THE NO FEE AND LOW FEE LEGAL PRACTICE OF PRIVATE ATTORNEYS*

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I. INTRODUCTION

For a half century or more it has been understood that the services of attorneys are not equally available to all who need them[1] and a body of research has gradually been assembled which casts light on a number of factors relevant to how clients find attorneys and pay for their services. Among issues which have been probed are: the nature and extent of the public's need for legal services,[2] the reasons for the failure of the poor to refer their problems to attorneys,[3] the effect of OEO and legal aid offices on availability of legal services[4] and the need for im-

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1. There were immigrant legal aid societies in the United States as early as 1876 and a local bar sponsored a legal aid unit by 1909 (Hurst, 1950: 152-53). These facts imply some early awareness of the existence of a problem in insuring availability to all of the services of attorneys. Reginald Heber Smith's volume (1919) on legal services, however, sparked the first widespread discussion of the problems of the adequate distribution of legal services. The first studies of who used which legal services (which were based on something other than mere guesswork) came in the 1930's. See Clark and Corstvet (1938). The writings about all the aspects of the problems of insuring adequate access to lawyers' services have become too numerous to be listed here; Christensen (1970) cites 430 sources in his study which was limited to consideration of the needs of the middle class for legal services.
2. Stolz (1968) provides a summary of the pre-1968 literature. See also, Duke Law Journal (1969); Sykes (1968); Christensen (1970). The study of the "need" for legal services has proved troublesome for methodological reasons: "need" has proved to be difficult to define and more difficult still to measure without either suggesting "needs" the subjects did not know they had or using *a priori* definitions of "needs." The approach has also foundered because it has sometimes relied on an implicit economic model. "Need" has been equated with "demand," and "demand" has been thought worth measuring so that it could be linked with the "supply" of legal services. No one has tackled the intractable task of defining and measuring "supply," however. In any event, even if measurement were possible, the usefulness of the implicit economic model would remain in doubt since so many limits exist on the development of true markets in legal services: fee schedules, restrictions on advertising, public ignorance of legal rights and so forth.
3. See Denver Law Journal (1970:121-25); Harvard Law Review (1967:816-22); Carlin and Howard (1965:424-29). See also Levine and Preston (1970).
4. See Harvard Law Review (1967:806-09); Silverstein (1967:549). See also Finman (1971); Fisher and Ivie (1971).

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proved legal services for the middle class (Christensen, 1970). With few exceptions, however,the role of individual practicing attorneys in making legal services more widely available by occasionally working for a reduced fee, or for no fee at all, has never been systematically studied.[5]

Whatever the reasons for failing to examine the private attorney's no fee and low fee (hereafter "NF/LF") practice as a potential element in making legal services more widely available, the omission itself is significant. Without understanding the NF/LF practice of private attorneys no comprehensive picture of the availability of legal services can be drawn. Without a comprehensive view of the current distribution of legal services intelligent policy decisions about how access might be improved cannot be made. The possibility exists that the private bar could make a significant contribution to broadening distribution of legal services through occasional NF/LF work. Indeed, given the facts that government funded legal service programs have been under attack, and that the life span of the new, private, nonprofit law offices might be especially precarious given their dependence on foundation support and the munificence of large private law firms, the role of the private practitioner in providing NF/LF legal services is likely to become increasingly important.

This article presents a study of several aspects of the work private attorneys do for less than what they would normally charge, or for no fee at all. The questions examined include: how do NF/LF clients and attorneys come into contact; why do lawyers help NF/LF clients; who are such clients; what kinds of legal work is performed for such clients; and how good are

5. But see Maddi and Merrill (1971); Wood (1967:184-203). The failure to investigate what practicing attorneys were doing has been understandable. For many researchers it has been both more exciting and methodologically less demanding to examine the work of institutional providers of free legal services. See Hannon (1969); Silver (1968). Legal aid offices and OEO-funded legal offices for the poor have garnered publicity and talent which have made them interesting objects for examination and have been relatively easy to identify and gain access to: sampling has presented no great difficulties and costs of investigation have been low. The only attention attorneys in private practice have received has been devoted to those practicing attorneys who have deviated most from established professional roles; the public interest lawyers who have devoted their whole careers to providing no fee or law fee legal services, the law commune members, the lawyers in the ghetto offices of established law firms and so forth. See Yale Law Journal (1973); Marks, Lewing and Fortinsky (1972); Cahn and Cahn (1970); Harvard Law Journal (1970); Cahn and Cahn (1964). These attorneys have drawn the attention of researchers, of course, precisely because of their deviation from the norm and because, though their exact numbers have not been known, there are sufficiently few that informal surveys of their work have made sense. Note the discussion of research method in Marks, Lewing and Fortinsky (1972:295); Yale Law Journal (1970); 1151).

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the services performed for such clients. The answers to all these questions show that lawyers and their NF/LF clients are tied together by, and because of the existence of, persons referred to in this article as "intermediaries." And, therefore, though this article is about lawyers and NF/LF clients it is also necessarily about intermediaries and the claims and contacts which link clients, lawyers and intermediaries together. In summary, the world of NF/LF practice is a reciprocity system: lawyers take NF/LF work now with expectations of receiving paying legal work in the future; intermediaries bring NF/LF clients to lawyers and receive, in exchange, social rewards from NF/LF clients while giving to the lawyers, in exchange, paying legal work. The entire system, however, is diffuse and accidental: whether an NF/LF client is helped depends on whom he knows; the amount of NF/LF work done is small and its nature uncomplex; and the clients helped are on the fringes of prosperity rather than in the depths of deprivation.

In order to probe the nature of NF/LF law practice 154 lawyears practicing in one county were interviewed about their work (an appendix details the research methods used). Before proceeding to a discussion of the results of these interviews, however, some facts concerning the attorneys should be noted, since these facts help form the character of NF/LF work. Since there are some essential differences between the NF/LF practice of solo practitioners and firm attorneys, the NF/LF practice of these two types of lawyers is examined separately.

Of the attorneys surveyed about half were solo practitioners.[6] Like their counterparts elsewhere, they were more likely, compared to firm attorneys, to have suffered social and educational disadvantages,[7] to have individuals for clients rather than institutions, to be general practitioners or to specialize in family law, personal injury law, or criminal law rather than in business law,[8] and to have relatively low incomes (Ladinsky, 1963b).

For solo practitioners, professional success depended on finding and retaining clients (Carlin, 1962:123-154) and, given the

6. Nationwide, the proportion of solo practitioners to all practitioners was about the same. The proportion of solo practitioners has been declining steadily since data were first gathered. American Bar Foundation (1972:10).

7. See Johnstone and Hopson (1967:15-76); Carlin (1966:20-30); Smigel (1964:36-71); Carlin (1962:3-40). See also Warkov and Zelan (1965); Yale Law Journal (1964); Ladinsky (1963a, 1963b).

8. See Wood (1967:34-67); O'Gorman (1963:36-64); Carlin (1962:41-122). See also, with respect to the law practice of solo practitioners, Johnstone and Hopson (1967:58-65); Hurst (1950:308-333). See also MacKinnon (1964).

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bans on advertising and other forms of solicitation (American Bar Association, 1971; 1967), solo practitioners found various ways to become known in the community; they joined social and fraternal groups (Wardwell and Wood, 1956), they were active in politics[9] and they kept up a variety of professional contacts (Johnstone and Hopson, 1967:34-44, 116-18, 121-30). It was especially through references from friends, neighbors, business associates, fellow attorneys, and ex-clients that new clients came (Johnstone and Hopson, 1967:116-18, 121-30).

One-fourth of the attorneys interviewed practiced law in firms with three or fewer attorneys. In some cases these firms were not partnerships at all but simply arrangements for sharing office space and secretarial help to reduce overhead costs. In terms of their social background characteristics and the nature of their legal practice such attorneys were more similar to solo practitioners than to attorneys working in larger firms.

The remaining quarter of the attorneys interviewed practiced in partnerships which had four or more lawyers serving as either partners and/or associates. These attorneys tended to come from relatively higher socioeconomic status backgrounds. (Smigel, 1964:36-71). The larger law firms had relatively well defined internal career patterns for young associates. (Johnstone and Hopson, 1967:25-27; Smigel, 1964). The practice of firm attorneys centered about the legal problems of businesses and other organizations rather than those of individuals, and firm attorneys tended to specialize in banking, finance and the like.[10] Corporate clients provided a continuing flow of business and, as a result, such attorneys spent less effort and time seeking out new clients than did solo practitioners or small firm attorneys.

II. HOW NO FEE AND LOW FEE CLIENTS COME INTO CONTACT WITH ATTORNEYS

Solo Practitioners Though most[11] of the solo practitioners

9. On the activities of lawyers in politics and the ways in which these activities relate to legal practice see Eulau and Sprague (1964).

10. See Mayer (1966:291-328); Smigel (1964:141-248); Hurst (1950:306-308). See also Auchincloss (1963); Maitland (1962); Bazelon (1960); Siddall (1956).

11. This study is a qualitative, not a quantitative, study of NF/LF legal practice and only the preponderant direction of the findings are reported. Though such an approach requires using many vague words, such as "most," "many" and "some," such an approach was thought better than a highly quantitative one for two reasons: first, much of the data reported is only nominal, or at most ordinal, data and is not susceptible to highly sophisticated quantitative analysis, and second, use of quantitative data often gives an illusory aura of certainty to less than precise data. A set of tables summarizing much of the data is on deposit at the Law Library, State Univ. of New York at Buffalo.

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interviewed took occasional NF/LF work few claimed to have actively sought out such work on a regular basis.[12] Since many solo practitioners had to struggle to earn a living it should not be surprising that their interest in cases which would not generate a fee was relatively slight. As one solo practitioner said:

> I don't have time to go looking for those [no fee and low fee] cases. Even if I did have the time I'd be crazy to use it that way . . . . My first obligation is to support my family, not to some person I don't even know.

If not many solo practitioners sought out NF/LF clients neither, according to the attorneys interviewed, did many potential NF/LF clients attempt to establish direct contact with attorneys, even when such clients needed legal help quite badly. The reasons for this have been suggested elsewhere: ignorance as to the nature of their legal problems; psychological unwillingness to complain even in the face of great injustice; lack of awareness that problems are capable of solution through recourse to the legal process; fear of the law and the courts; and ignorance of the names of attorneys or how to go about approaching attorneys. (Carlin, Howard and Messenger, 1967:61-75).

Given the disinclination of solo practitioners to seek out NF/LF work, and given the barriers potential NF/LF clients faced in getting to an attorney, how did NF/LF cases find their way into lawyers' offices? A two-step process was involved: first, prospective NF/LF clients made contact with a class of persons to be referred to here as "intermediaries",[13] and then the intermediaries initiated contact with attorneys.[14] One attorney characterized the system this way:

> There is always somebody in the middle. . . . Most of these people [who need help] don't know any [attorney] or they don't want to go to the [attorneys] they know. So they find somebody or ask a friend to recommend [an attorney]. . . . How else'd they know who to call?

If intermediaries provided the link between NF/LF clients and attorneys, how did NF/LF clients come to know interme-

12. Some solo practitioners volunteered for the assigned criminal counsel program. Attorneys in this program represented the accused who could not afford their own counsel. The attorneys were paid for their work by the county, but at rates lower than the going rate for criminal work.

13. See, analogously, Coleman, Katz and Menzel (1966); Katz and Lazarsfeld (1955). See also Hallauer (1973:223, 231-32); Khare (1972: 71, 86-93); Morrison (1972); Rosenthal (1970:207); Carlin (1962:123-54); Hunting and Neuwirth (1962:65-70).

14. Attorneys were the interview subjects in this study and though they had information on the ways in which prospective NF/LF clients made themselves known to intermediaries their evidence was not based on first hand information. In many instances, however, they knew how prospective clients had gotten in touch with intermediaries because the intermediaries or clients spontaneously told the lawyers or because the lawyers asked.

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diaries and why did they turn to them for help? Potential NF/LF clients knew intermediaries through a variety of business and social contacts. Intermediaries were the potential NF/LF client's doctor or employer, local union officer or city councilman, neighbor or friend, fellow Elk or brother-in-law. The attorneys interviewed suggested that those who needed legal help turned to such persons primarily because of the greater knowledge and wider contacts of such persons. It is interesting to note that, compared to the clients themselves, attorneys described the intermediaries as being better off financially, more likely to be professionals, white collar workers, or small businessmen, and better educated than the NF/LF clients. In short, intermediaries had some of those resources in problem solving which potential clients lacked.

Very occasionally, the attorneys interviewed reported, intermediaries initiated contact with a prospective client. In one instance, for example, a mechanic working in the service department of a local automobile dealership had begun to report late to work with increasing frequency. His employer asked what was wrong and the mechanic said that a family problem was causing him some difficulty. The employer recognized the problem as one with which an attorney might help and called in an attorney who eventually took the case at a reduced fee.

More commonly, however, intermediaries were contacted by the prospective clients rather than the other way around. Sometimes the prospective NF/LF clients had problems—not defined as legal problems at this early stage—and they turned to intermediaries for general help or advice. The intermediaries saw the problems as legal ones and persuaded the individuals to see attorneys. As one lawyer observed:

> . . . half the time clients don't even know what's wrong. Somebody who knows me will send them over, . . . [the intermediary] will know more about what the problem is than the client. It happens all the time.

Sometimes the prospective clients went to the intermediaries hoping the intermediaries would be able to solve the problem themselves; hoping, in short, that the intermediaries would not be intermediaries. Only after the intermediary failed to solve the problem was an attorney's help suggested. A solo practitioner described one situation in which,

> This lady went to see her minister first. She wasn't sure [her marital difficulties] couldn't be worked out . . . . They must have tried about forty reconciliations. After a while I guess maybe they all just got tired of trying. So this minister, he sent her to me.

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In other instances the prospective clients knew that they had legal problems and knew they needed legal help. An intermediary was asked for advice only on the very specific issue of which attorneys might be willing to help, given the limited financial resources of the prospective client.

Intermediaries, in turn, knew attorneys either because of some professional contact, or because of some social relationship. For example, judges very occasionally served as intermediaries. One solo practitioner described his contacts with a judge-intermediary:

> Judge _____ is an old friend. We graduated from _____ [law school] together and I've known him ever since. Sometimes we used to play a little golf together . . . . so when [the judge] gets something like this [a potential no fee or low fee client] he'll send it on to me. He knows I'll help.

Small businessmen served as intermediaries, too, since they were likely to have professional and business ties to attorneys. Politicians also played the intermediary's role. If they were not attorneys themselves, they necessarily met many attorneys in their business and professional activities. Ex-clients and other attorneys were frequently intermediaries too.

About half of the intermediaries were professional and business contacts of the attorneys. The other half knew attorneys in nonbusiness situations; they were the friends, neighbors and relatives of the attorneys. One attorney recalled:

> My brother-in-law works at _____ [a newspaper] . . . . He meets all sorts of people. So he'll call me up when someone needs a little help.

Ministers or doctors who knew attorneys socially also served as intermediaries. Occasionally, the attorneys might not know the intermediaries very well at all. One lawyer told of a client who called for an appointment:

> I asked him where he'd gotten my name. He said _____ had given it to him. I didn't say anything but I didn't know _____ from Adam . . . . I must have met him at a party or the _____ [club].

What motivated individuals to play the intermediary role? There were some specific rewards which might have impelled the intermediaries to play this role; the psychological and personal ones which came from helping someone in trouble. In other instances the rewards might simply be getting bothersome applicants out of their lives. A solo practitioner said:

> Judge _____ gets these types all the time. They come to him because they know his name. He's too nice to kick them out the door so he sends them over here.

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For still others, men in politics and business, the favors done for the prospective clients in helping them find attorneys were, no doubt, expected to be returned. Motives of intermediaries can only be guessed at but, in any event, they need not have been too compelling since intermediaries were not called upon to do very much. Most intermediaries did no more for the prospective NF/LF clients than to offer the names of attorneys who might be helpful or to telephone an attorney to let him know that a prospective client might call. A few intermediaries saw the attorneys first, explained the problems in some detail and made virtually all the necessary arrangements for having the prospective clients meet the attorneys. One or two even carried their role further, sitting in on conversations between attorneys and clients and following up later events. One lawyer remembered a case in which,

> ———————— [the intermediary] drove the client down here, and sat in on the conference. He was helpful because he'd keep on reassuring [the client] and add pieces of the story [the client] had left out.

Sometimes chains of intermediaries existed; one would phone a second who would recommend a third, who, finally, would recommend an attorney. But in the vast majority of instances only one intermediary stood between the prospective client and the attorney.

Occasionally, individuals played the intermediary role many times. The more common pattern, however, was that a given intermediary would direct only one or two NF/LF clients to a given solo practitioner. Some intermediaries, of course, did not come into contact with enough people who needed NF/LF legal services to have the opportunity to play the intermediaries' role more than once. Other intermediaries seemed to believe that they ought not to put a given attorney too often in the position of being asked to give free help. Still other intermediaries feared that they would "wear out their welcome." One attorney noted:

> When ———————— called me up at the first time [to ask the attorney if he would talk to a potential no fee or low fee client] he just said, 'Can you do me a favor?' The second time he called he got a bit more apologetic. I never said anything, you understand. He just apologized and said how sorry he was to cause me trouble and so on. I guessed he'd never call again and he hasn't. What else could he say? He'd already said everything there was to say.

Indeed, if the intermediaries were friends or neighbors there might be real disadvantages to asking for too many favors; the friendships themselves might be undermined.

Though the basic pattern of NF/LF client-to-intermediary-

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to-attorney was nearly universal, and though all attorneys sat at the center of networks of intermediaries, different attorneys sat at the center of different networks. Younger attorneys, for example, tended to be associated with younger intermediaries while older attorneys tended to be associated with older intermediaries. By the nature of their work some solo practitioners had less contact with judges and more contact with businessmen. Others had many more political contacts and fewer business contacts. Solo practitioners who specialized in divorce cases might not have many business or political contacts but ex-clients might serve as an important part of their networks of intermediaries.

Firm attorneys Unlike many solo practitioners, many firm attorneys[15] sought out nonremunerative work, though many also refused to do any NF/LF work at all.[16] Firm attorneys volunteered their services to civil liberties organizations and other groups which used their legal skills to help the disadvantaged. Other firm attorneys, though not active volunteers, were widely known in the community as willing to donate their legal skills to those who were unable to pay for them. One respondent described one such attorney:

> _____ has been around since the year one. He's got lots of money and plenty of clients. He's not young anymore and he can afford to please himself, so he takes a break every now and then and will take on an interesting case [without charge]. He's taken an interest in a good number of public issues which have wound up in court.

The NF/LF practice of these attorneys, however, was not typical of the NF/LF practice of most firm attorneys.

More typical were the firm attorneys who, like the solo practioners, did not seek out NF/LF legal work. Though not as financially hardpressed as solo practitioners the firm attorneys were professionally hardpressed, and they understandably felt called on to serve their regular paying clients first. When one firm attorney was asked about his NF/LF clients he said:

15. Though less space is devoted here to a full discussion of the NF/LF practice of firm attorneys, it should not be supposed that work they do is any less important than that of solo practitioners. Rather, to avoid repetition, only those facets of firm attorney NF/LF practice which differ from that of solo practitioners are discussed in this and succeeding sections of this article.

16. The policies of solo and firm attorneys with respect to NF/LF work may be summarized as follows:

	Solo Attorneys	Firm Attorneys
Never take NF/LF work	14	20
Take NF/LF work when it comes with office	52	31
Seek out NF/LF work	10	23
Total Attorneys Reporting	76	74

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> I don't do that work. I don't have time. The regular [paying] clients come first and there's plenty of work that needs to be done. . . . That's what they are paying us for. . . . When I have free time I spend it with my family.

In spite of the primacy of paying clients, firm lawyers devoted time and energy to providing legal services to NF/LF clients, who came to them in much the same way they came to solo practitioners; through intermediaries. In many instances, the characteristics of intermediary networks of firm practitioners were indistinguishable from those of solo practitioners. This should not be surprising since some of the "firms" were really not much more than two solo practitioners who shared office space, and even in some larger firms organizational cohesion was weak and firm attorneys practiced somewhat independently of one another.

For many attorneys in the larger firms, however, the intermediary systems diverged in various respects from the intermediary systems of the solo practitioners. One distinguishing feature of the intermediaries who put NF/LF clients in touch with firm attorneys was that they did not tend to be the clear educational, financial, and occupational superiors of the clients.[17] Sometimes intermediaries had merely lived in the region for a longer period of time and had specific information which would be helpful to newcomers. In other cases intermediaries might be socially indistinguishable from clients except that the former had encountered a similar problem and could, therefore, provide experience-based advice to prospective clients. In still other situations intermediaries might serve in that capacity because there were no attorneys in the prospective clients' circles of acquaintanceship.

Prospective NF/LF clients of firm attorneys seemed, according to the attorneys interviewed, to have a better idea of what it was that they needed, and why, than did the prospective clients of solo practitioners. As a result, intermediaries performed more limited functions, and often intruded less forcefully into the

17. The relative socio-economic status of intermediaries and NF/LF clients, reported by solo and firm attorneys, may be summarized as follows:

	Solo Attorneys	Firm Attorneys
Intermediaries socio-economic superiors to NF/LF clients	47	17
Intermediaries socio-economic equals of NF/LF clients	15	37
Total Attorneys Reporting	62	54

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client-attorney relationship.[18] In one case, for example, a young man who had just graduated from college faced a legal problem. He was new to the area and knew no lawyer to whom he might turn. He approached a co-worker and asked him for the name of a local attorney. The co-worker suggested a name and the intermediary relationship terminated with the suggestion. Such a minimal role for the intermediary was not untypical where firm attorney intermediaries were involved.

The firm attorney intermediaries were more likely to be made up of those who knew attorneys professionally rather than socially. Older firm attorneys, partners in established firms, were likely to count among their professional acquaintances individuals who were associated with substantial institutions—corporate executives, educational administrators, and so forth. It was these institutionally situated persons who often served as intermediaries for firm attorneys.

Also considerably more evident as firm attorney intermediaries were individuals who were professional representatives—in one way or another—of those who needed the NF/LF legal services.[19] One firm attorney gave an example:

> _____ calls me once every couple of months. . . . He's President of _____ [charitable organization]. He's always got somebody who needs help.

Lawyers themselves served as intermediaries for other lawyers. This is especially true when a specialist in one area of law came into contact with someone who needed help, but whose problem demanded subject matter expertise in a different area of law. In such instances the lawyer referred the client—even a NF/LF client—to another lawyer.

Friends, relatives and neighbors were also represented among the intermediaries who channeled NF/LF clients to firm

18. The level of intermediary activity as reported by solo and firm attorneys may be summarized as follows:

	Solo Attorneys	Firm Attorneys
Intermediary active after initial contact with attorney	42	17
Intermediary inactive after initial contact with attorney	20	37
Total Attorneys Reporting	62	54

19. These persons were probably more in evidence among the intermediaries for firm attorneys because, like the firm attorneys themselves, they represented upper income and education level individuals. It was such individuals who were most likely to know and associate with firm attorneys whose social characteristics were not dissimilar from their own. See, Ross (1958:124-25, 130-31); Seeley, Junkes, and Jones (1957:292, 418, 423); Ross (1953:451, 453).

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attorneys but, as noted, they formed a proportionately smaller group than did such individuals in the individual practitioners' network of intermediaries. Friends, neighbors and relatives of firm lawyers might be expected to be better off themselves and to have a circle of acquaintances who were better off than were those of the solo practitioners; therefore, they might be less likely to be in contact with persons who might need NF/LF legal services.

It is difficult to overemphasize the importance of intermediaries and the centrality of intermediary networks to the NF/LF practice of solo practitioners and firm attorneys. This is so for at least two reasons. First, the nature and character of the intermediary system explains in some large part why it is that lawyers take NF/LF cases. That point will be pursued in the next section. Second, the intermediary system acts as a strainer and helps determine which potential NF/LF clients do and do not become actual NF/LF clients, what kinds of NF/LF cases are taken, and, to some extent, the quality of NF/LF services. These features of NF/LF practice will be discussed in succeeding sections. It should be added here, however, that there is no evidence that this strainer tends to sort clients and attorneys in any rational way and that chance, more than any other element, affects the likelihood that someone who needs help will find an attorney rather than be left to his or her own resources.

III. WHY LAWYERS HELP NO FEE AND LOW FEE CLIENTS

Solo Practitioners What motivated lawyers to take NF/LF cases? Occasionally, attorneys believed that the stories their clients told them showed that justice had not been done, and trying to right these wrongs was reward enough. In a few other cases the attorneys' motives were charitable ones; that is, attorneys were motivated to take the cases less because of the nature of the wrongs done than because of the dire need of the specific client. One client had been out of work for a year and had no savings. His marriage then began to disintegrate. The attorney took the case because,

> I felt sorry for the guy. He had nothing left. Everything was gone. And now his wife walks out on him. Somebody had to help the guy.

Since most NF/LF clients were not destitute, however, this charitable motive rarely accounted for the willingness of attorneys to help. Nor did political or ideological motives surface

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very frequently. There were instances in which attorneys claimed they were striking a blow for the poor, the dispossessed or the downtrodden but such cases were rare for several reasons. First, the NF/LF cases which attorneys took usually could not, without taxing the imagination, be made to yield great ideological issues. Middle and lower middle class clients were involved, the equities lay on both sides, and legal questions—if any—were often relatively well settled. Second, even if NF/LF cases could be seen as having ideological or political undercurrents the lawyers interviewed were not, by and large, inclined to notice them. These lawyers saw their job as winning what they could for their particular clients and most clients, the lawyers maintained, did not want Supreme Court cases which bore their names; they wanted specific problems solved and if a trial could be wholly avoided, so much the better. The inclination of the attorneys was, typically, to settle their NF/LF cases and get back to the important paying business.

Very few attorneys questioned took NF/LF cases because they believed that to do so was to fulfill professional obligations which all attorneys had to help those who could not afford legal services. This is not to say that the attorneys had no sense of professional obligation. But many attorneys believed work performed for the bar association or in community service fulfilled that obligation. One attorney said:

> I am on the _____ Committee of the [local] Bar Association. It is time consuming and there are meetings constantly. . . . I'm doing my part [in fulfilling professional obligations].

Other attorneys thought their professional obligations were fulfilled by being honest and careful lawyers in their normal legal practice. One lawyer argued:

> An attorney's duty is to practice law, to represent his client the best he knows how . . . . Nothing is as important as that.

Indeed, more common than a sense of professional obligation as a motive for doing NF/LF work was a sense of obligation to the community or to a group to which the attorney belonged. This was especially the case among ethnic attorneys who believed they "owed" something to those with the same ethnic backgrounds. An attorney said:

> Sure I've got professional duties. [They are] to help people who are honest and hardworking, the kinds of people . . . who . . . live in the old neighborhood where I grew up. Those are the people who need my help.

If a sense of community obligation explained only a part of the attorneys' willingness to give of their services what explained

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the rest? The primary reasons for taking NF/LF cases developed out of the need to get and keep paying clients.[20]

The central problem faced by young attorneys who tried to establish a solo practice or who joined with a law school classmate or two to open a law office was how to draw and retain clients. Some of the most common ways of drawing clients were not open to them at the very start of legal practice. Unlike successful politicians, young lawyers could not survive on the business brought by clients who were drawn by their names. Unlike other successful attorneys, young attorneys could not count on referrals by satisfied customers because, as yet, they had no customers, satisfied or otherwise. Referrals from other lawyers came only after attorneys had acquired some expertise and after they became relatively well known in the legal community. For all these reasons young underemployed attorneys welcomed NF/LF clients: their problems gave the attorneys something to do; more important, the attorneys got chances to learn how law was practiced; it was an occasion to meet the County Clerk and the clerks in the Surrogate's Court offices; it was an occasion to learn to negotiate; it was an occasion to build professional self-confidence and to begin to become known in the legal community.

Equally important to young attorneys as a reason for taking these cases was the hope that current NF/LF clients might eventually become paying clients. This hope especially accounted for willingness to perform trivial legal tasks and small odd bits of work for younger NF/LF clients. Today's impoverished unmarried graduate student, after all, might well turn out to be tomorrow's solidly middle-class university faculty member and family man with taxes to be paid, wills to be written and homes to be purchased. An older attorney said:

> People remember you and your helping them out. When they can do [you] a favor they remember [you]. Some clients I can't even remember helping have come back, years later, with some business for me.

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20. The primary motives for taking most NF/LF cases as reported by solo and firm attorneys were as follows:

	Solo Attorneys	Firm Attorneys
Correct an injustice	3	5
Charitable motive	4	2
Political or ideological motive	2	4
Professional duty	4	5
Obligation to community	8	2
Help practice	41	36
Total Attorneys Reporting	62	54

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Other attorneys hoped for more short term benefits from a NF/LF case. Such a case might generate some favorable publicity for the attorney which would attract other clients. What at first appeared to be a NF/LF case might blossom into a fee-generating one as the facts unfolded. One attorney remembered a NF/LF case involved a complaint against a landlord, which after a full investigation,

> . . . turned out to be a case of invasion of privacy, harrassment and defamation. The landlord settled and I got a piece of the settlement . . . . I'd never have guessed it when [the client] first showed up that I'd get a nickel out of the case.

Thus the ban on advertising and on many other forms of self-promotion, which particularly affect young attorneys, encouraged the taking of NF/LF clients. While young attorneys learned skills, developed reputations and built clienteles, clients got legal work without charge. The community benefits in two ways from this situation: disputes and problems are settled at a low cost and, at the same time, new practitioners are trained and gradually integrated into the legal community.

But what of the majority of attorneys who were middle aged and older? They were likely to be more skilled, to have existing paying clients, and to have established reputations within the legal community. Because of these factors their need for NF/LF clients ought to have been reduced. These older attorneys, however, also regularly took NF/LF clients primarily to aid their practice. Why was this so? In part, older attorneys saw NF/LF work as a way to create client loyalty. Legal services were given away so that when the clients had major legal problems they would bring them to the attorneys who had previously helped without asking for a fee. If it was always the case that the cost of each service performed for a particular client without charge was made up by a later additional charge to the same client in a more substantial matter then there would be a question about the characterization of such cases as being truly NF/LF. Attorneys freely admitted, however, that though some clients who were provided with some no fee services later returned to the lawyer's office with billable work, others did not. There were no finely tuned economic calculations about the volume of free services needed as loss leaders to entice paying clients into the lawyers' offices. Rather, attorneys cast their bread upon the waters in hope, but without firm conviction, that rewards might follow.

In many instances the legal services provided without charge were not trivial nor was it to be expected that the clients who

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were helped would later return with paying business. Even in such cases well established practitioners took the cases. Here the primary concern was with pleasing intermediaries. It was more than occasionally true that the NF/LF clients were referred to an attorney by intermediaries who were existing, paying clients, or who were intermediaries who had steered paying clients to the attorney in the past. Attorneys were unlikely to refuse to take these clients because they believed that to refuse would be to injure good relationships with intermediaries or paying clients. Indeed, the longer the paying clients' or intermediaries' relationships with the attorneys, the more business they had brought to the attorneys, and the better their personal relationships with the attorneys, the less likely it was that the attorneys would refuse to take NF/LF cases sent their way. But attorneys did not add to the paying clients' or intermediaries' bills the cost of these no fee services. No attorneys had developed carefully calibrated measures of the worth of these services, nor did records usually exist which would permit these costs to be traced to particular paying clients or intermediaries. The services were truly offered without any fees being charged.

There was no proof that attorneys were right in their evaluations of the importance of NF/LF work to their paying practice. Would a refusal to take NF/LF clients have resulted in loss of contact with paying clients or other persons who were acting as intermediaries? The answer to that question is unknown because attorneys were unwilling to incur the risks involved in finding out. But as far as the distribution of NF/LF legal work was concerned it made no difference whether or not attorney perceptions corresponded to reality as long as attorneys believed their perceptions to be correct.

Among attorneys who performed NF/LF work primarily for clubs, civic organizations, charitable institutions, and the like, a sense of duty was sometimes evident. An attorney said:

> I worked hard for five or six years getting this [organization] going and it's doing good work. . . . I feel that I'm doing my duty by helping [the organization]. . . .

But business rather than personal motives tended most often to explain why it was that attorneys took such organizations as NF/LF clients. One hope was that doing legal chores for an organization would serve to publicize the existence of a qualified lawyer to the organization's membership. Doing NF/LF work, then, became a form of advertising. It was also hoped that if some NF/LF work was performed for these organizations then, at some later date when the organizations needed legal services

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for which they were willing and able to pay, the organizations would turn to the attorneys who had done favors for them in the past. Attorneys would also take organizations as NF/LF clients to please paying clients or other immediaries who had put the attorneys and the organizations into contact.

Sometimes, however, attorneys became convinced that no paying business was likely to be generated by organizations which had been provided NF/LF legal services. Even in such cases attorneys might continue to serve the organization without fee, since once the organizations and their leaders began to expect attorneys to provide free services, and once attorneys had begun to receive social rewards in recognition for their help, they could not refuse to continue to work without a fee without upsetting existing social relationships and cutting off important nonmonetary benefits. As one attorney put it:

> There's no way I could stop [helping the organizational client for free]. . . . I'd have to quit the _____ [name of organization] in shame.

An additional reason for doing NF/LF work arose from the nature of office management practices and of legal work. Though attorneys often spend much of their time on relatively major pieces of legal work—tort cases, divorces, and so forth—they also work at many lesser tasks. These latter problems, in many instances narrow and specific, could often be solved in a few moments' time. Sometimes, cases which at first looked as though they might involve major litigation later collapsed into rather minor concerns. In one case, for example, a client came to an attorney after having been served with a summons and complaint in an action arising out of an employment relationship. A major piece of litigation appeared to be in the offing. Before the day was out, however, the attorney had discovered that the statute of limitations had run and, shortly thereafter, the suit was dropped.

These kinds of problems—ones which could be dealt with in a few minutes, or ones which looked major at the outset but turned out not to be problems at all—were very often the kinds which became NF/LF work. Frequently in such cases lawyers would not bill clients, in part, because it was not worth the effort to do so. An attorney said:

> If I billed every time I gave somebody a piece of advice I'd be doing nothing but sending bills. I'd never have time for anything else.

Not only would billing in all these situations be inconvenient but also, attorneys felt, it would not be understood or accepted by the clients; nor would it be dignified.

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> If I sent X a bill for ten minutes work in the library or two phone calls I'd look like a fool. This isn't a five and dime, it's a law office . . . clients expect some work for nothing.

Firm Attorneys The motives which impelled firm attorneys to take NF/LF clients were much the same as those which impelled solo practitioners to take such clients. There were some differences, however. Unlike young solo practitioners, young firm associates had enough paying legal work to keep them busy. Thus, there were no immediate economic advantages to such associates in working for NF/LF clients. Furthermore, it was intrafirm reputation and not reputation within the legal community which was important in associate careers at their earlier stages. Thus, there was no need to take NF/LF cases to build a reputation. Associates, indeed, were wary of taking on too much NF/LF work for fear of seeming "dilettantish" in the eyes of seniors in their firms. In spite of these conditions, young firm attorneys worked on NF/LF cases. This was because partners occasionally accepted NF/LF clients and asked associates to do the work. In such instances, of course, the associates' motives for doing the work—a desire to please a superior—might be quite different from the motives which led the partners to accept the cases in the first place. In general, if partners accepted the cases but expected the associates to do the work the cases were likely to have been accepted to please clients or other intermediaries. If the partners both accepted the cases and worked on them themselves the cases were likely to have been accepted for reasons personal to partners: outrage at a miscarriage of justice, the desire to do a good deed, and so forth. Occasionally, pressures for intrafirm conformity which ordinarily operated to dissuade associates from taking NF/LF cases, operated to persuade otherwise uninterested associates to take such cases. This was true when either the firms, or given partners, took such cases and everyone within the firm was expected to work on such cases as part of their normal legal practice.

IV. WHO ARE THE NO FEE AND LOW CLIENT CLIENTS?

Solo Practitioners In order to be helped by an intermediary to make contact with an attorney, prospective NF/LF clients had, first, to know the sorts of persons who were likely to be intermediaries. Intermediaries were characterized by the attorneys interviewed as being mostly middle class persons. The social contacts of such persons were likely to be limited to those who, like themselves, were relatively well educated, middle and lower class men and women. This class makeup of the intermediary group

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may explain the reasons why NF/LF clients were largely middle class persons. As one attorney nicely summarized it:

> I do a good deal of [no fee or low fee] work. . . . I've never had a [no fee or low fee] client on welfare. . . . [My no fee and low fee clients aren't] poor or anything, but they're not rich either; they're in between.

With the exception of the two black attorneys interviewed, no solo practitioners had more than a very occasional black NF/LF client, despite the presence in the county of a substantial black community.[21] The reasons for the absence of such clients are fairly clear. Not many blacks were likely to come into contact with intermediaries. Blacks lived in inner city neighborhoods rather than in the surburban neighborhoods of the friends, neighbors and acquaintances of most attorneys. Members of racial minority groups were unlikely to come to white employers for help in finding attorneys; instead, they were more likely to look for help within the confines of their own neighborhoods and racial communities. Furthermore, there were precious few black attorneys whom black intermediaries might know. Therefore not only did the class makeup of the group of intermediaries bias the selection of NF/LF clients, but so also did its race makeup.[22]

The intermediary system, in fact, was not likely to promote contacts between attorneys and a variety of individuals and groups with needs for NF/LF legal services such as, for example, the relatively young and the relatively old. One attorney summed up the age characteristics of the NF/LF clients he served as follows:

> There are some kids, a lot of people in their twenties and thirties, a few older than that but nobody much over fifty or sixty. . . .

The elderly—even those with high levels of education and good incomes in their working years—often lack the resources in retirement to pay for legal counsel. But, in spite of their needs

21. Nine percent of the county's population was black. U.S. Bureau of the Census (1972: Table P-1).

22. A look at the census reports provides some indicators of the isolation of blacks. There were few racially mixed neighborhoods. Blacks tended to have lower income and education levels and higher unemployment levels than whites and these differences reduced the likelihood that blacks and whites would have close contacts. U.S. Bureau of the Census (1972: Tables P-1, P-2, P-3, P-4). See also Moynihan (1970:74, 78-79, 82, 152, 164, 167, 171, 172); Mack (1969:147, 148, 151); Moynihan (1969:3, 8, 9, 14); Duncan and Duncan (1968:356, 363-64).

American Indians and Spanish speaking individuals living within the county were also likely to be isolated from the channels of communication which might put them in touch with solo practitioner intermediaries. See U.S. Bureau of the Census (1972: Tables P-2, P-7, P-8); U.S. Bureau of the Census (1971: Tables 34-36).

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for NF/LF services, the elderly were not likely to be discovered by intermediaries because the elderly were likely to be socially isolated. They no longer had office and other work associates. Intermediaries who played a role in their earlier business and professional lives might have lost contact with them after retirement. The circle of acquaintanceship of the aged was steadily narrowing; past acquaintances and friends retired to other parts of the country or died (U.S. Bureau of the Census, 1972-58; Francher, 1969: 29, 32-34; 32; Rosow, 1967: 294-95, 323-24; Parsons, 1962: 22, 23; Cummings and Henry, 1961: 14-15, 222). The elderly were physically less mobile and hence less likely to interact with others. Intermediaries were more likely to live in suburbs than in the central city in which many of the elderly resided. Furthermore, unlike others whom attorneys helped, the elderly were unlikely to justify a current unremunerated expenditure of attorneys' time by producing future remunerative business.

Since the county contained several colleges and universities it had a relatively large population of young men and women.[23] Many of these lived at some considerable distance from their families or were completely independent of their families by virtue of their age or by mutual agreement. These individuals had legal problems and, by and large, very little money to pay for legal help. They, too, were cut off from the networks of intermediaries which usually channeled NF/LF clients to attorneys. The students often lived in and around the campuses and had few contacts with those not of their own age or not directly affiliated with the schools which they attended. They were transients.[24] They were unlikely to be known by the intermediaries who were, typically, middle class and older. Finally, to some extent, the colleges and universities themselves were taking over the role of attorney for student clients by providing NF/LF services.

Indeed, though some students had been NF/LF clients of solo practitioners they were referred to those attorneys because they were permanent residents of the community. Their contacts with intermediaries were, apparently, the result of parental in-

23. There were approximately 55,000 students enrolled in thirteen colleges and universities in the county. Buffalo Evening News (1973: 116-18).

24. What was true of transient students was probably also true of other needy transients in the population; they might pass through the community unknown by the more stable intermediaries and, hence, might never be referred to lawyers who would be willing to help them.

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tervention. In short, they were channeled to those practitioners not because of, but in spite of, their student status.

It might be that some of those who were unlikely to be in touch with the lawyers' intermediaries—the chronically poor, the blacks and Puerto Ricans, the elderly, and some students—either did not have many serious legal problems or were adequately served by neighborhood law offices, volunteer programs and the like. That is an unanswered empirical question. Be that as it may, use of the intermediary system insured that attorneys offered NF/LF services to only a relatively restricted segment of the population.

NF/LF legal services offered by solo practitioners were provided, by and large, to members of the middle class. The attorneys interviewed characterized these individuals as high school or junior college educated persons who held clerical jobs or jobs as skilled or unskilled manual laborers. Often they had a steady income but no savings out of which a lawyer might be paid. Rather than serving the chronically poor, solo practitioners served the temporarily disadvantaged. One case might serve as an example: a construction worker who had been out of work for months, and who had made several large credit purchases while employed, found himself hounded by one creditor and threatened with repossession by another. He was referred by a friend to a lawyer who quickly and easily worked out an arrangement with the creditors. No attorney's fee was charged.

Solo practitioners also served some who were currently poor but whose long range economic prospects were excellent. In one case an attorney charged a fraction of the going rate for an uncontested divorce. The couple had been married for only a year and had no children. The wife was working and the husband was just finishing graduate school. Both were likely to find well paying careers in the long-run but neither had much money currently available to pay legal fees.

Solo practitioners also served those in the ethnic communities. The central city had relatively homogeneous, and extensive, Italian and Polish communities, as well as other smaller ethnic enclaves, and many solo practitioners had come from these communities. Connections between these attorneys and their ethnic communities often remained strong over long periods of time; early ties arising out of childhood, family and neighborhood friendships were frequently reinforced by memberships in fraternal organizations and by political associations. Ethnic interme-

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diaries often directed ethnic NF/LF clients to attorneys of the same ethnic origin.[25]

It might be concluded from all of this that solo practitioners' NF/LF legal practice provided legal aid for the middle and lower middle classes. That conclusion is fundamentally correct, though others were occasionally served. Some intermediaries had contact with the genuinely poor. Ministers, politicians and others occasionally referred such clients to attorneys. Even the most isolated, suburban, middle class intermediaries personally knew one or two of the very badly off. Even if not statistically numbered among the poor there were some NF/LF clients whose financial condition was very bad indeed. One businessman-intermediary, for example, paid the minimum wage to an employee who had five children and a wife to support. That employee was unlikely to be able to afford anything beyond the bare necessities and he was referred to a solo practitioner as a no fee client when legal troubles arose.

Just as the intermediary networks of different attorneys varied in character so also did the kinds of NF/LF clients whom the attorneys served. The ethnic clients served by ethnic attorneys have already been mentioned. Another relatively distinct group of clients found their way to younger attorneys just starting out in practice. If the young attorneys had grown up or been educated in the county they were likely to have a network of intermediaries made up in some major part of young friends, college classmates and the like who channelled young NF/LF clients to them. One young attorney suggested an additional reason for the affinity of young attorneys and young clients:

> Most of these people [no fee and low fee clients] who I try to help are my age. . . . They've just started out. . . . I meet them through friends and so forth. . I think they feel somebody their own age is going to be more sympathetic, you know, not get excited because they're wearing dirty jeans and [have] long hair.

Suburban attorneys saw somewhat different NF/LF clients than did central city attorneys. For example, the suburban lawyers

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25. One attorney with an Italian surname, in fact, complained about the ethnic connection.
> I'm tired of seeing every dumb Wop who'se got himself screwed up in here . . . . Just because my name's ———— ———— they [ethnic intermediaries] think they can send anybody in the Italian community over here . . .

Most ethnic attorneys interviewed, however, were proud of their community ties and happy to help when they could. About one-fifth of the county's residents were "foreign stock" with relatively clearly defined ethnic memberships. U.S. Bureau of the Census (1972: Table P-20).

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saw fewer NF/LF clients who were easily identifiable as belonging to ethnic groups.

The NF/LF clients served by solo practitioners included organizations as well as individuals. Sometimes the attorneys were not members of the organizations which they helped but more often the converse was true; an intermediary, who was a member of the organization, asked the solo practitioner, who also was a member, to help the organization.[26] One attorney, for example, was a member of a church congregation in one of the suburbs and knew most of its lay leaders. One of those lay leaders asked him to represent the church in acquiring a piece of property. Another attorney, an activist in the dominant political party in the county, was asked by one of its officials to give him an interpretation of the election laws. Still other attorneys helped civic and charitable organizations get started as not-for-profit corporations or provided NF/LF legal services for social and fraternal organizations in which they were members.

It is easy to discount the importance of the NF/LF work which solo practitioners did for such organizations. The work is likely to be thought of as having no lasting benefits to the community at large, and as consuming time which could better be spent distributing no fee legal services to individuals in serious need. Providing institutions and groups with NF/LF legal services, however, had indirect benefits to the community. For example, helping a charity by providing NF/LF legal services could, in the short run, save money from the charity's administrative expense budget and, as a result, make more money available to the charity's health care, counseling or other service arms. Legal help given to clubs, fraternal organizations and the like contributed to the strength and life span of these organizations and thus may have benefitted the communities these organizations served. Legal services contributed to ethnic social clubs, for example, helped these organizations remain strong and that strength, in turn, helped them remain active in the political arena where they could represent the interests of those with the same ethnic origins.

26. It was not a little ironic that these solo practitioners were asked to donate their services to such organizations. Several solo practitioners said they had become active in these organizations in the first instance, in part, as a way to become known to their communities as men with sensible views and, in part, to meet others who might be able to help them in their careers by directing paying legal work to them. Becoming a joiner was one of the few ways in which a young attorney could become known to prospective clients. These attorneys did not expect to provide no fee or low fee services as a result of their memberships. See Carlin (1962:123-54).

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It is important to realize however that work for such organizations was performed only for organizations with middle class memberships and not for organizations which might represent the poor or the disadvantaged. Solo practitioners did NF/LF legal work for clubs, fraternal organizations and so forth because they were members of the organizations and knew other members. Few attorneys or intermediaries were members of organizations in which minorities, the elderly, or the poor made up the bulk of the membership or the leadership, nor were they aware of the individuals who were likely to want to create such organizations. As a result, the organizations which represented these groups did not get much help in the way of NF/LF legal services.

Firm Attorneys Many of the same factors which limited the range of clients that solo practitioners saw also limited the range of clients seen by firm attorneys. Firm attorney intermediaries were even less likely to know those from the lower socio-economic strata or the elderly residents of the central city. Nor were they as likely to come into contact with the ethnic communities.

There were some NF/LF clients whom firm attorneys served but whom solo practitioners did not; these were clients whom firm attorneys actively sought out, or which were brought to firm attorneys by intermediaries in charitable or civic organizations. Some firm attorneys regularly volunteered their services through these organizations which could be relied on to supply clients quite unlike those which the ordinary networks of intermediaries might have generated. These clients were more likely to be the poor, the politically or otherwise deviant, the members of religious or racial minorities. Even those firm attorneys who did not seek out such contacts occasionally took such NF/LF clients when individuals acting as intermediaries happened to discover them.[27] But there were relatively few firm lawyers who sought out such work and relatively little came their way through the intermediaries.

The NF/LF charitable organizations which firm attorneys

27. Often these occasional contacts with the poor had a considerable educational effect on firm attorneys. One attorney said,

> Reading about the problems [of the poor] is one thing but I never got a sense of what they were up against . . . I saw one old guy living over in ————————[city] and the place he was living in was awful. It got me listening to politicians and people . . . [who were] talking about housing issues.

In other instances, attorneys resorted to the distressingly human habit of generalizing about all "poor people" from experiences with one or two individual impoverished clients.

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served tended to be more substantial in all respects than those which solo practitioners serviced. The interests of firm attorney organizational clients were city or county wide rather than neighborhood centered. They included several which were primarily cultural in nature, unlike those to which the solo practitioners gave their time and services. The fraternal and social organizations tended to be suburban rather than urban and seemed to have little of the political element about them that characterized the ethnic fraternal organizations.

V. THE NATURE OF THE NO FEE AND LOW FEE CASES

What kinds of problems did NF/LF clients bring to their attorneys? About one-third of the problems, the single largest category, involved matrimonial issues: divorces, separations, adoptions, child custody questions, maintenance and support orders, and so forth. The second most common type of problems—about fifteen percent of the total—involved debtor-creditor disputes; disputes with creditors about how much was owed, disputes with banks about loans, disputes with merchants about whether or not various items had or had not been bought or had or had not been paid for, disputes with repairmen about charges or repairs or about the quality of work done, and so on. About fifteen percent concerned landlord-tenant questions; whether the rent had been paid on or before penalties began to run, what repairs were promised and/or delivered, what charges could be made for leaving the premises in an untidy condition, and what obligations there were for keeping common halls clean or lawns mowed. About ten percent of the problems brought to attorneys involved criminal actions; shoplifting, assault, theft, dealing in stolen property and the like. The remaining twenty-five percent included a variety of legal subjects: wills and estates, contracts, real property, naturalization and immigration, and taxation.

Some types of problems were conspicuous by their absence. Because attorneys were willing to take tort cases on a contingency fee basis (and willing to absorb whatever cash outlay was needed) virtually no tort cases were taken by attorneys on an NF/LF basis. There were, however, some minor injury cases in which attorneys collected very small sums for their clients—$50 or $75—and took no fee, contingent or otherwise, for doing so.

Another type of problem not frequently reported was the dispute with an official or governmental body. Writings and de-

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velopments in the areas of welfare and poverty law—concerning cases in which the poor have successfully challenged the government's long exercised power over the distribution of services and benefits—may have fostered the impression that governments are under siege from those whom they were designed to serve (North Carolina Law Review, 1972; Rothstein, 1972; O'Neil, 1970; Reich, 1966; 1965; 1964). Governments may or may not be under siege, but if they are under siege it is not from private practicing attorneys representing NF/LF clients. The NF/LF clients which the attorneys surveyed represented were not the poor, welfare mothers, or the like. They were, instead, middle class individuals whose disputes were with other private parties rather than with government.

The relative absence of civil rights and civil liberties problems might be explained by the class origins of NF/LF clients. Since these clients were, by and large, white, Christian and middle class men and women they were not, by and large, those against whom racial, religious or other barriers were erected. Furthermore, these clients were unlikely to challenge constraints on certain kinds of speech and behavior since those reflected many of their own attitudes and beliefs.[28]

In summary, the types of problems dealt with for NF/LF clients did not differ significantly, at least according to the testimony of the lawyers involved, from the types of problems individual paying clients brought to their offices.[29] One attorney said:

> I do mostly divorce and other marital-type cases. I do other things occassionally, too, but it's mostly divorce . . . these [no fee and low fee] cases are indistinguishable . . . . they are the same kinds of people in the same kinds of difficulties. . . .

The legal problems of NF/LF clients were usually settled with dispatch. Over forty percent of the problems took five or fewer hours for the attorneys to deal with and another twenty percent took fewer than ten hours of lawyers' time. Attorneys were virtually unanimous in claiming that less time was invested in dealing with the legal problems of NF/LF clients than was invested in the problems of paying clients.[30] This may be in part

28. On the middle class and civil rights and civil liberties, see The Gallup Opinion Index (1971:22); The Gallup Opinion Index (1969:18, 19, 22); The Gallup Opinion Index (1965:20); Stouffer (1955:57, 92-93, 112-17). See also Hofstadter (1967); Bell (1963).

29. Unfortunately, there were no hard data on which to base these conclusions. Some comparisons could be made with data generated in other studies, however. The comparisons suggested that the frequency of kinds of problems of NF/LF clients reported here were not substantially different from the frequencies reported elsewhere. See the data summarized in Hallauer (1973:230); Stolz (1968).

30. There were no data on the average length of time that attorneys

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because lawyers also were disinclined to take very difficult or highly complex cases on an NF/LF basis.

In only a very few cases did lawyers institute legal action in the name of an NF/LF client, and in no cases did disputes go to trial. The suits initiated for NF/LF clients were filed not to obtain a decision on the merits but to put clients in better bargaining positions. As one attorney noted:

> If you slap a summons on the other party it scarces the hell out of them, unless they've been around. . . . then the other guy has to go to a lawyer and then he begins to see what it's going to cost to be stubborn.

Attorneys did, occasionally, make brief pro forma appearances before judges—in divorce proceedings, for example—but even these were exceptional. There was an utter absence of those two stalwarts of recent writings about legal practice for those who cannot pay for legal services—the test case or the class action. (Subrin and Sutton, 1973; Redlich, 1971; Columbia Law Review, 1967).

If little or no litigation arose out of the problems brought to attorneys by NF/LF clients, and if most problems were dealt with in few hours, then what did the lawyers do for their clients? Little of the attorneys' time was spent in legal research. Older attorneys especially tended to rely for the legal learning necessary to settle a question on their general knowledge, or on consultations with fellow attorneys experienced in a given field. Fact research was one task on which the attorneys spent considerably more time. Frequently, the clients' stories were garbled and unclear. One attorney said:

> You have to get used to the fact that these people don't think clearly. By the time they get to me they are just mad or unhappy. All the words just come tumbling out. There's no order to it at all. You've got to let them say it all and then try to put [the story] together again.

The attorneys spent time trying to substantiate their client's stories, trying to find out what the stories of the other parties were, and trying to make judgments about what actually happened or failed to happen. Most often, fact research did not involve collecting statements through affidavits or verifying facts by searching official records; rather, facts were gathered and substantiated by interviewing the relevant individuals.

Lawyers also spent a good deal of time advising NF/LF clients. At times the advice was explicitly legal, but much advice was of a more personal nature. One attorney, for example,

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spent on the legal problems of all paying clients with which these data could be compared, nor were attorneys able to provide such data.

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attempted to persuade his client to try a reconciliation with a spouse she had just deserted. The advice had legal implications, of course, but it was also advice based on human considerations and the attorney's belief that this was the advice "the client wanted to hear." Attorneys also spent time educating clients to realities they might have been unwilling to face. One attorney noted, "There are times when you can't do anything and the guy is just going to have to take it. . . . You have to let him know."

These tasks—fact finding and advice giving—were not much different from those performed for paying clients.[31] One type of work, however, was more likely to be performed, or likely to be performed earlier in the game, than it was for paying clients—negotiating. The first impulse of many attorneys, given an NF/LF client with a problem, was to go to the other party and to negotiate a solution. Often only a phone call, a meeting and a brief conversation were needed to reach a settlement. Rarely did the negotiations involve more than the two parties' attorneys, and, not infrequently, they involved only the attorney of the NF/LF client and the other party. One lawyer pointed out:

> Bargaining is the fastest way to get a case finished once you know what the problem is. Everyone is willing to talk about the problem and once you've got them talking you can begin to say 'All right, let's forget about whose fault it is. If he does this, now, will you do that?' Sometimes you're dealing for both sides, just trying to find a middle ground.

Sometimes attorneys were needed not because of the law they knew or because of their bargaining skills but so that the clients could impress on the other parties how seriously the clients felt about the issues at stake. Bringing in attorneys added credibility to claims of injury.

Few resources other than the attorney's time were needed to deal with the legal problems of NF/LF clients. In forty percent of the instances the attorneys incurred no out-of-pocket expenses—such as filing fees, copying costs, travel, and so forth—on behalf of NF/LF clients, nor did they even consume any secretarial time. And in half the cases where such additional costs were incurred their estimated value was less than twenty-five dollars. Most attorneys agreed that fewer additional resources were expended for NF/LF clients than were expended for paying clients.

Only slight variations existed in these patterns when NF/LF organizational clients were dealt with. Matters at issue were pri-

31. For a description of lawyers' work tasks see Johnstone and Hopson (1967:77-116, 118-21).

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marily property matters, not domestic or criminal ones, of course. The legal problems of organizational NF/LF clients, however, seemed to be simple, quickly dealt with, and relatively untaxing. The kind of service performed by firm attorneys for organizations was not much different than that performed by solo practitioners. Generally speaking, however, the larger the organizational client and the larger the firm representing it, the greater the resources—in time and effort—likely to be expended on the client's behalf. This, however, should hardly be surprising.

VI. THE QUALITY OF NO FEE AND LOW FEE LEGAL SERVICES

Generally speaking, paying clients get the services for which they are willing to pay. That does not mean that they may not be "overcharged" or that the attorneys' work will necessarily be of high quality. It does mean, however, that attorneys are willing to give more effort to clients who are willing to pay for more effort.

NF/LF clients were not able to provide that incentive for service. In some cases, therefore, the attorneys serving such clients would not extend themselves very far. Attorneys who were negotiating on behalf of NF/LF clients, for example, might be likely to accept a settlement which was not the maximum which could have been attained if the attorneys were willing to delay, harass, and, in general, use all the other tactics available in law.[32] Furthermore, the busier an attorney was with his paying clients the more inclined he was to give short shrift to the problems of NF/LF clients. One attorney put it this way:

> You do what you can for [NF/LF clients]. . . . It will depend on how much time you've got, what else you've got [to do] . . . how important [the problem] is . . .

In many cases, of course, the attorneys' desire to conclude NF/LF cases as quickly as possible produced results no different from those which the attorneys would have produced on behalf of paying clients. Many legal matters, after all, could be handled routinely; uncontested divorces, for example. In other cases, the outcomes were foreordained because of the clients' delays in seeing attorneys; relatively little could be done for many NF/LF clients regardless of the effort expended.

There were also factors which pushed attorneys to expend extra effort on behalf of their NF/LF clients. These included

32. It might also be that passivity on the part of NF/LF clients had an impact on attorney willingness to push hard for the interests of such clients. See Rosenthal (1970:48-101).

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the attorneys' needs for self-development, the clients' potential for becoming paying clients in the future and the attorneys' concerns for their reputations.

Occasionally attorneys, especially young attorneys with few clients of their own, would use the NF/LF clients' cases as vehicles for learning about the practice of law and for improving their legal skills.[33] One attorney described his early years in practice in these words:

> At times I'd have nothing to do. I'd sit here and read the newspaper, or call up friends and talk a while . . . my father-in-law sent his neighbor to me. . . . We both knew I couldn't charge anything . . . I spent hours researching points of law over in the County Library. What else was I going to do with my time?

A number of the NF/LF clients, as has already been noted, were only temporarily disadvantaged. When in better financial condition it was possible that they might become paying clients. If that was understood to be a possibility the attorneys would want to leave these clients with the best possible impression of their work and, consequently, would do their best work even though no fee would be charged. Unfortunately, since it was often difficult for any clients—paying or not—to evaluate the lawyers' work, the appearance of the expenditure of great effort might have become a substitute for the actual expenditure of effort.

More important in insuring that attorneys devoted their best efforts to NF/LF clients was concern by attorneys for the state of their reputations in the legal community. In a county with fewer than three thousand attorneys—most of whom were concentrated in the central city—lawyers tended to know a great deal about one another and the work they did. Indeed, not only attorneys but also judges and court clerks monitored one another's performances. Reputation within this community was important for attorneys in part because attorneys wanted to be well thought of by those whom they saw socially and in business day after day, in part because reputation affected the referral business attorneys received, and in part because reputation influenced bargaining effectiveness.[34] The penalties—both social and economic—of being thought incompetent or lazy would be severe and fear of developing a bad reputation kept attorneys from ignoring the interests of their NF/LF clients. One attorney said:

33. Older attorneys, too, learned a great deal from their *pro bono* work about areas of the law with which they might otherwise have remained unfamiliar.

34. See, for a theoretical discussion of the importance of reference groups, Hyman and Singer (1968).

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> Your referral work depends on who you know and what favors you can do for them. . . You get to know other lawyers around town. . . . You build a reputation by doing good work and being easy to get along with. . . . That doesn't mean you're soft but you have to push it the right way. . . . If you do bad work you'll start to lose referrals. No one wants to refer work to someone who doesn't do a decent job.

The way to maintain one's reputation was to work hard, and to be careful in representing all clients—paying or not.

More important than any of these factors in persuading attorneys to do more than the minimum work necessary for NF/LF clients, however, was the importance to the attorneys of their networks of intermediaries. For solo practitioners the networks of intermediaries provided not only NF/LF clients but also the more important paying clients. Attorneys apparently believed that in order to influence intermediaries to continue to send paying clients to them the attorneys had to accept the NF/LF clients which were sent. No one knew, of course, whether the intermediaries had any way to judge the quality of the legal work that the attorneys did for NF/LF clients. Nor was it possible to know whether or not, in fact, it would make any difference to the decisions about forwarding clients even if intermediaries did have such information. It was clear, however, that attorneys thought it made a difference and that was enough to stimulate them to serve their NF/LF clients well. To these factors must be added others which influenced attorneys to do relatively high quality work; professional pride, a sense of obligation to the particular client, and, occasionally, ideological convictions.

To some extent NF/LF clients of firm lawyers suffered from the same partial neglect that NF/LF clients of sole practitioners suffered from, and for many of the same reasons. One special circumstance, however, influenced firm attorneys to give NF/LF clients better service. If the firm attorneys were associates and had been asked to help NF/LF clients by partners—as was often the case—the associates had special incentives to give the clients their best efforts. The quality of the associates' work and their willingness to carry out the assignments were seen by associates as elements which might be important to advancement within the firms. As one associate said:

> I don't say no to _____ or _____ if they come in my office and ask me to do something. They ask me if I "want to" or "would I mind," but the question is purely politeness on their part. In fact I'm glad they ask me. It shows they've got some confidence in me.

In firms in which the associate-to-partner career lines were less

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well developed and in which associate status was more short lived, however, these pressures to do good quality work for NF/LF clients were weaker.

One lawyer added another reason why he thought he did good work for NF/LF clients:

> Sometimes it is pleasant to have a case that is different from the kind I usually work on. I become weary of these [tax] problems . . . [no fee and low fee cases] offer a change of pace.

Unfortunately, though such work might offer firm attorneys a change of pace, it might, precisely for that reason, mean that clients might not be very well served. Firm attorneys usually concentrated their efforts in specialties not needed by NF/LF clients; tax or corporate specialists might not have much useful experience to draw on to help NF/LF clients who needed divorces, for example. One lawyer, referring to one no fee case on which he worked, said:

> I'm certain an attorney with experience in the family law field would have wound this [case] up in half the time. . . I had a good deal of learning to do."

Institutional NF/LF clients tended to be better served than individual NF/LF clients. The reasons for this appeared to be two-fold. First, institutional NF/LF clients typically came to attorneys for legal help primarily in non-adversarial situations. Furthermore, the work they brought was likely to be relatively uncomplicated. In one case in which a church asked an attorney to close a land transaction the attorney needed only to make sure the papers were properly made out, the various filings were made, and so forth. No complex judgments or extra research efforts were required. Thus, the attorney was able to provide his best efforts at a relatively low cost to himself. Second, and more important, since the attorneys were usually members of the organizations for which they were providing NF/LF services they had added reasons for not wanting things to go badly. Not only could they lose the respect of professional colleagues or damage their intermediary networks but also they could damage their relationships with fellow members of the organizations which they were helping.

VII. CONCLUSION

This article has tried to sketch out some of the crucial elements of the networks which tie together lawyers, clients and intermediaries with respect to NF/LF legal practice. At least two features of these networks stand out. First, they are enormously varied and complex: each lawyer sits at the center of a network peculiar to him or her and made up of friends,

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associates, clients and acquaintances. Though it is true that one can categorize such networks and discern similarities and differences—among firm lawyers and solo practitioners, or among older and younger attorneys, for example—there is also great variance. The physical location of the lawyer's office, his or her personality, and many other factors may affect the size, strength and diversity of his or her network. There is, it seems, a wealth of possibilities for investigation here and for mapping out the contours and elevations of the networks. Second, the glue which holds the networks together is reciprocity. Lawyers take NF/LF clients in return, most typically, for hoped-for future legal business. They also take such clients to please a friend or crony or to satisfy feelings of obligation towards neighborhoods or ethnic communities. Intermediaries perform their tasks in exchange for the political or other support of NF/LF clients and expect to provide some rewards to the lawyer if the client is unlikely to be able or willing to do so. And, finally, though clients accept free legal services they pay for them in terms of the business they may bring in, or the favors they may do, for both lawyers and intermediaries. The rewards are not just economic, they are also social, political, fraternal and psychological.

What are the implications of NF/LF practice as it has been viewed here? Lawyers are alleged to have many obligations: to work for the selection of an enlightened judiciary, to initiate needed law reform, to maintain and develop legal skills, to deal honestly and fairly with clients and fellow attorneys, and so forth.[35] One special obligation about which a great deal has been said in recent years is the obligation of lawyers to provide legal services to those who need them, regardless of ability to pay. In one sense, this study has explored the extent to which lawyers have lived up to this obligation by making access to legal service broadly available.

Practicing attorneys have been found to offer legal services at no fee or at a reduced fee for members of the community. In doing so, they have kept alive an ideal of the professional as someone whose interests are not in things solely financial. Sometimes this NF/LF work has reinforced this attractive image. One attorney, for example, said:

> I do my share. . . . I recognize that I've got responsibili-

35. For a review of the devleoping notion of the lawyers' obligations to the public—obligations which have been alleged to exist apart from lawyers' obligations to particular clients—see, Marks, Leswing and Fortinsky (1972:7-45); Carr-Saunders and Wilson (1933:421-22). See also Wardwell and Wood (1956).

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> ties . . . . I'm as civic minded as most attorneys and a damned bit more civic minded than a lot of them.

At other times NF/LF work has been put forward to justify the profession's existing position. Speaking of his partners' NF/LF work, another attorney said:

> They have made a contribution . . . to the community, making it a better place to live. . . . No one can say that lawyers don't do their part.

There is some truth in both these quotations. Lawyers, as individuals, are probably no less selfless than most people. As a group, practicing lawyers probably do contribute some substantial part of their time and energy to helping their fellow citizens. And lawyers contribute to community life by being active in civic and charitable organizations and in public service.

At the same time, however, the attorneys' NF/LF practice—indeed, their involvement in the cultural and political life of the community—was not entirely an exercise in civic virtue. NF/LF cases were taken in part to please others whose good will was important to the lawyers. Certainly the problems of some NF/LF clients received less attention than did those of paying clients. This was the result of the relatively trivial nature of many of the problems which NF/LF clients brought as much as it was the result of a natural aversion on the part of lawyers to expending effort on work which would bring no immediate financial return. Lawyers, themselves, were sometimes less than idealistic about their NF/LF work. One attorney, after explaining the reasons why he did such work, said: "This stuff [NF/LF work] is a pain, but I can't stop doing it. There's no way to avoid it. . . ."

How much good did these NF/LF services do? Like most legal services, NF/LF legal work—even when successful—tends to solve only a particular problem of a particular client. This rarely helps a client do much more than leap a single hurdle. The man bailed out by an attorney from an unwise installment purchase might later, perhaps, enter into the same kind of contract again. And even if NF/LF legal services helped particular clients to avoid similar problems in the future a vast number of individuals with similar problems remained untouched. These problems, however, are endemic where service is provided by a highly diverse and decentralized profession, primarily devoted not to legal reform but to solving particular problems of particular individuals.

It should occasion no surprise that NF/LF services were provided primarily to middle and lower middle class individuals and

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to non-profit organizations. Many individuals—too well off for legal aid and unwilling to accept institutionalized charity, but not well off enough to pay their own way—were helped. The practicing lawyer's NF/LF services did not, as far as it was possible to tell, duplicate or overlap the efforts of charitable and governmental agencies. They supplemented them, helping to fill the gaps left unfilled by other legal service institutions. Not only did the poor have other programs to help them but they may have advantages in dealing with the law which the middle and lower middle class did not. First, since the poor, by definition, have little wealth they may have less occasion to need legal services, or at least the property-related legal services in which many lawyers specialize: inheritance, income taxes, purchase and sale of real estate, and so forth. Second, there may be less inhibition among the poor to adopting extra-legal solutions to problems. The middle class, for example, want court sanctioned divorces, while the poor may be satisfied with more informal arrangements. In short, it is not only the poor—who may have government legal services or fewer legal problems—but also the middle and lower middle class—who have property and feel they need official legal sanctions—who need the help of private attorneys.[36] The intermediary system, with its preference for middle and lower middle class NF/LF clients, then, may be precisely what is needed to fill a gap in the system for the distribution of legal services.

Though some might believe that lawyers' NF/LF services should be devoted to the needs of the poor, the black and the other disadvantaged, it is not realistic to expect it as long as the intermediary system operates. To expect the private bar to contribute greatly in the short run to fulfilling the needs of the disadvantaged is to call, it would seem, for a wholesale change in the organization of the legal profession as a social system.

In the long run, of course, it may be that intermediary systems will direct more of the seriously disadvantaged to lawyers. As some of the disadvantaged—Blacks, Puerto Ricans, American Indians—rise into the middle class they may become intermediaries who can link the disadvantaged to lawyers. Furthermore, the intermediary networks of the growing number of minority group attorneys may include other members of minority groups who may, in turn, be in a position to direct

36. See, on the failure to serve the middle class and lower middle class, Schwartz (1965:287-90). See also Cappelletti (1972); Lefkowitz (1972); Christensen (1970); Christensen (1965).

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potential NF/LF minority clients to attorneys who can help them.

Apart from a significant change in the racial or class make-up of the legal profession the only event which might be likely to upset the intermediary system and, hence, vary the kinds of NF/LF clients which come to attorneys, is the implementation of programs such as legal insurance or judicare. It is overly simplistic to believe that lack of money keeps droves of potential clients away from attorneys. Potential clients are also kept away because they may not know a lawyer to whom they can confidently turn. The intermediary system serves to help solve this problem and bridge one gap between lawyer and client. Such programs still make it necessary that an individual with a problem know an attorney to whom to go. And intermediary systems will still be important to attorneys because such systems will provide a crucial link between lawyer and client. Indeed, one effect of an insured or government subsidized legal service program for the middle and lower middle classes might be that attorneys would be paid by what were once NF/LF clients for work which such attorneys currently do without charge.

APPENDIX

To generate data about NF/LF practice, 154 attorneys were interviewed. The Attorneys questioned all practiced in Erie County, New York. As a first step in choosing which attorneys to interview, a list of all attorneys in Erie County was drawn up. The list was compiled from four sources; the telephone directory,[37] a directory, published by the Erie County Clerk, of attorneys of the Eighth Judicial District,[38] the Martindale-Hubbell Directory,[39] and the membership roster of the Erie County Bar Association.[40] Of the approximately 2700 attorneys on the combined list, a random sample of 300 was drawn.[41] Of

37. One telephone directory was used throughout Erie County and the telephone company offered attorneys one free listing for each separate business phone installed. The telephone directory, therefore, ought to have included a relatively complete list of Erie County attorneys. The listings were dated, however, since the directory was published only once per year.
38. The County Clerk's list was composed of the names of attorneys who requested that they be included.
39. Martindale-Hubbell (1972). Its principal source of information was a questionnaire completed by attorneys. The directory listings were found to include many attorneys who had retired or left the area.
40. The Association was a voluntary organization and, therefore, not all attorneys in the county were members.
41. Every twenty-fifth name was drawn from an alphabetical list until 300 names were generated.

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these, only 200 were found to be full time private practitioners.[42] Of the full time practitioners, one hundred fifty four were interviewed.

Some of those not interviewed refused outright, others kept on putting off the date of the interview, a few said they were too busy, and some missed appointments and could not be rescheduled. It was possible that those who refused to be interviewed, who put off the interview date, or who said they were too busy, were significantly different from those actually interviewed and that, because of having failed to interview them, the results of this study were biased. However, though there was only fragmentary data about those not interviewed, there was no compelling reason to believe that such a bias actually existed. The following characteristics of attorneys were examined and no significant differences were found between those interviewed and those not interviewed; age, law school attended, number of years in practice, subject matter specializations (if any), size of firm with which the individual practiced, and location of firm (city vs. suburban).

The interviews, conducted in some cases by students and in some cases by professional interviewers, ranged in length from thirty minutes to two hours. All questions were open-ended and many—but not all—interviews were taped so that the full flavor of the remarks would not be lost. After some initial analysis of the interview results many of the respondents were reinterviewed both to clarify vague points and to pursue additional questions.

42. Of the others some had moved away, some had died, and some had retired. Most of the missing 100 had simply given up the practice of law for something else: selling real estate or insurance, taking up full-time public office, and a variety of other careers. This, in itself, was an interesting piece of data. Johnstone and Hopson (1967:16-17) noted that 10 to 15 percent of all attorneys who had been admitted to the bar (as of 1963) were retired or engaged in some non-law occupation. The data collected here suggested that the figure was considerably higher than 10 to 15 percent; approximately thirty percent of the attorneys were found not to be practicing. The two sets of data were not strictly comparable, however. The Erie County data, unlike the Johnstone-Hopson figures, excluded attorneys who were practicing as in house counsel or with the government. There might be reasons, in addition, for thinking that special conditions prevailed in Erie County which explained the high proportion of attorneys who did not practice. Erie County is an older county, heavily industrialized, and it has been suffering from a relatively slow economic growth rate for a number of years. Economic factors might have pushed large numbers of Erie County attorneys into other businesses or into early retirement. American Bar Foundation figures (1972:59) showed that Buffalo, which was the single largest city in Erie County, had, between 1960 and 1970, the fourth smallest percentage increase in attorneys of the thirty U.S. cities with populations between 250,000 and 500,000. Buffalo was also the fourth greatest percentage loser of population of the cities in that group.

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If the sample size was large enough and if the lawyers who refused to be interviewed were not significantly different from those who were interviewed, then the findings reported ought to accurately reflect conditions throughout Erie County. But to what extent can findings valid for Erie County be assumed to be valid throughout the United States? To what extent is Erie County representative of the United States?

Erie County, population 1,100,000, is heavily urbanized, though it does have some relatively low density areas. It is made up of the city of Buffalo, two other cities, and twenty-five suburban towns. The economy of the area is based in heavy industry—often owned by corporations headquartered elsewhere. It is a rail center of some considerable importance and a Great Lakes port (U.S. Bureau of the Census, 1970: Table P-3; Buffalo Area Chamber of Commerce, 1971: 2-3). The ethnic makeup of Buffalo and a few nearby industrial towns and suburbs is heavily middle and southern European—Polish and Italian especially. There is also a large central city Black population. Those living in suburban and rural areas are predominantly native born of native parentage (U.S. Bureau of the Census, 1970: Tables 34-25, 34-26, P-2, P-20).

In sum, Buffalo and its environs are probably not significantly different from Pittsburgh, Cleveland or Milwaukee and their environs, though it might differ from each in one way or another. But conditions found in this study of Erie County could not be assumed, without qualification, to exist throughout the United States. Significantly different conditions might prevail in rural areas, in very large cities, or in counties made up of small towns. There might also be regional differences between the North and North Central states and the West and South.

The study was consciously limited in scope to a study of private practitioners. Another question, then, is to what degree the NF/LF practice of private practitioners differs from that of other attorneys. Over 70% of all attorneys in the United States were private practitioners. The remainder were employed in private industry (10%), in educational institutions (1%), in the judiciary (3%), in either elective or appointive government service (11%), or were retired or inactive (5%).[43]

43. American Bar Foundation (1972:10-13). In the city of Buffalo, the only part of Erie County for which comparable data exists, the figures were: private practice (84%), private industry (5%), educational institutions (2%), judiciary (3%), elective or appointive government service (6%), retired or inactive (2%). *Id,* 68-69, 74-75. (The figures added up to more than 100% since all percentages were rounded to the nearest 1%). It should not be assumed that because City of Buffalo data varied from the national figures that Erie

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A study of private practitioners may not, however, have misstated the situation in relation to the distribution of all NF/LF services. After all, members of the judiciary were unlikely to be engaged in law practice. Lawyers in educational institutions were much more likely to be engaged in providing NF/LF services, but since they represented only a small percentage of all attorneys it is unlikely that their efforts would change overall patterns by very much.

In-house counsel might provide a significant volume of NF/LF legal services but it was thought unlikely. The primary allegiance of in-house counsel is typically to an institution, and their time and efforts are taken up in service to that institution. In-house counsel often became general advisors and managers rather than full-time attorneys. Even if in-house counsel were full-time attorneys they were likely to be practicing a kind of law that was not in demand by individuals; in-house counsel worried about state regulation of the sale of securities, negotiations with labor unions and so forth, not about divorce and landlord-tenant problems. Furthermore, lawyers who were trying to collect debts of the finance company would not be asked for help by those whom they were pursuing. And, because of temperament or training, lawyers for the finance company might be unwilling or unable to give help, even if asked and even if conflicts of interest did not trouble them.[44] To some extent, however, such counsel probably offer NF/LF services to their fellow employees or friends but such persons are unlikely to differ from the typical NF/LF client.

Finally, as with in-house counsel, lawyers who were full time employees of governments were also unlikely to provide much in the way of NF/LF legal services, and for many of the same reasons which dissuaded in-house counsel; the primary career interests of such government attorneys are typically intra-organizational; they are as likely to be thought of as bureaucrats as they are to be thought of as lawyers; and there are no career benefits to government attorneys for taking NF/LF cases.[45]

County figures also, necessarily, varied from the national data. Buffalo was the only large city in Erie County and large cities might be atypical in the percentage of attorneys which they have in various categories of practice. Note, also, that the American Bar Foundation data was generated by Martindale-Hubbell. *Id.* at 1. Martindale-Hubbell was found to contain some errors.

44. On the in-house counsel, see, Johnstone and Hopson (1967:27, 199-314, and notes at 202-210). See also Donnell (1970); Baumes (1964); Maddock (1952).

45. See, on government lawyers, Spector (1969); Stende (1959); Nonet (1956).

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