

LEGAL SERVICES LAWYERS

ENCOUNTER CLIENTS:

A STUDY IN STREET LEVEL BUREAUCRACY

by

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B.A., BROWN UNIVERSITY

1965

Submitted in Partial Fulfillment
of the Requirements for the
Degree of Doctor of Philosophy
at the
Massachusetts Institute of Technology

June, 1976

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ABSTRACT

Legal Services Lawyers Encounter Clients: A Study in Street Level Bureaucracy

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Submitted to the Department of Political Science on May 1, 1976 in partial fulfillment of the requirements for the degree of Doctor of Philosophy

Encounters between lawyers in a legal services program and their clients were examined with regard to the quality of service and the expectations of justice. Quality legal service is considered in terms of lawyer-client relations characterized by openness and mutuality, while justice implies that people be accorded treatment consistent with maintaining self-esteem, specifically that they not be treated as surfaces to which labels are applied. Hypotheses derived from social exchange theory regarding the relation between lawyer-client interaction and lawyers' subsequent activities were tested.

The author personally observed 47 client intake interviews conducted by seven lawyers and followed the subsequent progress of each case. Para-linguistic behavior during the interview was coded using categories of topic control and floor control. Following each interview the lawyer described the client using the Leary Interpersonal Adjective Checklist and supplied information about his perceptions of the client's problem. At the time each case was closed, lawyers' activities were recorded from case files and personal observation, and lawyers rated the level of effort expended on and the outcome of each case using self-anchoring scales.

It was found that lawyers dominated the interview situation exercising almost total control over the flow of information, even in the face of client attempts at control. Lawyers' views of clients and cases showed little variation across clients. Simplified views of client problems and routinized treatment seemed to go hand in hand. Variation in treatment that did occur was found to relate to lawyers' perceptions of client hostility and clients' persistence, hostile and persistent clients receiving more effort. The hypothesis that submissive clients would receive better treatment was rejected.

The relations found are consistent with the theory of street level bureaucracy and social-psychological coping processes in the face of stress induced by limitations on resources in relation to ambiguous and conflicting statements of goals. Efforts to improve the quality of service seem to entail focus on clarifying expectations for performance as essential, followed by provision of adequate resources.

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ACKNOWLEDGEMENTS

In this section I would like to thank all those who made this work possible and whose assistance accounts for any of its virtues. Unfortunately those to whom I owe the greatest debt, the lawyers, administrators and clients of Port City Legal Services, must remain nameless. Their willingness to endure the intrusions of a researcher made this research possible. Their generosity in providing information and insights beyond those requested made it enjoyable and added immeasurably to my understanding of their world. I hope that my interpretations are not an excessive distortion of that world and do not result in unwanted changes.

This work owes much of its conception and direction to Dr. Michael Lipsky of Massachusetts Institute of Technology. Without his encouragement and support it would never have occurred at all. Valuable insight into many aspects of lawyering was supplied by Gary Bellow of Harvard Law School. Thanks must also go to Roy Feldman and Jeffery Pressman of M.I.T. who read earlier drafts and gave willingly of advice. Jeffrey Prottas and Richard Weatherly

supplied the sort of support that only fellow toilers can give, sustaining the author through low spots in the conduct of this effort.

Finally, thanks are due to those who helped produce the manuscript, especially Sylvia Lane, Jean Doricko and Phyllis Blendowski of the SUNY/Buffalo Law School who endured the tedious and often thankless job of typing and retyping endless pages of material.

Financial support for this study was provided through a grant from The Russell Sage Foundation administered by the M.I.T.-Harvard Joint Center for Urban Studies to support research on the politics of street level bureaucracy.

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CHAPTER IINTRODUCTIONThe Concept of Street Level Bureaucracy

Public policy is often implemented through interpersonal encounters between individual human beings. If we conceive of a frontier where government and the people come together, those who man the outposts on the government's side may be called street level bureaucrats. They are the ones who ultimately deliver the public good to the public, and they are the persons representing government with whom citizens have most direct contact. Street level bureaucrats have been formally defined by Lipsky (1969) as those public service employees who are called upon to interact constantly with citizens in the regular course of their work, whose independence on the job is fairly extensive and who have fairly extensive impact on citizens with whom they come into contact. Within this definition the following, among others, could be considered street level bureaucrats in many of their work situations: policemen, social workers, teachers, managers of public housing projects, hospital emergency room personnel, public defenders, lower court judges, probation officers, and legal services attorneys.

1. This section draws heavily on Lipsky's discussion of the theory of street level bureaucracy. For a fuller treatment of that theory, the reader is referred to Lipsky (1969).

Incumbents in these positions interact continually with citizens in the course of their work. Human beings appear not only as colleagues and/or instruments of goal attainment, they constitute the primary object of the street level bureaucrat's vocational concern. A street level bureaucrat not only works with people, he works on people: helping them find means of livelihood, socializing them, regulating them, healing them, or helping them defend themselves against the actions of others. At the same time that he is delivering public services to citizens, the street level bureaucrat represents government to those who encounter him. To those citizens who come into contact with him, the patrolman is the police force, the teacher is the school system, and the judge is the judicial system. For many people, street level bureaucrats are the principle visible and tangible manifestations of governmental institutions.

Nearly everybody has contact with street level bureaucrats in the course of his life, especially with public school teachers who occupy a significant place in the world of children and adolescents. Anybody who has illegally parked his car encounters the potential discretion of traffic policemen, and those who receive traffic tickets are potentially involved with the personnel of lower courts. Almost all governmental activity directed

toward public service involves the activities of street level bureaucrats. Almost anyone who calls on the government for "service" encounters a street level bureaucrat.

In addition to the broad range of people who are affected by street level bureaucrats, there are some poor people whose multiple involvement with street level bureaucrats encompasses almost the entirety of their lives. This is illustrated by the fact that between 20% and 66% of the residents of public housing projects in Boston were also recipients of Aid to Families with Dependent Children (AFDC) (Pynoos, 1974), while 85% of the residents of one project were receiving some form of public income maintenance, thus being² involved with social workers and public housing managers.

A rather dramatic case observed by this author illustrates the degree to which a poor person may be enmeshed in the activities of street level bureaucrats. A woman living in public

2. This latter fact was revealed in testimony given in open court by a housing project manager testifying on a case in which some of his tenants were seeking to block evictions with the help of a legal services attorney. In this particular case, the tenants were engaged in a single action with four different street level bureaucrats; the judge, legal services lawyer, housing project manager, and welfare social worker.

housing and receiving AFDC engaged the assistance of a legal services lawyer to defend against an attempt by the welfare department to place her children in foster homes. In cases such as this, the welfare department petitions a court to rule that the children are living with an unfit mother in circumstances that are detrimental to their well-being. The evidence presented in this case to demonstrate the "unfitness" of this particular mother included the following items: the children were noted to be constantly wearing dirty clothes (a welfare worker had approved the provision of a washing machine for this woman, but she had not received it because all the necessary papers had not been processed), her apartment was unsafe and the surroundings dangerous (numerous deficiencies in her particular apartment had not been repaired by the public housing authorities, and a chronic condition of poor security existed in the entire project), the children were doing poorly in school (the mother's fault or possibly the fault of their teachers), and the children were in poor health (there was a badly understaffed public health clinic located in the housing project).

The future of this family was completely determined by the actions and counteractions of different street level bureaucrats.

In addition to a judge, legal services lawyer, welfare worker, and housing project manager all of whom directly played key roles in the case, this family was dependent on actions of teachers and public health workers. This case may not be extreme in the degree to which the actions of different street level bureaucrats are directly intertwined within a single matter. The catalogue of street level bureaucrats affecting the lives of poor people can be further extended. If these children should run afoul of the law (a circumstance which is highly probable), policemen, probation officers, and possibly corrections officials might become involved with this family. For people who live in circumstances like this family, almost all the significant aspects of life fall under the purview of one street level bureaucrat or another.

We should be clear at this point that the concept of street level bureaucrat refers to an identifiable role which may be found in a number of organizational settings. It does not refer to a type of organization, thus we do not speak about street level bureaucracies. Some members of an organization, police patrolmen for example, may be considered street level bureaucrats, while other members of the same organization, precinct captains and desk sergeants, are not considered to be street

level bureaucrats. Persons who share the defining features of street level bureaucrats, i.e., continual face-to-face contact with citizens in the course of their work, have considerable independence, and have a potentially significant impact on the lives of those citizens who come into contact with them, may be found in many different organizations.

While these people are conventionally viewed as being at lower levels within their organizations, they exercise a good deal of independence in the conduct of their work. They often have wide ranging formal discretion within the framework of organizational rules and enjoy relative immunity from supervision by organizational superiors. Policemen on patrol, lawyers conferring with clients, judges in their courts, teachers in the classroom, and social workers on home visits cannot easily be monitored on a continuous basis. In those situations for which formal rules exist, the rules are often conflicting and ambiguous. While bureaucracies may have formal rules governing eligibility for service and prescribing the type of service to be provided to persons who have certain characteristics, these rules are often vague requiring the exercise of judgement by the street level bureaucrat.

With regard to the provision of services, we can identify

the following dimensions along which street level bureaucrats commonly exercise discretion. The list is not exhaustive but does include those dimensions which are common to a number of bureaucracies. We find that street level bureaucrats determine:

a) who gets served by the bureaucracy

Street level bureaucrats are often engaged in screening applicants; making direct determinations about whether an applicant has a need for the service provided by the agency and whether the applicant meets certain eligibility requirements. Formal rules rarely define needs and requirements so narrowly as to preclude any discretion at this stage. In addition, it is often the case that citizens who both need and are eligible for service fail to pursue their own cases after initial contacts with the bureaucracy. For example, more than half of the persons who made appointments with a legal services office failed to show up for their appointments (author's field notes) and forty-two percent of those who were seen in mental health clinics in an eastern city, failed to keep subsequent appointments (Wolf, 1974). If clients are subtly (or not so subtly) discouraged from returning by actions of the bureaucrat, dropouts may represent an additional instance of the way

in which bureaucrats can influence who gets service.

b) the type of treatment provided to those who do get served

Determination of the type of service may be within the bureaucrat's formal discretion or it may be related to categories of clients, in which case the bureaucrat may exercise discretion in terms of the category in which he places a given client.

c) the order in which people will receive service

Through the process of scheduling their own time, bureaucrats determine the order in which clients receive attention.

d) how much service people will receive

Those cases which will receive vigorous attention, and those which will be dealt with in a routine manner, or perhaps forgotten altogether are determined by the action of street level bureaucrats. In many cases, the bureaucrat's behavior is the service provided by the agency, so the management of his time becomes synonymous with the determination of service provided by the bureaucrat. This is most obviously the case for those agencies providing counselling legal services to citizens.

In addition to exercising considerable independence, street level bureaucrats have a potentially significant impact on

citizens with whom they interact, affecting important aspects of their lives. Policemen, lawyers, judges, and probation officers are all involved in determinations about the disposition of a person's liberty and property. Welfare workers are involved in decisions about their client's level of income and access to other social services, while teachers can be influential in shaping the entire life history of their pupils. In all instances, vital aspects of citizens' lives are within the influence of street level bureaucrats.

In most cases, the people who encounter street level bureaucrats do not do so voluntarily, or at least they would prefer to be in a situation in which encounters with street level bureaucrats were not necessary. In some cases there are laws which require that a person become involved with a street level bureaucrat; e.g., persons below the age of sixteen are required to attend some sort of school in many states, persons who commit acts defined as criminal are liable to become involved with police, court personnel and corrections officers. In other cases, the acquisition of publicly supplied services or the exercise of socially defined rights requires the involvement of street level bureaucrats as in cases where laws require persons who are eligible for welfare benefits be assigned to

social workers, in the practical circumstance that effective exercise of legal rights often requires the assistance of a lawyer and many persons cannot afford to hire a private attorney. Finally, the amelioration of undesirable situations like poverty or illness may require involvement with street level bureaucrats who work for the welfare department or public health installations.

The independence of street level bureaucrats makes them potentially important policy makers. The conventional view of policy equates it with rules and objectives of groups, formally enunciated by legislators or administrators operating at high levels within their respective organizations. An alternate view holds that policy may be empirically understood by studying patterned activities of individuals or organizations. Thus if the activities of a person in a position with the independence to make non-trivial decisions follow regular patterns, we may say that he is making policy. It is not necessary that policies be written down or formally sanctioned by a legislative body for them to exist, we can infer them from an examination of the actual behavior of people in organizations. There is nothing in the regulations or norms governing teaching, for example, that says that teachers should regularly

encourage and pay more attention to students who have greater potential for development. Yet field studies of teachers have shown that they generally do just that (Rosenthal and Jacobsen, 1968). It is not essential that teachers consciously articulate their choices in this situation. If they show a pattern of special attention to bright students, the effect is the same as if the regulations say they should do so. If no formally designated "policy making" body like a school committee or superintendent's office has decided this matter and the result may be attributed to a series of common decisions by classroom teachers, we can say that teachers themselves make policy regarding the differential treatment of promising versus dull students. Similar examples could be discovered in the study of other street level bureaucrats.

In the course of their work, street level bureaucrats may make policy regarding the distribution of material goods or services to the public. As noted above, teachers decide who will receive attention from the educational system, welfare workers may exercise discretion over the distribution of certain types of benefits, policemen control the degree to which certain neighborhoods are patrolled more or less

cursorily, and lawyers may decide which cases are handled routinely or which may receive special attention -- the list of potential examples is endless.

In addition to the distribution of material goods, street level bureaucrats in their face-to-face encounters with clients affect important symbolic goods. The concept of symbolic goods embraces the concept of identity referring to the images people form of themselves and others. A person's image of himself is heavily influenced by the way other people act toward him. Definitions of a person as being of a certain sort, good or bad, useful or useless, important or worthless, which underlie the behavior of others toward that person come to be incorporated in the person's own self-image (Mead, 1934). Thus if those street level bureaucrats with whom a person comes into contact consistently treat that person as one who is ignorant, whose opinions on topics do not matter, and whose desires may be freely disregarded, he may form an image of himself as ignorant, irrelevant, and inefficacious. For many people, the attitudes and actions of street level bureaucrats may not be important in this regard. For those who find themselves surrounded by street level bureaucrats and who depend on street level bureaucrats for the

necessities of social life, these attitudes and actions may be very significant.

Before a person or organization can begin to act in relation to an entity, it must form some conception of the nature of that entity. Bureaucratic rules are directed toward providing organizational standards for the treatment of people or situations whose characteristics place them into defined categories. Before these rules can be applied, the characteristics of persons or situations must become known. Features of persons and situations must be discovered and defined in an organizationally relevant matter.

This process is made necessary by a system that is founded on the belief that people in the same empirical situation should be treated equally (Weber, 1947, p. 340). Laws and rules do not deal with individuals but with classes of empirical situations. One of the functions of street level bureaucrats is to determine the nature of the empirical situation presented by an individual case. For example, the law does not say that John Doe or Mary Smith is immune from eviction, but may say that any person who resides in an apartment which does not meet the standards of the health code is immune from eviction. When Mary Smith enters a lawyer's

office under threat of eviction, one of the lawyer's tasks will be to determine if she falls into the class of people who live in apartments that do not meet health standards. Similarly, rules do not say that Elizabeth Jones should get food stamps from the welfare department, but may say that any person who has a net income below \$5000 per year may receive food stamps. When Elizabeth walks into the welfare office demanding food stamps, the appropriate official must determine whether she belongs in the category of people who have a net income of less than \$5000.

Bureaucratically relevant characterizations of clients often cannot be mapped directly onto "objective" characteristics of a client. Welfare workers, for example, have to make determinations about what constitutes an "unfit mother", policemen have to decide what kind of behavior may be classified as "disorderly", and prosecutors have to make decisions about which charges can be made against people arrested by the police. It is possible to have formal rules prescribing how a certain category of persons should be treated without there being formal rules for deciding the relevant category into which any particular individual will be placed. Thus, before a street level bureaucrat can act with regard to a

citizen he must first "identify" the citizen in terms of characteristics relevant to his response. This process of forming a bureaucratically relevant identity may have importance to the citizen in terms of his own identity since, by definition, street level bureaucrats deal with highly significant aspects of people's lives, for instance with their legal identity, their social status, or their education.

In addition to the effect the behavior of street level bureaucrats has on the content of people's identities, they have an important effect on images people form of government. Face-to-face encounters with representatives of government can be important to citizens' perceptions of the moral attributes of government. Studies of attitude formation and change have generally shown that personal contact is the most effective medium (Katz and Lazarsfeld, 1955).

Images transmitted through television or newspapers are evaluated in terms of images formed through personal encounters and government may be viewed as distant, mechanistic, uncaring about the individual, or humane based on the activities of street level bureaucrats and the inferred attitudes underlying them. These images have important political effects

as they influence citizens' attitudes toward the political system and their willingness to support the system.

In short, street level bureaucrats occupy a strategic place in the political system. Through their day to day behavior, they not only influence the distribution of public goods, they also influence how people feel about themselves and the political system. The independence they exercise on the job makes them important in considerations of what government does, while their position as points of contact with the public makes them important in considerations of what people think government is. In many areas, it is impossible to completely understand the implementation of government policy without considering the work of street level bureaucrats. At the same time, our understanding of system support and stability or change may be illuminated by examination of the behavior of street level bureaucrats in relation to citizens. Their personal responses to conditions at their work situation become matters of public policy by virtue of the strategic position they occupy.

The Concept of Justice

A brief consideration of the concept of justice is

appropriate since this study draws its material from the activities of people formally charged with the administration of justice. The application of principles of justice to the analysis of street level bureaucrats need not be confined to those whose work is directly related to the justice system, but is especially necessary to a consideration of their activities. The following preliminary discussion is necessary to provide a context for much of the analysis which follows in later chapters. We will find that these principles can be applied to street level bureaucrats in general and, in fact, underlie evaluative statements about all street level bureaucrats.

The concept of justice, like that of law or truth, is one that is basic to social existence, but one that defies concise definition. Eminent minds have written many weighty tomes on the subject and it is not my purpose to add to them here. However, it is appropriate to examine the concept to explicate some principles that motivate the inquiry which follows. I will do this by discussing two issues that a conception of justice must address, and suggest resolutions of those issues that form the conception of justice that underlies this study.

The basic concern addressed by a conception of justice is the distribution of the benefits and liabilities of society. The first issue to be considered is the procedure by which these benefits and liabilities are to be distributed. One resolution of this issue, enshrined in the Constitution of the United States, is that distribution that results from state action must be based on universal principles rather than be arbitrary or capricious. Governmental action (the subject of the Constitution) must be based on process of law; similar people, similarly situated, should have equal opportunity to enjoy social goods.

This resolution of the issue of procedure raises a second issue of the sort of principles that govern the distribution of social goods. Once we agree that goods should be distributed according to some principles, we need to address the question of what principles should govern; we need in effect to identify a principle for principles. Although the principle on which principles are evaluated seems to be historically determined, changing through time, a common theme, in the United States at least, seems to be that principles must be based on considerations that are connectable to the

benefit or liability being distributed. For example, we presently hold that the circumstances of an individual's birth is an inappropriate consideration for the distribution of political power. Similarly, we consider a person's wealth, race, or position of influence to be inappropriate to the distribution of prison sentences. While the definition of appropriate considerations vary, law should enunciate what those considerations are and persons who administer the law should base their actions on an examination of the appropriate consideration and disregard those that are inappropriate. The catalogue of inappropriate considerations for most purposes in the present day United States includes race, sex, and material considerations of wealth.

In short, this conception of justice involves treating people according to universal principles following a disclosure of appropriate aspects of their situation. This is the meaning of the concept of equal protection of laws based on due process. Underlying this concept of justice is the more fundamental concept of human dignity, dignity being the basic social good to be protected by just societies.

In his celebrated theory of justice, John Rawls asserts that "the most primary good is that of self respect" (Rawls, 1971, p. 440), and that one of the conditions of a well-ordered society is that it foster self-respect among its members. A society may be said to be well-ordered "whenever in public life citizens respect one another's ends and adjudicate their political claims in ways that also support their self-esteem" (ibid, p. 442). Two elements of self-esteem or self-respect are important to our inquiry; first is the relation between the respect one receives from others and his self-respect, and second is one's feeling of efficacy.

Self-respect and self-esteem are largely a reflection of the respect that a person receives from others. Sociologists concerned with symbolic interaction (Coolby, Mead, Goffman) argue that the existence of a "self" and the characteristics one attributes to his "self" are the result of social interaction through which one internalizes the definitions and meanings others ascribe to him (see Coolby, 1972; Mead, 1934). One's self-respect then is a reflection of the respect of others and, thus, one of the conditions

for a society in which people respect themselves is that people respect each other. Bernard Williams says that respect entails that:

each man is owed an effort at identification: that he should not be regarded as the surface to which a certain label can be applied, but one should try to see the world (including the label) from his point of view. (Williams, 1969, p. 41)

This means that one of the conditions of others respecting a person is that the others try to understand the unique perspective of each individual and treat him accordingly.

A second ingredient of self-esteem is the feeling that one is able to affect conditions around him, particularly in regard to the central purposes of his life. Social psychologists have recently posited that effectance in producing changes in one's environment is a basic human motivation (White, 1960, deCharms, 1968). They argue that in addition to basic needs for food, warmth, sex, there is a fundamental need to be efficacious that is not derived from these more material needs. This need is manifested whenever the others are satisfied, indicating that it is independent of them. Social theorists like Rawls and Williams argue that satisfaction of this motive is a basic good which

is pursued in social life and that justice dictates that society be set up in ways that facilitate each individual's pursuit of his own ends (Williams, 1969).

In short, while it is an exacting standard, justice demands that institutions be ordered and public life be conducted in ways that provide opportunities for individuals to pursue their individual ends. Where a blending of ends between individuals is required, justice requires that persons act with regard to each other's dignity and seek to find ways in which "their common plans be both rational and complementary" (Rawls, 1971, p. 441). At the same time, each individual is owed the respect and effort at understanding that is essential to self-esteem. Both these considerations dictate that individuals conduct interaction in a way that results in exploration of each other's unique perspectives and circumstances.

This Study

Both justice and public policy may be embodied or denied in laws which affect large numbers of people, in social conditions which force some to live in poverty while others pursue expensive leisure activities, and in day-to-day interactions among people. In this study, we will examine encounters

between street level bureaucrats and clients to determine the degree to which our institutions, especially those formally charged with aiding the administration of justice, are ordered in such a way as to promote individual dignity and individual's capacity for the rational self-government of their lives. We want to see to what extent and by what means people who come into contact with large public bureaucracies and who often depend on those bureaucracies for essential elements of life like housing, income, and security can affect the activities of those agencies and the distribution of social goods effected through those agencies. We also want to see whether employees of those agencies deal with citizens in terms of the person behind the label or use labels to inform their perceptions of individuals.

We will examine encounters between street level bureaucrats and citizens to see how face-to-face interaction affects policy questions of the delivery of both material and symbolic goods. Issues of identity and quality of service achieve empirical content through the activities of street level bureaucrats in relation to clients. Thus, in order

to discover how identities are formed and transmitted and to identify patterns of practice that have the status of policy, we need to take a close look at the day-to-day activities of street level bureaucrats in their interactions with citizens.

Encounters between street level bureaucrats and citizens are also essential to considerations of justice. Since these encounters are where citizens' organizationally relevant identities are formed, it is there we need to look to see if citizens are treated as surfaces to which labels are applied or whether street level bureaucrats try to see the world from the citizens' point of view. We can also look to see whether citizens can influence the street level bureaucrats' exercise of independence through their behavior during encounters with bureaucrats. We will try to determine whether the distribution of services within the discretion of street level bureaucrats is in any way related to the quality of interaction between them and citizens and thus related to considerations not recognized in law.

It is appropriate to examine the activities of personnel in the legal system from this conception of justice. The

perspective of street level bureaucracy and the principles which order society are expressed through the legal system and lawyers who as self-proclaimed "guardians of the law" (ABA Code, 1971, Preamble) have embraced a conception of justice related to that discussed here. In the Preamble to the American Bar Association's Code of Professional Responsibility, it is stated that:

"The continued existence of a free and democratic society depends upon recognition of the concept that justice is based upon the rule of law grounded in respect for the dignity of the individual and his capacity through reason for enlightened self-government" (Ibid, p. 1).

Lawyers appear in the role of street level bureaucrats in several organizations, including public defenders, prosecutors, legal services lawyers, and judges in lower level courts. Legal services lawyers represent clients who are unable to pay for legal representation in non-criminal matters. Legal services for the poor are provided through a program established by Congress to "further the course of justice among persons living in poverty by mobilizing the assistance of lawyers and legal institutions" (Economic Opportunity Amendments of 1967). This program is administered through local projects with neighborhood offices where lawyers engage in the representation of

individual clients. This study will consist of a close examination of encounters between lawyers who work in one such project in an eastern city and their clients. This data will be supplemented by descriptions of interactions between citizens and public defenders as well as interactions between citizens and private lawyers drawn from³ the literature.

The rest of this work will consist of a brief consideration of organizational behavior and social interaction that will illuminate the importance of studying interpersonal encounters, a description of the organizational setting of legal services, a description and analysis of encounters between legal services lawyers and clients, and a discussion of how encounters with citizens relate to lawyers' work on cases. Finally, the implications of my findings to prospects for a just and humane public service will be discussed.

3. Two studies that are closely related to this one and which provide much of the material for comparison are David Sudnow's study of public defenders in California (Sudnow, 1965) and Douglas Rosenthal's study of private lawyers in New York City (Rosenthal, 1974).

Before embarking on a study to determine whether interactions relate to policy and justice, it might be helpful to consider how they might have any relation. The proposition that issues of public policy and justice may be fruitfully studied by looking at concrete encounters between human beings may not be self evident. This chapter will consider the importance of interactions in determining policy outcomes after an examination of the weaknesses of traditional explanations of organizational behavior. I will attempt to show that traditional explanations do not offer, a priori, a complete accounting of bureaucratic behavior, and will then indicate how encounters between bureaucrats and citizens may theoretically relate to the provision of service. The outline of explanations given in this chapter will provide a framework for subsequent analysis of lawyers' behavior in a legal services setting.

Explanations of Behavior

Traditional models of organizational behavior emphasize the "bureaucratic" aspect of bureaucrat-client interaction and try to explain bureaucrats' behavior without reference to encounters with clients. They posit that cues for the bureaucrats' behavior may be derived from rules of the organization, professional norms which transcend organizational context, and/or the features of the situation in which he finds himself. These considerations may be in the nature of concrete rules for conduct prescribed by the bureaucracy or universalistic standards of conduct anchored in professional or social conceptions of roles. Organizational models explicitly deny the

importance of interaction with the client in determining bureaucrats' behavior as illustrated by the following from Blau:

"Professional or bureaucratic detachment has the function of preventing decisions on cases from being distorted by a concern with how these evaluations will affect one's own reputation, since it is designed to make the reactions of clients insignificant for, and sometimes entirely unknown to, the professional or official who has the responsibility of making judgments about them." (Blau, 1964, p. 66)

In contrast, an interactive perspective emphasizes the interpersonal nature of the encounter, claiming that interacting continually with people makes a great deal of difference to street level bureaucrats' behavior, and focusing attention on the bureaucrat's response to the client as of central importance. This perspective would have us look for variation in the service received by clients related to differences in the quality of their interactions with bureaucrats. It also focuses attention on the transmission of symbols as an important feature of governmental action that is effectuated in interpersonal encounters between citizens and representatives of government. An interactionist perspective does not rule out the importance of organizational rules and professional norms in shaping behavior, but views them as setting limits within which variation is possible. It assumes that neither formal rules, professional norms, nor role considerations provide complete prescriptions for behavior, but that they may have considerable importance in directing it.

One way to illustrate the difference between these perspectives is to consider how the exercise of street level bureaucrats' independence would be explained from each perspective. Organizational models would define

independence as that part of behavior which is not prescribed by organizational rules or supervisors' instructions. Explanation for the bureaucrat's behavior would then be sought through reference to professional norms, role determinates, or features of the bureaucrats' personalities. All expected sources of influence would be from the "inside-out" relating to the bureaucrat and his situation, ignoring anything about the client other than his "objective" characteristics. The interactionist perspective would view all the above explanations as partial determinants of behavior, but would look for variation in bureaucrats' behavior related to the quality of interpersonal encounters between clients and bureaucrats.

The following outline of organizational explanations will illustrate the perspective and assumptions, as well as the weaknesses, of traditional views of bureaucratic behavior. Following this outline, the assumptions and potential contribution of an interactionist perspective will be offered along with an outline of how behavior might be explained from that perspective.

Organizational Explanations

We can identify six influences on the behavior of street level bureaucrats; 1) organizational rules, 2) informal expectation of supervisors, 3) professional or social norms, 4) role expectations derived from elements of the work situation, 5) bureaucrat's individual personality, 6) interpersonal encounters with clients. Each of these influences might be examined to see how it accords with justice and the assumptions it makes about client identities, as well as how it affects the distribution of

social goods. I have ordered these influences by the degree to which they explicitly control and make uniform bureaucratic behavior. For example, organizational rules explicitly prescribe uniform behavior for comparable situations regardless of the individuality of the bureaucrat or client, while personality influences, by definition, vary across bureaucrats and across situations with no explicit external referent. These influences are also ordered in reference to the amount of variation in behavior they purport to explain in the common understanding of bureaucratic behavior. That is, most of a street level bureaucrat's behavior is usually explained in reference to rules, the remainder is explained by reference to supervisor's expectations, and so on down the line. This point will become clearer as we consider each influence in turn.

Rules

In his seminal writings on bureaucracy, Weber equates bureaucratic administration with the application of formal rules, ". . . administration of law is held to consist in the application of rules to particular cases; the administrative process is the rational pursuit of the interests which are specified in the order governing the corporate group. . . following principles which are capable of generalized formulation." (Weber, 1947, p. 330) In Weber's view, each "office" or bureau operates within formally prescribed areas of competence, following written rules of conduct within those areas of competence. Although Weber is not explicit on this point, it seems that he would say that behavior which is not susceptible to general formalization is not properly within the purview of administrative organi-

zations. Weber does list a series of conditions underlying bureaucratic organization, each of which is directed toward securing "the purely objective and independent character of the conduct of the office so that it is oriented only to the relevant norms" (Weber, 1947, p. 332). We need to be clear here that when Weber says norms, he means formal written rules of conduct.

Weber never intended that his account of bureaucratic organization be read as an empirical description of existing organizations. He would not claim that all bureaucracies have a system of comprehensive rules covering every contingency. However, he does draw attention to the importance of rules in governing bureaucratic behavior and makes a normative statement about the desirability of a comprehensive set of rules.

It is clear that street level bureaucrats cannot find a complete guide for behavior in a formalized set of rules. In addition to the difficulty in formulating a system of rules comprehensive enough to cover every contingency, there is the added difficulty of prescribing which rule will cover which situation. In those bureaucracies which have attempted to develop a system of comprehensive rules, e.g., welfare, police, and the legal system; we find that rules are routinely ignored by street level bureaucrats partly because their very complexity discourages the effort of finding and interpreting the appropriate rule for any given situation. The literature abounds with descriptions of social workers who either do not know the appropriate rule or are unsure of its interpretation (Prottas, 1975), police recruits who learn quickly to ignore (but be fearful of) the body of formal regulations (McNamara, 1967), and judges who do not

follow formal rules of procedure in the conduct of their work (U.S. Task Force, 1967).

Additional reasons for the failure of rules to provide a comprehensive guide for conduct might be found in internal contradictions in most formal systems, the unrealistic demands they put on behavior, and the fact that in most cases such comprehensive systems simply do not exist. These arguments would only buttress the contention that comprehensive systems of rules do not provide complete guides for the behavior of street level bureaucrats. The extent to which rules do guide behavior obviously varies across bureaucracies and needs to be empirically examined in any study of a bureaucracy. However, we can say that in all street level bureaucracies, formal rules can only explain a portion of the bureaucrat's conduct.

Supervision

The demands of supervisors may both go beyond the formal body of rules and conflict with it. A focus on supervision emphasizes interpersonal power considerations which the bureaucrat is seen as under the non-formalized control of bureaucratic superiors. This control can cover situations in which formal prescriptive rules do not exist, and may also be in conflict with those rules. Bureaucrats are subject to both prescriptive direction and influence through evaluative mechanisms from superior persons. Gouldner argues that in industrial settings, supervisors deliberately leave areas of conduct unspecified by rules so as to maximize their power over subordinates. (Gouldner, 1952) Blau and Thompson point out how the use of evaluative mechanisms by supervisors can shape subordinates' behavior. (Blau,

1967; Thompson, 1967)

Supervision, in conjunction with a formal body of rules, again cannot account for all the behavior of street level bureaucrats. As Prottas points out, the expectations of supervisors may be negotiable (Prottas, 1975) thus adding an element of uncertainty to the effects of supervision. In addition, a varying proportion of any street level bureaucrat's behavior is immune from supervision. Teachers conduct their business behind closed doors, policemen spend most of their working day on patrol, lower court judges (in many states) conduct their business in courtrooms where no record is made of proceedings, welfare workers conduct at least part of their business in the homes of their clients, etc. To a large degree, albeit one that varies across bureaucracies, the behavior of street level bureaucrats is not prescribed by a formal set of rules and/or is immune from monitoring by supervisors.

Professional and Peer Group Norms

The professional model of conduct has been developed in consideration of those occupations which have features similar to street level bureaucrats, i.e., their work involves operations performed on human beings and is difficult to assess comparatively across subjects or objects. Professions are thought to be relatively immune from external control for those reasons. In order to introduce some measure of uniformity in the behavior of professionals, the recognized professions of law and medicine have developed self generating ethical codes to guide the judgment of their members.

Some of those persons that we call street level bureaucrats are

members of these professions, i.e., legal services lawyers, public defenders, lower court judges, and public health personnel. These people have established canons of ethics for guidance of behavior, in addition to organizational rules and supervisors' expectations. Other street level bureaucrats who are members of aspiring professions; i.e., policemen, welfare workers, and teachers; may be guided by organized expressions of peer group norms promulgated by unions, benevolent associations, etc. Professional and quasi-professional sources of norms transcend individual organizational contexts, relating street level bureaucrats in one organization to their counterparts in other cities or other organizations in the same city.

Professional norms offer only a general guide to behavior and often conflict among themselves. The following examples from the American Bar Association Code of Professional Responsibility illustrate both the general and ambiguous nature of professional norms:

"EC 2-26, A lawyer is under no obligation to act as advisor or advocate for every person who may wish to become his client; but in furtherance of the objective of the bar to make legal services fully available, a lawyer should not lightly decline proffered employment."

"EC 2-31. Full availability of legal counsel requires both that persons be able to obtain counsel and that lawyers who undertake representation complete the work involved." (ABA, 1971)

Consider the case of a legal services attorney who is badly overworked and wants to decide if he should respond to another request for his services. He hardly can find clear guidance about whether to extend his services to another client or to decline to help because he needs time to work on cases he has already undertaken. The dilemma is particularly acute because he

knows that if he does not provide service, the client has no where else to turn. Ambiguities and generalities of this sort can be found sprinkled throughout any codified body of professional ethics.

Some writers have emphasized the importance of norms generated within a single organization. Downs discusses the importance of indoctrination into a bureaucratic ideology as a method of controlling members' behavior. (Downs, 1971) Wilson discusses the importance of the style of a department as a whole in influencing a police patrolman's behavior. (Wilson, 1968) Both these authors conceive of an organization's norms as originating with organizational superiors. Other authors (Westley, Blau) discuss the importance of peer group norms generated among groups of bureaucrats at the same level in regulating behavior. For example, patrolmen generate norms about the proper level of violence appropriate to the treatment of certain types of suspects (Westley, 1970), and welfare workers may informally agree among themselves not to take applications from certain types of people (Prottas, 1975).

Formally prescribed norms from a non-organizational source along with informal norms from within the organization act as guides for behavior in situations in which rules are non-existent or essentially unenforceable. They also may be used to insure uniformity of behavior in cases where bureaucrats cannot be monitored regularly (Downs, 1967). There seems to be no theoretical limit to the range of behavior that can be influenced by such norms. Empirically, the limits may vary widely from organization to organization and from context to context.

Situational Role Demands

Role theory posits that the expectations of general society place certain boundaries around the behavior of persons occupying certain positions. Everybody has a more or less explicit idea of what kind of behavior is appropriate to a teacher and to a policeman, for example. These expectations may limit behavior even in cases in which no formal organizational rules, supervisors expectations, or sup-group norms exist. In addition, Lipsky's theory of street level bureaucracy posits that certain features of the street level bureaucrat's situation, i.e., the fact of processing people, excessive demand in relation to resources, and conflicting or ambiguous goals; will themselves lead to predictable patterns of routinization and stereotyping. (Lipsky, 1969) This theory sees behavior as influenced by very general features of the situation which transcend individual organizations and occupations.

These four influences, alone or in combination, offer explanations of street level bureaucratic behavior without reference to the individuality of clients or bureaucrats. These explanations attempt to comprehend the behavior of bureaucrats in relation to clients without considering either bureaucrats or clients in themselves. Clients are essentially replaceable so long as the details of their cases are similar. This view is not only empirical but expresses a normative position: bureaucrats and clients not only are replaceable, but should be replaceable. Treatment is as it should be; equal for all. A fifth explanation looks for differences based on the personality of the bureaucrat.

Personal Differences

The way that bureaucrats treat clients may be related to personal factors such as training, skills, length of service, psychological traits, or personal ideology. These factors are not strictly organizational but have been examined by students of organizational behavior (see, for example, Blau, 1954; Downs, 1967). We will not explore here the various explanations offered that are based on personal differences. Such an exploration would necessarily follow an empirical finding that there were important differences between the behavior of bureaucrats along dimensions of interest. When such differences are found that cannot be explained by other considerations, we can and should look at personal characteristics of individual bureaucrats to complete our understanding of their behavior. We will find, however, that in this study such differences do not appear with enough force to motivate an inquiry into personal explanations of individual behavior.

Interactions

In contrast to the above explanations which view bureaucratic behavior as a function of forces that do not include the client, the interactionist perspective makes the client a central focus of study. This view assumes that whenever two people meet, they engage in a complex process of mutually coordinating their behavior toward and their conceptions of each other and that the behavior and perceptions of each actor can be related to the behavior and perceptions of the other. In addition

to behavior within the context of the immediate encounter, behavior in relation to another person which is conducted outside of the presence of the other may be affected by face-to-face encounters with the other. This distinction is important to our study since some street level bureaucrats, policemen and teachers, for example, do most of their work in relation to clients. They are in direct contact with them, while others such as welfare workers and legal services lawyers may do a considerable amount of work on a client's case in the absence of direct contact with clients in the course of processing their cases. How this contact may affect the service a client receives is a subject of this research.

A fundamental difficulty encountered in this research is the separation of the symbolic and material aspects of social interaction. In practice, these dimensions cannot be separated; all action, especially by street level bureaucrats, has both symbolic and material implications. Social scientists, however, have analyzed interaction primarily in terms of one or the other dimension, discussing the purely symbolic aspects or the purely material aspects, as if one could separate them in theory. This study attempts to deal with both aspects of interaction and this should be kept in mind whenever the discussion moves from one to the other. We are not dealing with competing or mutually exclusive points of view, but need to consider both for a complete understanding of bureaucrat-client encounters and their social implications.

While we will initially consider service in relation to "material" goods that may be distributed by the actions of street level bureaucrats, we need to remind ourselves of the symbolic importance of encounters in

relation to the respect accorded to clients. In the first chapter, the conditions of self-respect were shown to be related to the respect a person received from the other and respect was defined as trying to see the world from the other's point of view. Stated in this way, it is clear that the degree of effort expended by persons toward understanding the world from the point of view of the other has important symbolic dimensions. In the analysis that follows, we will pay close attention to the process by which bureaucrats solicit information from clients to determine how much it reflects an attempt to understand the world from the client's point of view.

One approach of the study of social interaction asks the following question: How does the behavior of A towards B affect B's subsequent behavior toward A? Without going into general theories of action, we can identify two themes in the literature which attempt to answer this question. One tradition emphasizes the perceptions that each actor develops of both his own identity and the identity of the other, implicitly assuming that behavior is related to conceptions of identity. Another tradition claims to consider direct relations between behavior of one interactor and that of the other unmediated by mutual conceptions of identity. Each of these will be considered in turn, from the point of view of how they influence the exercise of street level bureaucrats' discretion.

The idea that one's behavior toward an object is informed by one's perception of the object is long standing in psychology (e.g., Merleau-Ponty, 1961; Kelly, 1970). From this perspective, it is important for

each person in an encounter to formulate some conception of the other. In the case of street level bureaucrats whose work involves processing people, it is important to examine how they form a bureaucratically relevant conception of the other person. The first task of the street level bureaucrat is to form some conception of the client as a person who falls within the limits of a population eligible for the bureaucrat's services. These limits may be defined with relevance to the client's socio-economic status; e.g., persons with incomes below a certain amount, persons of school age, etc.; legal status, e.g., under arrest, being sued; or physical status, injured, sick, etc.

Beyond this, relevant characteristics of a client's identity are more diffuse and susceptible to bureaucratic judgment but necessary to determine the treatment the citizen will receive. For examples, Skolnick describes the concept of "potential assailant" as a type of person toward which police have to exercise special caution (Skolnick, 1966). Judges setting bail have to characterize defendants as likely to come back when a trial is set and/or dangerous to society if let out of jail pending trial. Teachers' treatment of pupils has been shown to vary in relation to their conception of pupils as "likely to blossom" (Rosenthal & Jacobsen, 1968). At this level, at least some of the bureaucrat's behavior is directed toward making such relevant typifications. Elaborate sequences of moves and counter moves may be developed in this process depending on the efforts and skill of clients in disguising or displaying evidence for such characterizations (Goffman, 1972).

It would be a mistake to assume that each client is approached

de novo in each encounter. We can expect that, at some level, street level bureaucrats have what Berger and Luckmann call "typificatory schemes" by which they classify clients on the basis of rudimentary information preceding actual contact with the client. Policemen make judgments about potential subjects on the basis of brief descriptions of place and activity which are to be investigated (Rubenstein, 1973), public defenders make judgments about defendants simply by reading the charges against them (Sudnow, 1965) and so on. In the process of face-to-face encounters these typificatory schemes may be modified by "the massive evidence of the other's subjectivity that is available in the face-to-face situation" (Berger & Luckmann, 1966, p. 30). To the degree to which this is the case, the bureaucrat's subsequent behavior will be affected by face-to-face encounters with clients.

While the bureaucrat's conception of the client affects his behavior, his conception of his own self in relation to the client may have additional importance. Bennis, among others, posits a general motivation of actors to protect or enhance their self-esteem in relation to others (Bennis, et al., 1964). Street level bureaucrat's behavior may, therefore, be partially directed toward promoting a favorable image of himself and induce client behavior which reinforces that image. For example, policemen are described as having more than an instrumental interest in promoting images of themselves as tough but fair (McNamara, 1967); and social workers have been known to avoid asking sensitive questions of clients, partially through fear of being thought of as nosy, prudish, or insensitive to clients' needs for privacy (Handler and Hollingsworth, 1971). The client's

implicit image of and evaluation of the bureaucrat may influence the bureaucrat's behavior in the direction of displaying his "better" qualities. We can expect this to happen in direct encounters with clients even in circumstances in which bureaucrats claim to be immune from client evaluations.

Clients may thus have an instrumental interest in manipulating both the bureaucrat's image of the client and the bureaucrat's image of himself. Jones argues that persons in subordinate power positions, clients in this case, will try to make themselves attractive to superiors by agreeing with superiors' opinions in the hope of gaining instrumental benefits from the relationship (Jones, 1967). This tactic of ingratiation can be seen as both a manipulation of the Other's image of one's self, i.e., making oneself attractive, and a manipulation of the Other's image of himself, in this case as someone whose opinions are shared by others.

In more general terms, strategies of confirming or enhancing the Other's self-esteem may have direct implications to the level of service received by clients. In his theory of social exchange, Blau posits that certain types of "intrinsic rewards", those delivered in the context of face-to-face interaction and not separable from it, may be exchanged for "extrinsic rewards", those which are theoretically detachable from direct interaction. (Blau, 1964) Among those things which may constitute intrinsic rewards are listed the following; "regard, respect, social recognition, compliance, acceptance, sympathy, esteem, approval, and loyalty". While some of these may have instrumental benefits separable from self images (compliance and loyalty, for example), all

of them can be interpreted as contributing to the confirmation or enhancement of the recipient's self-esteem. Although Blau does not claim that social exchange is mediated through self images, the language he uses suggests such a relationship.

A comprehensive view of interpersonal behavior is offered by Leary (Leary, 1957). This system has the advantage of specifying operational constructs regarding many of the concepts used in social exchange theory. In addition, Leary and associates have developed and tested an instrument which can be used to measure these constructs for the purposes of relating them to other aspects of behavior. Interpersonal behavior is analyzed along the dimensions of power and affect, the two being seen as orthogonal to each other. Thus, behavior may be grossly characterized as dominate-friendly, dominate-hostile, submissive-friendly, and submissive-hostile. In a more refined analysis, interpersonal behavior is divided into sixteen classes depending on the power and affect underlying each. These classes can then be arrayed in the form of a wheel as shown in Figure 1.

This wheel specifies relationships between behaviors arrayed around it. Each class of behavior displayed by one person tends to "pull" specific behaviors from the other. Interpersonal behavior on the part of one person which is characteristic of a certain class is predictably followed by behavior of the other person which falls in another class. A person who acts wary and skeptical, for example, (in the lower left quadrant of the circle) will provoke rejection from the other (in the upper left quadrant of the circle). By examination of Figure 1, we can see that a person's behavior tends to pull behavior from the other which is similar

FIGURE I

The Interpersonal Wheel (Leary, 1957, p.65)

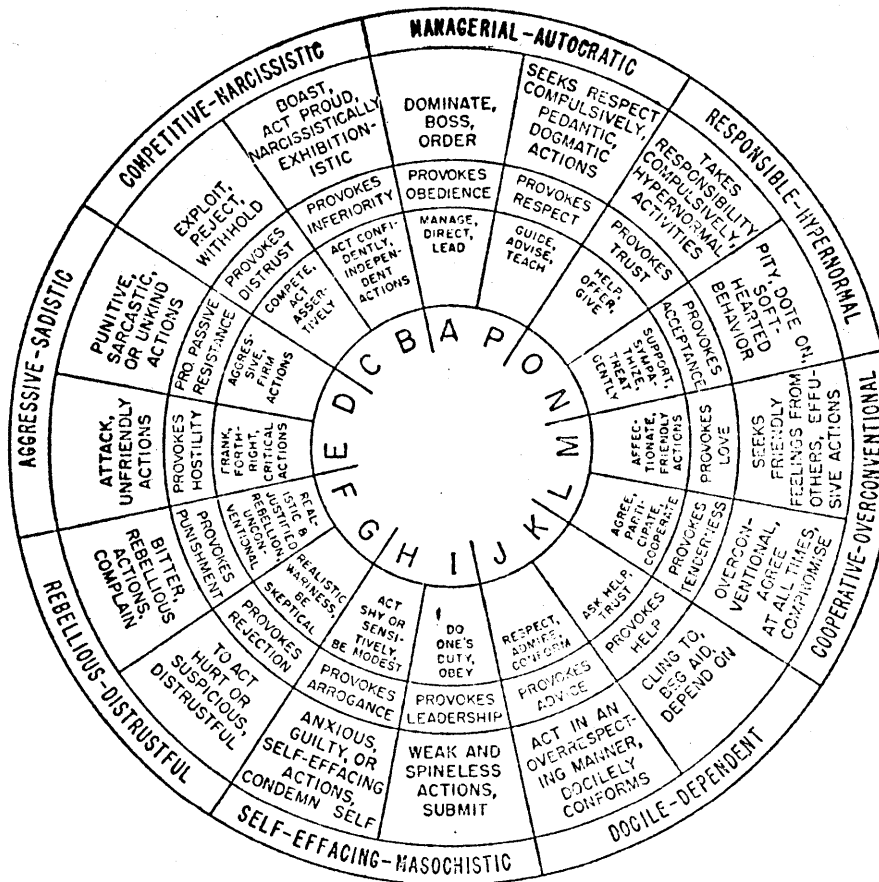


FIGURE 1. Classification of Interpersonal Behavior into Sixteen Mechanisms or Reflexes. Each of the sixteen interpersonal variables is illustrated by sample behaviors. The inner circle presents illustrations of adaptive reflexes, e.g., for the variable *A*, *manage*. The center ring indicates the type of behavior that this interpersonal reflex tends to "pull" from the other one. Thus we see that the person who uses the reflex *A* tends to provoke others to *obedience*, etc. These findings involve two-way interpersonal phenomena (what the subject does and what the "Other" does back) and are therefore less reliable than the other interpersonal codes presented in this figure. The next circle illustrates extreme or rigid reflexes, e.g., *dominates*. The perimeter of the circle is divided into eight general categories employed in *interpersonal diagnosis*. Each category has a moderate (adaptive) and an extreme (pathological) intensity, e.g., *Managerial-Autocratic*.

in affect, but opposite in power. Thus, those behaviors which are characterized as submissive-friendly will be responded to with behaviors that are dominant-friendly; dominant-hostile behavior will receive submissive-hostile behavior in return, and so on around the wheel.

The behavior of one actor is related to that of the other directly without direct reference to conceptions of identity. It should be noted that the absence of direct reference to self conceptions does not imply that they are not important or that they have no place in the process. In fact, it is possible that identities may be assumed to enter in the process in a manner so predictable that there is no need to consider them separately. Leary explicitly states as a first principle of his theory that

"Interpersonal behavior is aimed at reducing anxiety. All the social, emotional, interpersonal activities of an individual can be understood as attempts to avoid anxiety or to establish and maintain self-esteem." (Leary, 1957, p. 59)

Thus, we expect considerations of self-esteem to underly the system without being explicitly elaborated in each instance.

While both Leary's system and social exchange theory is based on the maintenance or enhancement of self-esteem, they differ slightly in the type of predictions they might make. Leary's system offers a more complete set of predictions than does social exchange theory as outlined by Blau and Homans. Social exchange theory does not explicitly address situations in which the client may be hostile and dominant. It is more concerned with situations in which the client may be docile and dependent, predicting that such behavior would be rewarding to the bureaucrat and

reciprocated by behavior which is rewarding to the client. Leary's system would make a similar prediction.

We cannot predict from exchange theory just what type of response would follow from hostile-dominant behavior on the part of the client. The bureaucrat might respond by doing nothing or rebuffing the client, thus making the encounter costly to the client as well. He might alternatively respond by "cutting his costs", giving the client just what the client needs to satisfy him and induce him to leave the field. Leary's scheme would predict that dominant client behavior would induce submissive bureaucratic behavior, in common terms, "the squeaky wheel would get the grease." Leary's system would predict both that the squeaky wheel and the docile dependent client would get good treatment; one by invoking bureaucratic compliance, the other by eliciting helping nurturant behavior.

A partial experimental confirmation of Leary's system was made by Heller, Myers and Kline (1963). Four persons trained to exhibit behavior from each quadrant; i.e., dominant-friendly, dominant-hostile, submissive-friendly, and submissive-hostile; were interviewed by therapists-in-training who were unaware of the experiment. Observers rating of the therapists' responses within the interview itself showed that dominant client behavior evoked interviewer dependence more than was the case for dependent clients, while client friendliness evoked more interviewer friendliness than client hostility did. The findings are relative, using terms like "less friendliness" rather than hostile. Heller, Myers and Kline's data does not show whether interviewers tended to act dominant

and friendly to all clients, differing only in terms of the degree of dominance and friendliness, or actually displayed dependent and unfriendly behavior.

Because of the comprehensive and operational nature of Leary's theory, it will form a key ingredient in our study of the relation of encounters between street level bureaucrats and clients to the bureaucrat's exercise of discretion. Of course, as with any other operational system and measuring instrument, our findings may be limited by the imposition of predetermined constructs and definitions. The alternative of developing an instrument for this study was seen to be outside the scope of this thesis. The effort required would encompass an entire thesis and leave no time to move beyond questions of measurement. It seemed more advisable to build on efforts of others to explore the utility of interaction theory than to develop yet another measuring device.

We will try to determine whether bureaucrats' treatment of a client can be related to their perceptions of clients in terms of Leary's categories. We will be interested in differential treatment as it relates to bureaucrats' conceptions of clients as hostile-friendly or dominant-submissive. It should be noted that treatment refers to both behavior during the period of the encounter and, of more importance to traditional policy considerations, the treatment of the client's case following the initial encounter.

Summary

Given the fact that street level bureaucrats enjoy a large measure of independence in the course of their work, it is possible that their behavior may be related to the quality of encounters with clients. Specifically, it may be related to the perceptions they form of clients through direct interaction with them and it may be related to clients' behavior in relation to the bureaucrat. Some competing hypotheses emerge from an analysis of theories of social interaction; one stating that clients who act deferent and respectful will receive better service, while another states that clients who are hostile and dominant will receive better service.

While considerations of perception and exchange may be important to an explanation of bureaucratic behavior they are also important for the symbols they communicate. A style of interaction in which bureaucrats attempt to see the world from the client's point of view, respect client desires, and try to look beneath the labels a client represents is essential to the ideal of human dignity. To the extent that bureaucrats approach this ideal they communicate that clients are persons of dignity and worthy of respect, at the same time communicating that representatives of government treat citizens with respect. These symbolic exchanges are essential to a conception of justice and relations between the individual and social institutions.

CHAPTER IIIMETHODS

Bureaucrat-client interactions were studied in the offices of a legal services program in an eastern city. While a fuller discussion of the organization and operation of legal services will follow in Chapter IV, a brief description of the setting will help the reader understand the context in which this study was conducted.

An important feature of federally funded legal services is the neighborhood office in which a small number of lawyers and supporting staff service the legal needs of residents of a particular geographical area. The neighborhood office is supposed to operate like a private law firm with the exception that its clients do not pay for service. Prospective clients contact the office when they feel in need of legal assistance and, if they meet certain eligibility guidelines, are given appointments for interviews to determine the extent of their needs and to formulate courses of action with regard to their cases.

Two offices were selected for study, one in a predominantly white, lower middle class area of the city and the other in an area populated by black and Spanish-speaking persons. The

offices who were staffed by four and five attorneys who were members of the bar, a few para-legal personnel who performed many of the functions of a lawyer, but who could not appear in court, and a complement of secretarial workers. Each was located in a slightly run down building on a major street in the neighborhood with provision for clients to "walk in" with their problems. The two offices were selected not only because of the differences in their clientele, but also because of alleged differences in their approach to client service. One office was said to be quite "professional", attempting to limit the number of cases to that which could be given full service and attempting to keep control over the use of the office's resources. The other office was said to be more "loose" in its orientation, taking all clients who asked for service and responding to needs as they arose with little attempt at planning or administration. These impressions were given to me by members of the head office of the organization during the time that the study was being planned.

After a preliminary meeting with the staffs of both offices, at which time the purposes and plan of study were

explained in broad outline, I began an intense period of observation at one of the offices. During the first week, I followed one lawyer around to get an idea of the way in which a lawyer employed by legal services spent his time. This activity included (1) sitting in the office observing work, telephone conversations, discussions with clients and colleagues, (2) trips to the courthouse to file papers and make appearances, and (3) visits to other lawyers' offices and other errands. A detailed diary of all activities was kept.

The next two weeks were spent in the reception area observing the comings and goings of clients and office personnel. Special attention was paid to calls for requests for service and walk-in cases. At this point, I wanted to get an idea of the kinds of requests for service that were received by the office and the process by which cases were screened. A sizable number of persons who contact legal services offices are never given an appointment since they may not be eligible for a variety of reasons or their problems may be defined in a way that the office cannot respond. At the time this study was begun, both offices claimed to be

limiting intake to "emergency" cases only. One of the items of interest was the criteria used to determine whether a case constituted an emergency, in addition to a general focus on the quality of interactions between reception personnel and clients. Again, detailed notes were kept regarding each client contact, the nature of the person's problem and the actions of the receptionist.

In this office, five women were equally responsible for answering telephones and talking to clients who came in the door. Following the two week observation period, each of these women was interviewed using a standard set of questions to determine (a) what options each felt she had when a person called for service, (b) the determinants of which option to exercise in a given case, (c) what criteria they used to determine if a case is an emergency, (d) when they might turn to a lawyer for assistance in deciding whether to give a person an appointment, and (e) how they learned about the criteria and options.

Observation of intake interviews was begun immediately after this participant observation phase. This observation formed the heart of the study, since the guiding hypothesis

dealt with client behavior in the initial contact with her lawyer and the lawyer's subsequent conduct of the case. It was therefore crucial that I be able to observe first contacts between client and lawyer at which time the lawyer would be forming his impressions of both the client and her case. The privileged nature of the attorney-client communications cited by Rosenthal (1974) as a major obstacle to the conduct of a similar study was overcome in two ways. First, the organization which I was studying agreed to incorporate me onto their staff in the same status as a number of other unpaid, non-lawyer personnel who did para-legal work. This allowed a claim that the attorney-client privilege which extends to personnel of a law office beside the lawyer who is primarily responsible for the conduct of a case would also apply to me. Thus anything that I heard during the conduct of an interview would have the status of privileged information. Second, in consultation with the Committee on the Use of Humans as Experimental Subjects at M.I.T., a consent form was drafted which would be presented to each client and each lawyer who was approached as a potential subject for this study. A copy of this form is found in Appendix A.

I tried to be in the office whenever an intake appointment was scheduled. Both offices handled intake by assigning a lawyer to conduct interviews at given times on certain days. No attempt was made to draw a sample of clients coming in for interviews; rather, I tried to observe all intakes that were conducted during the period of observation. An immediate problem arose with clients who failed to keep appointments. On an average day, three or four intake interviews would be scheduled, but only one or two clients would keep their appointments. Often clients who did not have appointments were seen if their case seemed important and a lawyer was free to conduct the interview. During the period of observation, about 40% of the clients who were scheduled for intake interviews failed to keep their appointments. About 10% of the persons who were seen by lawyers in the offices were taken on a no-appointment, emergency basis.

At times when appointments were scheduled, I would appear in the reception area fifteen to twenty minutes before the first scheduled appointment, contact the person who was doing intake interviews at that time and remind him of my interest in observing interviews that would be

conducted that day. Whenever a client came in for an interview, the lawyer conducting the interview would take the client into his office, explain the nature of my study and ask the client whether she would consent to my observing the interview. In the few cases when a client did not consent to my presence, no attempt was made to discover anything about her case including the reason for her unwillingness to consent to my presence. In most cases, the client readily agreed and the lawyer would inform me of her consent at which time I would enter the room in which the interview was being conducted, sit in an inconspicuous part of the room and begin recording the interaction which transpired.

At the outset, preliminary information was recorded including the time of the initiation of the interview, the sex, race and estimated age of the client (the offices did not ask for nor record detailed information on clients' ages). Each client was given a code number which identified the office, lawyer, and serial order of interviews observed. A sketch was made showing the location of each person and furniture; however, little variation was noted in this: lawyers invariably sat behind a small desk with clients

either sitting opposite or at the end of the desk.

Some means was necessary to record behavior that would allow a characterization of the client in terms of dominance or deference, friendship or hostility. I turned to the literature on communication in social interaction to discover what had been learned about indicators of dominance and affect in interpersonal situations. Three broad categories of indicators are suggested by Argyle (1969): a) non-verbal including bodily contact, proximity of interactors, posture, physical appearance, facial and gestural movements, and direction of gaze; b) aspects of speech including the timing, emotional tone, occurrence of errors and accent; and c) paralinguistic relating to types of utterances and control over the topic of conversation. Mehrabian and Friar (1969) discuss the importance of posture and position cues in communicating affect between interactors. Based on these studies and some pretesting of my ability to record non-verbal aspects of encounters, I decided to encode posture and orientation of interactors using a coding scheme developed by Watson and Graves as reported in Argyle (1973). Both the lawyer and client's posture and relative orientation toward each other was

recorded at the outset of the interview and notation made of changes as they subsequently occurred. Initially, an attempt was also made to record direction of gaze of both lawyer and client at periodic intervals; however, this was abandoned when it became apparent that often the direction of gaze could not be observed due to the changing orientation of the interactors relative to the observer, and that gaze shifted so rapidly that a more or less arbitrary determination had to be made of where a person was looking at the time that his or her gaze was recorded.

Goffman (1967) suggests that deference may be communicated by dress and use of certain linguistic forms such as salutations, compliments, apologies, use of honorific forms of address, etc. The nature of each client's appearance was recorded by a short verbal description of her dress and accessories with a score being recorded for dimensions of neatness and obtrusiveness. In addition, the following linguistic forms were recorded as they occurred during the interview: honorific forms of address directed toward another person in the room or in reference to a third party; deprecatory and complimentary remarks referring to

the person who made the remark, others in the room, or third parties; appeals for sympathy; sympathetic remarks directed toward others in the room or third parties, and appreciative remarks directed toward others in the room or third parties. A complete outline of the coding scheme for the entire interview situation is given in Figure V.

The bulk of an interview record consisted of keeping track of each person's verbal behavior along the dimensions of topic control and floor control. Floor control refers to control over the use of conversational time. A person exercises floor control by indicating that it is time for another to speak or by taking the initiative to begin speaking in the absence of the other's indication that it is appropriate for him to do so. Although several indicators of floor control were coded*, only the

* Categories such as simultaneous initiation of speech, winning the floor following simultaneous initiation, attempting and foiling interruptions, and giving the floor to another by overt indication that it was time for them to speak were coded, but occurred rarely.

act of interrupting another's speech occurred often enough to be useful as an indicator of differential exercise of floor control.

Topic control refers to control over topic of conversation. It is evidenced by the introduction of new subjects in the conversation, and continuation of topics initiated by others. An utterance may be interpreted as either continuing on a topic introduced by another and thus complying with his exercise of topic control or an attempt to introduce new subjects or direct the other's conversation towards certain topics.

Evidence for the exercise of topic control consisted of coding utterances into the following categories:

- a) Question: a question was interpreted as evidence that the speaker wanted to elicit a certain type of response;
- b) Answer: only those that seemed to be responsive to questions were included in this category;
- c) Changing the topic: beginning a topic previously unsuggested or not initiated by the other;
- d) Continuation of a topic previously initiated by one's self: without regard to intervening utterances of

the other;

e) Continuation of a topic previously initiated by another;

f) Leading question: a question which contains its own answer, directing the other to either confirm or disconfirm one's assumptions, e.g., "It's a nice day, isn't it?";

g) Explanation: long explications of a point, description of events, or predictions of future events were coded as explanations, and

h) Instruction: telling the other what he or she should do or what one expected her to do was coded as instruction.

Asking questions, changing topics, continuation of topics initiated by one's self, asking leading questions, explanations and instructions were all taken as evidence of the exercise of topic control. Answering questions and continuation of topics previously initiated by the other were taken as evidence of compliance with the other's exercise of topic control.

Before entering the field, a pilot test of the workability of the coding scheme was made using televised interview shows

such as "Firing Line" as models of the type of interaction which would be observed. Based on this pilot study, some categories were discarded and others added, e.g., recording of gaze was dropped and the category of leading question adopted. No attempt was made to measure inter-coder reliability of these categories considering the exploratory nature of and the limited resources available for the project. It was felt that the dangers of contamination due to my being both the designer and executor of the project would be minimized by the fact that outcome variables to which recorded aspects of the interaction would be related would not occur until well after the interaction was completed and were in no way susceptible to my control. The following guiding assumptions described by Turner for the conduct of ethnomethodological studies were adopted to guide this project:

- "1. That all and any exchanges of utterances -- defining an utterance for the moment as one speaker's turn at talking -- can in principle be regarded as 'doing things with words'.
- "2. That there is no a priori reason to suppose that syntactical or lexical correspondences exist between units of speech and activities.

- "3. That in constructing their talk, members provide for the recognition of 'what they are doing' by invoking culturally provided resources.
- "4. The 'total speech situations' are to be elucidated as the features oriented to by members in doing and recognizing activities, and assessing their appropriateness.
- "5. That in undertaking such elucidations, sociologists must (and do) employ their own expertise in recognizing procedures for accomplishing activities.
- "6. That the task of the sociologist in analyzing naturally-occurring scenes is not to deny his competence in making sense of activities but to explicate it.
- "7. That such explication provides for a cumulative enterprise, in that the uncovering of members' procedures for doing activities permits us both to replicate our original data and to generate new instances that fellow members will find recognizable." (Turner, 1974, p. 214)

While the encoding of these dimensions of interactor behavior in the interview situation might allow third person characterizations of clients and lawyers as more or less dominant and friendly, an important aspect of the encounter which needed to be measured was the lawyer's impression of the client along these dimensions. As Leary said in the explanation of his theory:

"the instrument employed to measure interpersonal reflexes is another human being. Since interpersonal behavior is a functionally important dimension of

personality, it is measured directly -- in terms of the actual social impact that the subject has on others." (Leary, 1955, p. 157)

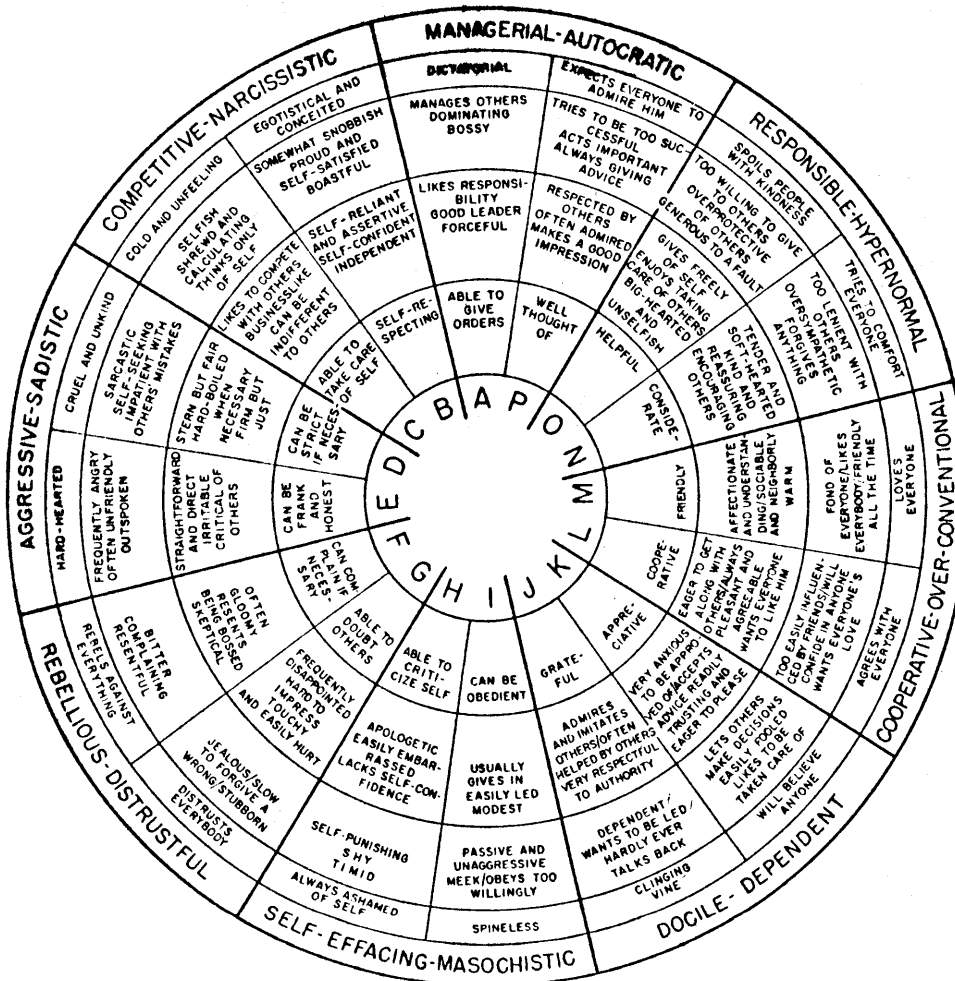
Even if all non-verbal and para-linguistic indicators yielded a characterization of a client as dominant or deferent, hostile or friendly, the ultimate characterization that might be important is that made by the lawyer himself.

In order to tap lawyers' perceptions of clients and provide a summary characterization of their interpersonal behavior in the situation, I asked each lawyer to fill out an Interpersonal Adjective Checklist designed by Leary and his associates (see Leary, 1957, Appendix 2). This instrument consists of a list of 128 adjectives selected so that eight adjectives correspond to each of the sixteen types of interpersonal behavior postulated by Leary. The adjectives describe behavior around the interpersonal wheel as shown in Figure II, and are balanced to indicate the intensity of the characteristic described by the adjective. The list of adjectives arranged by category and intensity is shown in

5. (See page 51 supra for an explanation of this theory of interpersonal behavior).

Figure IV. An alphabetized list of these adjectives was presented to the lawyer after each interview and he was asked to check those he felt applied to the client. Since each interview was the first time that the lawyer had encountered the client, it was felt that the description given by the lawyer would be an appropriate summation of the client's behavior during the interview as perceived by the lawyer. At the same time, I filled out an adjective checklist for each client based on my perception of her behavior during the interview.

The checklist is scored by counting the number of adjectives in each category that are checked by the person filling out the checklist. The first step is to construct a profile similar to that in Figure III for each client. This profile can be reduced to a single summary point by considering the circle to be a two-dimensional array in ordinary Euclidian space. A vertical line through category AP and a horizontal line through category LM were chosen by Leary and associates as reference axes for dimensions of power and affect respectively. Each profile was then conceived to be a set of eight vectors or points in two-dimensional space defined by these reference axes. By summing the components of each vector in relation to



FORM 4

FIGURE 1 Interpersonal Check List Illustrating the Classification of Interpersonal Behaviors into Sixteen Variable Categories.

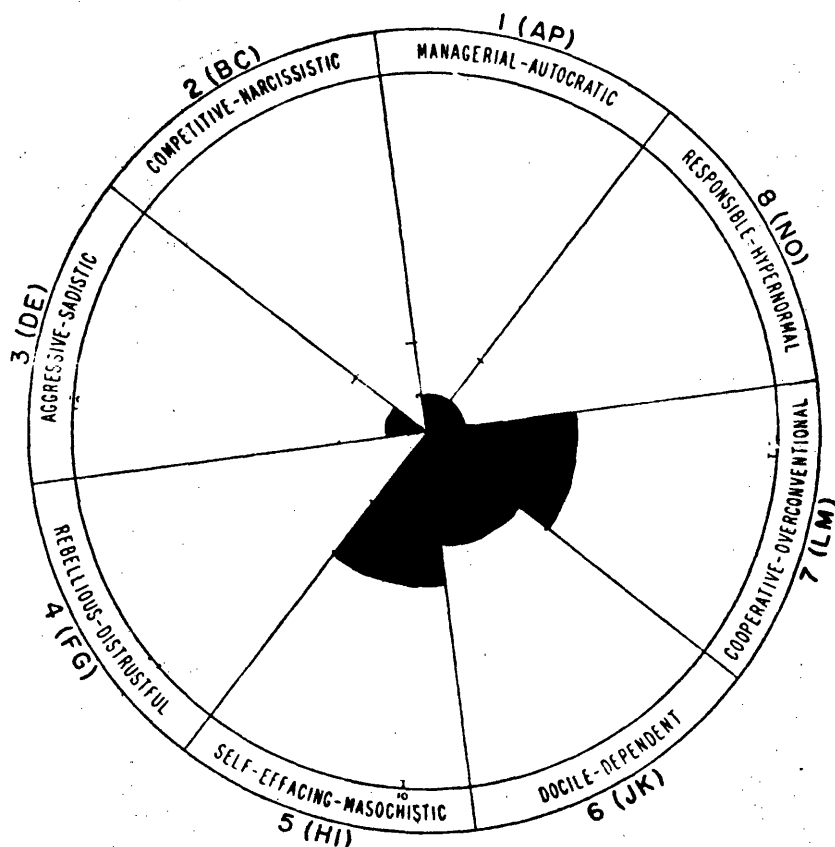


FIGURE III. Illustrative profile of client style during interview.

Figure IV

INTERPERSONAL CHECK LIST

Words Arranged by Octant and Intensity

Octant 1: AP

- | | |
|---|---|
| <p>A: 1 Able to give orders
2 Forceful
 Good Leader
 Likes responsibility
3 Bossy
 Dominating
 Manages others
4 Dictatorial</p> | <p>P: 1 Well thought of
2 Makes a good impression
 Often admired
 Respected by others
3 Always giving advice
 Acts important
 Tries to be too successful
4 Expects everyone to admire him</p> |
|---|---|

Octant 2: BC

- | | |
|---|---|
| <p>B: 1 Self-respecting
2 Independent
 Self-confident
 Self-reliant and assertive
3 Boastful
 Proud and self-satisfied
 Somewhat snobbish
4 Egotistical and conceited</p> | <p>C: 1 Able to take care of self
2 Can be indifferent to others
 Businesslike
 Likes to compete with others
3 Thinks only of himself
 Shrewd and calculating
 Selfish
4 Cold and unfeeling</p> |
|---|---|

Octant 3: DE

- | | |
|---|---|
| <p>D: 1 Can be strict if necessary
2 Firm but just
 Hardboiled when necessary
 Stern but fair
3 Impatient with others'
 mistakes
 Self-seeking
 Sarcastic
4 Cruel and unkind</p> | <p>E: 1 Can be frank and honest
2 Critical of others
 Irritable
 Straightforward and direct
3 Outspoken

 Often unfriendly
 Frequently angry
4 Hard-hearted</p> |
|---|---|

Octant 4: FG

- | | |
|--|--|
| <p>F: 1 Can complain if necessary
2 Often gloomy
 Resents being bossed
 Skeptical
3 Bitter
 Complaining
 Resentful
4 Rebels against everything</p> | <p>G: 1 Able to doubt others
2 Frequently disappointed
 Hard to impress
 Touchy and easily hurt
3 Jealous
 Slow to forgive a wrong
 Stubborn
4 Distrusts everybody</p> |
|--|--|

FIGURE IV (cont.)

Octant 5: HI

- H: 1 Able to criticize self
 2 Apologetic
 Easily embarrassed
 Lacks self-confidence
 3 Self-punishing
 Shy
 Timid
 4 Always ashamed of self

- I: 1 Can be obedient
 2 Usually gives in
 Easily led
 Modest
 3 Passive and unaggressive
 Meek
 Obeys too willingly
 4 Spineless

Octant 6: JK

- J: 1 Grateful
 2 Admires and imitates
 others
 Often helped by others
 Very respectful to
 authority
 3 Dependent
 Wants to be led
 Hardly ever talks back
 4 Clinging vine

- K: 1 Appreciative
 2 Very anxious to be
 approved of
 Accepts advice readily
 Trusting and eager to
 please
 3 Lets others make decisions
 Easily fooled
 Likes to be taken care of
 4 Will believe anyone

Octant 7: LM

- L: 1 Cooperative
 2 Eager to get along with others
 Always pleasant and agreeable
 Wants everyone to like him
 3 Too easily influenced by friends
 Will confide in anyone
 Wants everyone's love
 4 Agrees with everyone
- M: 1 Friendly
 2 Affectionate and understanding
 Sociable and neighborly
 Warm
 3 Fond of everyone
 Likes everybody
 Friendly all the time
 4 Loves everyone

Octant 8: NO

- N: 1 Considerate
 2 Encouraging others
 Kind and reassuring
 Tender and soft-hearted
 3 Forgives anything
 Oversympathetic
 Too lenient with others
 4 Tries to comfort everyone

- O: 1 Helpful
 2 Big-hearted and unselfish
 Enjoys taking care of others
 Gives freely of self
 3 Generous to a fault
 Overprotective of others
 Too willing to give to others
 4 Spoils people with kindness

FIGURE VINTERACTION CODESOrientation: Pictorial Representationp_q, p_α, p_τ, p_δ, etc.

Add third persons as appropriate

Posture: Pictorial Representation

L, L, S, etc.

Gaze: o-p looking at q, at his eyes
 Q-p looking down
 o-p looking to left
 o-p looking to right
 δ-p looking upward

Floor Control:

atint	attempt interruption	?
int	interrupt	ans.
simin	simultaneous initiation	contop 1
winfl	wins floor (follows simin)	
flint	foil interruption	contop 2
gvflor	gives floor (person obviously indicates it's time for another to talk)	chtop
wasint	was interrupted (only code if more than two people talking)	? ans.

Topic Control:

?	asked question
ans.	answer question
contop 1	continued topic previously initiated by self
contop 2	continued topic initiated by other
chtop	change topic
? ans.	leading question

Verbalizations:

hon	uses honorific	symp - sympathizes with
2	referencing other in conv.	1 -
3	referencing third person	2 - other
dep 1	makes deprecatory remarks abt. self	3 - 3rd person
2	other	thnks - thanks the other (expresses appreciation)
3	3rd person	2 -
comp	compliments	3 -
2	other	appeals -- appeals for sympathy
3	3rd party	explains - tells facts or laws

these two directions, we arrive at a single point. This point is defined by the individual's score in terms of power (the vertical axis) and affect (the horizontal axis). By means of this summary point, we can make comparisons between individuals in our sample along these two dimensions and relate their scores along these dimensions with other variables of interest. Thus by use of the adjective checklist we can arrive at comparative scores for each individual regarding the degree to which she was perceived to be dominant-submissive and hostile-friendly. These scores can then be compared to measures of lawyerly effort and outcomes to ascertain the effect of client interpersonal behavior on subsequent handling of her case.

After the completion of each intake interview, I wrote down a description of the case as I (a lay person) understood it, noted whether the client had requested any specific action from the lawyer and noted anything else interesting or unusual about the case. In order to discover the bureaucratically relevant identification of the case made by the lawyer, I asked him to describe what he thought to be the problems involved in the case, what he planned to do with the case, to what extent he thought the case represented an emergency, and noted anything he felt to be interesting or unusual about the case.

Finally, I recorded when the next contact between the office and the client was supposed to occur, who was to initiate that contact, and what type of contact it was supposed to be; telephone call, meeting in the office, etc. The form used to record interviews, my impressions, lawyer's impressions and the adjective checklist are attached as Appendix B.

In the weeks and months that followed the initial interview, I would periodically check up on the progress of a case, being careful to do so in a manner which would not precipitate action on cases which were dormant, or unduly bring into consciousness cases that had been forgotten. When there were court or administrative appearances associated with a case, I would usually attend these if it did not interfere with the opportunity to observe new intake interviews.

Whenever a case was closed, I would read the file and take note of all action which had been recorded, interview the lawyer who had handled the case to find out what he had done and how much time he had spent on the case. I copied verbatim out of the file remarks which were recorded in a section labelled "outcome". These remarks might be short cryptic statements such as "objective obtained" or longer statements describing what had happened with the case.

I asked the lawyer who had handled the case to give an assessment of the amount of effort he felt he had put into the case relative to the amount of effort normally expended on a case of that type and relative to the amount of effort one would ideally have spent on a case of that type. I also asked him to give an assessment of the outcome of the case relative to what normally happened with cases of that type and relative to an ideal outcome for such cases.

Nine months after the study was begun and four months after the last intake interview had been observed, a few cases had reached no conclusion. Some had obviously been forgotten; in two instances, no record of the case could be found in the office; in a few more cases, the records, retrieved under piles of case files, recorded no action expect the initial intake interview. These cases were recorded as lost or forgotten, no effort expended, and outcome unknown. Only one case was found to be truly active at the cutoff time of this study and since the outcome was not in substantial doubt but more a matter of waiting for bureaucratic processing in the welfare department, it was treated as if it were finished and recorded in a manner similar to those that had been closed.

CHAPTER IVTHE LEGAL SERVICES MOVEMENT

The Legal Assistance movement has long shown concern for justice and the quality of lawyer-client relationships. Legal assistance for the poor has been portrayed as an essential ingredient in the administration of justice since the first societies were started more than seventy-five years ago. In his definitive work on the movement, Reginald Smith was careful to distinguish the symbolic elements of justice represented by the work of legal assistance organizations from the dispensation of charity.

"From its (The Legal Aid movement's) original position as a sort of proprietary organization with the narrow mission of aiding only a limited group, it broadened out and took on the stature of a charity, anxious to help all who needed its assistance, but still viewing its object as that of dispensing legal assistance as other charities dispense material assistance. Hence, it emerged on a higher plane, where it understood that in its daily work it was not so much giving anything to the poor as it was obtaining for them their just dues; that it was not dispensing charity, but was securing justice" (Smith, 1919, p. 149).

This reflection of the concerns which motivate my study of street level bureaucrats' encounters with clients makes Legal Services an especially appropriate site in which to

pursue the inquiry. In this chapter we will briefly review the history of legal aid to show that the comparatively recent enactment of a federal program in this area is an evolutionary step in a movement that started almost a hundred years ago and is not a new program in any basic sense. After a consideration of the goals of the movement, I will describe the organization in which this research was conducted. Finally, we will look at a typical lawyer-client interaction for an understanding of the organization in action.

A Short History of Legal Services

The provision of legal services to the poor in America began in the latter half of the nineteenth century. The earliest efforts were private organizations set up by and for members of immigrant groups, or special service organizations such as one for young girls who were subject to special forms of abuse (Johnson, 1974, p. 4).⁶ The first legal aid society

6

The history that follows is adapted from Johnson (1974), primarily Chapter I, and unless otherwise noted, all facts and figures are taken from that work.

open to poor persons without regard to nationality or sex was established in Chicago in 1888. By the start of World War I, there were legal aid organizations operating in 41 cities, employing 62 full-time and 113 part-time attorneys. The majority of these organizations were privately funded and each was independent of the others.

Primarily as a result of Reginald Heber Smith's influential book Justice and the Poor (1919), the American Bar Association began in 1920 an active interest in legal aid for the poor. In 1923, the National Association of Legal Aid Organizations (later known as the National Legal Aid and Defender Association) was formed to coordinate activities of local legal aid organizations and provide a nationwide focus for those interested in legal aid to the poor. The movement grew until, in the early 1960's, there were 236 legal aid organizations and 110 defenders' offices scattered throughout the country.

Almost all of these efforts were financed by private donations. The first governmentally financed legal assistance office was opened in Kansas City in 1910. By 1916 there were nine municipal legal assistance offices, mostly

in western states. This number increased slowly so that there were twelve legal aid organizations funded by local governments in 1932. During the depression and war years the number of publicly financed agencies decreased in concert with the shrinking availability of tax funds for social service (Johnson, 1974, p. 18). Local government support for legal aid was never restored so that in 1962 there were only five municipal legal aid bureaus still in existence. During the 1950's, proposals for public financing of legal aid were associated with "creeping socialism" and were attacked as another example of governmental encroachment on areas of social life that belonged in the private sector.

In the early sixties, an increasing interest in problems of the poor was reflected in several pilot efforts in New York, New Haven, and Washington, D.C. directed towards increased provision of legal aid to the poor. These were financed by private foundations and through federally financed programs aimed at combatting the problem of juvenile delinquency. The programs had an explicit social reform aspect; legal assistance was seen as one of many

resources which could be employed in alleviating the causes of poverty. This focus was compatible with the aims of the "War on Poverty" initiated in 1964 and federally financed legal services finally became a reality through that effort.

At first, federally financed legal assistance was included in broad-based Community Action Programs. The Economic Opportunity Act of 1964 contained no separate provision for legal assistance to the poor and no distinct part of OEO was charged with administering legal aid. Local Community Action Agencies were encouraged to include a legal services component in their applications for federal funding and these proposals were reviewed by special assistants to the Director of OEO and The General Counsel's Office of OEO. Later, an office of Legal Services Programs was established as a separate entity within the jurisdiction of The Director of Community Action Programs.

The recent history of the program, involving threats to its existence during the Nixon administration's attempted dismantling of OEO and the formation of the National Legal Assistance Corporation need not detain us

here. It is worth mentioning that this evolution, which is a history of increasing removal of the Legal Services Program from administrative agencies concerned with general problems of the poor reflects the local level evolution of legal services from arms of community action agencies controlled by the poor to independent projects controlled by members of the local bar. This movement resulting in control by lawyers of the institutional aspects of the program finds echoes in interpersonal relations between clients and lawyers where the definition of clients' problems and management of their cases seems to be controlled by lawyers. More on this later.

While the history of The Legal Services Program at the national level records an increasing measure of autonomy for the program, the street-level structure has remained relatively intact. A nationwide network of neighborhood offices was formed through the provision of funds to local projects. These projects were directed by boards, composed of local attorneys who formed a majority on each board and lay members of the local community. Local projects were initiated sometimes by Community Action Agencies and

sometimes by then-existing, privately financed legal aid organizations. Whatever the sponsorship, the core concept of small offices, staffed by a few lawyers and located in areas readily accessible to poor people was embodied in the structure of most local projects. In the national program, these local projects were supported by "backup centers" which specialized in research and development of legal issues involving the poor; e.g. a housing law center at the University of California, Berkeley, an employment center in New York, a consumer law center at Boston University Law School, etc. These centers were established to provide expertise in particular areas of the law that would be available to locally based lawyers engaged in general practice regarding problems of the poor.

Goals of the Program

The institutional structure of the legal services effort reflects in part the history of the provision of legal services to the poor in America and, in part, the varying ideologies which have been advanced to justify the provision of free legal services to the poor, the goals advanced for the program and diagnoses of social ills which underly these goals. These

several ideologies can be seen as alternative answers to the question: Why should the government provide the services of lawyers to poor people?

The earliest argument favoring publicly supported legal services for the poor was advanced by Reginald Heber Smith (1919). He argued that the conditions necessary for a democratic society were undermined whenever a class of people was systematically barred from access to judicial institutions. Since lawyers play a key role in providing access to our judicial institutions, people who cannot afford the services of a lawyer are effectively denied equal justice. This argument takes for granted the essential fairness of the substantive law and judicial institutions. Smith raised the specter of class warfare resulting from an increased consciousness among the poor that they were denied full participation in the social institutions of America. Free legal service, then, was advanced as a way of fulfilling our democratic ideals and averting revolutionary activity on the part of poor people.

The corollary to this argument focuses on the dignity of poor people and their feelings of potency in being able

exercise their rights. The provisions of legal services would almost automatically elevate the status of the poor in that they could call on a trained professional for counsel and assistance in pursuing socially sanctioned ends and defending themselves from unjust attacks on life and property. The potential ability to "have a lawyer" is itself seen as a benefit to poor persons.

Both these arguments may be said to be symbolic in that they focus on social and personal processes embodying values which lie at the heart of our society. Equal justice for all and the advancement of human dignity are core values in American culture and are to be expressed through the institutional arrangements of our judicial system.

The symbolic aspects of legal assistance were perhaps best stated by Ernest L. Tustin, in a speech delivered at the ABA annual meeting in 1920 arguing for the provision of legal aid through governmental agencies. This statement is quoted at length because of the relevance of Tustin's points to the subject of this research.

"The municipal bureau is superior to the private organization in the psychological results produced. The poor and the ignorant applying to a private association and receiving assistance, have a feeling of gratitude to the private agency

which obtains for them relief or redress. The very fact, however, that they have been compelled to go to an organization to obtain aid against an injustice and oppression is often an additional reason to the undeveloped mind why the municipality and the justice-dispensing authorities are a great menacing force.

But a municipal bureau located in city hall or the very center of the justice-dispensing agencies brings them to the very portals of the force which they dread. They go very unwillingly to the municipal court building or the 'Hall', where is represented all that is hostile, unknown and untried, and to their surprise they find a department that patiently hears the case and defends the cause. At first they are moved with wonder that what they feared as a menace and as a forum where justice could only be purchased by the rich, proves a place of sympathy and help. Their minds gradually receive the astonishing impression that the Government is not wholly represented by the police, the jail and a hostile judiciary, but that it possesses a cooperating agency..." (Tustin, 1920, p. 240)

Tustin's argument is based largely on the symbolic aspects of legal assistance. It is worthwhile repeating some of the ingredients of legal aid which he considers important in producing the psychological effect: a patient hearing of the case, sympathy, help, and cooperation.

In contrast to these symbolic arguments are those which deal with the relationship between law and the material conditions of those who live in poverty. Three arguments have

been advanced, each of which links the provision of legal service to increased material well-being of poor people. The first of these arguments is based on the assumption that individuals are poor because they labor under social, economic, and psychological difficulties. One of these difficulties, the inability to advance legal rights in judicial institutions, can be removed through the provision of legal service in a manner analogous to the provision of social and psychiatric counselling and educational services. This argument does not assume that the substantive law is unfair or that institutional rearrangements are necessary to alleviate poverty. It is based on an individualized diagnosis of poverty and prescribes basically an individualized solution.

Another argument holds that the body of substantive law and legal procedures themselves discriminate against the poor. Legal doctrines such as landlord-tenant law and creditor-debtor law are held to be biased against poor people who are usually tenants and debtors. Legal services provided to the poor would facilitate reform in such laws through the

medium of test cases. Lawyers who specialized in poverty law would see opportunities and handle cases with the potential for changing substantive law regulating social relationships involving poor people.

A third argument, advanced by Cahn and Cahn (1964), holds that poverty can be eliminated by an organized political struggle of poor people. Lawyers are seen as an important political resource in that they can help organize poor people and advance their interests in forums which might not otherwise be available. Lawyers can help identify weaknesses in the opposition and opportunities for action which derive from the legal status of institutions which serve or oppress the poor. Lawyers would have a different perspective than other professionals because of their ethical commitment to the desires of their clients. In this view, lawyers because of their skills and ethics would serve as allies of the poor in the war on poverty.

While each of the arguments summarized above casts a different light on the provision of legal services to the poor, two of them have had the most important implications for the institutional nature of the provision of legal

services. A large controversy which surrounded the early days of legal services (and continues to this day) has to do with the focus on equal justice versus law reform. Equal justice has come to mean concentration on servicing the individual needs of individual clients, while law reform came to mean selecting and working on cases which might promise to change substantive law, affecting large numbers of people. It has been argued that high volume individual case work would conflict with the need for careful, laborious development of cases which have a potentially wide impact. This tension has surfaced in national debates about the proper role of legal services and in neighborhood office discussions about how many and what type of cases would be handled by individual lawyers.

In the legal services project studied, among others, this tension was partly resolved through an organizational bifurcation of effort. Neighborhood law offices focus primarily on service to individual clients who came in with individual problems (although some class action work is done on behalf of similarly situated clients who came in with similar problems) while a statewide organization concentrates

on legal reform and legislation, taking cases on recommendation from neighborhood offices. Thus the offices in which this research was conducted were primarily engaged in providing individualized legal services to individual poor persons who came in with problems. As such, it can be studied in terms of standards for the provision of "equal justice" which have concerned legal aid from the beginning.

Port City Legal Services

Port City Legal Services (PCLS) was originally established to receive federal funds under the sponsorship of the Port City Legal Aid Bureau and the local community action agency. At the time this research was begun, it consisted of seven neighborhood offices scattered throughout a medium sized eastern city, each office serving clients from a geographical area roughly congruent with the area served by a lower level court in the city. Each office has a distinctive character reflecting the personality of the neighborhood and of the office staff. While there was a central office which decided matters of general policy and allocation of resources, the day-to-day administration of the project was highly decentralized. The

central office set general standards of eligibility reflecting national guidelines; adults were eligible for representation only in civil matters, clients must live within city limits, and a client's net annual income adjusted for number of dependents could not exceed \$4000. A special unit, located in the central office, handled divorce and custody cases referred to it by local offices. At the time this research was conducted in 1974-75, the project was in a general turmoil due to problems with funding. There was a general fear that the number of staff lawyers would have to be reduced and some offices closed. This local uncertainty reflected the national uncertainty attendant with the move of Legal Services from OEO to The National Legal Services Corporation.

Local offices exercised discretion in the number of cases they would accept, the types of cases which would receive special attention, and general decisions about how cases would be handled. Local discretion was so wide that lawyers remarked, "We don't have a legal assistance project in this city, we have seven individual projects." Two of these local offices were selected for intensive study.

The Bayville office is located on the second floor of a slightly run-down commercial building in the heart of the business section of Bayville, a white-ethnic area of Port City. Most of Bayville consists of three-story tenements built to house workers during the industrial expansion early in this century. Most of these buildings are inhabited by working class white people who maintain a strong ethnic identity; however, there is a small but growing black and Spanish-speaking population in the area. The office is distinguished from its neighbors by a large sign proclaiming that Port City Legal Services is located inside. On the same block are located a used furniture store, a coffee shop, a dance studio and a toy shop.

One enters the Bayville office by climbing a long, poorly lit staircase with a loose handrail on one side. At the top of the staircase, two right turns lead to the reception area, a large room scattered with six desks, filing cabinets, and two couches for visitors. This room is invariably filled with people coming and going from one office to another, in or out of the external world.

There is always a lot of hustle and commotion, since this area accomodates the secretarial component of the Bayville office and the entire central filing area.

Behind and on the left of this room, as one enters, are seven offices, occupied by legal personnel. There are several desks for student interns in a large room visible from the reception area and some more offices scattered along the walls of this room. In the back, out of sight from visitors is the library and conference area. The general physical impression of this office is openness; from the visitors area one can see and hear a lot of activity including most of the working area.

The Bayville office is staffed by a bewildering variety of personnel in various positions and with a wide variety of training. There are four fully-paid staff attorneys, one of whom is the managing attorney in charge of the administration of the office. All four of these attended law school in Port City and have worked for legal services for their entire career; three started with Port City Legal Services right out of law school while one worked briefly for legal services in another city. Two additional lawyers were working as

VISTA volunteers, but functioning in a manner indistinguishable from paid staff attorneys. Three undergraduate college students worked in a full time paralegal capacity, as members of a federally funded program called a Year in ACTION. Two additional paralegal personnel were paid by the PCLS. Para-legals conducted interviews, investigated cases, contacted authorities and opponents, drafted letters; in short, did everything a lawyer could do except appear in court. There were six secretary-receptionists who did the typing, administrative chores, answered telephones, and collected basic information on clients in divorce cases that were then referred to the central office.

In addition this group, comprising what I will call the "regular staff" of the Bayville office, there was a position for a full time attorney employed by a prestigious downtown law firm and assigned to the Bayville office as part of its "pro bono publico" effort. The incumbent of this position changed every six months. There were a number of third year law students from a local law school handling cases as part of a clinical law course under

the supervision of a lawyer employed by that law school. Finally, there was a contingent of four lawyers working on a juvenile defenders program who shared the same address and secretarial pool but whose work was analytically separate from the rest of the office.

The Core City office was located in an area of once-fashionable townhouses that had long ago been converted into apartments and rooming houses. Many of these had fallen into acute disrepair; however, gradually some are being purchased, rehabilitated and reoccupied by professional and trendy upper-middle class people. The area is still populated mostly by poor black and Spanish speaking people and has the character of a typical urban slum marked by abandoned buildings, crumbling facades and sidewalks sprinkled with broken glass.

The Core City office is located in a five-story former townhouse on a major street in this area, being again distinguished primarily by a large sign (this time in two languages). A laundry, delicatessen and run down apartments share the block with the legal services office. One enters this office at the street level through a glass door lined

with electrical wires which form part of the burglary alarm that also borders the windows. The reception area contains only one desk, a few filing cabinets, and some chairs for visitors. In contrast to the Bayville office this area is quiet, almost deserted at times. A lone secretary answers telephones and receives visitors as they come in the door. Behind her are two offices, empty except for a table and three chairs in each. These are used by office personnel to conduct interviews with clients.

Lawyers' offices, the rest of the secretaries' desks and the library-conference room are all located on the upper stories of the building, accessible by a stairway hidden off the side of the reception area. The secretarial pool is on the second floor along with one staff lawyer. The library, conference room and two more lawyers are on the third floor, while more lawyers and student interns' offices are located on the fourth and fifth floors.

At the beginning of this research, the Core City office was staffed by four full-time attorneys, all graduates of law schools located in the Port City area. The managing attorney had previous experience working for the federal

Department of Justice while another attorney had worked for a privately financed legal aid project before joining PCLS. The other two had worked for PCLS since leaving law school. One para-legal employee and three secretaries rounded out the "regular staff". As at Bayville, a group of law students participating in a clinical program worked under the supervision of an attorney hired by a local law school.

Although the two offices were located in different areas of the city, the composition of their clientele was remarkably similar. About half of all cases handled by both offices involved landlord-tenant actions, most of these being defense against threatened evictions, the rest involving tenants trying to get landlords to fulfill their obligations to provide decent housing. The second most frequent type of case, comprising one-fourth to one-third of all cases, involved actions of the department of public welfare. In these cases, clients sought redress for denied or terminated welfare benefits. The rest of the cases were divided between complaints of wrongful termination of service by the gas or electric company and consumer complaints

involving poor service, shoddy goods, or high pressure credit collection practices.

Almost two-thirds of the clients were women, a fact that may be accounted for by both offices being open for business only during daytime hours. The large number of women clients may also be due to the fact that almost all clients were on welfare, the majority receiving AFDC. Families on welfare who are stationary enough to be involved in disputes with landlords may be primarily headed by women; the fact that the majority of clients were women may thus reflect the structure of the poor community in this city. Slightly more than one-third of clients are black, ten percent Spanish speaking and the remainder were white. The Core City office had a slightly larger proportion of black and Spanish speaking clients than the Bayville office. This difference was not so great as to warrant a conclusion that the clientele of the two offices differed markedly by race or national origin.

Given the wide range of backgrounds, experience, and status of the personnel in these offices, interactions with clients were remarkably uniform. The following description

of a typical encounter between a client and PCLS worker could describe almost any actual encounter between any client and any staff member.

A Typical Encounter

The typical client (the majority of whom were women)⁷ finds that she has a legal problem when she receives a piece of paper in the mail or slipped under the door notifying her that something is going to happen to her unless she gets help quickly. Except in rare cases, clients begin their involvement with the legal system in a defensive posture and can be considered involuntary because they are trying to defend themselves against some action initiated by others. Citizens with potential legal problems who decide to mount a legal action and learn of the existence of the legal services project either call or go in person

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Since almost two-thirds of the clients included in this study were women, feminine pronouns will be used to refer to clients throughout this report. On the other hand, three-fourths of the lawyers studied were men, thus masculine pronouns will be used to refer to the lawyers.

to their neighborhood legal services office.

Once in contact with the office, the client finds herself talking to a female who asks for a description of her problem. This female (who does not introduce herself, but who we know to be a secretary/receptionist) listens to a description of the problem, asking a few questions to make sure she gets the story straight. The secretary determines whether the case is of the type the office is prepared to handle and whether the client is eligible for free service based on geographical and income criteria. The client, however, is unaware of the procedure being followed and only learns of the criteria if she fails to meet any one of them. The client whose case successfully passes the screening process hears a series of questions about the nature of her case, where she lives, and the nature of her financial condition. A client whose answers to any of these questions result in making her ineligible for service is told immediately why she is ineligible and given some advice or referred to other sources of help.

If the client meets all the relevant criteria: type of case, geographical location and income, the secretary will tell her that the legal services office will handle

her case, but she has to come in for an appointment. The secretary will suggest a date and time for an appointment and if the client finds it agreeable, only then will the secretary ask for the client's name and telephone number. The secretary tells the client to come in at a certain time on a given day, and ends the conversation. At no time does the secretary inform the client about the nature of the screening process that she has undergone. The interaction is impersonal in that the secretary never introduces herself nor does she ask for the client's name until the very end of the conversation.

About 40 percent of clients who have appointments do not show up for one reason or another. If she comes into the office for an appointment, a client already represents less than half of those people who originally call in with a problem. The usual client who does keep an appointment comes in the door of the legal services office within five minutes of the appointed time. She makes her way into the reception area where she sees a woman sitting behind a desk and a number of other people sitting or standing around. The client tries to make herself conspicuous by approaching

or standing near the desk and eventually the woman behind it will ask if she can help. The client then indicates that she has come for an appointment and gives her name. The secretary looks in the appointment book, verifies that she has an appointment and tells the client to have a seat, "Somebody will be with you in a few minutes."

The usual client waits ten or fifteen minutes, whereupon another person (usually a man) comes into the reception area, either speaks to the secretary or looks in the appointment book, and calls out the client's name. When this person (who we and he know to be the lawyer who will conduct the interview, but whom the client does not yet know) is sure that he is talking to the correct person, he says something that indicates to the client that she should accompany him to another place in the office. At least that is what the lawyer thinks he is saying. It often happens that the client is not sure of what is being requested and the lawyer has to repeat himself or find another way of communicating that they are supposed to go to another room together. The lawyer rarely introduces himself at this point, tells the client that he will be handling her case, or informs her that an interview

is about to take place.

All interviews observed took place in a small room in which there was a desk and some chairs. The room was not the same in all cases, but the layout and positioning of persons did not vary at all. The lawyer invariably sits behind the desk with the client sitting opposite or at the end of the desk. The lawyer has some forms in front of him to which he turns at the first part of the interview. Even before he meets the client, the lawyer has determined from the secretary the general nature of the client's problem: housing, welfare, utilities or consumer. With this information, he selects the appropriate form to use for gathering information about the client's problem.

A typical interview takes place in three phases (as detailed below). In the first, the lawyer asks questions directed toward filling out general intake and specific problem forms (e.g., a "housing case" or a "welfare problem" form). In the second, the lawyer gathers information related to the specific case presented by the client. Finally, the lawyer explains the situation to the client and tells her what might happen in the future.

The interview invariably opens with a ritual apology from the lawyer about the fact that he must ask certain prescribed questions. He asks her to bear with this formality, "but we have to have certain information for our files and to determine whether you are eligible for our services." He then proceeds to fill out the basic intake form asking the client for her name, address, telephone number, source and amount of income, number of children, address of welfare office, name of social worker, etc. Client attempts to direct the flow of information at this point are usually directedly suppressed as the lawyer indicates the need for basic information.

After he finishes filling out the general intake form, the lawyer then turns to the problem form. He usually begins to fill out this form by asking the client a leading question: "So you have a problem with your landlord, right?" At this sign that her lawyer has finished with the plaguing preliminaries, the client usually launches into a description of her problem as she sees it. Before she can get two or three sentences out of her mouth, the lawyer interrupts with a question relating to information that he needs to

fill out the problem form. Question follows question until this form is completed. Again, the flow of information is dictated by the requirements of the form.

Phase two begins after the forms have been filled and the lawyer makes a move as if to open up the conversation by saying something like "Now, tell me about your problem." For the second time, the client thinks that it is her turn to control the conversation and talk about her problem in the way that she understands it. She is quickly shut off again, however, by the lawyer interrupting her story to ask questions of detail. At this point there is often a little "power struggle" as the client tries unsuccessfully to control the description of her case. The struggle consists of the client beginning a description, the lawyer interrupting to ask a question, the client answering the question and using her turn on the floor to begin her description again, the lawyer interrupting with another question and so on until the client lapses into brief answers to questions posed by the lawyer. A large number of these questions contain their own answer, indicating the lawyer feels that he already knows the important parts of the story

and only seeks confirmation of that fact.

Although the lawyer acts as if he is willing to open up the conversation and relinquish control over the flow of information, this is only a temporary phenomenon. He quickly reestablishes control often because the client speaks too fast and he needs time to get the information noted down, sometimes because he feels that the client is talking about matters irrelevant to the case at hand. Overall it appears that the lawyer has an idea of what the client's case is about, what the important facts are, and wants to use the interview time efficiently to establish only those things that are important to his conception of the case.

In the third phase, the lawyer tells the client what the law says about her case, what she can expect to happen next in the normal course of events, and what he intends to do about the case. This explanation is usually very brief, and rarely includes any inquiry into what the client wants the lawyer to do. Following this explanation, there is another ritual question in which he asks the client if she has any questions regarding her case or if there is anything else she

wants to tell him. Few clients can think of anything to ask or say at this point. The lawyer then gives the client a card with his name on it, finally giving her some means of being sure about who she has been talking to all this time. The card is offered in the context of the lawyer's request that the client give him a call in a few days to supply additional information or to check up on the progress of the case. In the majority of cases the next contact is to be initiated by the client within a few days; however, in only a few cases does the client ever come back to talk to her lawyer.

Throughout the interview process, clients are only informed about what is happening to them in terms of the type of information required at the outset. From then on, lawyers rarely let the client know why they are asking certain types of questions, what information they want, or where they seem to be going with their questions. Client attempts to control the flow of information are usually suppressed quickly, and client control over the future course of her case is rarely entertained. Until the very end of the conversation, the client is in the dark about what is happening within the conversation, what is likely to happen with her

case, and even with whom she is talking. This information is apparently so well known to the lawyer that he fails to consider the possibility that it is unknown to the client.

For a great many clients, this interview is the last time they will see their lawyer in person. They may talk on the phone a few times or exchange correspondence until the other side drops the case, the client and her "adversary" make up their differences, or the legal service lawyer and the lawyer for the other side reach some sort of negotiated settlement. Few cases are ever adjudicated by a formal body; be it a civil court, a welfare hearing officer, the Department of Public Utilities hearing examiner, or the local rent control board. For many of those whose case proceeds to this level, the hearing becomes the second time they meet their lawyer and the first time they see a judge or hearing officer.

The usual client begins her day in court by going to the lawyer's office or meeting him outside the courtroom a half-hour or so before the appointed time of the hearing. The lawyer goes over the details of her case, advises her of

what the other side is likely to say, admonishes her about answering only those questions that he asks, and possibly rehearsing her testimony. The client then goes into the courtroom to wait for her case to be called while her lawyer talks to the clerk, the lawyer for the other side, or perhaps some colleagues who happen to be in the courthouse that day. At the appointed time, the clerk of the court shouts out the number and name of our client's action and her lawyer approaches the bench. Often the other side is not present in court for one reason or another so her lawyer says a few words to the judge, none of which the client can understand, if she is able to hear them at all, and the case is finished.

If the other side is present, both lawyers and clients seat themselves inside facing the bench. The lawyers begin by telling the judge what the case is about and what their respective positions are. The judge may ask a few questions, and the client may be sworn in to offer testimony on the case. While she testifies she may be reminded by her lawyer or the judge to please confine her remarks to answering her questions. If someone else is testifying and says something

she thinks demands an answer, she may be requested by the judge or her lawyer to please restrain herself and not make outbursts in the courtroom. She may be upset to find her lawyer not responding to wild allegations made about her conduct by the other side.

After a period of testimony and arguments by both lawyers, the judge may render a decision on the case. More often he says that he will take it under advisement and send his decision in the mail. Client and lawyer leave the courtroom and gather in the hallway outside. The lawyer tells the client what she should do in respect to a decision or what she should do to avoid getting into more difficulty in the period before the judge renders his decision. The client then proceeds to the elevator and out into the world, while the lawyer goes to the clerk's office for some papers or to work on another case. Her day in court is over!

This third party description of the situation obviously does not reflect the experience of people involved. The following reconstructions of the situation from the client and lawyer's points of view are based on my empathic feeling

about what the experience must have been like. As such, they may speak more about myself than either of the parties to the interaction. Nevertheless they are offered in the hopes of furthering a fuller understanding of the nature of the encounter. Their "validity" may be assessed by the degree to which the "ring true" to persons who have actually experienced similar situations.

The Client's Experience

On Thursday, returning from shopping, you find an official looking envelope in the mail. Opening it, you find a letter, typed on stationery labeled Smith, Fudge, and Lafferty, Attorneys at Law, informing you that you are behind in your rent payments, advising you to vacate your apartment in two weeks, and warning that if you fail to do so, legal action may be instituted against you.

You know you are behind in your rent, but your semi-monthly welfare check just won't stretch as far as you like with three kids and all the demands they make. Besides that, the place you live in is a dump and not really worth \$110 a month what with all the holes in the walls, a rusty

sink that backs up all the time, no lock on the entrance door, and a toilet that occasionally overflows. However, two weeks is not long enough to find a new place and get everything together to move, even if you could find a place that was big enough and that you could afford. What to do?

Your friends advise you to get some legal help by calling the legal service like Mrs. Jones did last spring when her landlord turned off her furnace after she fell behind in her rent. The telephone operator gives you the number of the Legal Aid Bureau and the person there advises you to call the Bayville office of Port City Legal Services. When you dial that number a female voice comes on the line:

"Good afternoon, Port City Legal Services. May I help you?"

"Is this the place I can get some legal help? You see, I got this letter from some lawyer saying that I have to get out of my apartment in two weeks or else he will take me to court. I can't find a place that soon and can't pay any more than I am paying now. I just don't know what to do."

"Have you been paying your rent?"

"Well, I was paid up until two months ago but then I missed a payment when I had to buy new clothes for my kids. Somehow, I just haven't been able to get the money together to start paying it again."

"How much money do you make?"

"Well, I get \$175 every two weeks from the Welfare, but it just doesn't go very far, what with the kids and food getting so expensive..."

"Where do you live?"

"On 746 Bearing Drive."

"That's in Bayville, isn't it?"

"Yeah, over behind the ..."

"Well, we can help you but you will have to come in for an appointment. Could you make it next Tuesday at 10:30 in the morning?"

"O.K. I'll try; the kids will be in school then."

"May I have your name?"

"Mrs. Brown."

"Do you have a telephone number where I can reach you?"

"Yes. 987-6543."

"O.K., Mrs. Brown, we will see you at 10:30 on Tuesday. When you come in, bring the letter and your old rent receipts if you have them. Our office is at 1234 Bayville Avenue across from the bus station. You know where that is?"

"Yes, thank you very much."

"You're welcome. Goodbye."

Between Thursday and the next Tuesday, you talk with your friends about this new turn of events. From them you get a mixed reaction; some say to be calm, relax, this sort of thing happens all the time; others say that it is a serious problem and hope that the lawyers can do something about it, "after all, you haven't been paying your rent."

On Tuesday, you leave the apartment by ten o'clock and walk over to the PCLS office about a half mile away. When you get to Bayville Avenue, you walk down until you see a big sign on a wall and a door marked "Port City Legal Services." The door leads to a long stairway and when you reach the top you see another door, again marked "Port City Legal Services." As this door is already open, you go through it down a short

hallway where there is another open door leading into a big room full of desks and people. You go through this door and stand around in front of the first desk you see, hoping that someone will help you. Behind the desks are young ladies typing and talking on the telephone; finally one of them notices you standing there and asks if she can help.

"Yes, I have an appointment for 10:30."

The young lady goes to another desk and looks in a big red book.

"Are you Mrs. Brown?"

"Yes."

"O.K. Have a seat, somebody will be with you shortly."

You look around and find a couch with nobody sitting on it, so you take a seat. While you are sitting there, you see people coming in and out of offices behind the young ladies and hear snatches of conversations: "Well, I've got to go down to the court...", "Would you call Mr. Thomas and tell him...", "Where is the file on the Smith case..." etc. etc. After a few minutes, a man dressed in a shirt with a tie, but

no jacket comes into the room, looks in the red book and says something to the woman you talked to, who points in your direction. He looks at you and says:

"Mrs. Brown?"

"Yes." You start to get up.

"This way, please," he says, then goes to a filing cabinet, takes out some forms and walks toward one of the offices.

You follow him into a small room and he suggests you sit down in a chair facing a small desk littered with papers. He sits down behind the desk, takes out a piece of paper and says:

"I'm sorry, but I'll have to begin by asking you a few questions. We are a federal agency and need some information for our files and to be sure you are eligible for our services. Now, your name is Mrs. Brown, B R O W N?"

"Yes, Mrs. Celia Brown. I got this letter saying that..."

"We'll get to that later. Right now, I need some basic background information. What is your address?"

You answer the question, proceeding through a series in which you give your name, address, income, source of income,

number and name of dependents, name of social worker, address of welfare office that handles your case, etc. Finally, the person on the other side of the desk moves one piece of paper, gets another and says:

"So you have a problem with your landlord?"

"Yes, you see, I fell behind in my rent and ..."

"What is the landlord's name?"

"Mr. Bigbucks. You see, he sent me this letter that I should..."

"How much rent do you pay?"

"110 a month; the place is really a mess..."

"When did you last pay your rent?"

"On August 1st."

"So now you owe two months?"

"Yeah."

"How long have you lived at the place on Bearing Drive?"

"Since February of 1973."

"And you never fell behind in your rent before."

"No."

"How long have you been on welfare?"

The exchange goes on, he asks questions, writing the

answers down on a piece of paper. After a while, he puts that paper aside, looks up and says:

"Did you bring that letter with you?"

"Yes, here it is. I had to pay for some new clothes for my kids to go to school and after that I just couldn't get enough money together to pay the rent."

He looks at the letter, writes a few things on a piece of paper, then begins asking some more questions:

"When did you get this?"

"Last Thursday. It was in my mail..."

"Do you usually get all your mail?"

"Yes, I think so!"

"The mailbox for your apartment is all right?"

"Yes."

"This is the correct address, 746 Bearing Drive, Suite No. 3?"

"Yes, that's where I live."

"What kind of shape is the place in? Are there any holes in the walls and ceiling?"

"Yeah, in the kitchen there are cracks in the ceiling and some of the plaster fell down."

"Does water come in when it rains?"

"Sometimes."

"Uh, huh, are there holes any place else?"

"Some in the hallway."

"Outside your door?"

"Yeah."

"Those don't count. How about the entrance door, is there a lock on it?"

"No, it's been busted for six months. People come in and out. Sometimes kids play on the stairway."

"Huh. How about the plumbing? Is that all right?"

"No, the sink overflows all the time and sometimes the toilet backs up and causes an awful mess."

"When was the last time the toilet backed up?"

On and on it goes, questions about the apartment, your relation with the landlord, when and how often you paid rent, if your rent had changed, how much you get from welfare, whether they had given any special payments recently or not, etc. etc. Some questions you can follow, some don't seem to make any sense. You begin to wonder what the hell is going on when the person says:

"O.K. Yours is a case of eviction for non-payment of rent. This letter you got is called a 14-day notice and means that the landlord is trying to evict you. The next thing that will happen is that you will get a paper from the court notifying you of a hearing. When that happens, let me know. In the meantime, I will call a housing inspector to come and look at your place since we can defend the case by finding that the place does not meet the standards of the health code. In the meantime, you should try to pay your current rent; if the landlord accepts that, he will have to start all over again on this case. I doubt that he will but you should try. Do you have enough money to pay one month's rent?"

"Yes, I think I can get it together. We will have to scrimp a bit, but..."

"Good. Now get a money order from the bank and write on it that the money is payment for rent for the month of November, send that to Mr. Bigbucks and send a copy to me. If you get anything more about this matter, let me know. We can always get the welfare department to pay your back rent, but that is a long time from now. First we will try to get

this action thrown out. Here is a card with my name and phone number on it. Call me when you have sent the money order and by then I'll tell you when the Housing Inspector can come to inspect your place. Do you have anything more to tell me or any questions?"

"No."

"O.K. I'll talk to you in a few days. We should be able to work something out."

"Thank you very much."

You walk out into the big room again, somewhat dazed by all that has happened. You are vaguely aware of what is going on, but the lawyer seemed to know what he was talking about and acted as if he could take care of things. You are not sure of what you want to do, and not sure of what you want the lawyer to do, but feel swept along in a tide of events that seem to have a plan and purpose of their own. You feel it's probably best to let them handle it and go along with what they say.

A few days later, the paper that the lawyer said would come arrives. In the meantime, you sent a money order for November's rent to the landlord. So you call the number on

the card and ask for the lawyer. When he answers the phone, you start to tell him about the paper and the money order. He interrupts to tell you that he talked to the landlord's attorney yesterday, told him that he was prepared to bring a "Sect. 1234 defense" on the case since the place was in such lousy shape. The other attorney said that if you were prepared to pay your rent from now on, they would forget the whole matter and since they had now cashed the money order you sent, the court paper you received has no meaning. "As long as you go on paying your rent, things will be O.K., so you don't have to pay for those two months if you don't want to, but keep up your rent payments, and if anything else happens let me know."

You say thanks and hang up. Nothing happens for a few months and the incident passes.

The Lawyer's Experience

Intake day comes no more than once a week for each lawyer; a day of dread, not because lawyers don't like to meet new people, but because each new person represents an

unpredictable drain on already over-committed time and energy. Each lawyer has about a dozen "active" cases (meaning that something could be done on them whenever there is time) coupled with about twice as many "inactive" cases (meaning that little is happening with the case but it has not been closed since something might pop up at any time).

At the Bayville office, intake was done for half of each day. Each person who did intake was assigned a regular day; thus lawyer X always did intake work on Monday morning while lawyer Y took intakes on Tuesday afternoon, etc. At the Core City office, intake workers met clients for a full day every second week. While the Core City staff felt that they were less busy with intakes, in fact the two patterns balanced out.

On intake day, you come into the office and look in the central appointments book to see how many appointments have been scheduled for you today. Usually, there are three names, occasionally four, scheduled one hour apart. Next to each name is a notation indicating the type of problem the person seems to have. By the very fact that an appointment

is scheduled for your day, you know that the client will have a "housing or welfare" problem, since other types of problems are scheduled to be handled by other lawyers. You also "know" that at least one out of the three persons scheduled will not come in for the appointment; it often happens that two out of three fail to show up. That's no problem, it gives you time to work on other cases and reduces the number of cases you have to handle. However, there is a chance that somebody will come in the door with a problem that needs immediate attention so you have to be in the office prepared to accept what may come.

While you are near the receptionist's desk, you ask her if she knows anything about the cases that are scheduled for today. She tells you that the first one involves a couple who has applied for food stamps and gotten nothing but "don't call us, we'll call you" from the welfare department for the last six months; the second, Mrs. Brown, is a "non-payment" case, "she received a fourteen day notice". The receptionist can't tell you anything about the third case since she had not taken the call and the woman who had is not here right now.

After chatting a bit with the secretaries and a fellow lawyer, you go to your office to get the day's work in order. There are two or three case files lying on your desk where you had left them to remind yourself to take some action today: write a letter, make a phone call, or prepare an affidavit. You get started on the letter and are soon interrupted to answer a few phone calls that necessitate making a few more. The daily flow of trying to keep your head above the incessant demands for quick responses to queries from clients, opponents and colleagues while trying to find time to work out the subtleties of a few cases has begun. In the meantime, the time for the first appointment has come and gone, unnoticed since the client has not shown up. In the midst of your third attempt to get back to that letter, the receptionist buzzes your phone.

"Mrs. Brown is here."

"Mrs. Brown?"

"Your 10:30 appointment."

"Oh! Yeh! I'll be out in a minute."

You take a few minutes to put the finishing touches on

that letter because you never know what might happen once you get into the details of Mrs. Brown's case. When you finish, you carry the draft out to the secretary in the reception area. This gives you an opportunity to look at the book again to refresh your memory about the type of problem that Mrs. Brown has. Yes, there it is, a housing problem. You look at the couches in the waiting area and see a couple of seated women so you ask Nancy which one is Mrs. Brown. She points to the woman on the right, you look at her and say:

"Mrs. Brown?"

"Yes." She starts to get up.

"This way please."

On your way back to your office, you stop at a filing cabinet that holds blank forms and take out a "General Intake" form and a "Housing Problem" form. With these in hand, you lead Mrs. Brown into your office. You ask her to sit in a chair facing your desk, while you sit in your normal position behind the desk, put the forms in front of you and begin the interview.

You realize that you should try to set your clients at ease

and begin with a discussion of whatever is on their mind, but you have to collect certain information dictated by the form. You apologize to Mrs. Brown, explain the necessity of asking certain standard questions, and launch into the collection of background information about her family status, income, place of residence, etc. She is obviously impatient and wants to start right in with a description of her situation, so you ask her to please bear with you, "We will have time for that later." After a couple of reminders, she cooperates by giving simple answers to the necessary questions.

When you finish the General Intake form, you turn to the Housing Problem form. This form was made up by staff members to insure that all required information is collected and to protect against the possibility that some details might get lost in a more general conversation. As you begin asking questions from this form, Mrs. Brown again starts into a narrative description of her problem. Rather than let the conversation ramble haphazardly, you try to focus it by sticking to questions written on the form. After a couple of tries, Mrs. Brown again supplies the needed information with a minimum of irrelevant comments.

When both forms are completed, you begin to get information which might be peculiar to this case. By now you have the general picture that this is an attempted eviction for non-payment of rent, that Mrs. Brown has come to you at the beginning stages of the procedure, and that she is a welfare recipient. Without referring to the mimeographed memo describing eviction procedures (a memo given to all staff members during their first days in the office), you know the standard defenses and what facts have to be supported for an adequate defense. You have handled so many of these cases, that you know the following frequently used defenses:

- The notice of termination of tenancy is defective, or was not properly served on the tenant,
- Landlord has accepted rent in advance for a time subsequent to the expiration of the notice,
- The property owner has not maintained the premises up to code standards.

Although there are other defenses depending on the nature of the agreement between the tenant and the landlord, the stage of the procedure reached before you get the case, and the rent control provisions then in effect, the three listed above have

been used successfully in most cases you have ever handled. You know that these are sound defenses, honored by the court in which you do most of your business, and acknowledged by lawyers who are familiar with this sort of business. So you begin to collect details necessary to build a defense by asking Mrs. Brown if you can see the notice she received.

The notice appears to be in order and to confirm that it is proper and was properly served, you ask Mrs. Brown a few questions about how she got it and how she usually receives mail. Then you turn to the issue of the condition of Mrs. Brown's apartment. This is almost always a sure winner since most housing available to people who would be eligible for PCLS service is below standard. As you suspected, there are a number of apparent violations of the Health Code and you make a note to call Mr. Dodge at the Housing Inspection Department to order another inspection, the third one you have ordered this month. While you were asking about the condition of the apartment, Mrs. Brown was going much too fast, and often mentioning things that were not really on the point. You had to interrupt her a few times to make sure that you got everything down and kept her mind focussed on

possible violation. This case is going to be easy. At worst, it will take a few months for the landlord to get through all the hearings and court procedures necessary to evict Mrs. Brown with you opposing him at every step. Even if he were successful, the court will often give a poor tenant up to six months to find a new place before ordering a constable to physically remove the tenant's possessions. This too is common knowledge among those who practice landlord-tenant law. Mrs. Brown seems willing to pay her current rent, even willing to pay up the back rent in small installments, the usual deal that you can work out with the landlord's attorney. However, this apartment is in such poor condition that you think you may try to get the landlord to forget the back rent because, if you wanted to, you could probably get a court order allowing Mrs. Brown to withhold rent until all violations are cleared up.

When you have enough information, you explain the outlines of the case to Mrs. Brown and tell her that she really doesn't have to worry. She can stay in the place for a long time even if the landlord wants to be a bad guy and press forward with eviction proceedings. You tell her that she will probably get a writ from the court

signalling that the landlord is prepared to begin legal proceedings but that this does not mean a thing and may not be followed up by the landlord's attorney if you can work out a deal. You suggest that she begin paying her current rent in the hopes that the landlord will accept it and thus render his notice ineffective and as a demonstration of good faith. You tell her you will call Fudge, the landlord's lawyer to try to work something out and will order a health inspection in any event. You ask her to call you tomorrow to find out when the Health Inspector will come and, most importantly, to let you know if she receives any more papers in reference to this case.

You write your name on a card which has the office's name, address, and phone number on it and give it to her for future reference. In case you have overlooked anything important or she may not have understood, you ask her if she has any questions or wants to talk about anything else. Like others, she says "no" to both questions, so with usual thanks and goodbyes, you usher her out of your office.

As soon as Mrs. Brown leaves, you call the Housing

Inspection Department and order an inspection of 746 Bearing Drive, Apartment #3. They give you a time when the Inspector will appear which you note in order to relay the message to Mrs. Brown. Then you put in a call to Fudge. He is not in his office, and will call you back. You are just making some notes and putting the forms in a folder when Nancy informs you that your next appointment is waiting to see you.

Later in the day, when you have a few minutes, you ask around the office to see if anybody has experience with Fudge. Nobody can remember dealing with him directly, but a few people seem to remember hearing of him as a guy who handles a lot of cases in another part of Port City. Nobody recalls hearing that he is particularly difficult.

The next morning Fudge returns your call. You introduce yourself, saying that you work for PCLS and are handling the case of Mrs. Brown, at 746 Bearing Drive. You give Fudge a few seconds to recall the details of the case and then tell him that there are numerous code violations in the place and that you are prepared to bring an appropriate defense to any attempted eviction. You indicate that you are

willing to talk about some sort of settlement. Fudge says he will have to look into the details, talk to his client and call you back.

A few days later, Fudge calls you again. He says that Bigbucks received a check from Mrs. Brown and "the idiot went ahead and cashed it without talking to me. Now he has no eviction case."

You press Fudge a little by saying that you already know enough about the apartment to defend any claim they make for rent arrearages. He says he heard about the place and offers, "Look, if she keeps paying the rent, we'll forget about the whole thing. "O.K.?"

You agree but tell him you will have to check with your client. Fudge also tells you that he filed a writ to begin eviction proceedings but won't follow up on it now that Mrs. Brown is paying rent again.

A few hours later, Mrs. Brown calls to tell you that she received a paper from the court. You asked her if she has paid the rent and received a receipt. She says yes. You tell her that the court paper is now worthless and does not mean anything. You ask her if she plans to continue paying rent and say that the landlord has agreed to forget

the back rent if she keeps on paying current rent. She says yes, you say to keep in touch if anything else happens, and end the conversation.

After calling Fudge to tell him that Mrs. Brown agreed to keep up on her rent, you make some notes in the file recording the day's telephone calls and notice of the agreement and put the file in the "inactive" drawer of your filing cabinet. If nothing further happens, it will be closed in a few months when you go through your cases, closing out those that seem to be finished.

CHAPTER VANALYZING ENCOUNTERS

When a person approaches an agency for service, he may legitimately expect certain standards to inform his relations with those who provide the service. Some public services are associated with recognized professions, e.g., public health clinics, emergency rooms at public hospitals, legal assistance, and public defenders. Members of these professions are expected to be guided by standards of conduct embodied in the norms of their respective professions. Advocates and opponents of the public provision of these services both agree that they should be "fully professional". In respect to legal services, some, like Charles Evans Hughes (1920, p. 232), wondered whether professional standards could be maintained within an organization subject to political and bureaucratic pressures. Others, like Cahn and Cahn, argued that because lawyers respected certain professional norms, their services would be especially valuable to the poor.

In addition to professional considerations, expectations may be derived from standards of fairness and impartiality that people expect to be upheld by a just system of government. These standards are reflected in the professional

ethics of lawyers, and that articulation will inform the analysis presented here.

There seems to be universal agreement on one tenet of professional ethics that should guide professional-client relations in the context of the justice system. This is the supremacy of client interests over all others that may influence the conduct of the professional. Potentially conflicting interests have been identified in extra-organizational groups that would seek to manipulate the conduct of cases to advance their own ends. Institutional structures have been developed to prevent outsiders from interfering with the pursuit of clients' interest.

At the same time, professionals are enjoined to subordinate their personal interests to those of the client. This point is summarized in the following ethical consideration that guides the legal profession:

"The professional judgement of a lawyer should be exercised within the bounds of the law, solely for the benefit of his client and free from compromising influences and loyalties. Neither her personal interests, the interests of other clients, nor the desires of third persons should be permitted to dilute his loyalty to his client."

(ABA Code, EC 5-1)

Within the confines of the lawyer-client relationship there seems to be considerable agreement about what considerations should govern. These may be briefly stated in reference to openness and control; attorneys are expected to be circumspect in expressing their feelings and attitudes toward clients, supportive in encouraging full disclosure and committed to minimizing their own influence and domination of the interaction (Bellow, 1975). The concept of openness may be defined to include not only openness in the provision of information, but also openness to the reception of information.

It may be that these norms underly the provision of public service generally. Movements to "professionalize" services such as the police and social service aspects of welfare are in part motivated by an implicit understanding that the interests of the service giver should be subordinated to those of the recipient, however much difficulty may be encountered in properly defining the recipient of some services.

In the previous chapter, a description of a typical

encounter was given which suggested that norms of openness and client autonomy were not descriptive of interactions between lawyers and clients in a legal service setting. These subjective impressions may be tested by examination of quantitative data gathered during actual interviews.

I observed 47 interviews, all those that were conducted by regular appointments during the period of my research, keeping careful note of what participants were "doing with words", to use Turner's phrase (1974, p. 214), in regard to controlling the flow of information during the encounter. As detailed above, control over two aspects of the interchange were of special interest, (a) when participants talked, and (b) what they talked about. These initial "fact-finding" interviews were the only time lawyers and clients met each other in two-thirds of the cases. Thus, they usually encompassed the entirety of face-to-face interaction. In those instances where there was follow-up contact, the initial interview set the tone for continued patterns of interaction.

Controlling the Interview

Before we examine the patterns of control and openness

in the interview, we can take a brief look at the concept of client interests. If at any time during the interview the client made an explicit request for action, either voluntarily or upon the lawyer's request, this was noted. For the purposes of coding, it was not necessary that the client initiate a request. Answers to questions like, "Well, what do you want to do in this case?" or "Do you want to fight this?" were taken to indicate an expression of client desires. Even with these liberal criteria for considering an utterance to be an indication of the client's desire, only 22 clients out of 47 (47%) made a request for action. Thus, in slightly more than half the cases, no explicit mention of clients' desires was solicited nor volunteered. We will refer to this finding repeatedly as we examine patterns of lawyer-client interaction.

An invariant characteristic of all interviews was the use of mimeographed forms for collecting information. While the timing of this use of forms may affect the impact they have on interactions, there was no variation along this dimension. In all cases, filling out forms was the first thing that happened. As suggested in the description of a

typical encounter, control of client expression necessary to facilitate completion of forms played an important part in setting the tone with regard to openness and control over flow of information. Implicitly, and often explicitly, it was communicated that bureaucratic concerns, represented by the general intake form took precedence over clients' ability to present their problem in their own manner. Lawyers occasionally suggested to the client that she would get a chance to tell her story more freely once the forms were completed.

Lawyerly control over the interview was indicated both by his control over the timing and topic of utterances. Control over timing was indicated by lawyers interrupting clients an average of 10.4 times during the interview, representing an interruption about every three minutes. In only two interviews did the lawyer fail to interrupt the client at all. The modal number of interruptions by lawyers was 15 per interview. In contrast, clients interrupted lawyers' speech an average of 3.9 times per interview. Seven clients never interrupted the lawyer, while less than half of clients interrupted their lawyer more than twice.

These figures are summarized in Table 1.

Table 1

Interruptions during the course of interview

	Lawyer	Client
Mean	10.4	3.9
Mode	15.0	1.0
Median	7.8	2.2

t (difference between means) = 4.7

p .001 two-tail test

Note that differences between lawyers and clients in the degree to which they interrupted each other are large and highly significant statistically.

The pattern of lawyer dominance is further demonstrated by their exercise of topic control. The figures in Table 2 illustrate the ways in which lawyers dominated the conversation. On the average, more than 94% of all lawyer utterances were instances of the exercise of topic control. It is important to note that no significant differences in this dimension were found between the eleven lawyers studied. Individual lawyers exercised topic control an average of 91.4% and 97.4% of the time. The small amount of variation in this figure and the lack of any real difference between lawyers

personal need for control that is operative in this situation, but rather the form of the situation itself that results in the high degree of lawyer dominance. More will be made of this later.

It might be objected that most of lawyers' exercise of topic control was in the form of questions, indicating perhaps an openness to clients and an honest search for information. There is, however, nothing inherent in the nature of lawyer-client exchanges which dictates that lawyers should spend most of the time gathering information (indicated by 78.8% of their utterances being questions) instead of providing information (indicated by 14.8% of their utterances being explanation or answers to clients' questions). When someone has a legal problem, it is not intuitively obvious that the lawyer should dictate the subject matters discussed, the order in which information is presented or the degree to which some subject matters are considered germane. Even if we accepted the legitimacy of lawyerly domination, a high degree of topic control is not recommended by texts in legal practice as an effective way to build support and gather information (Freeman and

Table 2

Percentage of Utterances in Each Category of Topic Control

<u>Category</u>	<u>Client</u>	<u>Lawyer</u>
Question	7.0	57.0
Leading Question	0.1	21.8
Changing Topic	20.1	1.1
Continuation of Topic Initiated by Self	6.0	0.9
Explanation	2.4	10.5
Instruction	<u>0.2</u>	<u>3.4</u>
Total Exercise of Topic Control	35.7	94.7
Answers	61.1	4.3
Continuation of Topic Initiated by Other	<u>3.0</u>	<u>0.9</u>
Total Compliance with Other's Exercise of Topic Control	64.2	5.3

Weihsfen, 1972, Ch. 2).

We might feel more sanguine about lawyers' adherence to client interest while dominating the conversation, if clients had expressed a clear request for action and presented their problems before lawyers started asking questions. However, less than half the clients made specific requests at any point in the interview and in all cases the nature of the client's problem was determined by the choice of form before the interview started. As we have seen, interviews were not characterized by the initial presentation by the client of her problem which was then explored by the lawyer.

Further, the issue of lawyerly openness can be evaluated by examining the nature of their questions. More than one-fourth of the average lawyer's questions were leading questions; i.e., containing or indicating the answer that is expected. While there is some issue about the validity of responses obtained from leading questions in a research setting (Dohrenwend and Richardson, 1961), there is agreement that they represent a way of confining

answers to subjects of interest to the interviewer. After studying the use of leading questions, Dohrenwend and Richardson contrasted them to non-directive, open-ended questions which "are often inefficient because informants tend to respond to them not only by expanding their answers beyond the immediate question, but also by introducing some matters of no interest to the research worker" (ibid, p. 76). The use of leading questions, then, is seen as a more effective way of controlling responses than is the use of regular questions. The use of leading questions indicates a relative lack of openness in topics to be considered during the interview.

Leading questions also may indicate that the lawyer has already formulated an idea about the outlines of the client's problem and is trying to get confirmation of his view. In fact, cases as they were presented in the interview situation showed a remarkable homogeneity of form and even detail. How much of this was due to "real" similarities between the cases, and how much was due to lawyers' domination of the flow of information could not be discovered through studying only interviews. Since the interviews represented

the major source of information that lawyers received, they themselves could not know whether their assumptions about the similarity of clients' problems were accurate.

Some evidence on the accuracy of lawyers' conceptions may be found by examining clients' pattern of interaction with lawyers. Only 11% of lawyers' leading questions were disconfirmed by clients. Disconfirmation can be taken as evidence that the lawyer's assumptions were inaccurate, but failure to disconfirm (usually expressed by a grunt or "yeh") does not necessarily indicate agreement with the lawyer's assumptions. Clients may have gone along with lawyers' assumptions out of respect, fear, or an unwillingness to appear rude to a person of higher status. In the study cited above, Dohrenwend and Richardson found that:

"Introspective reports by informants suggest that slight and ambiguous deviations from correct leading questions imply inattention or lack of comprehension on the interviewer's part. In this case, correction of the interviewer's misconception may seem both petty and difficult. Thus, these questions appear not only to fail to stimulate the informant to talk confidently and freely, but also may sometimes produce invalid responses through his failure to correct the interviewer."(Ibid, p. 77)

Thus, we cannot assume that 89% of lawyers' conceptions implied by leading questions were correct, even though clients failed to object to them.

While lawyers attempted to exercise topic control in over 90% of their utterances, clients did not follow their lead in a corresponding percentage of their utterances. While the majority (64%) of client utterances were coded as responsive to lawyers' exercise of topic control, the remainder were attempts to control the topic themselves. The majority of these attempts consisted of clients using their turn to speak, following a lawyer's question, to introduce a new topic into the conversation. This often led to an interesting pattern of interaction that I call a power struggle. This pattern was found repeatedly: the lawyer would ask a question, the client would answer and use her turn to initiate a new topic, and the lawyer would interrupt with another question. This pattern occurred (in this precise order) an average of 3.5 times per interview; in four interviews it occurred ten or more times.

Asking a question following a statement by a client may be seen as responsive to the client's lead in

introducing a new topic. However, interrupting the client to ask a question, thus simultaneously exercising control over timing and topic, is indicative of a high degree of direction by the lawyer of what kind of information he wants to hear. Lawyers interrupted clients to ask a question an average of 7.8 times per interview, more than once every five minutes.

It is notable that only 7% of client utterances were questions directed to the lawyer, less than one percent could be coded as instructions. Remember that less than half of all clients requested specific action. This lack of direct client request for action or information is contrasted to the finding that almost 14% of lawyers' utterances were in the form of explanations of the client's situation or instructions about desirable courses of action. This pattern makes sense if we think of lawyers responding to a generalized view of cases and clients developed prior to encounters with specific individuals in our sample.

Lawyers' Views of Clients and Cases

The generalized view of clients and cases is

illustrated by data collected in interviews with lawyers immediately following the observed encounters between clients and lawyers. Each lawyer was asked to describe the client using The Leary Adjective Checklist (Leary, 1957) and to describe the nature of the client's problem. At the same time, I filled out the adjective checklist, describing the client and listed what I thought to be the client's problems. These data are subjective since they concern lawyers' and my reported views rather than observed actions. However, at this point we are interested in describing the nature of lawyers' views since we inferred something about them through analysis of their interview behavior.

One might suppose that a great range of personality types would be found in a population of legal services clients. Even if the entire range of human variety was not discovered, one might expect a broad range of personality types to enter the legal services net. Legal services lawyers, however, perceive a small range of personality and client types. This was revealed when they were asked to describe clients by checking off appropriate descriptive

adjectives from a list of 128 adjectives.

There is no assumption that descriptions obtained after an interview lasting about one-half hour reflect an accurate description of a client's personality. In fact, one of my assumptions before and during this research was that it makes little sense to think of a person having a personality that affects their behavior and others' behavior toward them. I do assume that people develop impressions of others based partly on encounters with them and that these impressions might inform the actions of one person relative to another. The adjective checklist was originally designed to measure interactive styles, and was used for that purpose in this research. The results reported here reflect impressions of clients' interactive style based on one encounter. They should not be taken as encompassing statements about clients' personalities. Descriptions of clients that follow should not be read to be statements about the essential nature of clients, but rather about how clients acted during a brief encounter with a legal services lawyer.

One indication of the way lawyers view clients is their

response to this instrument designed to capture their views of clients' interactive styles. Two lawyers said that they were totally unable to describe clients in these terms and, when asked to describe the client they had just interviewed in their own terms, used language descriptive of the type of the client's problem and her response to it. The following are illustrative of these comments:

"Generally favorable impression. Feel she would be candid and open in discussing situation. But I feel that her crisis situation may be the explanation of this impression and other facets of personality were not prominent in this first interview."

"I don't have much of a conscious impression of the sort you are looking for. She has what she considers to be problems that are beyond her ability to deal with, so she has to come to us, anxious to get help."

The complexity with which lawyers view clients is indicated by the number of adjectives they checked. Lawyers chose an average of 12 adjectives to describe clients compared with my choice of 19 adjectives. The difference is statistically significant at less than the .001 level. It might be that the differences are due

to the fact that I was attentive to clients' interactive styles while lawyers had other things on their mind. This, of course, is one of the points to be made; lawyers did have other things on their mind, and differentiation of clients by their individual styles was blunted by other concerns. One indication of this is their perceptions compared to mine. However, other standards, while not exactly comparable, would give an impression that lawyers' perceptions were more shallow than this comparison would suggest. The only published normative data on the Leary Checklist comes from a sample of clinical patients in California. These patients selected an average of 55 adjectives to describe others in therapeutic encounters (Leary 1957, p. 463). There is no doubt that legal interviews are not comparable to group therapy sessions, but we may glean some idea of the potential of the instrument by looking to its use in other settings. However we view it, lawyers display relatively limited impressions of the personhood of clients.

In addition to a relatively undifferentiated impression of each client, lawyers did display a tendency to view

clients in similar ways. This finding is demonstrated by a number of indicators. The adjective checklist was designed to permit summarization of perceived interpersonal style along dimensions of power and affect. Each client can receive a score indicating the degree of dominance-submissiveness and the degree of hostility-friendliness displayed in the encounter. (These scores are called DOM and LOV by Leary and associates, 1957, p. 69). The lawyers gave the average client a score of -1.47 on DOM, and .95 on LOV indicating that they viewed clients as submissive but friendly. Table 3 compares average scores on these dimensions given by lawyers, myself and normative standards from a west coast clinic.

Table 3

Average Scores on Dominance (DOM) and Friendliness (LOV)

	DOM			LOV		
	<u>Lawyers</u>	<u>Observer</u>	<u>Cl. Stds.</u>	<u>Lawyer</u>	<u>Observer</u>	<u>Cl. Stds</u>
Mean	-1.47	1.14	-2.0	.95	-2.9	0.4
Std. Dev.	3.5	4.7	7.9	5.3	8.4	8.5
Variance	12.27	22.48	62.41	28.41	70.33	72.25

While differences between lawyers and myself in the content of our impressions of clients will be explored later,

at this point we should pay attention to the degree of differentiation of those views as indicated by the standard deviations and variances reported in Table 3. Along the dominance dimension, lawyers' observation showed little more than half the variance that I found and about one-fifth of that found in clinical samples. While lawyers perceived a wide degree of variation in clients along the LOV dimension, the variance in their scores was again less than half of that in mine or clinical samples. Thus lawyers' perception of client styles along the dimension of dominance was rather constricted, reflecting perhaps, the finding of extreme lawyer dominance in the interview setting. They perceived a wide range of client styles in terms of affect, perhaps reflecting an affectively neutral style of interaction adopted by lawyers, permitting a wider degree of variability in clients' display of affect.

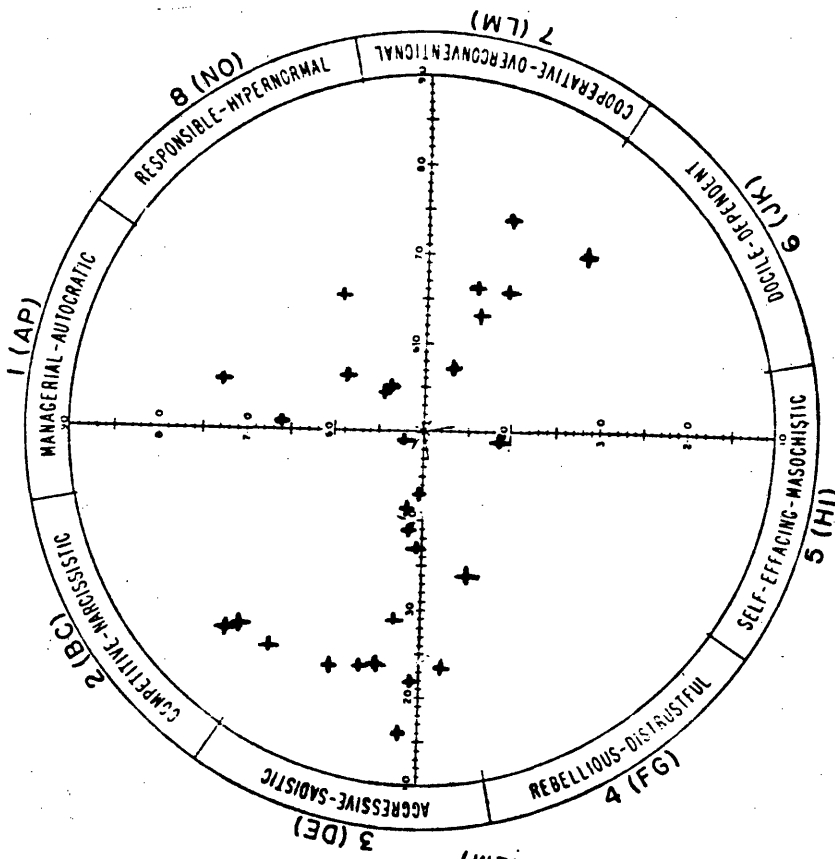
Figure VI shows the scores for each client plotted on the Interpersonal Wheel with Dominance-Submissiveness being the horizontal axis. Points above the horizontal line indicate that the client was seen as generally

dominant, those below the line indicate a view of the client as generally submissive. Points to the right of the vertical line indicate that the client was seen as friendly, to the left indicate that the client was seen as hostile.

Lawyers again show a restricted range of impressions, with less variation in terms of dominance than affect. My impressions show a much wider range of both dominance and affect. It is interesting to note that while I perceived a number of clients to be both dominating and hostile, lawyers placed few clients in this category and none were perceived to be very strong in these attributes.

These observations can be further summarized by dividing the Interpersonal Wheel into four quadrants (dominant-friendly, submissive-friendly, submissive-hostile and dominant-hostile) and counting the number of individuals who fall into each. The proportions of clients in each category as seen by lawyers and myself are shown in Table 4. Note that lawyers saw two-thirds of the clients as submissive with 46% being submissive-friendly. My observations were almost exactly the opposite, I saw almost two-thirds of the clients as dominant, with 44% being

RESEARCHER



LAWYERS

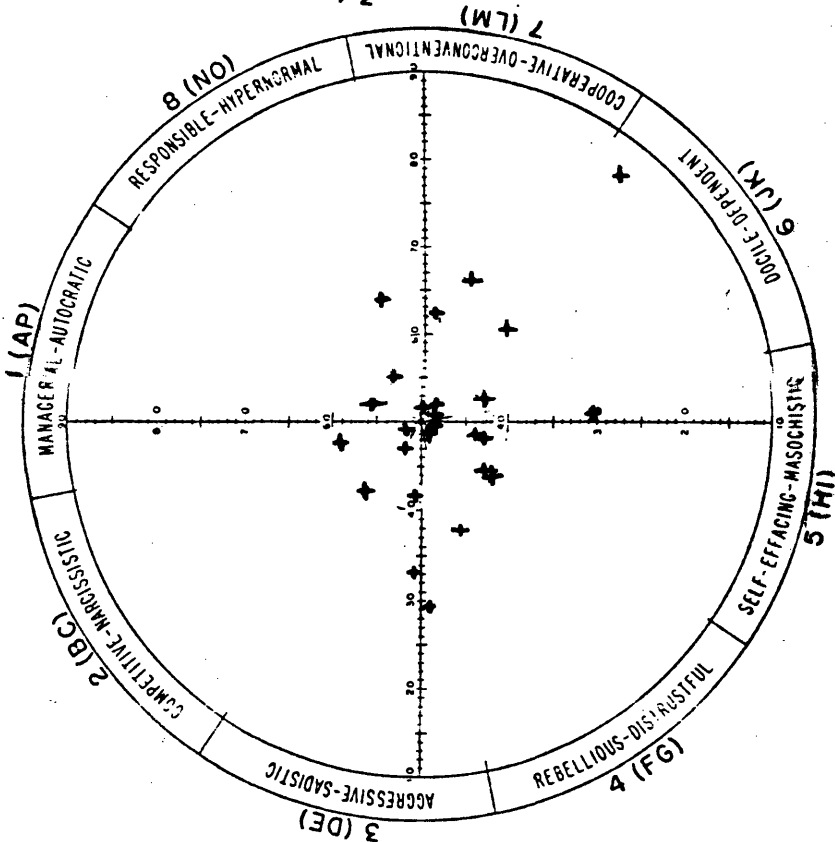


Figure VI Plots of summary points and researcher's impressions of client interactive styles during intake interviews. Vertical axis is DOM, horizontal axis is LOV

dominant-friendly.

Neither view need be taken as the "truth", but the comparison is interesting. Lawyers seemed to have defined clients as seeking help and expected them to follow lawyers' direction, while I made another assumption. I assumed that while clients sought assistance, they did not necessarily expect that lawyers would define the terms of the relationship. Thus what I interpreted to be client attempts to control the flow of information, lawyers may have seen as irrelevant ramblings of people who did not understand the relative importance of different features of their situation. Clients who resisted and persisted in trying to tell a certain story could be viewed as trying to dominate the conversation or as not properly understanding which subjects were appropriate to discuss in the interview setting. It is not very fruitful to argue about whose perception of clients was correct, we can learn more by trying to account for the differences. In this case, differences can be understood in terms of different assumptions about the nature of lawyer client relations.

Table 4

Lawyers' and Researchers' Views of Clients

	<u>Lawyers</u>			<u>Researcher</u>		
	<u>Hostile</u>	<u>Friendly</u>		<u>Hostile</u>	<u>Friendly</u>	
Dominant	19%	13%	32%	44%	20%	64%
Submissive	22%	46%	68%	16%	20%	36%
	41%	59%		60%	40%	

There were some differences in lawyers' impressions of clients' relative dominance related to clients' background. Black clients were on the average seen as more dominant than white clients and men were viewed as more passive than women. Taken individually these differences were both statistically significant at better than the .01 level. However, race and sex of client were related; i.e., male clients were more likely to be white, while female clients were more likely to be black. When joint effects were tested in an analysis of variance, it turned out that almost all of the differences were related to race. Table 5 shows the results of an analysis of variance testing the independent effect of race, sex, and age on lawyers rating of client dominance controlling for the effects of the other variables.

Table 5

Analysis of Variance of Ratings of Client Dominance by Lawyers

<u>Source</u>	<u>df</u>	<u>Mean Square</u>	<u>F</u>	<u>P</u>
Race	2	.197	3.77	.04
Sex	1	.007	0.14	n.s.
Age	6	.080	1.53	n.s.
Total	36	.078		

There were no differences in lawyers' views of the friendliness or hostility of clients related to race, sex, or age.

In addition to the narrow range of interactive styles that lawyers perceived, they considered themselves to be presented with a narrow range of cases. Typically, they would see cases as "housing cases", "welfare cases", etc. This perspective implies that there are standard remedies and standard ways of handling such matters. In fact, the offices had mimeographed handouts detailing the usual procedure for each type of case. A measure of the degree of complexity with which lawyers viewed client cases was their response to a request to list the legal problems they felt the client had presented. In 55% of the cases, the lawyer mentioned only one problem and that related to the type of case which had been identified by the receptionist before

the start of the interview. In only four instances did the lawyer list more than three legal problems. Responses to this question are summarized in Table 6.

Table 6

Number of Legal Problems Listed by Lawyers

<u>Number of Problems</u>	<u>Number of Instances</u>	<u>Percent</u>
None	6	13%
One	26	55%
Two	10	22%
Three	3	7%
Five	1	2%

These findings can be contrasted to statements made by legal services advocates arguing the poor persons often have a number of legal problems intertwined in a single case. The following is indicative of those arguments:

"There are, in addition to the single acute problem which caused the poor client to seek legal advice, almost always in his social history a cluster of other legal problems...None of these other problems is generally recognized by poor persons as meriting a visit to a lawyer." (Silver, 1969, p. 218-219)

In most cases, lawyers did not perceive or explore legal problems beyond the single acute problem which brought the client into the office. This again may be a function of the "reality" that these clients had no other problems. It is

likely, however, that this is a function of the way information was developed and transferred during the interview.

Summary: Lawyers tended to exercise a high degree of control over their encounters with clients; this finding did not vary across lawyers. Clients, however, were not always immediately responsive to lawyers' attempts to control the topic of conversation and often little struggles would ensue over who was to define the proper subject matter. Lawyers had a relatively narrow range of perceptions of clients and considered that each client had relatively few problems. There were no significant differences between lawyers on any of these dimensions, suggesting that the nature of the relationship is more important in the determination of these actions and perceptions than are individual differences in lawyers' backgrounds and personalities.

CHAPTER VIENCOUNTERS AND SERVICE

Most clients never again see their lawyer after the first interview. If the lawyer works on their case at all, contact is maintained by phone. In 18% of the cases studied, there was no action taken by the lawyer due to various reasons. Some problems turn out to be of a nature that lawyers think are not susceptible to legal action. One client, for example, had a large number of debts and was being harassed by her creditors. The lawyer wrote letters to creditors telling them to cease such activities or she would institute legal action. The client was then referred to a credit counselling service and nothing further happened at the legal services office.

Some problems, upon examination, turn out to be no problem at all. In another case, a client had received a paper from the court stating that his landlord was going to evict him for non-payment of rent. As the story was explained, it turned out that the client had stopped paying rent one month before moving out of his apartment. He had told the landlord that he was prepared to forfeit his security deposit to cover the last month's rent. The landlord's attorney had

filed an action in court to protect his client's rights. One phone call, made during the interview, confirmed that no followup action had been made to activate the court's machinery. The client thus had no problem.

Other reasons for no action include conflicts of interest, Legal Services has represented the other party in another case, and resolution of the client's problem before the lawyer can act. Instances of the latter occurred occasionally, usually in relation to administrative problems regarding the welfare department. Clients would talk to a lawyer when they had failed to receive some benefit due to them. In some cases, this failure was due to bureaucratic delay and was straightened out before the lawyer could act. One woman complained about not receiving a benefit and then found the check waiting in her mailbox when she got home from the Legal Services office.

In addition to the 18% of all cases that resulted in no action for reasons given above, another 11% of cases received no further attention because they were lost in the stream of cases coming through the office. These were cases which no one could recall having

conducted an interview or doing anything about the case while I had a clear record of the interview and description of the problem. In two instances, after much searching a file was found containing only a record of the initial interview. In these cases, clients had not contacted the office to find out what, if anything, had been done about their case.

Almost 30% of initial interviews resulted in no action at all. If we couple this finding with the finding that about 40% of those persons who have appointments fail to come in, we can estimate that out of every hundred persons who contacts the office, is eligible for service, and has a problem that a receptionist thinks merits a consultation with a legal services lawyer, forty-two result in cases in which lawyers spend some effort beyond the initial interview.

The average case that was not aborted after the initial interview consumed about three and one-half hours of professional time. This includes time spent by all personnel in an office except secretaries. The distribution of this time is remarkably uniform; 20% of the cases were disposed

of with less than one hour's effort, 20% took between one and two hours, 20% between two and four hours, 20% between four and eight hours, and 20% took longer than eight hours. The longest estimated time spent on a case was twenty hours.

There was a difference in the amount of time consumed related to the type of case. Both offices typed cases into four broad categories; (a) housing (b) welfare (c) utilities, and (d) other, being consumer cases. On the average, housing cases took the most time, followed in order by miscellaneous (consumer), utilities and welfare.

These differences are shown in Table 7. While they do not approach the conventional level of statistical significance, differences are strong and as expected by lawyers and observers.

Table 7

Average Time Spent by Type of Case

	<u>Time</u> (in minutes)	<u>Std. Dev.</u>
Housing	314	319
Other (consumer)	99	105
Utilities	65	60
Welfare	58	57
	F=2.53	p=.08

Note that the standard deviations are almost the same as the means showing a very wide range of time spent on cases in each category. Given a relatively small sample of a universe of cases with a large amount of variation, differences are suggestive of those that might appear if a larger sample were studied.

On the average, lawyers worked equally hard. Controlling for type of cases, there were no significant differences between lawyers in the average amount of time spent on a case. On a measure of the level of effort expended relative to cases similar to the one considered, lawyers again showed no significant differences. This finding, along with the finding that there were no significant differences

between lawyers in interview style or perception of clients, reinforces the idea that the structure of the situation is more important in understanding broad dimensions of behavior than are personal differences between lawyers.

The biggest time consumer was travel to and from appearances in court or at administrative hearings. Less than one-fourth of the cases ever resulted in an appearance before an adjudicating body. Half of these were concluded after one hearing, another one-half took two hearings. No case in my sample involved more than two appearances before a judge or administrative hearing offices. If we use these figures as estimators, we find that out of a hundred people given appointments, ten to twelve will have cases that result in lawyers presenting a case before a judicial body. Five or six of these will be complex enough to require more than one hearing. When we consider that these are the cases that take up most of a lawyer's time, we find that lawyers spend most of their time on a small percentage of eligible clientele. This is not surprising, but is important to keep in mind when

evaluating statements about the practice of law in the legal services setting.

Who Gets The Most Service?

Given the wide variation in time spent by lawyers, the measure of relative effort spent on a case was the lawyer's subjective rating of effort relative to the amount of effort considered normal for a case of that type. Lawyers were asked to rate each case on a five point scale, declaring the level of effort to be more than normal, about normal, or less than normal. These ratings were analyzed in two ways. The ratings were considered to be ordinal or interval scales for purposes of statistical analyses which use these types of numbers. Other types of analyses were conducted by categorizing these responses into three levels of effort; (a) less than normal (b) normal and (c) more than normal. Both types of analysis yielded similar results; thus the form that shows relationships most clearly to the statistically unsophisticated reader will be reported here.

Lawyers were candid in supplying their impressions of effort expended on each case. It was fortuitous for

statistical purposes that an even distribution of their ratings was found; lawyers reported that 36% of clients in the sample received less than normal effort, 32% got normal service, while the remaining 32% received better than normal effort. The intended effect of making these ratings comparable across type of case was achieved as demonstrated by finding no statistical relationship between lawyers' ratings and type of case presented.

In working on cases, lawyers did not seem to differentiate between clients on the basis of race or age. A relationship was found between sex of client and effort when this variable was considered alone, men receiving more effort than women. However, this relationship disappeared when the effect of other variables was taken into account.

Table 8 shows the results of analysis of the effect of race and sex, each considered alone, while Table 9 shows the effect of race, sex and age when the effect of the others is controlled.

Table 8

Relation of Race and Sex to Level of Effort

<u>Effort</u>	<u>Race</u>			<u>Sex</u>	
	<u>White</u>	<u>Black</u>	<u>Spanish</u>	<u>Male</u>	<u>Female</u>
Less than Normal	28%	46%	50%	20%	43%
Normal	33%	27%	50%	20%	38%
More than Normal	39%	27%	0%	60%	19%

$$\chi^2 = 1.99 \text{ df} = 4p = \text{n.s.}$$

$$\text{gamma} = -.33$$

$$\chi^2 = 5.21 \text{ df} = 2p = .07$$

$$\text{gamma} = .58$$

Table 9

Analysis of Variance of Lawyers' Ratings of Effort

<u>Source</u>	<u>F</u>	<u>P</u>
Race	.447	n.s.
Sex	.058	n.s.
Age	2.188	n.s.

How about our hypotheses relating client presentation strategies to level of effort? Recall that one hypothesis was that clients who were more submissive and respectful to lawyers would receive better service. This was based on a view of interactions as exchanges in which

deference as a symbolic good would be exchanged for service as a material good. The alternative to this hypothesis was the commonsense view that "the squeaky wheel gets the grease", suggesting that persistent, hostile clients would get more service. While I found that lawyers perceived a relatively narrow range of variation in client presentation strategies, there was some variation and the question about its relation to lawyerly effort is still appropriate. Although both perceptions and activities are routinized, neither is completely uniform. Relations within such a narrow band of variation, while restricted compared to an ideal of individualized service, may still be important. Relations between lawyers' ratings of clients on the dimensions of dominance-submissiveness and friendliness-hostility with their ratings of level of effort made four or more months after the initial encounter were examined to test these hypotheses. The results are interesting in that they refute my original hypothesis.

No relation at all was found between lawyers' ratings of clients on the dominance dimension and their ratings of

effort put into the case. A strong relation was found between lawyers' initial ratings on the affective dimension and their ratings on the level of effort. The more hostile the lawyer perceived the client to be, the higher the level of effort. These findings will be examined in detail.

Correlational analysis, based on either the assumption that ratings were ordinal or interval rankings of clients along each dimension showed the same results. The Spearman correlation between lawyers' perceptions of dominance and effort was $-.11$, insignificant for a sample this size. The rank order correlation between lawyers' perception of friendliness-hostility was $-.60$, significant at the $.001$ level. Pearson product-moment correlations for the same variables were $-.04$ and $-.65$ respectively. If we classify lawyers' perceptions into two categories along each dimension, we find the same results as shown in Table 10.

Table 10

Relation of Effort to Lawyers' Perceptions of Clients

<u>Effort</u>	<u>Dominance</u>		<u>Affect</u>	
	<u>Dominant</u>	<u>Submissive</u>	<u>Hostile</u>	<u>Friendly</u>
Less than normal	50%	28%	9%	53%
Normal	25%	33%	27%	33%
More than normal	25%	39%	64%	13%

$\chi^2 = 1.22$ df = 2 p = n.s. $\chi^2 = 8.30$ df = 2 p = .01

Recall that some association was found between lawyers' perceptions of clients and the client's race and sex, while some association was also found between effort and client's race or sex. To sort out the interactive effects of these variables, I performed an analysis of variance using effort as the dependent variable, race, sex, and age as independent variables and lawyers' perceptions as independent covariates. This permitted an assessment of the effect of each factor controlling for all the others. The results are shown in Table 11, a table that requires some explanation.

Table 11

Analysis of Variance and Covariance of Lawyers' Ratings
on Effort

<u>Source</u>	<u>Mean Square</u>	<u>F</u>	<u>P</u>
Race	.917	.447	n.s.
Sex	.119	.058	n.s.
Age	4.486	2.118	.13
<hr/>			
Total Factors	3.825	1.865	.17
Dominance	.007	.003	n.s.
Affect	7.356	8.463	.01
<hr/>			
Total Covariates	9.262	4.516	.04
Residual	2.051	Multiple R ² = .72	

All the variables in this table jointly account for 72% of the variance in the level of effort. However a single variable (lawyers' rating of affect) accounts for most of the variance. When lawyers' perceptions are controlled, none of the demographic variables alone, nor all in combination account for a significant proportion of the variance in level of effort (for some unknown reason, age accounts for more

than the others, however no discernible pattern of the affect of age could be found). Lawyers' perception, taking dominance and affect together, accounted for a significant proportion of the variance; however, this was almost entirely due to the effect of lawyers' ranking on affect. Thus we find that the best, and only statistically significant, relation was that between level of effort and lawyers' perception of friendliness-hostility. It seems that the squeaky wheel does get the grease.

No similar relations were found between my perceptions of clients and lawyers' subsequent effort. Correlations between my ratings of clients and lawyers' ratings of effort were .15 in dominance and -.08 for affect, both insignificant by any statistical standard. This finding is not surprising when we consider the differences between my perceptions and those of lawyers. It does, however, reinforce the view that we cannot talk meaningfully about the effect of an abstract client personality, but need to consider the impressions that clients make on lawyers.

Lawyers' impressions are partly a function of behaviors measured during the interview, or the client's

physical appearance. Correlational analysis showed only suggestive relations between lawyers' perceptions and client behavior when each indicator was taken alone. The largest correlations were between client exercise of topic control and lawyers' rankings in terms of affect; the correlation between lawyers' rankings on the LOV dimension and clients' exercise of topic control was $-.21$, significant at around the $.1$ level. A finer examination of this relation showed a correlation of $-.39$ between lawyers' ratings on LOV and the proportion of times clients changed the topic. Again this relation was significant at around the $.1$ level.

Effort correlated with these behaviors at a higher level of significance. The proportion of times clients changed the subject showed a correlation with effort (rank order) of $.31$ significant at the $.05$ level. The number of times a client interrupted a lawyer correlated with effort at $.42$ significant at the $.01$ level. In both interviews the client who displayed the most dominant behavior received more effort. These findings suggest the following relationship; client behaviors assumed to indicate dominance

were perceived by lawyers to indicate hostility. The direct relation of client behavior to effort suggests that more dominant clients get more service. However, if the effect of lawyers' perceptions is included, we find that they seem to be responding to perceived hostility.

This relationship was clarified by factor analyzing the variables measuring clients' verbal behavior during the encounter. This analysis revealed that an underlying dimension, which I will call client persistence, explained 35% of the variance in all client behaviors. The four variables that loaded significantly on this factor (and thus lead to its definition) were interruptions by clients, clients' continuation of a topic without regard to interventions by the lawyer, clients' changing the subject, and (negatively loading) clients' answering questions posed by the lawyer. The computer produced a persistence score for each client by weighting these variables according to their contribution to the underlying dimension. The resulting measure of client persistence was then used in regression equations to determine its relation to lawyers' efforts

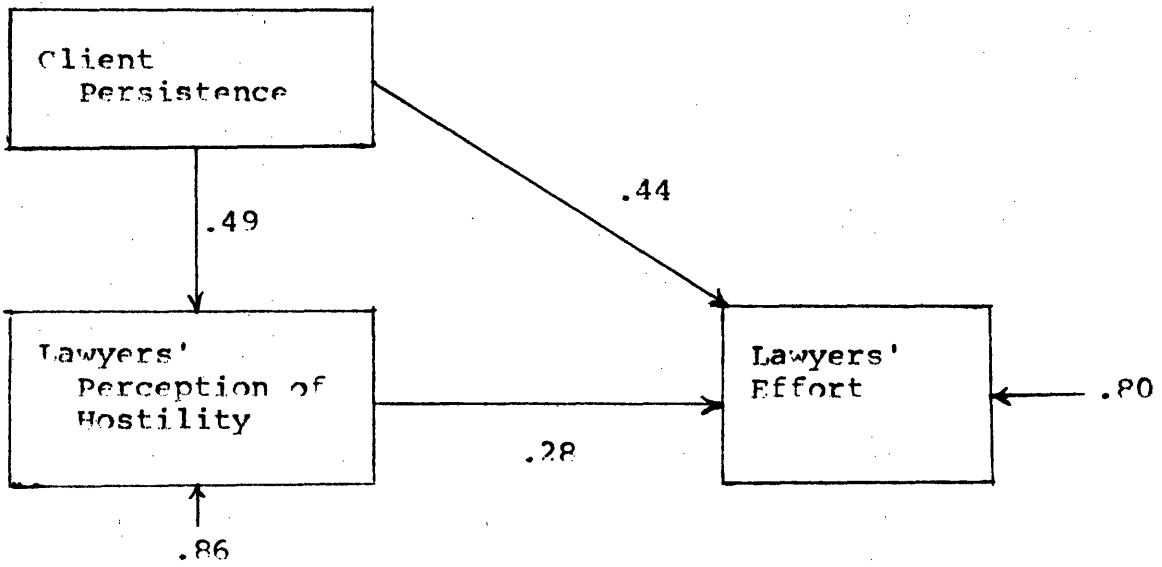
and their perceptions of clients.

Client persistence correlated with lawyers' perception of the LOV dimension at .49, highly significant for a sample this size. However, the correlation with lawyers' effort was even higher being .56, again highly significant, and indicating that the more persistent client receives more effort. Through regression analysis, it was revealed that client persistence accounted for a larger percentage of the variance in lawyers' effort than did lawyers' perception of client hostility. A path model, shown in Figure VII, reveals that client persistence affects effort both directly and through the mediation of lawyers' perceptions of hostility.

In any event, we find that our hypothesis that more deferent clients will receive more effort is not supported. The data suggest that clients who act less deferent get better service and that clients who display more hostility, as perceived by lawyers, get better service.

FIGURE VII

PATH MODEL OF CLIENT PERSISTENCE, LAWYERS' PERCEPTION OF HOSTILITY AND LAWYERS' EFFORT



What About Outcomes?

The level of effort which lawyers devoted to a case is one indicator of the nature of service provided by legal services. Another indicator is the type of outcome of the lawyers' work, whether or not the client's services should be evaluated primarily in terms of outcomes achieved by lawyers or by the amount and quality of effort that lawyers devote to cases (Casper, 1971). Regardless of how they are evaluated, we can examine whether clients' interactive styles relate to the outcome of their case.

When lawyers closed a case, they made a notation in the file referring to the outcome. Three categories were used; (a) case won (b) case lost (c) objective obtained. The difference between a case being labelled "won" and a case being labelled "objective obtained" seemed to relate to the degree to which the outcome was unambiguous. A case which had been heard before an adjudicating body which delivered a clear-cut decision could easily be labelled "won" or "lost". As we have seen, only a small percentage of cases are decided in such forums.

Cases in which a negotiated settlement is achieved and in which clients receive some benefit are labelled "objective obtained". A close analysis of these cases reveals that client objectives are not always readily apparent and that the nature of the outcome is ambiguous. For example, a case in which an eviction proceeding was dropped after a client agreed to pay an increased rent was labelled "objective obtained". In some cases, outcomes were unknown because clients were no longer in contact with the office or because the case had been lost in the shuffle.

One indicator of outcomes then becomes the relative ability to characterize an outcome at all. From the records we could identify three types of outcomes; (a) those in which there was a clear win or loss (b) those in which the outcome was known but ambiguous, and (c) those in which the outcome was unknown to the staff of the office. Again, fortuitously for the purposes of statistical analysis, roughly one third of all cases fell into each category. At this point, it should be noted that few cases are "lost" in the formal sense of the term; only 6% in my sample were

labelled as lost. This small proportion suggests that if any conclusion of a case is reached at all, lawyers think that clients are better off after contacting legal services than they were before.

A clear relation exists between type of outcome and type of case. As shown in Table 12, utility cases were most likely to result in clear-cut outcomes, followed by housing cases. Other, non-categorized cases were least likely to result in clear-cut outcomes and most likely to result in unknown outcomes. This pattern suggests that the susceptibility of a case to routine processing is related to the likelihood that an unambiguous, known outcome will be achieved.

Table 12

Type of Outcome Related to Type of Case

Type of Case

<u>Type of Outcome</u>	<u>Utilities</u>	<u>Housing</u>	<u>Welfare</u>	<u>Other</u>
Clear-cut	67%	42%	17%	17%
Ambiguous	0%	26%	83%	17%
Unknown	33%	32%	0%	66%

$$\chi^2 = 12.86 \quad df = 6 \quad p < .05$$

Utilities cases were the most highly routinized. As one lawyer put it, "I like utilities cases, all you have to do is write a letter and wait." Housing cases which formed the bulk of cases handled fell into recognizable categories, each with a relatively routine procedure. Cases labelled "other", because they could not be categorized implicitly were subject to the least routinization. The degree to which the processing of a case is routinized seems to be related to the likelihood of its resulting in a clear-cut outcome. If relatively clear, routine ways of handling a case are not available, it seems that outcomes are likely to be ambiguous or unknown.

Demographic characteristics of clients were again unrelated to the type of outcome that was achieved. However, lawyers' perceptions of clients were related in a manner similar to measures of effort. While there was absolutely no relation between lawyers' perception of clients' dominance and outcome type, there was a strong, clear-cut relation between lawyers' perceptions of friendliness or hostility and type of outcome. As shown in Table 13, people perceived to be hostile had a greater chance of receiving a clear-cut outcome while people perceived to be friendly had a greater chance of receiving no outcome at all as far as was known by the office. Again, the squeaky wheel seems to get a better deal.

Table 13

Type of Outcome Related to Lawyers' Perceptions of Clients

<u>Type of Outcome</u>	<u>Hostile</u>	<u>Friendly</u>	<u>Dominant</u>	<u>Submissive</u>
Clear-cut	58%	12%	29%	33%
Ambiguous	25%	44%	42%	33%
Unknown	17%	44%	29%	33%

$\chi^2 = 6.72$ $df = 2$ $p < .05$ $\chi^2 = .21$ $df = 2$ $p = n.s.$
 $\gamma = .66$ $\gamma = 0.00$

In addition to rating the level of effort expended in each case, lawyers were asked to rate the outcome of the case, if known, relative to usual outcomes. This effort to standardize a measure of outcome was less successful since lawyers chose ratings at the extremes, leading to problems in the statistical analysis. On an interval scale, the distribution was almost bimodal, clients either received very poor outcomes, or normal to better outcomes. Lawyers noted few outcomes as marginally less than normal, reflecting again a possibly undifferentiated view of the possibilities of a case. When the ratings were collapsed into categories, the effect of ranking many very low diminished as all outcomes below normal were considered equivalent.

Since outcome was unknown in roughly one-third of the cases, I have data on outcomes for about two-thirds of those cases that were not aborted at the original interview. Lawyers' ratings of outcomes again broke roughly into thirds; 31% were rated as poorer than normal, 38% were rated normal, and the remaining 31% were rated better than normal.

Relations between outcomes and other variables were unclear as different types of analysis yielded different results. When lawyers' ratings were considered to be interval scales and subjected to one-way analysis of variance, no significant differences were found in ratings based on client's race, sex, age or type of case. When outcomes were categorized and subjected to contingency table analysis, a statistically significant relationship appeared between client's sex and outcome, women being more likely than men to achieve outcomes better than normal. The results are shown in Table 14. While this pattern yields a chi square that is statistically significant, the small value of gamma indicates that our ability to predict outcome is only marginally approved by knowledge of client's sex.

Table 14

Outcomes Related to Client's Sex

<u>Outcome</u>	<u>Sex</u>	
	<u>Female</u>	<u>Male</u>
Poorer than normal	37%	20%
Normal	19%	70%
Better than normal	44%	10%

$$\chi^2 = 7.09 \quad df = 2 \quad p = .03$$

$$\text{gamma} = -.15$$

Since sex and race of client were related, a higher order analysis of variance testing the effects of each demographic variable controlling for all others was performed and showed that once race and age are controlled, the relationship between sex and outcome disappears. Apparently in this sample, some marginally small relationships between these variables exists and approaches statistical significance under various forms of analysis. However, no pattern emerged that was consistent enough to support an assertion that outcomes were related in any way to client background characteristics.

Outcomes showed a somewhat more consistent relation

with client presentation and lawyers' perceptions. Rank order correlations showed a strong relationship between lawyers' perceptions of client dominance and their ratings of outcomes (the correlation was .49 significant at the .01 level for a sample this size). This relationship suggests that clients who are perceived to be more dominant get better outcomes and, if we recall that the relationship between client's race, sex, and lawyers' perception of dominance, we might account for the finding that women in our sample got far better outcomes. There was no statistically significant relationship, however, between client behavior coded during the interview and either lawyers' perception of dominance or outcomes.

Another interesting finding was the relationship between client request for action and lawyers' ratings of outcomes. Clients who requested action had outcomes that averaged significantly better than those who did not request action. When this relationship was examined using table analysis, chi square was found to be not significant, but gamma was reasonably high, suggesting that knowledge of whether a client requested action would help us predict the

quality of outcome. Again the nature of the data and sample size accounts for the different findings summarized in Table 15.

Table 15

Relation Between Client Request for Action and Outcome,
Tested Two Ways

T = Test

	Lawyers' Rating of Outcome	
	<u>Mean</u>	<u>Std. Dev.</u>
Did Client Request Action	Yes 4.1	.90
	No 2.6	2.3

T = 2.10 p .05

Contingency Table

Client Request?

		<u>Yes</u>	<u>No</u>
Outcome	Poorer than normal	17%	43%
	Normal	50%	29%
	Better than normal	33%	29%

2

X = 2.3 df = 2 p = n.s.
gamma = -.31

No significant relations were found between lawyers'

perceptions of client friendliness-hostility and outcomes no matter how the data were analyzed.

It is interesting to note that lawyers' ratings of outcomes did not relate significantly to their ratings of effort expended. The correlation (rank order) between their ratings of effort and outcome was .07, statistically insignificant for a sample of this size and so small as to suggest no relationship at all. This lends support to our decision to analyze the two indicators of service separately and suggests that if one is interested in what clients receive from the legal process, the activity of lawyers is only one among a number of variables that needs to be considered. The activity of the client herself may be equally as important.

Summary. Two ways of evaluating service were examined: the level of lawyers' effort and the outcome of the case. No consistent patterns could be found that related either of these to client characteristics such as race, age, or sex. Some aspects of lawyers' perception of clients and client behavior during the interview were found to relate to service. Clients who were perceived to be more hostile received more effort for their type of case no matter whether effort was measured by lawyers' ratings or records of time spent on a case. A relation was found between a composite indicator of clients' behavior and effort; clients who were more persistent during the interview tended to get more effort. Clients who exercised more topic control also were perceived by lawyers to be more hostile. No relation between client dominance-deference and effort was found.

In contrast, outcomes seemed to be more related to lawyers' perception of client dominance. This was indicated by a relationship between lawyers' perceptions on this dimension and their ratings of outcomes. This finding

is reinforced by a relationship found between client requests for action and outcomes; clients who do request action seem to get better outcomes. Although problems with the data make statistical analysis difficult, the results are suggestive of a pattern and reinforce a subjective impression that clients who take an active part in moving their own case get better outcomes.

Finally, no relationships were found at all between my perceptions of clients and indicators of service. This finding reinforces the view that it is not productive to study effects of some abstract client personality, but to focus on impressions conveyed and received in interactions. The impressions that assist in understanding action are those formed by the actor himself and not by a third party.

CHAPTER VIIDOMINANCE AND ROUTINES

Since the beginning of the Legal Aid movement, there has been a fear that organized provision of legal services (as opposed to reliance on independent legal practitioners) would result in routinization of legal work. As early as 1890, the work of the first legal aid organization was criticized for being routine in nature (Smith, 1919, p. 135). In early debates on the merits of public financing of legal services, Charles Evans Hughes warned that organized bureaus of legal assistance must "escape the fatalities of bureau routine" (Hughes, 1920, p. 232). He felt that the dangers of this happening would be increased if legal aid were set up as a governmental organization.

Ironically, a 1966 study of legal aid organizations found a high degree of routinization in private organizations and recommended public financing of legal services as a remedy. In their words:

"Three out of four accepted applicants for legal aid receive only a single brief consultation; only a minimal amount of time is given to the investigation of fact, to legal research and drafting of legal documents, and to court work. Many offices, in fact, are incapable of handling cases that require extensive investigation or time-consuming litigation."
(Carlin, Howard, & Messinger, 1966, p. 50)

These deficiencies in service were attributed to low pay, high personnel turnover, poor administration and the political vulnerability of legal aid organizations that depended for support on the

very persons they often opposed in legal cases. Publicly financed legal aid was advocated as a remedy for these problems.

After four years experience with federally financed legal services, the fear of their imminent failure due to routinization caused by overwhelming caseloads was again raised (Silver, 1969). In the absence of affirmative limitations on caseload, Silver argued that a de facto allocation of resources would occur in which "among the multitude of "cases" presented by any client, the lawyer is limited to taking only those cases that do not require more than a minimum of thought, effort, time, and skill" (Silver, 1969, p. 236). The findings of this study make it appear that these fears were justified.

The encounters described are dominated by routinization of action and thought. It is this routinization that makes it possible for us to describe a typical encounter in the first place. If each encounter were different depending on the client, the bureaucrat and the outlines of the case, we could not describe a typical encounter. Our ability to do so without doing excessive violence to the reality of encounters between citizens, lawyers and courts is itself evidence of the dominance of routines. At the most obvious level, the experience of clients who encounter legal services personnel is heavily routinized. The secretaries' series of questions, the lawyers' use of forms and staging of the interview and even the court appearance, if there is one, are patterned in ways that vary little from client to client.

It might be argued that routine activity on the part of legal services personnel, reflects a reality in which clients all have simple problems and these problems are very similar across clients. While we cannot directly assess the validity of this proposition, a major finding of this research throws it into question. The finding that lawyers dominate the flow of information which yields a definition of the case in the first place makes it at least doubtful that the nature of their work is dictated by the "reality" of their clients' problems.

Students of professional-client interaction have emphasized the degree to which a definition of reality is negotiated during encounters (Scheff, 1968). At a more general level, students of the sociology of knowledge argue that it makes no sense to speak of an "objective" reality to which knowledge corresponds, but that is important to attend to the social process through which a definition of reality is constructed and which is in turn supported by that definition of reality (Berger and Luckmann, 1967). In the present context, these considerations lead us to focus on the process through which a definition of clients' problems is achieved, the relationships that are reflected in that process and the action which follows the definition of clients' problems. Two elements of this process draw our attention: 1) the degree to which lawyers dominate the process and 2) the restricted nature of the definitions that emerge.

In addition to rejecting the notion of an "objective" reality that is mirrored in thought, we must also, as a necessary preliminary, reject the notion that a conception of reality is formed prior to and independently of action in relation to that conception. We might naively expect that what a lawyer does with a case depends on the facts of the case. However, we often find the process reversed, lawyers know what is likely to happen in the process of handling certain types of cases and develop a conception of the "facts" in such a way that insures that what he expects will happen does indeed happen.⁷

Of course the broad outlines of a case are dictated by the "facts", but many of the details which potentially distinguish one case from another are shaped during the course of interactions.

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Sudnow (1965) describes this process explicitly in interactions between public defenders and their clients. In the course of bargaining numerous cases, public defenders and prosecutors develop patterns in which certain "normal" crimes receive standard dispositions. For example, child molestation was normally handled by having a defendant plead guilty to hanging around a school yard, regardless of whether or not the defendant was ever near a school yard at the time he was arrested. Public defenders utilize their interviews with clients charged with child molestation to elicit information that will support a definition of the situation as one in which the defendant was "hanging around a school yard" so that a guilty plea to the lesser charge can be entered.

By placing a tight control over what information will be elicited and by taking steps to increase the likelihood that expected information will be supplied, lawyers can find reinforcement for already developed ideas of what a case is likely to entail and what is likely to happen. This is illustrated by legal services lawyers' use of leading questions in a so-called fact-finding interview.

The use of leading questions indicates that lawyers have a conception of what the case is all about and are trying to get verification of that conception. After a lawyer has handled ten evictions in the same neighborhood, it is not unusual for him to feel that he knows the broad outlines of any eviction case he is likely to encounter. He also knows what defenses are commonly used as well as those that are likely to be successful. Once he discovers the general outline of the case, the interview is then directed toward establishing those "facts" that are necessary to a successful pursuit of the case. The same is true, of course, for welfare problems and utility cases.

Clients have little influence over this process. The power struggles we described in legal services interviews can be seen as a struggle for control over the communication of information about and the resulting definition of the client's case. The client attempts a description of her case as she wants to describe it, but the lawyer interrupts with questions soliciting information

that he wants to hear. Undaunted, clients often seek to regain control and tell her story, only to be again interrupted by the lawyer who evidently wants her to tell her story in his terms. Client desires may also be defined by lawyers as evidenced by the relative dearth of explicit demands for service. The evidence seems to be strong enough to warrant the statement that, within the broad outlines of a given client's problem, the definition of the relevant features and details of client problems is dominated by the lawyer.

Dominance and routinization are connected in a mutually supportive manner. The emergence of routinized conceptions of clients is facilitated by lawyers' domination of the interaction. Client control over the flow of information might lead to greater variation reflective of differences in interactive styles and the uniqueness of their individual problems. It might be that client control would result in routinization if clients were identical and interchangeable. Each client and her problem could be essentially the same as all others or an example of

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The same is true for public defenders who alternatively threaten clients and appeal to them to establish the dimensions of their story in ways that will enable a routine processing of the case. Defendants who do not participate in this process are characterized as "putting the public defender on", being a "phony", "making an innocent pitch", or just plain stubborn (Sudnow, p. 269). Sudnow argues that one of the major tasks of the public defender is to induce his client to go along with his way of processing the case, rather than seeking to represent the defendant's interests as the defendant defines them.

others within fairly common categories. This latter view, of course, is the one held by lawyers who sometimes complain that their work is highly routine, and who attribute the routine nature of their work to the routine sorts of problems presented by clients.

It is impossible to decide on the basis of interview information whether routinized views of clients reflect a "reality" in which clients actually do have highly similar problems, since the information flow on which such judgments are made is largely controlled by the lawyer. We find a largely self-generating process; lawyers who believe that client problems are very routine control an information transfer which yields a description of a problem much like that of other clients' problems. Each time that one client's problem appears to be like many others confirms the lawyers' view that client problems are highly routine. This makes him more sure that the next client's problem is likely to be familiar, giving him an assurance that he will not be too much in error about the shape of a case. This assurance supports his exercise of dominance in interactions which follow.

It might make a difference to our evaluation of lawyers' performance if we had evidence to show whether or not lawyers' perceptions of the routine nature of cases were accurate. However, lawyers' own ability to evaluate the accuracy of these perceptions is more important to our understanding of the effects of bureaucrat-client interaction on street level policy

making. Routinization derives a large measure of its continued sustenance from the bureaucrat's exercise of control over the flow of information which results in the construction of the "reality" of a client's situation since the exercise of such control yields a construction that is highly similar to the "reality" of the situations of other clients.

How are we to account for the prevalence of bureaucratic/professional dominance of processes and situations where client interest is supposed to be paramount or, at least, where norms of mutuality are expected? Reviewing the possible sources of influence on bureaucratic behavior may help us isolate possible explanations for the existence of unilateral exercise of control over important dimensions of bureaucrat client interaction. These sources of influence are: 1) organizational rules, 2) expectations of supervisors, 3) professional or organizational norms, 4) the structure of the situation, 5) the activities of clients, and 6) personality of the bureaucrat.

Unilaterally exercised control by bureaucrats cannot be explained by referring to the personal failings of individuals. It does not seem to be an individual need to dominate nor a particularly inflexible state of mind that gives rise to simplifications and bureaucrat's dominance. I found that there were no significant differences between legal services lawyers on these dimensions. In addition, other observers have found unilateral bureaucratic domination of the

characterization of clients and their situations to describe relations between public defenders and clients (Sudnow, 1965, Harris, 1973), between hospital staff members and mental patients (Goffman, 1961) and between police and persons on the street (Skolnick, 1967).

In a study of private lawyers in New York City, Rosenthal found that:

"In a majority of cases, the lawyer guides the client into viewing his case, his role, and the lawyer's task in a way that the lawyer finds most congenial. This involves encouraging the client to rely upon the lawyer's judgment and assuaging the anxieties the client reveals. It also involves discouraging the client from making demands or harboring expectations that will be difficult for the lawyer to fulfill. Setting ground rules is usually a one-way process in which the lawyer guides and the client adjusts. Those few clients with the temerity to seek ground rules that reflect their concerns are sometimes able to achieve a two-way process of mutual give-and-take." (Rosenthal, 1974, p. 65)

Obviously, professional and organizational norms cannot account for this characteristic of relationships since both the medical and legal professions emphasize the need to consider each client's situation independently and acknowledge that ultimate sovereignty rests in clients. Lawyers and doctors are supposed to respect the wishes of clients and to treat each individual as a person with unique qualities and problems.

It may be argued that clients' behavior during the encounter is such as to communicate a wish that bureaucrats will take charge of the situation and relieve the client of responsibility of solving her own problems. In this view, which seems to be prevalent in some circles, clients are seen as willing to and even desirous of divesting themselves of any responsibility for the conduct of their affairs in respect to the problem that brought them to an agency seeking service. This argument has its roots in the classical idea that in situations of uncertainty people tend to try to "escape from freedom" (Fromm, 1941) or prefer to be guided by a strong man rather than take responsibility for themselves (Dostoevsky, 1957). Clients could be seen as not only acquiescing in bureaucrat's domination of the situation, but also, perhaps unconsciously, preferring and facilitating that dominance.

Our evidence does not support the generality of these arguments. While some clients did not challenge lawyerly dominance, many of them did try to assert their own control over the interview situation as shown above. Rosenthal reports that clients he studied were in conflict on this issue. (Rosenthal, 1974, pp. 171-172). Some seemed to want lawyers to shoulder the responsibility and deal with uncertainties in their cases, while expressing values of personal self-reliance and responsibility. While all clients may be tempted to play a passive role and some may have needs that prescribe such a role, evidence shows that not all clients act in a way that reflects a preference for such a role. In another study of private legal aid lawyers, Freeman found that while 45% of the clients in his sample said that the lawyer had taken over their cases and done all the work on it, only 23% of clients cited this as a

reason that they were satisfied. (Freeman, 1967, p. 220) It is clear that while client desires and activities may account for part of the existence of bureaucratic dominance, they cannot explain a very large part of this phenomenon.

Organizational considerations including rules and supervisors' expectations facilitate bureaucratic dominance without expressly mandating or approving of this style of interaction. None of the supervisors at Port City Legal Services encouraged staff members to dominate the interview situation and generate simplified views of client problems largely out of their own experience. Similarly there were no rules, written or otherwise, that instructed staff members to behave in this way. In fact, when this topic was discussed with supervisory personnel they all expressed a value for a more open relationship directed by client interests. Yet they encouraged the use of prepared forms for gathering information, in the name of thoroughness and "efficiency". As we have seen, the use of these forms is an important ingredient in the pattern of lawyerly dominance and simplified views of cases.

In informal conversations, supervisors expressed the view that the bulk of cases handled by their offices were routine in nature and discussed ways in which they might be handled more efficiently, i.e., more routinely. Again, we have a potentially self-fulfilling prophecy; supervisors who think that cases are routine prescribe procedures for handling them that shape the interviewing process. The interviewing

process, directed to a significant degree by the requirements of the forms, yields account of client problems that are very routine. And so the wheel turns.

We might also suspect that this process has the effect of discouraging clients whose problems, as they see them, are not susceptible to simplification. We should recall that about thirty percent of clients who are interviewed receive no further service and that a substantial portion of these fail to keep in touch with the office about their problems. It could be that these people resist routinization and are "turned off" by a process that seems to distort the nature of their case. Some evidence for this supposition is the finding that fully two thirds of those cases which were unclassifiable into the "big three" of utilities, housing, and welfare had outcomes which were unknown to the legal services office. Not only may the process be self-fulfilling by yielding perceptions of cases as highly routine, it also may select out many cases which are not susceptible to routinization; resulting in a body of cases which are perceived to be highly similar and definitely routine.

These organizational considerations can be seen as a means of coping with the structure of the street-level bureaucrat's work situation described in earlier chapters, namely the overwhelming demand for service in relation to available resources. The theory of street-level bureaucracy advanced by Lipsky (1969) may help us to explain the prevalence of simplifications and bureaucratic dominance in these situations. In

addition to the inadequacy of resources in relation to demand, street-level bureaucrats labor under a situation in which goals are ambiguous or in conflict. This is true of Legal Services where, as we have seen, there is a historical tension between law reform and service to a poor clientele. In a world of limited resources, these goals are in conflict since time spent on cases with potential for reform takes away from time available for service to other clients. This tension was not completely resolved in the Port City Legal Services by the operation of a special unit especially for law reform. Individual lawyers in neighborhood offices still expressed a feeling that they could be doing more to help clients as a group by working on "significant" cases. Yet they felt handicapped by an inexhaustible demand for service from individual clients.

Even a decision to exclusively pursue the goal of client service would not alleviate all the uncertainty in this situation, since the problem of setting standards for adequate client services must be confronted. Standards of service which prescribe a thorough examination of all client problems, legal and non-legal, along with an attempt to find a solution for each of those problems (by referral if necessary) would dictate the expenditure of a great deal of time on each case. This, of course, would reduce the number of clients who could be seen and conflict with the goal of providing service to all those in need. It is fair to say that ambiguous and conflicting goals are characteristics of the situation in which Legal Services Lawyers work.

This constellation of factors gives rise to a situation of threat, defined by Lazarus as the condition of a person when confronted with a situation that he appraises as endangering important values or goals (Lazarus, 1966, p. 28). When goals are in conflict, the pursuit of any one goal inevitably leads to an appraisal of threat since it endangers the realization of others. Inadequate resources, by definition, endanger goal attainment. Thus, while some street-level bureaucrats, like policemen and inner-city teachers, live under the threat of physical violence; all street-level bureaucrats, including legal services lawyers, live under the threat of constant failure in relation to an ambiguous and inconsistent set of goals.

Four methods for coping with the stress induced by this constant threat are proposed by Lipsky (1969). First, street-level bureaucrats will engage in simplifications and routines. Simplification refers to the cognitive structure used to understand situations, while routines refer to activity patterns. Both simplification and routinization facilitate the demands of coping with uncertainty, one by answering the question "what is the situation?" and the other by answering the question, "what do we do about it?" The two processes are mutually reinforcing, the more routinized the methods of coping with situations the greater the necessity of conceiving of them in simplified terms. The more situations are seen in simplified terms, the greater the justification in dealing with them in a routinized fashion. Both processes are linked in theory and as we have

seen in the case of legal services lawyers, they occur together in practice.

A second mechanism useful for coping with the anxiety attendant to the threat of failure is the assertion of the bureaucrat's authority. This is illustrated by policemen's response to threat of imminent attack (Skolnick, 1967) and teachers' response to the threat of chaos in the classroom (Lauter and Howe, 1969). It is more subtly reflected in lawyers' assertion of control over the definition of client problems when faced with the potential intellectual chaos that might result from a de novo consideration of each client's situation in all its complexity. The possibility of exposing one's inability to cope with a situation is reduced if one asserts preemptive control over the definition of the situation. We can interpret lawyers' control over the flow of information and their apparent imposition of a definition of the "facts" of situations presented by clients as an exercise of such preemptive control.

A third mechanism is to influence the expectations of people who help define the proper role of the street-level bureaucrat. By influencing the expectations of potential evaluators, one can reduce the possibility of public confrontation with his own failure. While this may often be an organizational response to the problems of street-level bureaucrats it has its counterpart in encounters between individual bureaucrats and clients. To the extent that client evaluations are important to the bureaucrat's sense of accomplishment, control over client expectations helps reduce the possibility that services will be considered inadequate. Clients who can be led to expect only that which the bureaucrat is confident

about his ability to deliver are unlikely to evaluate performance negatively. Lawyers, in particular, are warned throughout their training not to give clients grounds to expect anything other than what they are sure can be delivered (Meltse & Shrag, 1974). This is seen as good interviewing technique and was followed by the lawyers in our study. Its function in warding off criticism and accusations of failure is explicitly acknowledged by those in the legal profession (cf. Allen, 1962, p. 132)

A final mechanism street-level bureaucrats may use to cope with the threat of failure is the redefinition of the clientele in terms of which expectations are formed. (Lipsky, 1969, p. 26). One definition of the clientele served by Legal Services Lawyers is that of poor people, beset by numerous problems, who want a broad range of assistance in coping with their situation. (Silver, 1969). As we have seen, this definition implies a much more extensive and open quality of service than I observed in the Legal Services setting. One mechanism lawyers used to justify this discrepancy was to define their role more narrowly, referring to restricted legal aspects of clients' problems. Lawyers repeatedly made statements to the effect that, "We are not social workers, simply lawyers." Another method was to advance the definition of their clientele as persons seeking help in resolving specific, narrowly defined problems.

Lawyers attempted to control the definition of clientele in two respects, referring to the nature of their problems and the nature of their motivation in seeking help. In the first, clients were implicitly defined as having a limited range of problems as evidenced by the limited range of problems to which lawyers responded. The definition of client desires was more explicit. Rather than seeing clients as

desirous of participating in the conduct of their case and capable of understanding the intricacies of their legal situation (a model proposed by Rosenthal, 1974 to describe middle-class clients), lawyers in this study regarded clients as at least bewildered by legal technicalities and more than willing to let lawyers control the situation. A less gracious view, occasionally heard, was that clients were ignorant and unable to control important aspects of their lives. However it was put, this view justifies lawyers in their exercise of control over the definition and conduct of cases.

These mechanisms have been found to be descriptive of teachers, policemen, and lower court judges (Lipsky, 1969). The theory of street-level bureaucracy was developed to account for similarities in the way public servants perform their jobs. Thus, simplification, routinization, assertion of authority, control over expectations, and redefinition of clientele are all meant to be descriptive of public servants who fit the description of street-level bureaucrats; i.e. those who interact constantly with people, have extensive independence, have fairly extensive potential impact on clients, are provided with inadequate resources to meet demand, and labor under ambiguous and inconsistent sets of goals. Lipsky provided evidence to show that we can describe teachers, policemen, and lower court judges in these terms. Since then others have extended the set of people who are street-level bureaucrats to include welfare workers and staffs of hospital emergency rooms (Prottas, 1975). I have attempted to show how those terms can be used to describe and explain the work of legal services lawyers and public defenders, work in publicly financed organizations. While the theory was developed to apply to such people need it necessarily be limited to them?

Throughout this text, I have occasionally presented evidence to suggest that the mechanisms described here can be found among private lawyers as well as publicly supported lawyers. For a full description of how one group of private lawyers uses authority, routines, simplifications and control of client expectations, the reader may refer to Douglas Rosenthal's study of Lawyer and Client: Who's in Charge (1974). Another study of doctors, lawyers, and clergymen throughout the United States supports some of the major findings of this study. In that study, Freeman found that

"The counselor, in all professions, probably unconsciously sets the pattern of the relationship, and even the 'facts' that come out, more than the client does."

(Freeman, 1967, p. 179)

Does the existence of these mechanisms in private settings diminish the utility of the street-level perspective? I think not, if we focus on the basic feature of threat of failure due to ambiguous or conflicting goals and inadequate resources.

Rosenthal argues that the fee structures for negligence cases of the type he studied makes it uneconomical for lawyers to provide "adequate" service. Thus the lawyer faces conflicting goals of making a respectable living and zealously advancing his clients' interests. In another sense, he has inadequate resources, in terms of compensated time, to meet his clients' demands for full and zealous representations. If we define skills as a resource, we can explain the law student's situation in terms of inadequate resources to meet demand. Many of the professionals in Freeman's study expressed doubt about their level of skill in the counseling situation and were ambiguous about the goals

to be obtained. In addition, counselor's goals are often potentially conflicting; solving a client's problem versus promoting his self-esteem versus facilitating emotional release, for example.

Rather than diminish the theory's utility, this evidence seems to promote its generality and support the contention that one can explain events across bureaucracies in similar terms. If persons similarly situated, facing a common set of problems, display similar behavior along basic dimensions, it seems to be a relatively minor point whether they receive their salary from the government or from private sources.

While lawyers were found to engage in routines and simplifications, they do not, even by their own estimation, give all clients the same level of service. Some variation in effort is to be expected due to variations in the details of the case. However, some clients received more effort than others even after eliminating variation due to the details of the client's case. Level of effort not only relates to legal differences; but more importantly to differences in the opposition's interests and abilities, differences in clients' cooperativeness, and differences in practical considerations like getting needed information, scheduling hearings and the like. Perhaps the most important differences of this nature are the attitudes and activities of the client and the opposition.

As reported above, lawyers do not discriminate against clients based on standard categories of race, sex, or age. Black people do not get service significantly different from whites, women are not treated significantly different from men, nor are the young treated differently than the old. Lawyers do not seem to stereotype clients or treat them

differently based on criteria often cited. I found no evidence of activity that can be called discriminatory in the common sense of that term, i.e., differences related to demographic characteristics of clients such as race, sex, or age.

Lawyers did devote more effort, as they themselves defined it, to clients who were relatively more persistent in the interview situation and who were perceived to be hostile. In trying to account for this finding, we may gain some insight into theoretical considerations of social interaction, as well as into the behavior of street level bureaucrats.

The utility of social exchange theory for understanding this finding is not readily apparent. Rewards and punishments do not seem to explain why a persistent, hostile client should get better service. It does not make sense to argue that lawyers find persistence and hostility rewarding and fulfill their end of the exchange by providing more effort.

A more plausible argument is that lawyers find persistence and hostility to be costly, and try to cut their costs by working on the case (in effect "buying off the clients") in order to avoid further unpleasant contact with clients. While this argument may account for the finding that hostile-persistent clients get any service at all, it does not, by itself, explain why they should get more service than friendly, passive clients. If time and effort are scarce resources, why should they be differentially allocated to clients with whom interaction is costly?

We might understand the difficulties that arise from using social exchange theory to account for this finding by examining its underlying assumptions. An explicit assumption of social exchange theory is that people seek to establish situations in which they receive more than they expend, either in material or symbolic goods. This formulation poses difficulties in

specifying and weighing costs and benefits, and the generality of the formulation makes it difficult to evaluate. However, these flaws are not fatal to its applicability to our analysis. An implicit assumption of social exchange theory is that people are or act as if they are in control of their activities and associations. It is this assumption that causes difficulty in our analysis.

At this point, I do not want to introduce a philosophical argument about causation, determinism and free will. It may be that resolution of such arguments would yield a conclusion that either everybody is in control of his life or nobody is in control. However, we are not interested at this point in metaphysical statements about whether or not people are in control, but rather whether we can understand behavior better by assuming that people are or are not in control of their activities and associations.

One of the most powerful impressions of Legal Services Offices was the degree to which people in them seemed "out of control". Lawyers and supportive personnel seemed unable to manage their time; to make plans and stick to them. This occurred at the organizational and individual level. Lawyers would begin the day planning to work on certain cases, and quickly abandon those plans in the face of a barrage of phone calls and people coming into their offices. Strategy and tactics would have to be changed because of unexpected changes in circumstances; a client decides to move out of an apartment, a landlord does something rash like locking his tenant out, a clerk reschedules a hearing, and on it goes. Lawyers are not able to engage in contingency planning in which such possibilities are anticipated and alternate courses of action laid out to handle them. More often planning seems to take the form of, "today, I have to do something about Mr. Jones, call Lawyer Smith, and go to court."

The same inability to plan was reflected at the office level by experience with intake schedules. Schedules were drawn up and formalized but abandoned almost as quickly as they were published when lawyers had to go to court, hearings, or had other commitments that took them away from the office. After a while, many lawyers abandon the idea of planning altogether. One described his activity as, "just trying to keep up with the flow," while others repeatedly remarked that the only time they could "do any work" was in the evening after the phones stopped ringing, in the morning before they started ringing, or on weekends when they did not ring at all. Lawyers were constantly responding to activities and demands of clients, opponents, colleagues, the courts and administrative agencies. Their activities and associations seemed to be controlled by this uncoordinated congerie of influences. Our understanding of lawyers might thus be improved if we assume that they are not in control.

This inability to plan and control and its attendant uncertainty gives additional impetus to the simplifications and routines described above, routines and simplifications being established mechanisms for dealing with uncertainty. Being out of control also helps explain why the squeaky wheel gets the grease. The squeaky wheel, in this case, was defined as the client who was persistent during the interview and who was seen as hostile by the lawyer. These are also the type of people who make follow-up demands on lawyers and generally persist in trying to penetrate the lawyer's consciousness. A view

of lawyers as being controlled by clients, among others, helps explain why clients who make attempts to dominate the lawyer get better service than those who are passive.

This interpretation is in accord with Rosenthal's observation (cited above) that, "those few clients with the temerity to seek ground rules that reflect their concerns are sometimes able to achieve a two-way process of mutual give-and-take." (Rosenthal, 1974, p. 65). Notice Rosenthal's use of the word "temerity" to describe the characteristics of those clients who try to advance their concerns. While his word "temerity" is not exactly equivalent to my word "hostility" both imply action outside the expected or desired. As far as lawyers are concerned, the expected and desired course is client acquiescence in the lawyer's definition and handling of the case.

This aspect of the expected and desired gives us additional explanation for the finding that the hostile, persistent client gets more effort. I have argued that lawyers simplify their perceptions of client problems and routinize their activities for handling cases. If most clients' problems and courses of action are seen in essentially the same manner, what is there to distinguish one case from another, and, in a mass of cases, to single one out for attention?

A few cases are seen as inherently more interesting or more important than others, but these form a tiny fraction of all those that come in the door. For the majority of cases the thing that singles one out for action above the others is some consideration

external to the lawyers's own sense of priority. Such considerations include scheduled court appearances, deadlines for filing papers, demands from the opposition, and persistent clients.

We may conclude that the inability to plan coupled with simplifications and routines result in a situation in which the "squeaky wheel gets the grease." These conditions can be seen as expected results from heavy pressure on resources and ambiguous expectations on performance that are characteristic of the work situation faced by street level bureaucrats.⁹ We might thus expand the theory of street level bureaucracy, adding as correlates to the work situation of street level bureaucrats the expectation that they will not engage in planning, be unable to attach practical priorities to cases, will be oriented to responding to external demands, and will give better services to those clients who persistently make demands. Most studies of organizational behavior have attempted to discover order in the activities of people we call street level bureaucrats and account for that order by a multitude of variables. In the future, observers might attend to the possibility that there is no internally defined order to the activities of street level bureaucrats, that chaos is the rule and that behavior will be responsive to external demands as they occur.

Before we conclude this section, an apparent paradox needs to

⁹ Ambiguous expectations on performance contributes to an inability to distinguish the inherent priority of one case over another.

be cleared up. This is the apparent conflict between the assertion that lawyers dominate the definition of clients' problems and desires and the assertion that lawyers are out of control and primarily responsive to clients among other external sources of demand. How can lawyers be both dominant and responsive, how can they be controlling and out of control?

This dilemma is more apparent than real as will be revealed by an examination of the elements of action that are involved. One aspect of action is the definition of reality and formulating courses of action. I have argued that, while this could be a mutually negotiated process, involving both client and lawyers, lawyers unilaterally dominate this process. With reference to those areas of discretion listed in the first chapter, this process refers to a determination of the type of treatment that will be provided to those who get service. A second element of action is the timing, sequencing and relative amounts of time that will be devoted to alternate courses of action. Referring again to the areas of discretion, this element consists of establishing the order in which people will receive service and the amount of service they will receive. It is with regard to this process that lawyers are out of control and responsive to outside forces, including clients.

If we can use the terms quality and quantity to refer to these two elements of actions respectively, street level bureaucrats

exercise control over the quality of service, but not over the quantity. That is, they control the definition of what (if anything) is to be done and how, but not when and how much of it is to be done. Some evidence for this conclusion is the finding that differences in indicators of the quantity of service (level of effort and whether or not a case was pursued to a clearcut outcome) are related to client persistence and hostility, while differences in quality of outcome are not related to these factors.

Conclusion

Legal Services Lawyers engage in simplifications and routines as mechanisms to cope with a situation of structured failure. This is consistent with the behavior of other street level bureaucrats and can be explained by Lipsky's Theory of street level bureaucracy. These behaviors are also descriptive of lawyers and other professionals who do not work in public service organizations, but whose work situation has the same features of lack of resources relative to demand and ambiguous, conflicting expectations. The theory of street level bureaucracy may thus be applicable to a wider range of situations than simply governmentally provided public service.

The theory that predicts routines, simplifications, and changing definitions of clientele as mechanisms for coping with the work situation of street level bureaucrats may be expanded to predict that street level bureaucrats will not engage in planning and will be unable to set priorities. Their time will be spent responding to demands for action and clients who make such demands will receive more (if not better quality) service.

CHAPTER VIIICONCLUSION

It is common at this point in a discussion of this sort for the reader to ask, "So what? What difference does it make that lawyers dominate their relations with clients, their behavior is routine, their conception of cases is simplified, and their activities are heavily oriented to the immediate demands of outside actors?" It is a common expectation that the person who describes and analyzes an organization or behavioral system will provide prescriptions for improvement. As an analyst being put in that position, I must express two fundamental reservations about responding to these expectations. First, it may be that few readers and even fewer legal services lawyers will find anything wrong with the style of interaction I describe and may argue instead that it is a reasonable way to provide service to a maximum number of people under conditions of scarce resources.¹⁰ Second, given the nature of street level bureaucrats' work, the present resource position of the Legal Services Corporation and the pervasive nature of these patterns in professional-client relations generally it is not certain that there is a foolproof solution to the situation, even where it is felt to be a problem. In short, there are no easy answers to the questions, "What is wrong with what you found?" and "What can we do about it?" Nevertheless, in this chapter, I will attempt to deal with these questions. First, I will argue that one can derive standards of lawyering from standards

10. While I cannot definitively say that clients are dissatisfied with this pattern of service, research in progress suggests that many of them are.

publicly professed by lawyers and the legal services movement that mandate changing the behavior here described. Then, I will discuss recommendations for change that are often made but which, I am convinced, will not work. Finally, I will suggest possibilities for change that might work given the preceding description and analysis of interactions between legal services lawyers and their clients.

Standards for Legal Practice

Standards for performance can be derived from a consideration of the requirements of adequate professional legal services and from a model of professional-client relationships. Although there does not seem to be consensus in the legal profession generally about these standards, there seems to be more consensus among early advocates for and administrators¹¹ of federally supported legal services. These people decried what they felt to be inadequate service by privately funded Legal Aid Societies and proposed new institutions that would provide more open, comprehensive service.

One of the major failings of privately supported lawyers for the poor that was singled out for attack was their tendency to limit their response to only those cases which clients identified and brought to the lawyer's attention (Carlin, et.al., 1967, p. 48; Silver, 1969, p. 231). It is frequently noted that poor people rarely have a single problem that is potentially legal in nature, but most often have a multitude of

11. Many of those who contributed to the literature on legal services in the middle to late sixties were themselves active in administering programs. Carlin (1970), Silver (1969) and the Cahns (1964) all wrote from the position of administrators in the legal services movement.

problems stemming from the fact of being poor. These problems are often interrelated and adequate legal representation, it is argued, implied that they all be exposed to determine if remedies may be available.

Legal Services lawyers often object at this point that they are not and should not be involved in "social work"; their activities are appropriately confined to problems that are clearly "legal" in nature. This argument, which is forcefully maintained by many lawyers, begs two very important questions. Firstly, it presumes that other problems, if explored, would fail to be, by common definition, "legal". This presumption is rarely subject to investigation by the lawyers and has not been supported in the few times it has been investigated outside the lawyer-client relationship (Silver, 1969, p. 218; Action Plan for Legal Services, unpublished data). Secondly, this argument presumes that problems that are not now commonly susceptible to legal remedies cannot be made to be such through innovative legal work.

In a listing of expectations for legal services lawyers, Cahn and Cahn mentioned the assertion of legal rights which are currently unrecognized by the poor and unacknowledged by the non-poor (Cahn and Cahn, 1964, p. 1344). Legal Services lawyers were expected to explore the many problems of poor people, search out and possibly create legal remedies of cases where there is no obvious legal course of action. Thus, one of the

12. A recent survey of the legal needs of the poor in a city very similar to Port City found that the average poor family was involved in more than five situations which experienced poverty lawyers felt warranted at least an investigation to determine if legal remedies were appropriate. (unpublished data supplied by Action Plan for Legal Services, headquartered in Boston, Massachusetts).

tasks envisaged for Legal Services lawyers was to identify "non-legal" problems and, if possible, make them "legal." This can be accomplished only if they are open to the full range of problems encountered by any client.

Full legal representation not only implies a consideration of the full range of a client's problems, but it also implies a complete exposure of all of the facets of any one of these problems. The ABA Code contains the prescription that "a lawyer should endeavor to obtain full knowledge of his client's cause before advising thereon." (ABA Code, p. 29, f. 3). This standard needs little elaboration; simply stated, it implies that lawyers should resist the tendency to simplify and stereotype client problems.

The openness to client problems advocated here could conceivably be demonstrated under various conditions of lawyer-client relations. There may be ways for lawyers to retain a high degree of control and still investigate thoroughly the multitude of problems encountered by any client. In fact, the forms used by legal services offices which contribute to the pattern of lawyerly domination were originally designed to facilitate a comprehensive exploration of client problems. However, other considerations suggest norms of mutuality and client autonomy in the relationship.

As shown in Chapter V, "Analyzing Encounters," norms of client autonomy are firmly established in the legal profession. In addition to these norms, the ideology of the legal services for the poor movement is rooted in a concern for the dignity of clients. The War on Poverty was launched not only to combat the material disadvantages of the poor, but to alleviate conditions which foster a lack of dignity and self-respect.

In their influential article advocating a "civilian perspective" on the War on Poverty, the Cahns outlined the dangers of paternalism and advocated the provision of legal services as a mechanism for increasing the influence of the poor in the solution of their own problems (Cahn and Cahn, 1964). Many people sincerely believed that legal services could and should avoid the evils of domination by professionals and subordination of the poor that was found in the activities of welfare departments (see especially Clark, 1970).

It should be clear that the norms of openness and mutuality which are implicitly (and at times explicitly) advocated in this work do not represent new directions for the legal services movement. On the contrary, they represent a restatement of the ideals which gave rise to the movement and nourished it in its early days. Instead of calling for a new set of goals for legal services, this work represents a hope that the movement will return to and fulfill the goals it has espoused from the start.

It may be helpful to pause here and consider whether these ideals may be excessively naive and represent an overly simplified view of reality. Objections can be raised from two disparate points of view, one which raises practical questions, another which raises theoretical questions.

On the practical level, lawyers might object that a full and detailed exploration of a client's situation is often unnecessary to the practical need to formulate a course of action that will remedy the situation. There are certain standard patterns of response that will produce results and which require only a limited exploration of the details of any case. As one lawyer put it, "As soon as I have enough information to prepare an adequate defense, why should I look any further?" In this

view, time spent exploring a case beyond that necessary to fashion an effective legal remedy is wasted.

At a theoretical level, one can object to the implication that there exists a "reality" of the client's social situation to which the lawyer should be "open". This objection is based on the claim that there is no objective definition of a client's problems which can be "discovered" by lawyers and that all persons, lawyers and clients included, construct definitions of reality which are in accord with their self-images and plans of action. From this perspective, lawyers' use of simplifications and routines is an inevitable, if excessive, response which describes all people in all situations. The idea that they can be completely open to the "facts" thus reflects an invalid view of the world and how people understand it.

Both these objections have merit and cannot be lightly discarded. However, they do not, by themselves, justify the pattern of lawyer-client encounters described in this work. Instead these objections reinforce the bases of a norm of mutuality in which it is recognized that neither the lawyer nor the client has a special claim on the "truth" nor does one or the other have an exclusive claim on control of their relationship. A norm of mutuality would recognize that any definition of the client's problem, especially a "legally relevant one", is bound to be a construction of the parties involved. It would suggest, however, that this construction be one for which both parties share responsibility, and is in accord with their views as to "what happened" and "what ought to happen". I am not suggesting that clients and lawyers consciously fabricate fictitious accounts, but am suggesting that where the relevance or meaning of a

certain piece of information is ambiguous, its definition should be mutually agreed upon and acknowledged by both parties. Lawyers should make a special effort to discover what the client feels is important and what she wants to do. If he feels that either are inappropriate to a legal course of action, he should openly confront this and negotiate (rather than impose) an understanding and plan that is acceptable to the client.

Where Do We Go From Here?

If simplifications, routines, dominance, and responding to external demands all relate to a situation in which resources are inadequate to meet demand for service and expectations are conflicting or ambiguous, the following questions arise: (a) If we change the work situation, will we change the behavior? (b) What changes might we make in the work situation? and (c) How can such changes be brought about?

The first question is, perhaps, the most crucial for it suggests that we need to be specific about the nature of the relationship of the things we are studying. While the responses described may be found to relate to the work situation, i.e., whenever we find a shortage of resources and conflicting or ambiguous goals, we find routines, simplifications, etc., it may be that the responses are not directly caused by the work situation. In fact, the finding that similar responses occur in other settings makes us wonder whether some other factors may be important.

In general, if we find a correlation between two variables, let us call them X and Y, we can specify a number of forms of the relationship. In the simplest form, X causes Y or Y causes X. In more complex forms, X and Y could be both effects of some other cause, or X could cause a

condition, Z, that causes Y. In the case of street level bureaucracy, I would suggest that the latter sort of relationship is probably appropriate. That is, as discussed in Chapter VI, rather than the lack of resources and ambiguous or conflicting goals directly causing routines, simplifications, etc., these conditions cause another condition, i.e., pervasive and structural threat of failure, which in turn causes the responses mentioned. This is suggested by the finding that these responses persist in private legal practice which can be clearly described by the imminence of failure, and in which the concept of street level bureaucracy, while it can be made to apply, must be stretched broadly.

I also stress the threat of imminent failure to illuminate differences with traditional recommendations that "more" will cure the ills of street level bureaucracy. The standard policy recommendations for more money, more manpower, more skills, more training may not address important features of the situation. This research leads me to believe that "more", by itself, might lead only to more of the same, for theoretical reasons because it addresses only one aspect of the problem, namely inadequate resources, and for practical reasons relating to the nature of legal services as discussed below. A more complete solution would involve clarifying expectations and bringing about a balance between expectations and resources.

Before discussing how to do this, a review of the weaknesses of standard recommendations is in order. This discussion by no means implies that resources provided to Legal Services projects should be restricted, and that more resources should not be given. It is meant to suggest that such an effort, if done alone, will not cure the problems identified here and proponents of increased resources should be wary of proposing them as a

foolproof solution, since the failure of such a solution might strengthen the position of those who would restrict the program.

What Will Not Work

A recommendation that more resources will solve the problem is made questionable by the analysis of the origins of the patterns of behavior of Legal Services lawyers. However, one need not completely agree with that analysis to find evidence that the problems of Legal Services will not be solved by "more". A brief consideration of the evidence regarding each recommendation will illustrate their weaknesses.

Perhaps the most common plea of legal services projects is for more manpower. Experience suggests that within presently conceivable limits, manpower alone will not change the quality of service provided to each client, but will extend its benefits to more people. This is illustrated by the experience of offices in Port City which had law students assist in handling cases. There was no qualitative difference in the activities of the regular staff during periods of the year in which law students were not present compared to times when they were there. Substantially more clients received service, but regular staff still felt overworked and engaged in simplifications, etc.

The potential demand for publicly supported legal assistance is highly elastic. There seems to be no conceivable limit to the range of services that can be justifiably claimed, in fact the ranges of expected service has steadily increased in the past few decades. On the other hand, there are more people who are eligible for service, no matter how narrowly defined, than presently allocated resources can manage. This latter point

is illustrated by the fact that when Port City Legal Services decided to accept only emergency cases, the number of clients did not appreciably change. It is also evidenced by Public Defenders who provide only minimal levels of service related to bargaining guilty pleas and who still feel terribly overworked. This elasticity of demand is so great that it is inconceivable that resources will ever be sufficient in any sense of the term.¹³

Another traditional recommendation is to provide more highly trained personnel. Again, my study makes this recommendation questionable. In the first place, it seems unrealistic to expect personnel more highly trained than lawyers who have three years of post graduate education. Perhaps more to the point is the finding that the essential dimensions of service did not vary across a considerable range of skill levels even within one organization. The behavior of secretaries who had not been educated beyond high school can be described in the same terms as lawyers who had seven years of education after high school.

Finally, one common suggestion is to recruit lawyers who are more committed, open and skilled. My research and interaction with lawyers would suggest that this recommendation is based on a false premise. With few exceptions, the lawyers I encountered came to legal services with a client orientation, wanting to provide high quality service. The structure of work in an overloaded office and informal adjustments to these pressures seems to be far more important in producing the patterns found here.

13. From the survey cited above (footnote 12) it is estimated that to serve all the needs of the poor in Port City, within present definition of need, the Legal Services project in that city would need more than four times the lawyers they now have and without changing the number of cases handled by each attorney.

Individual lawyers could not be faulted for individual deficiencies. Rather the work situation and the social environment of neighborhood office work are responsible. Altering these along the lines suggested would be far more effective than changing recruitment policies.

What Might Work

Clarifying and removing contradictions in expectations is a necessary first step to bringing resources in line with expectations. Calling for a clear and coherent set of expectations does not imply a revision of canons of ethics or establishing abstract systems of norms for street level bureaucrats who do not belong to recognized professions. Rather, it implies taking a careful look at the realities of street level work and the expectations of multiple constituencies. Both these efforts have been relatively neglected.

The imminent sense of failure, discussed in Chapter VI, that characterizes street level bureaucracy both diverts energies away from consideration of clients' situations and leads to simplifications, routines, dominance and inability to plan. These mechanisms may operate below the level of consciousness and retain their force; thus, we need not demonstrate that lawyers consciously feel anxious or threatened although many did reveal concerns that they were not really able to "accomplish anything". An attack on the conditions which lead to threat of failure may lead to the elimination of practices cited above, since these practices can be seen as a response to such a threat. (cf. Lazarus, 1966; Lipsky, 1969; Bellow, 1975).

What would such a plan look like? It would not consist of mere exhortation, moralizing, or sensitivity training for street level bureaucrats.

Rather, it would consist of clarifying goals and bringing goals and resources into balance so that individuals and organizations may experience success in their work. If it is politically impossible to provide resources necessary to meet the existing set of ambiguous and conflicting goals, it may be necessary to bring expectations into line with resources that can be provided. A necessary prerequisite, however, is that expectations be established and expressed in such a way that they can be met, that they are likely to be met, and that everyone will know when they are met. It should be then possible to both achieve and recognize success. Those failures that will occur can be examined against some expectations that will clearly reveal inadequacies rather than leave them in the ambiguous state where some can claim that they are not failures while others argue that they are.

It should be noted that reducing anxiety is not the sole goal of this effort. While it is a goal, it is also a means to insuring a more open and mutual relationship between lawyers and clients. Both the formulation of expectations and the process by which they are formulated need to be guided by these concerns. The task of clarifying expectations needs to be approached at all levels within legal services organizations and should involve different constituencies.

A first step in this process would be for boards of directors and high level administrators to directly confront the issue of quality of representation. They should recognize that avoiding the issue of defining quality representation and the corollary issue of limiting caseloads will result in the perfunctory and controlled type of service found in this and other studies. Legal Services could be a leader in defining standards for

lawyer-client relations and adequate service since such questions have heretofore been left to the market place. It has been generally, but erroneously, believed that private lawyers who provide inadequate service or maintain unsatisfactory relations with clients will find themselves unable to make a living. (cf. Rosenthal, 1974; Carlin, 1966). Legal Services, whose clients have nowhere else to turn, cannot afford the luxury of such a belief which allows them to ignore the issue of quality. Perhaps they have been able to ignore the issue because demand had been so great regardless of the quality of service.

Organizational rules that impede openness and mutuality, those that focus attention on quantity of clients, for example, could be modified or eliminated. Perhaps more importantly, expectations of supervisors and colleagues should be developed to focus on quality. If the neighborhood office structure of Port City Legal Services is representative of that throughout the country, it is clear that the most important sources of expectations for a lawyer are his colleagues and the managing attorney of his neighborhood office. Lawyers interact frequently at this level, consulting about cases and exchanging information about almost anything. The neighborhood office forms the most salient reference group for lawyers and for many it encompasses most of their social contact both professionally and recreationally.

Neighborhood offices also enjoy a good deal of autonomy and thus form the most appropriate group to develop expectations and monitor performance. Regular staff meetings, which are presently held, could become the forum in which to undertake this effort.

Lawyers have a tradition of discussing cases and the best way to handle them. A slight, subtle but profound shift in this discussion could go a long way toward bringing about changes envisaged by this study. That is to shift the focus to discussions of clients, describing how the lawyer may best use his skills to improve the client's social position through legal action. If at staff meetings, lawyers could periodically review each other's relationships with individual, nameable clients and all the possible legal implications of the client's situation, a major step forward might be achieved. Special attention might be placed on the client's perception of her situation by including such questions as a regular part of the discussion. Reviews of this type would reinforce expectations towards openness and mutuality at the same time that they discovered the extent to which such expectations were achieved.

One of the possible reasons that bureaucratic-client interactions are dominated by bureaucrats and have the depersonalizing characteristics described is that clients are not an effective reference group for street level bureaucrats. Although lawyers, for instance, constantly assert that their loyalty is to their clients, it seems that evaluations by clients are less salient features in a lawyer's sense of doing a good job than are evaluations by colleagues, opponents and the courts.

A collegial relationship of lawyers and court personnel exists at the lower levels of the civil system. Clerks often help lawyers meet obligations by delaying or speeding up the hearing of a case outside its scheduled time. Lawyers often do not object to violations of procedure by judges or by their "brother" attorney so that cases can be processed quickly. Most of the time cases are scheduled on the docket after

consultation between opposing lawyers about the most convenient time for them to appear. One legal services lawyer put it this way when talking about the attitudes of some of her opposing lawyers:

"Most of them have the view that there are lawyers and everybody else and that clients are irrelevant to the way we do our job. Some opposing lawyers have said to me, 'You listen to your clients too much.' I have to keep reminding them that my job is to represent my client."

This lawyer had only recently been sworn to the bar and her fellow lawyers, though not her colleagues in the legal assistance office, were trying to get her to understand how things are done.

The existence of large caseloads also reduces the salience of the expectations of any one client. Each person in a clientele that is homogenized and undifferentiated is unlikely to have much impact on the expectations of a street level bureaucrat, in either public or private employment (cf. Carlin, 1966, p. 74). It may be, therefore, that client expectations regarding the quality of service are neither salient to street level bureaucrats nor can they be effectively made to be so, if we are concerned with the unique expectations of each individual.

The expectations of clients as a group may be effectively introduced through revival and extension of a commitment by Legal Services to input from the client community. Any discussion of the quality of service and standards for adequate representation (including this one) is incomplete if it does not reflect an articulated expression of clients' thoughts on the subject. Client representation on boards of directors is only one way to include clients in these discussions. An additional step would be to involve clients from specific communities in discussions at the

neighborhood office level, since the "community" of the neighborhood office is the most salient to lawyers at the street level.

Perhaps a reason that client interests have not effectively been advanced in previous efforts of this type is that participants have often been selected as spokespersons for the client community. These individuals may or may not have actually been clients and have probably been chosen for their ability to interact comfortably with lawyers. As such they may share many of the lawyers' assumptions and perspectives and reinforce rather than challenge existing patterns of service. Overcoming this tendency would be an extremely difficult proposition, since professional lawyers have traditionally been reluctant to any lay involvement in decision making (see Chapter IV). The effort may be begun by selection of representatives from those who have actually been clients of an office who can discuss their experiences directly.

A more far reaching proposal would be for the formation of client groups at a neighborhood level that would not only communicate client perspectives to the legal services office, but who might also educate prospective clients on how to interact more effectively with lawyers. Persons who contact an office for help might be referred to such a group during the brief period between initial contact and the intake interview. Experienced clients could help prospective clients articulate their problems, counsel them on the desirability of assembling information and papers with regard to problems before they meet the lawyer, and perhaps demystify the lawyer's role. Prospective clients would be shown that a passive stance is unproductive and a participatory posture would be welcomed by lawyers and lead to more effective action in regard to their needs.

Lawyers might welcome such preparation since it could facilitate both interviewing and handling of cases. Lawyers already feel more positive toward those clients who are organized and able to actively participate in their own case. Preparation before initial encounters could thus be in the interests of both lawyers and clients.

In short, street level lawyers are owed the conditions for success rather than continued exposure of their failure. They need the resources to do their jobs, but more importantly they need to know what their jobs are. Until it is clear what constitutes quality service and it can be acknowledged when it occurs, dominance and routinization are likely outcomes.

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APPENDIX ACLIENT CONSENT FORM

Carl Hosticka is a researcher from the Harvard and MIT Joint Center for Urban Studies and is studying Port City Legal Services to understand how it responds to the large demand for its services.

He would like to observe this interview and see how your case is handled. This may include reading files on your case and speaking with your attorney. He will not attempt to influence any aspect of your case. No one will be identified by name in any reports or articles stemming from this study.

You and your neighbors might benefit from improvements in PCLS operations as a result of this study. One potential risk is that Mr. Hosticka may be compelled in court to give information concerning your case. PCLS feels that it is necessary for this study to be performed in order to learn how it can best satisfy your legal needs and those of the community. Therefore, it is PCLS's opinion that his knowledge is privileged and that he cannot be made to divulge information gathered in our office, but we cannot guarantee it. We cannot assure you any direct benefit from this study, other than that of improving PCLS's general manner of operation.

You can choose not to have Mr. Hosticka follow the conduct of your case. If you choose not to have him follow your case, the representation you will receive will not be affected. Having him follow your case is not a precondition to our representing you.

If you will permit Mr. Hosticka to follow your case as described above, please sign below. You may revoke your consent at any later time. If you have any questions in regard to the above, please ask before you sign.

I agree to have Mr. Hosticka follow my case as described above.

Date _____ Name _____

APPENDIX B

INTERVIEW CODING FORM

Client Name _____

Client Code No. _____

Interviewer _____

Office _____

Client Code No. _____

Describe the Client's physical appearance:

neat					sloppy					obstrusive					effacing
1	2	3	4	5						1	2	3	4	5	

Describe the case as you (the observer) understand it.

Did the client request specific action? _____ If so, what?

What did you see the interviewer do?

try to calm or comfort client _____

explain the law _____

explain what he intends to do _____

give instructions _____

Note anything else interesting or unusual about the case.

Client Code No. _____

QUESTIONS FOR THE INTERVIEWER

What does the interviewer think is the legal problem(s) involved?

What does the interviewer plan to do with the case?

When is the next expected contact between PCLS and the client?

Who is supposed to initiate contact? Interviewer__ Client __ Other __

Type of contact: Phone Call __ Meeting __ Other __

How critical does the interviewer think the client's problem is in terms of being an emergency?

no emergency						critical emergency
0	1	2	3	4	5	

Other interviewer comments:

Client Code No. _____
 Rater: Observer _____ Interviewer _____

- | | |
|---|--|
| <input type="checkbox"/> Able to criticize self | <input type="checkbox"/> Firm but just |
| <input type="checkbox"/> Able to doubt others | <input type="checkbox"/> Fond of everyone |
| <input type="checkbox"/> Able to give orders | <input type="checkbox"/> Forceful |
| <input type="checkbox"/> Able to take care of self | <input type="checkbox"/> Forgives anything |
| <input type="checkbox"/> Accepts advice readily | <input type="checkbox"/> Frequently angry |
| <input type="checkbox"/> Acts Important | <input type="checkbox"/> Frequently disappointed |
| <input type="checkbox"/> Admires & imitates others | <input type="checkbox"/> Friendly |
| <input type="checkbox"/> Affectionate & Understanding | <input type="checkbox"/> Friendly all the time |
| <input type="checkbox"/> Agrees with everyone | <input type="checkbox"/> Generous to a fault |
| <input type="checkbox"/> Always ashamed of self | <input type="checkbox"/> Gives freely of self |
| <input type="checkbox"/> Always giving advice | <input type="checkbox"/> Good leader |
| <input type="checkbox"/> Always pleasant & agreeable | <input type="checkbox"/> Grateful |
| <input type="checkbox"/> Apologetic | <input type="checkbox"/> Hardboiled when necessary |
| <input type="checkbox"/> Appreciative | <input type="checkbox"/> Hard-hearted |
| <input type="checkbox"/> Big-hearted & unselfish | <input type="checkbox"/> Hardly ever talks back |
| <input type="checkbox"/> Bitter | <input type="checkbox"/> Hard to impress |
| <input type="checkbox"/> Boastful | <input type="checkbox"/> Helpful |
| <input type="checkbox"/> Bossy | <input type="checkbox"/> Impatient with others' mistakes |
| <input type="checkbox"/> Businesslike | <input type="checkbox"/> Independent |
| <input type="checkbox"/> Can be frank & honest | <input type="checkbox"/> Irritable |
| <input type="checkbox"/> Can be indifferent to others | <input type="checkbox"/> Jealous |
| <input type="checkbox"/> Can be obedient | <input type="checkbox"/> Kind & reassuring |
| <input type="checkbox"/> Can be strict if necessary | <input type="checkbox"/> Lacks self-confidence |
| <input type="checkbox"/> Can complain if necessary | <input type="checkbox"/> Lets others make decisions |
| <input type="checkbox"/> Clinging vine | <input type="checkbox"/> Likes everybody |
| <input type="checkbox"/> Cold & unfeeling | <input type="checkbox"/> Likes responsibility |
| <input type="checkbox"/> Complaining | <input type="checkbox"/> Likes to be taken care of |
| <input type="checkbox"/> Considerate | <input type="checkbox"/> Likes to compete with others |
| <input type="checkbox"/> Cooperative | <input type="checkbox"/> Loves everyone |
| <input type="checkbox"/> Critical of others | <input type="checkbox"/> Makes a good impression |
| <input type="checkbox"/> Cruel & unkind | <input type="checkbox"/> Manages others |
| <input type="checkbox"/> Dependent | <input type="checkbox"/> Meek |
| <input type="checkbox"/> Dictatorial | <input type="checkbox"/> Modest |
| <input type="checkbox"/> Distrusts everybody | <input type="checkbox"/> Obeys willingly |
| <input type="checkbox"/> Dominating | <input type="checkbox"/> Often admired |
| <input type="checkbox"/> Eager to get along with others | <input type="checkbox"/> Often gloomy |
| <input type="checkbox"/> Easily embarrassed | <input type="checkbox"/> Often helped by others |
| <input type="checkbox"/> Easily fooled | <input type="checkbox"/> Often unfriendly |
| <input type="checkbox"/> Easily led | <input type="checkbox"/> Outspoken |
| <input type="checkbox"/> Egotistical & conceited | <input type="checkbox"/> Overprotective of others |
| <input type="checkbox"/> Encouraging others | <input type="checkbox"/> Oversympathetic |
| <input type="checkbox"/> Enjoys taking care of others | |
| <input type="checkbox"/> Expects everyone to admire her | |

Client Code No. _____
 Rater: Observer _____ Interviewer _____

- | | |
|--|---|
| <input type="checkbox"/> Proud & self-satisfied | <input type="checkbox"/> Tender & soft-hearted |
| <input type="checkbox"/> Passive & unaggressive | <input type="checkbox"/> Thinks only of herself |
| <input type="checkbox"/> Rebels against everything | <input type="checkbox"/> Timid |
| <input type="checkbox"/> Resentful | <input type="checkbox"/> Too easily influenced by friends |
| <input type="checkbox"/> Resents being bossed | <input type="checkbox"/> Too lenient with others |
| <input type="checkbox"/> Respected by others | <input type="checkbox"/> Too willing to give to others |
| <input type="checkbox"/> Sarcastic | <input type="checkbox"/> Touchy & easily hurt |
| <input type="checkbox"/> Selfish | <input type="checkbox"/> Tries to be too successful |
| <input type="checkbox"/> Self-confident | <input type="checkbox"/> Tries to comfort everybody |
| <input type="checkbox"/> Self-punishing | <input type="checkbox"/> Trusting & eager to please |
| <input type="checkbox"/> Self-reliant & assertive | <input type="checkbox"/> Usually gives in |
| <input type="checkbox"/> Self-respecting | <input type="checkbox"/> Very anxious to be approved of |
| <input type="checkbox"/> Self-seeking | <input type="checkbox"/> Very respectful to authority |
| <input type="checkbox"/> Shrewd & calculating | <input type="checkbox"/> Wants everyone to like her |
| <input type="checkbox"/> Shy | <input type="checkbox"/> Wants everyones' love |
| <input type="checkbox"/> Skeptical | <input type="checkbox"/> Wants to be led |
| <input type="checkbox"/> Slow to forgive a wrong | <input type="checkbox"/> Warm |
| <input type="checkbox"/> Sociable & neighborly | <input type="checkbox"/> Well thought of |
| <input type="checkbox"/> Somewhat snobbish | <input type="checkbox"/> Will believe anyone |
| <input type="checkbox"/> Spineless | <input type="checkbox"/> Will confide in anyone |
| <input type="checkbox"/> Spoils people with kindness | |
| <input type="checkbox"/> Stern but fair | |
| <input type="checkbox"/> Straightforward & direct | |
| <input type="checkbox"/> Stubborn | |