducted three-day immersions in federal litigation in every part of the United States.⁹ The training conferences were offered four to six times each year after 1976, with experienced people in each locality often joining the national team to conduct the sessions.

These national training conferences made clear the need for a federal litigation manual for legal services lawyers, and LSC's Office of Program Support (OPS) met that need by funding and publishing, in 1980, *FEDERAL LITIGATION: A LEGAL SERVICES PRACTICE MANUAL*. The OPS director then was Alan W. Houseman; Stanley E. Levin was editor-in-chief of the 1980 manual. Art LaFrance and Ivan Bodensteiner were associate editors.¹⁰ The 1980 manual was supplemented in 1982 and 1985.¹¹ Michael O'Connor was the editor of the 1982 and 1985 supplements.¹²

In the later 1980s, however, new LSC board and staff declined to support further essential revisions.¹³ The National Legal Aid and Defender Association (NLADA) agreed to publish a new manual; Art LaFrance and Michael R. Masinter served successively as editors; and a cadre of then active and former legal services lawyers volunteered to write and review the new manual.¹⁴ Several programs and law schools made in-kind contributions to the new manual by supporting the work of their employees; twenty-two programs contributed non-LSC funds for the publication; and the Sargent Shriver National Center on Poverty Law (then known as the National Clearinghouse for Legal Services) edited and produced the 1989 *FEDERAL PRACTICE MANUAL FOR LEGAL SERVICES ATTORNEYS*. As the preface to the 1989 manual noted, the publication "represent[ed] the best characteristics in the legal services community in that a group of people gave of their

⁶Craig W. Christensen, who was executive director of the National Institute for Education in Law and Poverty, now is a professor of law at Southwestern University School of Law. Richard E. Carter, who had been a staff and managing attorney with the District of Columbia Neighborhood Legal Services Program, became director of the Legal Services Training Program that succeeded the National Institute for Education in Law and Poverty. He now is executive director of the American Law Institute–American Bar Association Committee on Continuing Professional Education.

⁷See ALAN W. HOUSEMAN & LINDA E. PERLE, *SECURING EQUAL JUSTICE FOR ALL: A BRIEF HISTORY OF CIVIL LEGAL ASSISTANCE IN THE UNITED STATES* 20, 24–25 (Center for Law and Social Policy 2003). Linda Perle, a senior staff attorney at the Center for Law and Social Policy, serves as counsel to the National Legal Aid and Defender Association (NLADA).

⁸The OEO-funded Legal Services Training Program had developed federal litigation training as early as 1972. See Beatrice Moulton, *Looking Back at "The Lawyering Process,"* 10 *CLINICAL LAW REVIEW* 33, 46 (2003). Bea Moulton was a Reginald Heber Smith Fellow at the Western Center on Law and Poverty, later associate director of the Legal Services Training Program, and then director of LSC's Office of Program Support. She now is a professor of law at the University of California Hastings College of Law.

⁹Arthur B. LaFrance, who had been a staff attorney at New Haven Legal Assistance Foundation, became dean and now is a professor of law at Lewis and Clark Law School. He had been a contributor to earlier federal litigation training as well, and his article, *Federal Litigation for the Poor*, *ARIZONA STATE LAW JOURNAL* 1 (1972), was a template for the subsequent federal litigation handbooks and manuals.

¹⁰The editorial board consisted of Peter Anderson, Mike Fargione, Joe Tafelski, and Florence Wagman Roisman; other contributors were Shelby Floyd, Michael R. Masinter, and Cynthia Metzler. John Mola of OPS' legal training unit oversaw the production of the manual. Stan Levin now practices law in Honolulu; Ivan Bodensteiner is a professor of law at Valparaiso University School of Law.

¹¹See *FEDERAL PRACTICE MANUAL FOR LEGAL SERVICES ATTORNEYS* xxi (Michael R. Masinter ed., NLADA, 1989).

¹²Unfortunately, as this *MANUAL* goes to press, we have not located a copy of the 1982 supplement, which was replaced by the 1985 supplement. The editorial board for the 1985 supplement consisted of Ivan Bodensteiner, Erica Black Grubb, Robert E. Lehrer, and Florence Wagman Roisman. The writing staff consisted of Peter Barber, Alice Bussiere, D. Michael Dale, Ken Falk, John Kirklin, Don Lundberg, Frank Smizik, Elizabeth Schott, and Dan Taubman. Michael O'Connor recalls that there was substantial similarity between the lists of those who produced the supplements in 1982 and 1985 but that E. Richard Larsen, then the executive director of the Mexican American Legal Defense and Educational Fund, wrote for the first but not the second.

¹³See HOUSEMAN & PERLE, *supra* note 7, at 29; *FEDERAL PRACTICE MANUAL*, *supra* note 11, at xxi.

¹⁴Mike Masinter, formerly litigation director of Florida Rural Legal Services and a member of the training corps, was then, as he is now, a professor of law at Nova Southeastern University Shepard Broad Law Center. Mike personifies the interconnectedness of these endeavors as he continues his involvement as an editor of this 2004 *MANUAL*. The associate editors were Art LaFrance and Florence Wagman Roisman; the contributing writers were Lucy Billings, James Latturmer, Laura Macklin, Wendy Morgan, Barbara Sard, Steve Steinglass, and Lucy Williams.

own time and talents so the entire community would benefit” and the participating programs also represented the “few who were willing to contribute to a project to benefit the entire community.”¹⁵

The 1989 manual was supplemented once, in 1991.¹⁶ While the election of Pres. Bill Clinton in 1992 boded well for legal services, his appointees to the LSC board were not confirmed until late 1993; and the 1994 congressional election led to reduced funding and increased restrictions for the program.¹⁷ Although the law and the legal landscape have changed dramatically since 1991, legal services lawyers have had no manual prepared specifically to meet their need to understand and address those changes.¹⁸

This great need now is met by this FEDERAL PRACTICE MANUAL FOR LEGAL AID ATTORNEYS. The 2004 MANUAL, like its predecessors, has a noble pedigree in the selfless dedication of present and former legal services lawyers. Indeed, I see it as a phoenix, symbolizing the rebirth of the vigorous legal services program that had been smoldering beneath the flames that threatened to destroy the program. In June 2002, under the leadership of Don Saunders, its civil director, NLADA held its first litigation and advocacy directors’ conference in more than a decade. In advance of this reunion and rededication of vastly experienced advocates, Jeff Gutman offered to organize and edit a new edition of the manual if others would volunteer to write and review the chapters. An enthusiastic group met with Jeff and Don at Snowbird, Utah, and established an editorial team. Less than two years later, this 2004 MANUAL is published by the Shriver Center.

Everyone involved in this wonderful project is deeply grateful to Jeff Gutman, Don Saunders, and the volunteer writers, editors, and reviewers, whose names are listed after Jeff Gutman’s preface. We are also grateful to the institutions that supported the work of this team. In the very best tradition of legal services, this publication builds on the work of its predecessors. In the very best tradition of legal services, this publication exists to aid in dismantling the legal and social structures that keep people poor, in seeking the elimination of poverty “as a matter of justice, of constitutional right.”¹⁹

FLORENCE WAGMAN ROISMAN

*Florence Wagman Roisman is Michael D. McCormick Professor of Law, Indiana University School of Law–Indianapolis, and formerly a staff attorney with the District of Columbia Neighborhood Legal Services Program and the National Housing Law Project.*²⁰

¹⁵FEDERAL PRACTICE MANUAL, *supra* note 11, at xxi.

¹⁶FEDERAL PRACTICE MANUAL FOR LEGAL SERVICES ATTORNEYS: 1991 SUPPLEMENT (Michael R. Masinter ed., NLADA, 1991).

¹⁷HOUSEMAN & PERLE *supra* note 7, at 33–37.

¹⁸Herbert Semmel of the National Senior Citizens Law Center contributed greatly toward meeting this need by establishing the Fedrights Group listserv, which is operated by the National Senior Citizens Law Center.

¹⁹Charles L. Black Jr., *Further Reflections on the Constitutional Justice of Livelihood*, 86 COLUMBIA LAW REVIEW 1103, 1115 (1986).

²⁰I am extremely grateful to Abigail Turner for particularly helpful and insightful suggestions for improving an earlier draft of this Foreword and to E. Clinton Bamberger, Richard E. Carter, Harris David, Earl Johnson Jr., Elizabeth K. Julian, Arthur B. LaFrance, Beatrice Moulton, and Michael O’Connor for essential information and comments. Abigail has worked for several legal services and civil rights organizations and now is litigation director of the Mid-Minnesota Legal Assistance Program. Harris David long has been with what is now Legal Services of New Jersey. Betsy Julian, formerly executive director of North Dallas Legal Services, was one of the national federal litigation trainers.

DEDICATION

The 1989 manual was dedicated to Dan J. Bradley, former legal services lawyer and president of the Legal Services Corporation.¹ We dedicate this 2004 edition to the legal services workers and other fighters for justice who have since died. We know that we cannot name them all, but we reinscribe these dear names in our memories to symbolize all of our lost comrades.

- **Ralph Santiago Abascal** (California Rural Legal Assistance). Until his death in 1997, Ralph Santiago Abascal spent his entire career at California Rural Legal Assistance, except for a few years when he spearheaded welfare litigation at what was then the San Francisco Neighborhood Legal Assistance Foundation. He was an enormously successful and creative litigator and mentored dozens of younger attorneys.
- **Bernie Becker** (Legal Aid Society of Minneapolis). Bernie Becker, who died in 1991, served as chief counsel for the Legal Aid Society before moving on in 1973 to teach at William Mitchell College of Law and later to serve as a U.S. magistrate judge for the District of Minnesota. Bernie played the pivotal role in changing the Legal Aid Society of Minneapolis from an office that provided a limited scope of representation to one committed to seeking appropriate relief for its eligible clients in whatever forum was most likely to provide that relief—state and federal courts at both trial and appellate levels, administrative agencies (by rule making or adjudication), and legislative bodies. He led that change with great legal acumen, a keen sense of justice, and his often dominating, exuberant presence.
- **Gary Bellow** (Legal Services Institute; Harvard Law School). Gary Bellow was always a teacher and always an activist, whether at the District of Columbia public defender agency, at California Rural Legal Assistance, or in a law school classroom. When Gary was in the room, things happened. We found that we had both the will and the capacity to do something about poverty, racism's legacies, and the consequences of society's maldistribution of resources and opportunities. Without a hint of self-sacrifice, Gary embraced his work. He knew it was a gift, an opportunity to leave things better than he found them; with warmth and endless generosity of spirit, he invited us all to join him. Gary died in 2000. In his honor, Harvard Law School established the Bellow-Sacks Access to Civil Legal Services Project.
- **David Brady Bryson** (National Housing Law Project). Guiding the work of the National Housing Law Project and collaborating with legal services lawyers for more than twenty-five years, David Brady Bryson, who died in 1999, influenced almost every progressive development in housing law for decades. Although his lifelong quest for housing justice for all ended at century's close, tenants and advocates today pursue that goal well equipped with his legacy. David's tireless teaching, writing, and advocacy are reflected in the working knowledge of hundreds of others, in articles and books, in statutes and regulations, and in judicial opinions throughout the nation. Those fortunate to have known him also treasure the memory of his extraordinary intelligence, selflessly focused by a moral compass centered on those in need, his integrity, perseverance, and gracious patience—the best of humanity.
- **Jean Camper Cahn** (OEO Legal Services Program; Antioch Law School). Jean Camper Cahn, a graduate of Swarthmore College and Yale Law School, was a founding figure in the federally financed civil legal services program and in clinical legal education. She and her husband, Edgar Cahn, established Community Progress Inc., which included the nation's first "neighborhood law office." They coauthored the landmark article, *The War on Poverty: A Civilian Perspective*, 73 *YALE LAW JOURNAL* 1317 (1964), and then worked with Sargent Shriver to establish a legal services program as part of the Office of Economic Opportunity. Jean created and directed the Urban Law Institute at George Washington University. She and Edgar established and were co-deans of Antioch Law School. She died in 1991.

¹See Hulett H. Askew, *Dedication*, in *FEDERAL PRACTICE MANUAL FOR LEGAL SERVICES ATTORNEYS* vi–vii (Michael R. Masinter ed., National Legal Aid and Defender Association, 1989) (Askew was director of the National Legal Aid and Defender Association's civil division and now is executive director of the Chief Justice's Commission on Professionalism and director of the Office of Bar Admissions of the Supreme Court of Georgia).

- **Hanna Cohn** (Volunteer Legal Services Project of Monroe County, Rochester, New York). Hanna Cohn, the former director of the Volunteer Legal Services Project of Monroe County in Rochester, New York, passed away in 2002. Hanna understood that by not getting stuck in the trappings of life—by inventing opportunities and new visions—change could occur. Most important, her conviction and commitment were so strong that believing in her vision (or was it just believing in her?) was a given. As Hanna toiled in the fields of poverty law, she carried with her a spirit of strength, hope, commitment, and energy. She believed that any challenge could be overcome, any problem solved, and any need met if one stayed focused, kept an open mind, and worked hard. She also believed strongly (and helped others believe as well) that pro bono, if fully valued and utilized, was an equal partner in the legal services delivery system.
- **Laurie Davison** (Minneapolis Legal Aid Society). Dedicated to serving the poor for over twenty-two years, Laurie Davison, who died in 1997, improved the lives of countless thousands of persons. Disabled veterans, low-income foster families, General Assistance recipients, and many others benefited from her exemplary class action litigation. She was a mentor to a generation of legal aid lawyers. Her fierce advocacy and high standards earned her the respect of every lawyer and judge with whom she dealt. Her unflinching civility, cordiality, and professionalism earned her the friendship of all, including opposing counsel. She was a role model of how to balance career and family.
- **John J. (Jack) Donahue** (Rhode Island Legal Services; Pikes Peak Legal Services). A former U.S. Attorney and project director at the old New London, Connecticut, program, John J. Donahue became the first director of Rhode Island Legal Services (RILS) in 1969, where he developed and led the first statewide legal services program in the nation. Under Jack's leadership, RILS became nationally prominent, famous for its class actions and its law reform work. He became a regional and national leader, a well-known figure at Project Advisory Group and National Legal Aid and Defender Association meetings of the national leadership. He later moved his formidable talents to Colorado, where he headed Pikes Peak Legal Services for many years. Jack had a particular and intuitive talent for hiring great staff, many of whom later became judges or directors or teachers. He inspired his young attorneys to believe deeply that the provision of legal services for the poor was a profession of honor and dignity worth striving for. Dressed in his rumpled jeans jacket and plaid pants, Jack always had time for someone with a problem or for most anything important; he explained to all that he never wanted to have a job where he could not take time to enjoy life or have lunch with an old friend calling unexpectedly. We do not often hear the word “beloved” in the hard-bitten world of lawyers, but that was Jack, who died this year.
- **Charles (Charlie) Dorsey** (Legal Aid Bureau of Baltimore). Charles Dorsey, who died in 1995, dedicated his legal career to assuring equal justice to all by securing legal services for the neediest. He spent twenty-five years at the Legal Aid Bureau, which he developed into what he proudly called “one of the largest law firms in Maryland,” while also championing legal services nationwide. Charlie was equally committed to “bringing nobility back to the practice of law” through his leadership in the American Bar Association, the Maryland Bar Association, and the Baltimore City Bar Association and his chairmanship of the Maryland Board of Law Examiners. He never tired of meeting young lawyers and law students and encouraging them to share his passion to make the law benefit all.
- **Evelyn Frank** (Legal Aid Society of Alameda County, California). Evelyn Frank's depth of knowledge about Medicaid (especially its most arcane aspects) and her determination, courage, resourcefulness, and dedication made her for years one of the most respected health law attorneys in the country and a true national leader. She was unflagging in her efforts, and her career with the Legal Aid Society of Alameda County until her death in 1993 was marked by repeated successes on behalf of poor people.
- **Burton David Fretz** (National Senior Citizens Law Center). Burton David Fretz's first legal services position was as directing attorney of the California Rural Legal Assistance office in Santa Mesa, where he worked from 1968 to 1973 and 1975 to 1977. He also served as legislative director of the Migrant Legal Action Program in Washington, D.C., before becoming executive director of the National Senior Citizens Law Center in 1981. Burt retained that position until his death in April 2001. He was absolutely and effectively dedicated to legal services and to poor people.

• **Charles R. Hill** (National Consumer Law Center). Charles R. Hill was a national spokesman on federal energy policies affecting the poor, and at the center of the efforts of state advocates—including local government officials—seeking to assure low-income households’ access to affordable winter heat and summer cooling. It was a life-and-death issue for many. During his “reign,” many creative programs were fashioned by the states and by some public utilities to tie heating costs to income or otherwise to keep homes heated. Nationally he was one of the leading Washington experts on the federal Low-Income Home Energy Assistance Program (LIHEAP) and one of its most effective advocates. His legacy is reflected even today in many details of program design and in the rationale for continuing LIHEAP support. More than all this, though, his tireless, all-consuming passion and commitment for justice awed and inspired all who knew him and many who are today’s leading low-income advocates. Chuck died in 1990.

• **Dennison Ray** (various programs). Dennison Ray was a spirited, cheerful, and dedicated leader of the legal services movement. He was nomadic, working at various programs, including Durham Legal Aid and Legal Services of North Carolina, the Suburban Action Institute in East Orange, New Jersey, and Pine Tree Legal Assistance in Maine. He directed, among other programs, the Suburban Action Institute and Pine Tree Legal Assistance. Denny was active in the Project Advisory Group in the 1970s and 1980s. When he died at 61 in 1994, we lost a valued colleague and good friend.

• **Herbert Semmel** (National Senior Citizens Law Center). Herbert Semmel lived a life of public service, gradually moving from academia, including a tenured professorship at the University of Illinois College of Law, to ever-increasing involvement in direct advocacy concerning issues affecting poor people. Herb was an attorney, then director, of the Center for Law and Social Policy, in Washington, D.C., for seven years. From 1984 to 1993 he was litigation director of the Disability Law Center, New York Lawyers for the Public Interest. Beginning in 1994, he worked with the National Senior Citizens Law Center, where he initiated that center’s Federal Rights Project. He directed the project until his death in February 2004. The center now has renamed this the Herbert Semmel Federal Rights Project.

• **Ellen Hines Smith** (Piedmont Legal Services, South Carolina). Ellen Hines Smith established Spartanburg County Legal Aid, the forerunner of Piedmont Legal Services, in February 1976 and remained its executive director until her retirement, due to ill health, in 1995. Ellen was well known for her managerial experience, and the State Bar of South Carolina renamed its Legal Services Attorney of the Year Award in her honor. As a woman, Ellen commanded a number of “firsts,” including being the sole female in her graduating class from the University of South Carolina School of Law, the first woman judge appointed in Spartanburg County, and the first woman elected to the Spartanburg City Council, on which she served for well over a decade. The girls’ home established under her chairmanship of the Junior League in 1974 was renamed the Ellen Hines Smith Girls’ Home in 1985 and has been recognized as one of the top criminal justice program projects in the nation. Ellen died in 1998.

• **Lynn Sterman** (American Bar Association Standing Committee on Legal Aid and Indigent Defendants). Lynn Sterman joined the staff of the American Bar Association (ABA) in 1981 as counsel to the Standing Committee on Legal Aid and Indigent Defendants. She spent the next fifteen years as a zealous and consistent voice within the organized bar in support of a well-funded and effective federal program to provide legal services for the poor. Lynn served as a mentor and guide for bar leaders and other ABA staff; she urged the Legal Services Corporation to be true to its mission, and not be subjected to constraints on its activities. She also provided key staff support to the ABA’s efforts to expand and improve the infrastructure for pro bono service by lawyers and was an untiring advocate and facilitator of such service. After leaving the ABA staff in 1996, Lynn served as a member of the ABA Commission on Homelessness and Poverty until her untimely death at 52 in October 1998.

• **Willie L. Townsend** (San Francisco Neighborhood Legal Assistance Foundation). From 1976 until his death in 2003, Willie L. Townsend was a paralegal with the San Francisco Neighborhood Legal Assistance Foundation and its successor, Bay Area Legal Aid. His commitment to clients was exemplified by a decade of work on behalf of an elderly woman; his work ultimately benefited Supplemental Security Income recipients throughout the nation. See *Ceguerra v. U.S. Department of Health and Human Services*, 933 E.2d 735 (9th Cir. 1991). Willie was one of the multitude of unsung heroes who serve the community in legal aid offices throughout the United States.

PREFACE TO THE SECOND EDITION

Following Prof. Florence Wagman Roisman is like wearing shorts to the Academy Awards. Her language, vision, and sense of history are as cinematic as lawyers get. My aim here is not to write a sequel but to thank those involved in the production of this *FEDERAL PRACTICE MANUAL FOR LEGAL AID ATTORNEYS* (2d ed. 2004).

My motives in updating the *MANUAL* were, perhaps, slightly less noble than Florence suggests. When Lynn Cunningham, a legal services lion in his own right, and I restructured our clinic at George Washington University Law School, we searched for readings for our students. Lynn had the first edition on his shelf. I flipped through it and one thing led to another. Don Saunders of the National Legal Aid and Defender Association (NLADA) was kind enough to invite me to the 2002 litigation directors' conference in Utah, where many were utterly unfazed at the prospect of devoting dozens of uncompensated hours to drafting and reviewing hundreds of pages of text and footnotes. A palpable enthusiasm for the project showed that there was a larger audience out there than my classroom.

This second edition would not have been possible without the work of the editors of the first, especially Prof. Michael R. Masinter. By and large, we followed the concept, format, and organization of the first edition. Many passages and footnotes of the first edition remain untouched, accurate, and insightful today as they were fifteen years ago. Much, however, has changed, and we tried to add subchapters that deal with new procedural aspects of legal services practice. Fifteen years of substantive legal development, good and bad, were also incorporated in the text.

Sharp-eyed readers will notice that this *MANUAL* is called the *FEDERAL PRACTICE MANUAL FOR LEGAL AID ATTORNEYS*, rather than “legal services” attorneys. “Legal aid” is used to reflect the Sargent Shriver National Center on Poverty Law’s intent to encompass all attorneys representing low-income people, whether they are at programs funded by the Legal Services Corporation or not. For some, only “legal services” means advocacy for systemic reform. “Legal aid,” as used here, encompasses all attorneys who represent poor people and who use systemic-reform and other kinds of litigation. In the text the terms “legal services” and “legal aid” are used interchangeably.

I am hopeful, that whatever the title or terminology, the *MANUAL* will be of help to lawyers in legal services, public interest organizations, law schools and law firms engaged in systemic-reform litigation.

This second edition would have been absolutely impossible without the remarkable contributions of a wonderfully talented group of lawyers whose motives were much purer than mine. I am still not sure how these tireless advocates managed to pull themselves away from their work to research, draft, and review, but I am glad that they did. Their steadfast work made my job as editor-in-chief much easier. Gary F. Smith of Legal Services of Northern California, in particular, deserves thanks for reviewing the entire *MANUAL* and adding material relevant to programs funded by the Legal Services Corporation. Sadly, the late Herbert Semmel of the National Senior Citizens Law Center did some of his last, great work on this *MANUAL*. I am glad that I got to know Herb through this project.

I must thank Dean Michael Young of the George Washington University Law School for his support and encouragement. Four terrific law students also devoted hundreds of hours of their time to editing, cite checking, and redrafting: Wes Gilbreath, Nick Merrell, Laura Taylor, and John Ward. Ilze Sprudz Hirsh and her staff at the Sargent Shriver National Center on Poverty Law deserve our thanks for publishing the *MANUAL*, in hard copy and on their website, and for shepherding it skillfully through the editing process. They have done a marvelous job. Finally, thanks go to my wife, Stacy Brustin (of Catholic University Law School), who endured a perpetually cluttered dining room table, and my kids, Ben and Julia, who did not always have my full attention but who have a pretty finely tuned sense of justice anyway.

A list of the principal drafters of the chapters as well as those who reviewed and commented on those drafts follows. Since no good deed goes unpunished, I also give their e-mail addresses. Direct your praise and questions to them and complaints to me. I hope that we do not wait another fifteen years for the third edition. I welcome your thoughts and critique, large or small, on this second edition so that we can meet your needs with the third. Please e-mail your ideas to me at Jgutman@law.gwu.edu.

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June 2004

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