Transcript of Interview with
Executive Director and Attorney-in-Chief of the Legal Aid Society of New York,
and University of Pennsylvania Honorary Fellow,

Daniel L. Greenberg, Esq.

The Oral Legal History Project
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Interview conducted on location by Ria Momblanco and filmed by Moira O’Keeffe
Momblanco: Hello, and welcome to the Legal Oral History Project of the University of Pennsylvania. Today is March 23, 2001. I'm Ria Momblanco. Today we will be interviewing one of Penn Law's distinguished Honorary Fellows, Daniel L. Greenberg, the Executive Director and Attorney-in-Chief, and CEO of the Legal Aid Society of New York. Mr. Greenberg has kindly invited us to conduct the interview at the Legal Aid Society office on 90 Church St., New York, New York.

Mr. Greenberg, thank you for allowing us the pleasure of interviewing you today, and for fitting us into what must be truly a busy schedule.

Greenberg: Well, I'm delighted to do so. This is a terrific project.

Momblanco: Thank you. If you wouldn't mind, let's start with your childhood. Where were you born, and where did you grow up?

Greenberg: I was born in Brooklyn, New York. I grew up in Brooklyn, New York. I was born about five blocks from Abbot's field, which is where the old Brooklyn Dodgers used to play baseball, and the reason that's important is because the Brooklyn Dodgers never won a World Series until 1955 in their whole history, and I was ten years old in 1955—and so I grew up rooting for a team that never won. I like to think that that was very good training for being a Legal Services lawyer—you often lost, but you still felt that you were doing something right and important, and that even if the other people were winning because they were richer and had more access to money and players, it didn't mean that your team was not as good.

Momblanco: Do you think that your childhood, being spent in New York, has affected your desire to stay in New York, even up till today?

Greenberg: Well, I spent some time out of New York. I spent some time extensively traveling in much of the world, and I spent seven years at Harvard Law School running its clinical program—but I think that your question is right. I think that this is a vibrant city, and a city that's rich in its diversity and has the extremes of the most extraordinary wealth living next to examples of extreme poverty. And I think that having grown up here, I am quite comfortable being here, understanding some of the issues that people face in the city. And I like New York.

Momblanco: What did your parents do as you were growing up?

Greenberg: My parents were working class people. My dad was a millinery salesman—back in the year when women wore hats, and my mom was a bookkeeper in millinery shops. They met there, years ago, and continued to work until their retirement when they moved down to Florida.
Momblanco: Did they have any activities or certain ideologies that affected you up till later on in your life?

Greenberg: Well I think that they were quite humane. I think that I learned in that household, the importance of humane values—not necessarily left or right political values, as such. I don’t think they were political people, but I think that they were good people, and I think that that lesson came through clearly in discussions—that you had to care about other people, you had to do things for and with other people. And they were important values that were picked up in the home.

Momblanco: Do you have any siblings?

Greenberg: I do. I have an older brother. He’s actually much more conservative than I am. We sometimes joked that when our parents were alive, that they may well have been sitting in the living room, looking at each other, wondering how one could have turned out voting for Nixon and the other one doing something like running the Legal Aid Society.

Momblanco: Did you have any role models as you were growing up?

Greenberg: I did. I’m one of those people who always knew that he wanted to be a lawyer—even before I was quite sure of what a lawyer did. When I was ten years old, my family took a trip down to Washington, D.C.. It was 1955, and it was a very powerful thing for me. It was the first time that I saw segregation because Washington, D.C. was still at the time a segregated city.

And we went around and saw great historical documents: the Constitution, the Declaration of Independence. I saved a lot of the booklets that I took on that trip. And because I used to love to argue, people would say, “What, are you going to be a lawyer?”—this thing of being a lawyer really resonated for me and I think that some of the reasons I became a lawyer obviously changed over a lot of years. But I really do trace the beginnings of a sense of social justice back to those years.

When I was sixteen years old, I got into an argument with my high school history teacher about civil liberties, and I wound up writing a letter to Justice Hugo Black, at the time, telling him that I had had this fight with my teacher, explaining what the issue was, and saying to him, “Who’s right, me or my teacher?” And I actually came across that letter later when my folks were moving and I was cleaning out my desk, and it’s one of my treasured possessions. Hugo Black was an important figure for me as a youngster.
I also admired Sandy Koufax who was a pitcher for the Brooklyn Dodgers. He was one of the few Jewish Major League baseball players. He wouldn’t pitch on Rosh Hashanah and Yom Kippur, the holy days of the Jewish calendar. So I liked that also, there was some integrity—that even though they were in these pennant fights and in this World Series, on those days Sandy Koufax didn’t pitch. So it’s a little strange—my two heroes were a Southern Justice on the Supreme Court and a Jewish pitcher for the Brooklyn Dodgers.

Momblanco: Did you ever get a response from Justice Black?

Greenberg: Oh, I did. It was a lovely letter. I have it on my wall. It talked about how he was happy that high school boys my age were interested in issues of liberty, and that a really solid understanding of his positions would require me to wade through many, many volumes of the U.S. Reports, but that he could cite me to an interview that he had given with someone that could help explain it, and that interview was indeed quite helpful.

Momblanco: And how was your grade in history class that year?

Greenberg: I did terrific. I did well.

Momblanco: Okay great.

What schools did you go to?

Greenberg: I went to public schools in Brooklyn through high school. I then went to Brooklyn College and lived at home then. Brooklyn College is a free university, and so I could live at home and not pay tuition. And then I went to Columbia Law School in New York City then moved out of the house and lived on campus at Columbia. It was a somewhat tumultuous time at Columbia when I was there.

Momblanco: During the years before you went to college, as you were saying, it really was a tumultuous time. Even before you started at Columbia, through high school and through your undergrad years—the late 50s and the early 60s, a lot was going on—just a refresher—there had been a successful Communist revolt in Cuba, Alaska and Hawaii had become official states, Simon and Garfunkel rose to the top of the charts, Kennedy had become the 35th President after the televised Kennedy-Nixon debates, John Glenn walked on the moon, and, as you mentioned, it was also a great time of struggle for American blacks to gain the rights that were guaranteed by the Constitution. Out of all these social events—I know that this is a difficult question—what do you think had the greatest impact on you?
Greenberg: I think that the evolution for me, politically, was from a powerful belief in the force of law to make social change, and a belief—really through the Kennedy years—that this was, essentially, a quite healthy society with a few issues like civil liberties. That if we tackled those issues, we would be a really wonderful society—toward an evolving evolution of just how basically pervasive inequality was—and how poverty and race were embedded in this country’s history, and how law was often used to subjugate people, rather than to free them.

And so while you’re right that the late 50s and early 60s showed the first signs of awakening out of the depth of McCarthyism and the great fear in this country to have political opinions, I think that the real flowering of a social active movement came, beginning with the civil rights movement, but finding its full force during the anti-war movement of the later 60s and early 70s.

And that coincided with time that I was at law school and then after law school where the repression of the U.S. government on people overseas and then the draft here and then repression of social activists here—through the use of the secret police powers and through the use of canvas cards—came really to the fore for a lot of people in my generation.

So although it was an evolving thing, I think that in many ways, my law school experiences in the late 60s and then the activism of the anti-war movement of the early 70s really fueled the thoughts and beliefs and the activism that I had.

Momblanco: Right. This is actually jumping ahead of myself a little bit because I wanted to ask you about Brooklyn College and Columbia Law, but soon after you graduated, you co-edited a book called, “The Tales of Hoffman.” You co-edited it with some fellow law students, and at the time you were a teacher, and it was about the Dellinger trial. What provoked you to make this extra effort to edit the transcript of the Dellinger trial and could you just talk about it for a bit?

Greenberg: Well, “The Trial of the Chicago Seven,” as it came to be called, was really a pivotal event in the use of counter-intelligence agents to try to stifle what was essentially a peaceful movement of protest. And the Chicago Seven trial was perhaps the epiphany of trial and theater meet together in the use of a trial for political and for media attention, in addition to the traditional ways the trial had been used before. Even if you think of right before the Chicago Seven trial, the trial of Dr. Spock, and the trial of other anti-war activists were done in a very traditional way in a courtroom.

It was because of the antics, as it were, of Andy Hoffman and Jerry Rubin, and the nature of their anti-war protest, and a judge who, in his own way,
was quite complicitous because he was so absurd in his rulings that you had really one of the great theatrical events of all time unfolding in Chicago. A friend of mine got a hold of the trial transcript of the trial as it was going on, and through a contact at Bantam books, they agreed to take an edited version of those 22,000 pages of transcript and get out a paperback “quickie” — get out a paperback within days of the trial ending. So as the trial was going on, we were editing with a large group of friends a transcript that was now coming in daily doses. And then after the trial, the Chicago Seven themselves as they were going out on their speaking engagements brought the book with them and shared in the profits of the book.

So it was an extraordinary experience and one that was great fun because so many friends were involved, but it was also once again part and parcel of those times where everything seemed to merge together. There was a glorious moment where being a lawyer and doing your day job, as it were, and being a social activist and going to demonstrations and having friends and relationships within those worlds created a continuity for someone that was really quite powerful. I think that some young people can still experience that. There are ways of doing that. I don’t think that that era is over. What’s over was the sense in the country of the enormous changes that were taking place and the directions that we were leading those changes, and that made it particularly exciting. In retrospect, there was a falseness to it. There was a way in which it really was some media events that led us to believe that the world had changed dramatically. And, of course, in some ways, the world has changed, but I don’t think nearly as pervasively as we had expected or hoped during that time.

Momblanco: And you did this while you were in law school?

Greenberg: Just right after law school actually. The book came out — the Chicago Seven trial was taking place in 1970 and I graduated in 1969. So we were working on it while I was actually a school teacher at the time.

Momblanco: Did you do anything at Brooklyn College when you were an undergrad in terms of social activism or even in terms of being involved with more legal activities?

Greenberg: Again, I knew I was going to be a lawyer — I was a member of some of those clubs — but not really. It took me into — it took the Vietnam war to crystallize a lot of my thinking and most of that occurred when I was in law school. I was young when I went to law school — skipping grades in New York City and all — so it coincided with 1966 to ’69 and activism in the school as well.

Momblanco: Why did you decide to go to Columbia Law School?
Greenberg: It was a good law school. It was in New York. I had no particular desire to leave New York. I thought I would get a good education, and I fully expected to remain in New York in my practice so it seemed like the best place to be at that time.

Momblanco: Did you have any mentors there or peers who really affected you in any way?

Greenberg: I had some good friends who I’ve remained good friends with. There were some faculty members I connected with, but not as compellingly as afterwards when I actually entered the world of practice. There were people in the worlds of practice who I saw when I was there—Leonard Budin came to the law school in my first year and had a debate over the validity of the Vietnam war with someone who is in the Judge Advocate General’s court, and I was quite impressed with what he was saying. What he said that made such an impact was after the colonel went through all of the reasons that the Vietnam war was a legal war, Leonard Budin, a great lawyer—Rubinowitz & Budin had been one of the great leftist law firms in this country—one of the founders of the National Lawyers Guild—and Leonard Budin came to the law school and he began by saying that the Vietnam war was wrong. And he said, “I know that you’re law students and you’re going to now expect me to give statutes, rules, and regulations, and cases, but I want to begin by saying that it’s just wrong and that there are some things that are just wrong in this world and that law school trains you poorly when they train you to think that things are measured right or wrong in terms of whether they are legal or not. Some important things can be deemed legal or illegal, but the more important issues of your life don’t fall into such a neat category. And this war is wrong, intrinsically, because of what we’re doing. And I don’t have to give you statutes.” And in a law school, that’s really quite anathema. I don’t remember whether he was actually booed, but he certainly, in terms of, you know, points scored—don’t score points by telling law students that he’s not that interested in what the laws are. He went on to, as a lawyer should, give lots of good reasons and statutes and regulations and cases about it, but his more fundamental point was that law doesn’t affect whether something is right or wrong. And it was a powerful lesson.

Momblanco: While you were in law school there was something like the Vietnam war that was very powerful going on in the world as you were attending law school. And so as a result it affected a lot of the students’ mindsets. But today, that is to a certain extent lacking, maybe thankfully, but do you see any difference between the law students today and the law students you knew back then?
Greenberg: I think that the law students today who are interested in public interest law are really in many ways, quite more extraordinary than those of my generation were. If you were coming of age, if you were an adolescent and in your twenties during a time that every news broadcast and every major magazine had pictures of beatings, and sit-ins, and demonstrations, and women's movement, and social movements on the front page, and it was the most compelling news story around, it was relatively easy for somebody as a student to become interested in those things. It was all the forces of society pushing you in that direction.

If you're a law student today you were born maybe after Ronald Reagan was President, and most of your conscious history is Reagan-Bush with a couple of years of Carter and then Bill Clinton. And I think I'm even more impressed at how there still remain such a cadre of students who despite all of the forces around them telling them that making money and being selfish and working to create your own dot-com is the only rational way to live, nonetheless maintain some real principles and integrity, and go into law school knowing that they want to do progressive work and come out equally committed to it.

So in some ways there are fewer numbers, but in other ways I think it's even more important. The other is at least now there is an infrastructure into which someone can go. There really are legal services and large public defender offices. There are progressive law firms. There are backup centers. There are law firms that are related to women's issues or to the rights of Puerto Rican Legal Defense Fund or the NAACP. There were very, very few at that time. And so amongst the heroes that I have in my life were people who were in private law firms and still tried during the 50s and the 60s to represent progressive causes. And I came into greater contact with them in my practice.

So I think in some ways, some law students have it easier. But in some ways, the fact that they exist is much more to their credit that they exist.

Momblanco: You mentioned having heroes who were already practicing public interest sort of law while you were in law school, and also that all through your childhood you were sort of geared towards a really open mindset and having a career in law. Why then did you decide to teach fourth and fifth grade elementary school at Harlem?

Greenberg: Well, that was pretty easy—that was the alternative to the military. I graduated law school—I was only 23 years old. You were eligible for the draft until you were 26 years old. One of the ways that you could not be drafted was to do alternative service in some area that was underpopulated but needed people, and teaching in New York City was one of those places.
I also always loved kids. It seemed an interesting thing to do. So I spent some of those years teaching at Harlem. In some ways it may have been the hardest thing I’ve ever done. I actually remember when I was on trial sometimes for eight, ten, twelve days at a time, but I thought back to what it was like being in front of a classroom of ten year olds who were looking at you and saying, “Come on, teach me something. Maybe I’ll let you. If you’re interesting enough and you can engage me enough, maybe I will allow you to teach me something.” It took a lot of energy and a lot of emotional energy to do it, but I loved it. It was a very good thing to have done. And then, when I was free of draft worries, I did begin my legal career.

Momblanco: Did you make efforts to maintain your membership with the bar and continue to educate yourself in the legal profession?

Greenberg: Yeah, I knew I was going to be a lawyer. It wasn’t in the sense that, “Gee, this might be the profession for me.” I knew I was going to be a lawyer. I took the bar exam right out of law school, I passed, I paid my bar membership dues, I remained involved in that. But my law career really began two years later in 1971 with legal services.

Momblanco: Speaking of your law career beginning, you started at the Mobilization for Youth Legal Services right here in New York City. Why did you choose that particular center?

Greenberg: Well, the evolution in my thought, as I had alluded to before, really took me from, “This is a healthy society, and I should be a civil liberties lawyer,” to, “Just get those First Amendment issues in place,” to really understanding economic deprivation and the ways in which law keeps people subordinated, largely for the interests of people who are much richer than they are. And so I came to see this new legal services program as being much more in tune with what I wanted to do, which was to be on the side of poor people in a whole range of issues and economic issues. I didn’t go into criminal law. I didn’t go into civil liberties law. I chose to be involved on the lower east side of Manhattan in a small neighborhood office in a very concentrated area of New York, which coincidentally was the great melting pot of American lore.

I had one extraordinary experience of representing a tenant’s association, a building that was on rent strike. And in doing some own personal research on my family’s history, found that my grandfather, when he came to this country as an immigrant from Romania at the turn of the 20th century, had actually worked at that building as a union printer, and I found his printing card that showed him to be a printer in the Big Six union in that building on Orchard Street. And I remember going into court the next time this
case was on and in the informal give-and-take that happens before trials begin, if indeed there ever really is a trial, I was able to hold up this card and say to the judge, “Look judge, my grandfather worked in this building and I don’t think the landlord’s put a penny in this building since 1906, and that’s what we’re here today about.” So there really was this almost nostalgic sense of coming home. My dad had been born on the lower east side, my great grandfather and grandfather had lived there as children, and here I was running the lower east side office of this newly founded law firm for poor people called Mobilization for Youth, living in the city and feeling very much a part of it.

Momblanco: Sort of giving back to the community and deepening that bond that you already had with it?

Greenberg: Yeah, but I would also say something else. I do understand some of the notion of giving back to the community that you mentioned. I think that often there’s associated with people who do this kind of law, some notion of sacrifice, and some notion of, “We could be making a lot of money, but we’re choosing to be with the down-trodden in some ennobling way because of our family history or because of giving back to the community.” And I think it’s important to say that, for me at least, this has been a very selfish journey—that I love what I do. I’ve always loved what I’ve done, I have always felt that it was creative, that it was engaging, that it was interesting work, that it was challenging work, that it used some of my better talents of speaking and of writing, and that I could do it for people who were poor was a very important decision about which side I was on—but that beyond that, there was really almost—there’s very little sacrifice in this for me.

I’m actually somewhat surprised when I hear people, law students or law advisors saying, “Well, you’ll be giving up so much if you do this kind of work.” To me, to spend most of your waking hours doing something which, at best, is irrelevant to your life, and at worst, is actually contradictory to who you are—that seems to me to be a great sacrifice. People who are going to earn some amount of money for spending fourteen or fifteen hours that they’re awake, doing something that they don’t particularly like because it will get them income, doesn’t seem to me to be a reasonable way to spend your life.

Conversely, waking up in the morning and being engaged in what you do, loving it, knowing that it has social value, and being able to earn a living out of it—I can’t imagine less of a sacrifice than living your life that way. We spend most of our waking hours at our jobs, and if you don’t love your job, it seems to me that you’re making quite a sacrifice and some other way to do it.
We're very lucky as lawyers in this moment in the world to be able to earn a living in doing something that we think to be important. So I kind of would rebel at some of the notions that we public interest lawyers have made some great sacrifice in what we're doing. Maybe others have, but I certainly have never felt that for a minute.

Momblanco: That kind of ties in your attitude as contrasted with some other folks’ attitude on public interest law. You once wrote up a checklist, much later on in your career, for the Practicing Law Institute on how to represent parents in Article 10 proceedings. There are actually two versions of this checklist, but in the earlier version, I really liked what you had for the final item—all the other items were very technical—they said to make sure you interview your witnesses, fill out this form, etc.—but item number fifty says, “Treat every case and client as if he or she was wealthy and paid directly for your services, and if you can’t afford to do this, you should withdraw from the panel.” And that sort of reflects the integrity that you were speaking of when you look at your heroes and it reflects how you really enjoy what you do. I was just wondering if this is not a common attitude that’s reflected in all public interest lawyers.

Greenberg: I think that people come to what they do in life in many different ways. Some of the most powerful public interest lawyers I know are fueled by religion. They are following in the great traditions of, in modern times, a Dorothy Day who lived on the lower east side and did the sacrifice that she did. They are fuelled by St. Augustine and by Jesus and by great religions of all sorts to believe that in this world you act ethically. And they can be very powerful lawyers motivated by that. Some come purely out of politics. There’s a Marxism or a left leaning, and championing the underdog becomes essential to their worldview.

I’ve learned that you can’t measure somebody else’s effectiveness by what the psychological motivations are. That the same people who grew up wealthy, some of them say, “Because I grew up wealthy, I must be in a place where I’ll be wealthy,” and others say, “Because I grew up wealthy, I recognize my options and I don’t need that wealth to be happy and I can do other things.” And people who grew up poor will tell you, “I grew up poor, and therefore, I have to make a lot of money because I missed it when I was young,” and others will say, “I grew up poor and I had a wonderful life, so clearly money isn’t important.” I’m less concerned about why people do things and more concerned about what they do. I think that objectively, things we do affect other people and affect the world.

I think, conversely, there’s nothing more important for the individual than for that individual to do what he or she loves. I tell students all the time that there are more than enough people who want the handful of jobs in
public interest law available. You’re not doing somebody else a favor by being here because the danger is if you think you’re doing somebody a favor, then you have the right to judge them and you have a right to think that they should be thankful to you because you’re doing them a favor. And I think it’s a bad model for who we are as lawyers. Our clients come to us because they are in some pain, caused largely by their poverty, with some infusions of their gender and their race contributing to their poverty, and we have a certain expertise that can help them. And we should neither glorify that expertise into naively thinking that we are going to change their lives and take them out of poverty. Nor should we denigrate ourselves and not understand that we have some real power and some real roles in being able to make some changes that are quite important to those people. And I think if you’re fuelled in the end by saying, “Whatever it is that got me here, I’m going to treat each individual client as if that client is the most important person who’s relying on me, and therefore I have to take that seriously,” I think that you’ll be a good lawyer.

Now I think the journey for every individual in doing that is to figure out what it is they love to do. The one’s who want to be in the library shouldn’t be organizers, and the one’s who want to work with people shouldn’t be in the library. And people who want to do some good and aren’t interested in statutes, maybe they should teach kindergarten which is as useful as anything else around. So I’m very, very adverse to role models talking in objective terms to people. I think we do best to younger people and to newer lawyers when we lay out for them the things that our jobs entail and then say to them, “How does that fit with you?”

But your great journey has to be first to decide which side you’re on. That to me seems essential. Are you going to work for people or are you going to work for property? Are you going to see human rights as more important than property rights? Make that decision. You can make whichever one you want, but if you make the decision to work on the side of people, then the world is open to you. There are hundreds of ways and dozens of ways in which you can do that, and I think that everybody has to find the one that they love the most.

So yeah, I’m fuelled by a sort of humanism, a belief that, in the end, it’s important to do things that are meaningful, but I think I’ve been lucky in finding the ways to do that that are meaningful for me—so that I don’t have to walk around saying, “Aren’t I wonderful? I’ve just spent my life in drudgery, digging in the trenches because we’re making the revolution every afternoon.” You know, the other part of that—to just go on a second—is I never quite understood how one could be saying, “This is a terrible world and I’m going to just do all of the drudgery and awful things to just get through this life and build people up at the same time.” In my view, there’s nothing glorious about poverty. There’s nothing wonderful
about the poor. There's nothing ennobling about it. Nobody should be poor, and I shouldn't be poor. I know there's an ethic that says, "Lawyers should be with their clients." And my answer is that my clients should be with me. I should be spending my life trying to raise people's standards of living. So, there are contradictions that those of us who do this work live better than our clients, but I don't feel guilty about that in the sense of what fuels me is to bring people's standard of living up, rather than saying, until that time, everybody should try to live as poorly as they can.

Momblanco: You spent a lot of time at the Mobilization for Youth.

Greenberg: I did.

Momblanco: But then after that, I guess that later on you wanted to work with students again and you decided to go to Harvard?

Greenberg: Well, it was actually—the causal reasons were slightly different. I had met someone—I had met a woman who I fell in love with. I was then in my early forties. She was up in Boston at a—she was becoming a doctor and is a physician today, and to be with her I moved to Boston without a job. I used whatever contacts in New York that I had to go up there and make contacts in the progressive community there and say, "What could I be doing, given my background?" And in the course of that, met two or three professors at Harvard Law School who I spoke to about what possibilities existed, and then several months after I got there, the job as Director of Clinical Programs opened at Harvard. So I applied for that, and I guess my background interested them, and I took that job. So, it was a change, but it wasn't that I left New York to go to Harvard and run the program.

Momblanco: How was that at Harvard? How did you like working with the students and the faculty over there?

Greenberg: Well, it was extraordinary. On the one hand, this is the richest institution in the country, in some ways. Harvard Law School's endowment is more than the gross national product of most of the countries in the United Nations. This was truly the ruling class educational institution in America. And on the other hand, I was being offered the opportunity to run that part of its law school that focused on poor people and focused on indigent defendants to do much of the work that I had done. It was a very large practice up there, and so I was getting a chance to run a legal services program. This time, instead of having no money, it was under the auspices of Harvard Law School.

I think it was one of the great experiences of my life to be able to have practiced for a long time and then to have gone to an academic community
where I could reflect on that practice surrounded by very, very smart faculty and very, very smart students. It coincided in my life with this new relationship and children. And so it was really—having gone from being court all the time with hundreds of individual cases requiring trials and twenty-four hour preparation and all of the intensity to an academic setting where their idea of a “hard memo” to get them is, “Can you have it within four months?” and then you have six months to revise it—I, in some ways had felt that I had died and gone to heaven up there. It was an extraordinary experience. And again, I had met some amazing people that were quite powerful influences in my life.

Momblanco: So this was a new position, but did you have the opportunity to make and sorts of changes or maybe make new clinics?

Greenberg: Oh yeah. I mean the clinic was run on a faculty level by a man named Gary Bellow who just died this past year, and Gary was one of those towering, extraordinary figures. He had helped create California Rural Legal Assistance back in the 60s. He had helped form Public Defender Services in Washington. He was one of the first clinical teachers in the country, and he was both a visionary and a micro-manager, which is a rare combination in anyone. And I worked with him directly. And he was a great mind who loved to strategize, and I love to do that as well. And we realized that we could help make this program grow, and during the time that I was there, it grew a great deal. So there were a number of innovations in clinical education, and it continued to be a very large practice area. For me it was also a chance, not only to be in an academic setting, but I was beginning to run larger and larger organizations and come in contact with that managerial and leadership and administrative part of me that obviously bears greater fruition here at the Legal Aid Society.

So it was a great run—you know, six or seven years at Harvard Law School. I would say things and I would be quoted, and I would be quoted with the title of Director of Clinical Programs at the Harvard Law School. I mean, that’s pretty impressive. You know, Danny Greenberg, Lower East Side lawyer (makes a skeptical sound), but Danny Greenberg, Director of Clinical Programs at the Harvard Law School—well that’s some guy that you have to listen to. It was also a chance to have a “bully pulpit,” and to be able to say things about education and about the practice of law with a great deal of more power than I would have had somewhere else.

Momblanco: Do you think that your experience as a practicing attorney first, and then you got the opportunity to look at the sort of student clinical world—do you think that a melding of these worlds would be beneficial, and how can we do this to further public interest law?
Greenberg: Well, there’s no question that it’s a powerful combination. And there’s no question that law schools are largely populated by people who are very, very strong on theory and have, often, little understanding of the world as it actually exists. And that includes law as it actually exists. The gulf between what the Supreme Court says and what actually happens in the lowest courts is an extraordinary gulf. There’s a wonderful story that an appellate judge used to tell about meeting a lower court judge, and the lower court judge—it’s probably apocryphal—but the appellate court judge said that the lower court judge used to greet him very warmly all the time. And once he said to him, “You know, I’ve reversed you and others on my court have reversed you so many times and yet you’re so pleasant. Why do you do this?” And the lower court judge laughed and said, “Well, you don’t understand. In all of last year maybe you reversed me eight or ten times. I reverse you every day in my courtroom—thirty, forty, fifty times a day. So I don’t have any hard feelings.”

And I think that the story brings out the truth. That it’s often unimportant what the higher courts say things are in much the same way that it’s often—not unimportant—but not the whole story when one reads a case in law school. And the great gift that clinical education has given to education is that it teaches people to learn by experience. It’s experiential learning. It takes a theory of what happens and says, “Let’s see what really happens,” and you do it. And you learn as you do it. And as you do it, you contribute to the great wealth of legal services because you’re doing it for clients under the supervision of people who are experienced. So your clients get the benefit of it, you get the benefit as a student from it, and law gets the benefit because you’re understanding texture and nuance. You’re understanding the subtleties and realities of law.

I think that part of what I did at Harvard Law School was take some of the professors who had seen the world of practice as alien to their classroom and convincing them that they should have practice components because it would enrich the classroom by having students who had that experience so that they would gain and they would bring that back into the school. And we worked hard to do that with hundreds of students a year practicing law.

Momblanco: So after the Harvard Law School Clinical Programs Director job, you came over here to the Legal Aid Society and you actually came at a very tumultuous time. It was right after there had been a strike. The Association of Legal Aid Attorneys had been formed around the 1970s to help resolve the tension between the activist attorneys and the Society’s management over the caseload and the method. But right before you became the director, the ALAA had called for a staff attorney’s strike, and after the strike was resolved, the city revealed that it would reduce the Society’s funding and then the Society was forced to downsize, and then
you came in. So what were some of the challenges that you faced when coming into the Society and what made you decide to leave such a nice, comfortable position and enter the mouth of the dragon?

**Greenberg:** As much as I loved my life and the world at Harvard, the reality was that it was divorced from the worlds of practice and the worlds that I knew. And when the opportunity came to run the Legal Aid Society, even in the midst of the crisis, maybe especially because of the crisis, it was something that was quite compelling to me. If you believe that one of the important reasons for being in an academic setting is because you could affect students who could then affect the practice, the opportunity to run, what is really the world’s largest public interest law firm, was one that was too exciting and too interesting to me to pass up.

And while the problems that you talked about were real problems, I saw them as ones that were solvable, that there were few things that the union wanted that were not beneficial for clients and therefore management should be embracing those things as well. That the union, far from being a thorn in the side of management prerogative, could be understood as being the union of the people who did the work. And they did the work for less money than they could get elsewhere. They clearly cared about clients. And why weren’t they involved in the most of the important decision-making about the Society since they cared about clients at least as much as either the Board of Directors or the management staff did? And I signaled that in my interviews. I said quite clearly that I had a view of not only not wanting to break the union, not wanting to blame the union for a strike, but understanding that there would have to be massive changes in the way that people understood this institution if they wanted me.

And I think, as you said in your own way, I had a very good life, and so I came here interviewing for a job—and this is a message to anybody who interviews for a job—the best way to interview for a job is to be very clear that you want it, and to be very clear that you only want it if you could do the things that you want to do with it. I had the luxury of not needing the job, of having a good life, and I could say to the hiring committee as directly as I could, “This is who I am. This is what I would be doing. And if that’s not where you want to take this organization, I’m not right, and that’s perfectly fine—I have a very good life. On the other hand, if this is something that seems to you important, it’s very important to me, and I think you should go in this direction and therefore you should hire me.” They did.

One friend analogized it to running into a theater after someone had yelled fire—that as all this was coming out, I was going in. But I believed then, as I believe now, that this is an extraordinary organization with a long history and people who cared about it. And that if we worked together
instead of working against each other, that we would be able to survive even the onslaught that the mayor had brought on us during that time because of the strike.

Momblanco: In your earlier years over here, some of the newspapers had characterized your relationship with the mayor as one that was coming head to head and that you guys were just butting heads. The headlines even read, “Rudy and His New Foes Square Off in Battle Over Legal Aid Probe,” and they described your personality and your politics as “a counterweight to that of the mayor.” How would you characterize your politics then and now?

Greenberg: Well, I never wanted it, and I don’t think it’s useful to see it in those stark personal terms. To me one of the great roles that Legal Aid and legal services lawyers play in the world is to check government. That when you think about even the emotional issue of crime and how district attorneys and U.S. Attorneys are painted on white steeds saving people from evil criminals, the reality of our world is that from the beginning of history as we know it, it has always been government in the name of its people that have perpetrated the greatest atrocities against the people. That the lone gunman with a rifle or the mad shooter, as horrific as those things are, and as much as we need to guard against it, it was always Attila, it was always Alexander, it was the Holocaust, it’s Kosovo, it’s the inhumanity that government perpetrates that results in deaths of thousands and millions and millions of people.

And that the role of being a check on government, the role of standing there and saying, “I’m not going to let you do this to this individual. I’m not going to let you put her in jail. I’m not going to let you take away her child. I’m not going to let you cut off social security benefits.”—it’s actually a very noble role because it checks government. And I think that strategic governmental leaders understand that. I actually had conversations with heads of agencies when I said that their agency wasn’t doing something that it was required to do when I was a Legal Services lawyer turn to me and say, “Look, politically I can’t do that. If you sue me and I get ordered to do it, I’ll do it. And that’ll give me the cover that I need.”

And so there’s a way in which the lawyers for poor people who bring cases are merely bringing to the attention of the courts one side of an issue with the government or other individuals always having the right to bring the other side to the fore. When government leaders take that personally, when they see that as an assault upon them and a questioning of their leadership, it creates a very unhealthy dynamic. When government leaders see this as a healthy part of democracy—really sort of fifth grade civics—there’s an executive and the legislation makes the laws and the
executive enforces them and the judiciary says whether they’re constitutional, it’s a much healthier and truer way.

And so I never saw myself as a counterweight. I never saw myself in a personal conflict so much as saying, “This is the mission that Legal Aid has had for 125 years. If there’s a policy that is illegal, we will be there if it affects our clients on their behalf to say it’s illegal.” If we’re right, we’ll win the case, and if we’re wrong we’ll lose. And if we’re right in a lower court, the government has a right to appeal it in a higher court, and higher courts, and higher courts.

We are disproportionately right because we choose the cases we take wisely. We don’t have money to waste on cases that are losers. We are a very rationalizing force in a system because we really do bring to the attention of the government what it should be doing better and differently. But, in the end, I see us as just having maintained what we’re supposed to do. It has had profound consequences in this administration of cuts of our budget because we are true to our mission. But, in a perverse way, we wear that as a badge of pride. That even under that kind of onslaught we really have maintained the integrity of doing what we have to do and every day are in courts enforcing law for poor people.

Momblanco: You said when you started here that your intention was to create a “Cravath & Swaine” for the poor. And so to what extent do you think that you’ve achieved that through perhaps the changes that you started out making, and how successful do you think you’ve been?”

Greenberg: I think that, as a society, we have been very successful in the things that we have control over. I think that the relationships amongst the board and the staff and the managers are very different than they were six years ago. It is really inconceivable these days that there would be a strike because management and staff believe that all of us should have decent wages and that we’re in budget crisis where every dollar we spend in one place doesn’t go some place else. I’ve left it to staff to have total access open access as to what our budgets are. Open the books completely to say, “Here is what we have. How are we going to spend this money?” And give large parts of those decision-making to all of the people who are affected by it. So I think that the space that we have is much more efficient. It’s much better space. It’s actually less expensive space, but better space. We’ve made do with much less than we’ve had. So in those ways, I think that we have done a lot and I feel good about having brought people together.

In what our budget looks like, we’ve never been able to pry an adequate amount of money, and the cuts keep coming, and that inevitably affects both the amount and the quality of what you could do, and that saddens
me. The organization is 125 years old. It has lived through lots of times. I am old enough myself to know that the world has cycles to it. This is a cycle in which the funding of indigent defense throughout the whole country unfortunately is at its lowest levels. And cutbacks and retaliation against successful lawyering occurs in the death penalty area with Congress cutting out back up centers. It’s occurred in Federal Legal Services with the budgets being slashed, and it’s occurred at the state level with those cuts being made.

But I’ve also learned that you can’t spend all of your time lamenting about ways in which you don’t have control over because then that wastes energy for the things that you can control. There are a lot of politicians who understand the value of what we do. Some of them will now be taking new authority in the city as term limits bar numbers of candidates from running and newer ones take over. So I remain hopeful about the future and that we’re going to gain back some of the resources we’ve lost.

Momblanco: So in your opinion it’s very cyclical, and in the future the Legal Aid financial budget will go up again?

Greenberg: I think that’s exactly right.

Momblanco: Across the nation?

Greenberg: I think so. I think we are—you know, we began with my childhood and the forces of what the world was pushing then. The Legal Aid Society this year is in its 125th year and I remind people that when we started in 1876 that slavery itself had just been abolished in this country less than a dozen years and that at the turn of the century it was massive oppression against workers who tried to form unions, and that in the 1930s there was unemployment that was unimaginable even by—certainly by today’s standards—and that in the 50s for us to be having this conversation and to be saying some of this would have meant I would have lost my job in any public sector.

And if you look at history and you’re a student of history, you know that out of the Civil War and out of the slavery came great strides—not nearly as many as we hoped for, but certainly great strides in this country. That the rights of working people got codified at the beginning of the twentieth century. That the unemployment of the 30s gave rise to an expansion of economic gains in the 40s and 50s. And that the scoundrel times of the 50s gave rise to the activism that we had just talked about.

I think that the 80s and the 90s have given us some selfishness, some blaming of victims, a resurgence of capital punishment and things that are anti-immigrant in the world and I don’t know when it’ll end and I don’t
even know the form that it will take again. But I have very little doubt that there will be another generation coming up that will look back on the meanness of these times and the incarceration of this era and be flabbergasted that an extensively civilized society could have done that—probably look to me and my children saying, “Tell us again Grandpa how you were out on the battle lines fighting off the police,” and we’ll exaggerate all the things we did for the benefit of a good story.

But the world is like that, and I think that in any given moment you do all the things that you can do, as best you can do and again rely on the fact that it’s fulfilling to you as a person as you’re doing it and that there’s not much more than anybody can ask for.

Momblanco: I noticed that the Legal Aid Society has a Prisoner’s Rights Project and that recently you submitted an amicus brief in connection with other parties concerning prisoner’s rights to the Supreme Court. Can you tell us a little bit about that?

Greenberg: Well, one of the things about Legal Aid is that because we are—we’re about 800 lawyers and 800 support staff—it’s a budget of over $130 million—it is a full service law firm for poor people and we’ve given up money that restricted us. The Legal Services Corporation, for example, says that, “If you take our money you can’t do class action advocacy, you can’t do lobbying, you can’t do prisoner’s work.” And so we gave up about $2 million in money from them in order to continue to do that.

We have a Prisoner’s Rights Project. We have an Immigration Project. We have a Homeless Rights Project, we have an Elderly Project, we have a Divorce, per se, Project. There are numbers of things within the Civil division and in the other divisions that really target specific groups of people.

Prison reform, like welfare reform, is an oxymoronic misnomer. Prisoners are treated badly and to the extent that lawyers are brought cases to try to improve those conditions, Congress has in turn turned around and tried to undo some things that courts have historically done. And one of the things that they did was take jurisdiction away from the ability to enter into these kinds of consent decrees and free the governments in the states that made them from having to comply with the agreements that they had made years ago, and that’s now under consideration by the U.S. Supreme Court as to its legality, much the same way immigrants have lost the right to appeal from the determinations of asylum made at airports or made at points of entry and were again challenging that stripping of rights in the courts to review these things. So I’m very proud not only of the daily work that we do, but Legal Aid lawyers have argued eighty cases in the U.S. Supreme Court and have been successful in more than half of them. We lobby in
the state and the city to make laws that are better for poor people. We litigate at every level. We do appeals work, we do trial work, we do administrative hearing work and much of the case load we have gets resolved simply by negotiations. So it exists at every level, and prisoner’s rights is just one of them.

Momblanco: Which sorts of cases are closest to your heart?

Greenberg: Well, I was a civil lawyer doing housing and family law and I guess on some level those still remain important to me, but, as I said, most of the work we do is in the criminal defense area and I make no apology for that work. It is vitally important that when you have policing policies that just sweep up hundreds and hundreds of people into its net for as petty things as writing on a wet paint sign or riding a bicycle without a bell or crossing in the middle of the street you are beginning to move into areas of repression and repressive government that I think are quite dangerous. So I think it’s fair to say at this point in my life that all of the work we do I see as connecting to each other and being important.

Momblanco: Would you mind speaking to those people who might say that they don’t understand why people would try and defend the bad guys, the criminals, and the poor criminals?

Greenberg: Well, I think that the most compelling reason for me is personally what I said before. I think that the check that you are on government and government’s being out of control is terrifically important and it’s always been the role of courts to try to do that, although courts often become complicitous in those policies. We defend one side of the case, and in addition to the usual reasons that everybody deserves a lawyer and the usual reasons that you never know if somebody is guilty or not, I think that there is that institutional role we play of being a check on unlimited power of government that’s important to all people. I laugh or I smile sometimes when people describe us as a radical organization. Because I can’t think of anything more conservative than putting on a jacket and tie or a skirt and saying, “Yes, your Honor,” or, “No, your Honor,” and arguing one side of a case while the other side argues the other. If that’s what it means to be a radical in modern America, this society is more conservative that I thought it was.

Momblanco: Well, I’d better wrap things up here. What are your thoughts on the future of public interest law?

Greenberg: I think that students coming out now are extraordinary. I think that there are great opportunities for them in organizations and agencies that didn’t exist before. I think that creative people are finding alternatives to litigation as ways of organizing people and getting people back the power
that people need if they’re going to make genuine change. I think that we have become institutionalized in both the best and worst sense of that. The best sense is that we are accepted as part of the life of this country and it will be hard to roll back completely on public interest law. The worst sense is if we become complacent and think that only the ways that worked thirty years ago are going to work today and we’re not constantly struggling to create new and different ideas about how to do the work that we do.

But on the whole, I wouldn’t even say that I’m optimistic. Optimism seems to me to be more objective. And I’m not sure that right now in this moment in history that there’s cause for optimism on an objective scale. I think the word is hopeful. I remain ever convinced that things will change and get better. I keep that hope alive within me, and hopefully with other people. And in the end, as I began, in some profound, fundamental way, I don’t measure whether or not I’ve been successful by an objective standard that things are better than when I began. I’m not sure they are. I’m not sure that in the end, after thirty years of my practice that it’s necessarily better for poor people than it was when I began. What I do know is that I’ve made a difference to lots and lots of people. And what I also know is that it’s been a great fun trip to do. So I can’t wish much more for anybody than to be able to say that in some point in their lives.

Momblanco: Before I ask you about your plans for the future, would you mind reflecting back on your career here at Legal Aid and saying what your most memorable case or moment was?

Greenberg: Well, I think I’m not sure. I no longer litigate per se. I’m spending a lot of my time raising the consciousness in the public about what we do and fundraising and being a place of people checking in who actually run other parts of this society. It’s a difficult time for our clients, and therefore a difficult time for us. And having said that, it’s endlessly fascinating to try to juggle all of the different parts of this organization. We have 800 lawyers and many of them are here because they really are profoundly anti-authority and I’ve signed on as the authority figure and it makes for interesting days as you try to sort of negotiate and navigate all of that. But it’s been quite wonderful. And if the question was ultimately, “Am I glad that I took this job, notwithstanding was it right for me to leave Harvard and come here?” I think that absolutely I have little doubt that I’m better off and that the Society is better off for the fact that we’ve instituted a lot of the policies that we have.

Momblanco: And what are your plans for the future?

Greenberg: Oh, I never have plans for the future! I loved being a legal services lawyer when I was one, and then I was lucky enough to fall in love with a
wonderful person and so I left and didn’t have a job and found a job at Harvard Law School—and what could be better? And someone then came along and said would you like to run the Legal Aid Society? And I said, “What the hell, I’ll run Legal Aid Society, and who knows what’s next?” I’ve been fortunate enough to not have to plan and things just tend to work out so we’ll see what’s next.

Momblanco: Well thank you very much for letting me interview you today. It’s been such a pleasure.

Greenberg: Well, thank you. I’ve enjoyed it.