Oral History of STEPHEN J. POLLAK
Sixth Interview-April 11, 2003

This interview is being conducted on behalf of the Oral History Project of the Historical Society of the District of Columbia Circuit. The interviewee is Stephen J. Pollak, and the interviewer is Katia Garrett. The interview took place at the Shea & Gardner law firm at 1800 Massachusetts Avenue, in the District of Columbia on Friday, April 11, 2003, at 10:00 a.m. This is the sixth interview.

Ms. Garrett: Steve, we were chatting just before I turned the tape on about your reviewing of the transcript of the last interview. Was there anything you wanted to add?

Mr. Pollak: Since we last met, I had a telephone call from Charlie Ferris. He was a main aide to Majority Leader Mike Mansfield and played a significant role in the Senate's crafting of the Mansfield-Dirksen compromise which became the Voting Rights Act of 1965. I participated with Charlie and others in that effort. Charlie, who was calling to obtain some facts about those events now almost 40 years ago for a speech he was giving, recounted a marvelous story which I would like to record for history.

He said that after the Selma-Montgomery march and President Johnson's pressure on the Congress to pass a statute to assure that Blacks could register and vote without discrimination, Majority Leader Mansfield learned that Attorney General Katzenbach had been up to the Senate and met with the Republican Minority Leader, Senator Everett Dirksen. Mansfield understood that Katzenbach had reviewed with Dirksen the terms of the bill that President Johnson wanted the Senate to pass. Mansfield was, according to Charlie and the press at the time, a man of few words and a man of an iron will, and he was obviously miffed that the

Democratic Attorney General had not met with him. He instructed Charlie to prepare a workable piece of voting rights legislation one page long that would be his bill, Senator Mansfield's bill. Charlie took him seriously and left the meeting without any idea of what he would do. It seemed to him impossible that he could craft on one page an entire voting rights act, when the current bill or the bill that had passed the House was 62 pages. Mansfield instructed him to have nothing to do with the Department of Justice.

Charlie recounted that Burke Marshall, who had been at Justice as head of the Civil Rights Division since 1961, had left the Department and was waiting at Covington & Burling before joining IBM as its chief lawyer. He called Burke and got together with Burke and Harold Greene and they worked up a bill that they typed single spaced and crammed as much on a page as they could and also changed or eliminated provisions. He said there were a lot of findings recounted in the draft and they got rid of those. He then took that bill to Mansfield and he also encouraged Katzenbach to come up and make his amends with Mansfield. As Charlie told it, the confluence of a second Katzenbach visit and the draft that Marshall, Greene and Ferris had worked on broke that log jam. I had not known any of that history.

Ms. Garrett: You were involved in the drafting of the Voting Rights Act and sort of the shepherding of it through the legislative process, is that right?

Mr. Pollak: My involvement came following the Selma-Montgomery march, which was at the end of March in 1965. When I returned to Washington, perhaps in early April,

the Attorney General asked me to represent the Administration in working with the Senate on getting the voting rights bill to the floor. It was in that role that I participated in the development of the Voting Rights Act. I participated in the meetings with the staff of Senator Dirksen. There were three led by Neil Kennedy and including Bernie Waters and Clyde Flynn. Those were the Dirksen people and there were also Bill Welch of Senator Hart's office, Charlie Ferris representing Senator Mansfield and myself. Sometimes Senator Philip A. Hart sat in on our meetings. We went through the draft bill, S. 1564, reported favorably by 12 members of the Senate Committee on the Judiciary. Senators Eastland of Mississippi, McClellan of Arkansas, and Ervin of North Carolina adopted statements of two witnesses who labeled the bill unnecessary and invalid. As I recounted in the oral history I did in 1969, the Dirksen staffers called upon the small drafting group to review every section and subsection of the bill, one by one. There came to be significant changes in the order of the sections. So, many changes in the order of the provisions and some changes in substance were hammered out, and I played the role of scribe. Again, as I have recounted elsewhere, I had scissors and I had scotch tape. It was long before computers. And I had the draft bill we began with. As the group negotiated through the bill, I would scissors out the old provisions. I would scotch tape them onto yellow paper in the order that they were being considered, give them the new section and subsection numbers, give them the new editings right on the yellow pad. As provisions from the old bill were not incorporated in the new bill, I left them in a

pile underneath my chair. Then at the end of the negotiation session when we had gone through a particular portion of the bill, I would pick up the leavings from the floor and ask the assembled group whether a provision, which I would read out loud, was intentionally meant to be omitted or whether it needed to be included in order to make the procedures have cogency. Very often, all in the room agreed that an omitted provision should be incorporated and we would either find the place to incorporate it or leave it for our next meeting to determine how to incorporate it. So, in the end, among the things that I did in scissoring up these provisions was to assure that anything we didn't include was intentionally omitted. I came to believe that the Dirksen representatives were committed to having an effective Voting Rights Act; that they really didn't have a position that it should be significantly different in substance from the bill approved by the 12 Senators on the Senate Judiciary Committee, except in some more limited ways, one of which I can recount. But they did want the bill to be changed in its appearance because it was important as a political matter for the Republican Party to be able to say it had played a major role in the crafting of the Voting Rights Act. It was in that series of meetings that the change in appearance was accomplished.

Now, a substantive change that I recall was made and that was a major matter of discussion at the very highest levels -- certainly Attorney General Katzenbach, certainly Senator Mansfield, certainly Senator Dirksen – involved the poll tax. S. 1564 and the House bill (H.R. 6400) provided that no state shall

deny any person the right to register or vote because of a failure to pay a poll tax. Senator Dirksen's people opposed that and the compromise was that the bill would direct the Attorney General immediately to bring lawsuits to have the poll tax struck down as violative of the Constitution wherever there was a poll tax. There were poll taxes required by state law in Virginia, Mississippi, Texas and Alabama. The bill, with that revised provision and other changes agreed to in the working group, was then introduced by Senators Mansfield and Dirksen, adopted by the Senate, concurred in by the House, and signed by Johnson on August 6, 1965. On the day after it was signed, the Justice Department was ready and filed suit in Mississippi seeking a declaration that the poll tax was invalid under the Constitution and an order enjoining its enforcement. Three days later, we filed similar suits in Alabama, Virginia and Texas. There were other substantive changes in the voting rights bill worked out by the group.

Ms. Garrett: And one of those cases made it up to the Supreme Court, didn't it?

Mr. Pollak: In point of fact, that is not so. The cases that were brought by the Department of Justice were presented before three-judge federal district courts. The suit against Texas was styled *United States v. State of Texas*. I presented that case and tried it. It was decided February 9, 1966, by a three-judge court in an opinion by Circuit Judge Homer Thornberry. The Court held that requirement of a poll tax as a precondition to voting was an unjustified restriction on one of the most basic rights guaranteed by the Due Process Clause of the Fourteenth Amendment. The Court placed significant reliance on the finding of Congress stated in

Section 10(a) of the Voting Rights Act of 1965, and Congress's declaration, based on those findings that the constitutional right of citizens to vote is denied by the requirement of payment of a poll tax. The opinion is reported at 252 F. Supp. 234.

I was also responsible for presenting the Virginia and Alabama cases. Someone else in the Civil Rights Division presented the Mississippi case. I do not believe the Alabama, Virginia and Mississippi cases were ruled on. Before any of those cases could be heard by the Supreme Court, a case brought separately by the American Civil Liberties Union called *Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966), was decided by the Supreme Court. The Court held the poll tax unconstitutional. That then was the final denouement of the poll tax. The *Harper* decision reached an opposite conclusion from an earlier Supreme Court decision, *Breedlove v. Settles* [302 U.S. 277 (1937)], which upheld the poll tax. I put major effort into the Texas case spending a large amount of time as First Assistant in the Division in Texas developing the proof for that case.

Ms. Garrett: How did you develop the proof for that case? Are there any interesting stories that emerged from either the litigation of that or the Virginia or Alabama cases?

Mr. Pollak: There were a number of Civil Rights Division attorneys who worked with me on these poll tax cases. Alexander Ross, Gerald Jones, David Norman, and others helped on the Texas case. I retained Dagmar Hamilton as a special Justice employee. She was an attorney whose husband had been a Washington attorney

and had relocated to Austin, Texas, where he was a professor of law at the University of Texas Law School. Dagmar helped find witnesses in the state of Texas who could testify to the burdens imposed by the poll tax on the poor and Blacks. We did many things that I thought were creative. There was no legislative history kept at the time the Texas Legislature adopted the poll tax, so we couldn't go to the legislative history to show that the poll tax was adopted with a discriminatory intent to preclude voting by Blacks, but we believed that was the case. We determined to present to the Court as proof of the discriminatory intent contemporaneous newspaper articles that quoted members of the Legislature. We researched back in the archives of the post-Civil War period when the poll tax was adopted by Texas and found news articles which, sure enough, reflected the anti-Black intent of the members of the Legislature. We got all of them sealed with big red wax seals attesting their authenticity so that we could put them before the Court. We did and the Court accepted them as proof at the trial.

We made an effort to present to the Court facts respecting poll tax payments and racial information with respect to most of Texas's 256 counties. That was a tremendous task. It was our intention to present proof that the poll tax denied equal protection of the laws to the Blacks. Our theory was that because of state supported discrimination against Blacks – segregation and unequal funding of education and other public facilities and other state-supported discrimination – Blacks had lower incomes than whites and this condition made it more difficult

for Blacks as a class than whites as a class to pay the poll tax and qualify to register and vote. The state's poll tax was a small dollar amount, $1.75. We identified a woman in the Social Security Administration named Mollie Orshansky who had developed the facts leading to the identification of the "poverty line" for family income. I prepared Mollie to give a deposition in each of the four cases. She testified to the barrier the poll tax imposed upon persons of low income. The development of those lines of proof was interesting and challenging.

Ms. Garrett: The amount of $1 or $2 or $4.50 in today's terms doesn't sound like much money, but at the time, the economic scale was somewhat different?

Mr. Pollak: Right. The question for any individual or minority individual was, "Do you want to spend that money to cast a vote or for food or housing?"

There is a story that can be found in the deposition of Ms. Orshansky in the Alabama case. The reason there were depositions was that these constitutional cases were heard by three-judge courts, generally made up of two appellate judges and one district court judge. The judges wanted the trial to be presented to them on paper with depositions and documents and briefs and proposed findings of fact. In the Alabama case which was defended by Governor Wallace and the state, we, the Department of Justice, noticed the deposition of Ms. Orshansky to take place in the United States Courthouse in Montgomery, Alabama. We ascertained that Judge Frank M. Johnson, Jr., who was the managing member of the three-judge court, along with appellate Judges Rives and

Gewin, would be in the courthouse so that if there were disputes, we could take them to the Judge. In any event, there were several lawyers or at least two representing the state. One of them, named Kohn, represented Governor Wallace. On cross-examination of Ms. Orshansky, this exchange occurred. First, Ms. Orshansky was an unmarried woman of some years. She had gray, somewhat thinning hair. In the course of his cross examination, Mr. Kohn asked her whether she had ever dated, as he said, a "Nigra." Just what his purpose was, I'm not sure, but he may have been hoping to show that she either was prejudiced or considered that Negroes were not sufficiently intelligent to have dates with. She answered his question by saying, "No." He then demanded, "And for what reason?" Her answer, spoken softly, was, "I was never asked."

Ms. Garrett: That's brilliant.

Mr. Pollak: There were other lines of proof in these cases. We went around Texas hunting for witnesses who could say, particularly minority witnesses, who could say that the poll tax was a burden to their voting. We would not have embarked on the Mollie Orshansky line of proof if we had found what we were looking for in witnesses living in the State.

Waggoner Carr was the Attorney General of the state of Texas and he presented the state's case at the trial. I and my team got all of this extensive proof ready to submit to the Court. The state wasn't objecting to our proof; at least I don't recall that they tried to keep it out, except for the newspaper clippings reporting the debates when the poll tax was adopted. The trial was held in District

Judge Adrian Spears' courtroom in Austin. I remember going into the men's room alone just before the Court convened and thinking to myself, "My, am I really doing this? Is all of this really going to happen without some terrible outcome?" Because I thought the proof was so extensive, I wondered how it would all go in. My recollection is that it went in pretty readily. I draw a blank on what Texas put in. The trial consumed half of that day. Then, we retired to prepare our briefs. I have the briefs at home. We wrote them on long paper. Our brief was more than 100 pages and we had a compendia of exhibits and findings that filled five or six additional lengthy documents of 50 to 100 pages each. My recollection is that the Court promptly rendered a decision. The Voting Rights Act became law on August 6, 1965. The District Court decision came down in February 1966. We filed the case, tried it, briefed it, and the Court decided it unanimously in less than seven months.

While the Texas Court recognized the facts we presented and ruled against the poll tax, it did not accept some of the significant legal conclusions we drew from the facts. It found that the primary purpose of the 1902 amendment of the Texas Constitution requiring payment of a poll tax was the desire to disenfranchise Negroes and poor whites but held that this invidious purpose more than 50 years ago was not alone sufficient for declaring the tax unconstitutional. It recognized that the dual structure of Society in post-Civil War Texas resulted in the denial of equal opportunities to Blacks. The Court held that this evidence did not establish that the poll tax discriminates against Blacks in violation of the

Fifteenth Amendment or the Equal Protection Clause. It said that in the last 20 years the record showed no overt use of the poll tax to deprive Blacks of the right to vote and no instances of outright discrimination. Fortunately, noting that the right to vote is one of the fundamental personal rights protected by the Due Process Clause, the Court reviewed each of the suggested justifications for conditioning that right on payment of a poll tax and found none sufficiently compelling to sustain the tax. In reaching this conclusion, the Court noted that Texas had abandoned the most reasonable means for collecting the tax and so rejected funding of the government as a justification. It concluded that the tax infringes on the concept of liberty protected by the Due Process Clause and constituted an invalid charge on the exercise of "one or our most precious rights – the right to vote."

We went through the same drill in Alabama and Virginia. I remember arguing before the three-judge panel in Alabama, and recall my father and my secretary being there. Having a date to argue the Virginia case the following day in Richmond, I chartered a plane to take us from Montgomery to Richmond in time to present the next case. That's the only time I ever did that.

Ms. Garrett: So your father had come in from Chicago?

Mr. Pollak: Right.

Ms. Garrett: How wonderful.

Mr. Pollak: Yes.

Ms. Garrett: Was this the only argument that he saw of yours?

Mr. Pollak: I think that he may have come down when I had Supreme Court arguments in the SG's Office, or one of them. I'm sure he did. But this was the only Civil Rights Division case that he attended. And he must have attended my arguments in Montgomery, Alabama and in Richmond, in both of those cases. That's a nice memory for me.

Ms. Garrett: He must have been very proud.

Mr. Pollak: Well, I'm sure he was. That is what fathers do.

Ms. Garrett: True enough. Coming back to Washington on the Voting Rights Act of '65, what interaction if any did you have with the broader civil rights community surrounding the passage of the Act and its implementation?

Mr. Pollak: My recollection is pretty dim. I had interactions with Clarence Mitchell who was the NAACP's representative in Washington and was then or soon thereafter referred to as the 101st Senator. Clarence was a Baltimore person, came from a significant and well-respected Baltimore family. I had great regard for him as a person and for his integrity, for his knowledge and for the constructive contribution he made to the development of the civil rights legislation. His lawyer on these matters was Joe Rauh and I may have had some contact with the two of them respecting the Voting Rights Act. But I don't recall that I had contact with leaders of other civil rights organizations. I think those contacts fell more to the Attorney General or to John Doar who was the Assistant Attorney General in charge of the Division. I recall myself working more away from public contacts. I recall having contacts with some of the Senators, but not a large

number. But certainly Senator Hart of Michigan. Some with Senator Mansfield, the Majority Leader.

Ms. Garrett: You came to the Civil Rights Division after leaving OEO in March of '65. Is it correct that the Administration's civil rights activities were being consolidated in the Department of Justice around that time?

Mr. Pollak: There was a committee under the chairmanship of Vice President Humphrey that was concerned with civil rights. Its staff leader was David Filvaroff. Wiley Branton, who had been a significant civil rights leader in Arkansas and had played a significant role in civil rights advances, had come to Washington and was working with that committee. In addition, there was the Civil Rights Commission, which was a statutory body created by the 1957 Civil Rights Act. It was a fact-finding body. Reverend Theodore Hesburgh, President of Notre Dame, was a member of the Commission, John A. Hannah, President of Michigan State University, was chairman, and it was a player. Those were the three governmental agencies, using the term loosely, that were concerned generally with civil rights. It was the view of the Attorney General, John Doar, and myself that the Civil Rights Division, because of its litigation experience in the South, was in the best position to develop for the Administration and for the President, the facts and to recommend policy positions and legislative positions on civil rights. We thought -- and here I refer to myself and the others I've named -- that the Humphrey Committee was less well-informed, not being out in the field --

although not less well motivated -- and in addition was more open to the pressures of the civil rights community.

So, to the extent the Attorney General and the Division had any say in the matter, we were desirous that the President look to the Civil Rights Division for his counsel respecting civil rights positions. And that is the way it developed. Ultimately, Wiley Branton became a Special Assistant to the Attorney General, and the Humphrey committee withered away. The Civil Rights Commission continued to hold hearings, developing significant facts on civil rights issues and those factual records became the text for recommendations of needed legislation and for pressuring federal departments and agencies to act more positively on civil rights.

It was the subject of much debate during the ‘60s and often criticism of the Kennedy and Johnson Administrations that the government, particularly the Department of Justice, was not sufficiently responsive to the concerns of the civil rights community. The view of those of us in the Division was that the job of the civil rights community was to press for as far-reaching action by the government as it could achieve and the job of the government was to make judgments in the interests of the good of the nation. To do that, we had to assess each issue on the facts and the merits. We respected the members of the civil rights community but we were not ready to act only at their bidding. I think that’s the right posture for the government to take in that situation. My view is that the Kennedy and

Johnson Administrations were committed to achieving objectives that were key to ending discrimination on account of race.

Later, in 1968 when I was Assistant Attorney General and Ramsey Clark was Attorney General, the women's movement began to contend for an adjustment in commitment of the resources of the Department of Justice to apply more resources to the elimination of discrimination on account of gender. That collided with our priorities on elimination of discrimination on account of race. I recall a meeting that the Attorney General and I had with all of the leaders of the women's movement in the Attorney General's large office. My recollection is that the leaders of all of the women's organizations were there. I recall Congresswoman Bella Abzug with a big hat, which was her trademark, Jane Hart, Senator Hart's wife, Dorothy Height, President of the National Council of Negro Women, Betty Friedan and perhaps eight others were there.

Ms. Garrett: Gloria Steinem.

Mr. Pollak: Gloria Steinem was there. They were all there.

Ms. Garrett: How did that meeting go?

Mr. Pollak: I don't think any transcript was taken. One of the women leaders said to Attorney General Clark, "Mr. Attorney General, we believe discrimination against women" – this was in 1968, soon after Dr. King had been slain. It was after the riots in the urban areas, unrest among Blacks. The leader of the group said, "Mr. Attorney General, we believe the number one problem in civil rights is discrimination on account of gender." I think it's fair to say that the Attorney General and I were

not of that view. We believed that the number one problem was discrimination on account of race. But it was a consciousness-raising meeting for me and an important one. At that time, the Civil Rights Division had probably between 80 and 90 attorneys, so we didn't have a lot of person-power to address civil rights problems across the United States. Race and gender discrimination being, in those days, the major areas as to which the Department had statutory jurisdiction.

Ms. Garrett: Interesting. And that was after you became the AAG?

Mr. Pollak: Right. By then I had become the Assistant Attorney General.

Ms. Garrett: Let's back up for a second to your first term there when John Doar was the Assistant Attorney General for Civil Rights. What was it like working for John Doar? You're smiling.

Mr. Pollak: Yes, well, John was a revered leader in the Division. He was in total control of the Division. Nobody went anywhere or did anything without John's approval. He had attorneys out in the South -- all over the South -- and there was a great deal of travel out of town by Civil Rights Division attorneys. The focus of the division in 1965 and '66 was on Mississippi, Louisiana, Alabama, with lesser focus on the other states of the Old South and still lesser focus on areas outside the South, probably very little focus. When I joined the Division, the Division had under 50 attorneys, so there wasn't much margin for law enforcement broadly across too many states. John went south himself all the time. He was often out of town and it fell to me to manage the Division from Washington. He managed it either through me and others or directly by telephone with care and attention

wherever he was, even though those were days before cell phones. The most difficult cases, criminal and civil, he supervised and prepared and tried them as Assistant Attorney General. I thought he was an inspiring leader. Everyone else who was in the division and the Department thought the same thing, at least as far as I knew then or now.

One of his great achievements was not a particular trial, but the prompt and virtually flawless implementation of the Voting Rights Act. The Voting Rights Act brought about a sea change in the governing of the electoral processes, of registration and voting. Setting and implementing the qualifications and procedures for registration and voting had always been the prerogative of the states. The Voting Rights Act gave the authority to the United States in the States and counties covered by the statute. The statute set qualifications for registration and voting. It provided that the Attorney General could send in what were called "examiners" to register persons in states and counties where less than 50% of the voting age population had voted in the last presidential election (reflecting that state and local authorities had been discriminating); that the Attorney General or the U.S. District Court for the District of Columbia had to approve any changes in practices or procedures for voting before they could go into effect. All literacy tests or other tests for registration were proscribed in those states and counties. All of those new statutory provisions had to be communicated to the county officials who managed registration and voting in all the geographical areas covered by the statute. Then, if they wouldn't comply with the new law, action

had to be taken to put in examiners or, when elections came, actions had to be taken to have "observers," poll watchers, on the scene. Where votes were denied, lawsuits had to be brought so that the rights of minorities were vindicated. On the day or the day after the Voting Rights Act was signed, Attorney General Katzenbach sent an explanatory letter, the division had prepared, to the responsible official in every county covered by the new statute. Each probate judge in Alabama, the local authority responsible for voting and registration in every covered county, got one. Over 500 such letters were sent, maybe more. They told the local officials what the law provided, told them if they obeyed the law they would not have any federal personnel come in to their jurisdiction, but if they didn't, they would immediately have federal personnel there. The examiners and observers were personnel of the Civil Service Commission. In advance of the statute becoming law, under John's direction, we worked with John Macy who was the head of the Civil Service Commission. We worked with Wilson Matthews of the Commission to set up all of the procedures for putting in examiners, what they would do, and what the rules would be. We had all of that ready to go on the day the Voting Rights Act was signed. The right findings were written up and Attorney General Katzenbach certified nine counties for examiners. In the week that followed, examiners were put into perhaps 10 to 15 additional counties. But it was always selective, based upon the facts. Justification memoranda were written to the Attorney General to establish that each examiner appointment recommended by the Division was warranted.

One of John's fundamental principles was that the federal government would act to send in federal examiners only where the state and local authorities were unwilling to apply the law fairly and without discrimination. His theory was that the federal government would oust the local authorities of their responsibilities only where they were unwilling to comply with the law because in the long run, his view was, the local authorities would have to be relied on to do the job. Where local authorities were willing to obey the law, examiners were not assigned. I think that was a major success of the Voting Rights Act. There was no federal occupation of these responsibilities except where the state pressed forward with discrimination. Three months after the statute passed, the Civil Rights Commission published a study – "The Voting Rights Act . . . the First Months" – that, I recall, criticized Attorney General Katzenbach for not assigning examiners more broadly across the South. I always thought the report was mistaken. The results of the policy we followed in enforcing the Voting Rights Act proved not only the success of the legislation, but the success of our policy of selective assignments. When the Voting Rights Act was passed, we had a notebook, indeed, I've got a copy in my library, that collected the facts on registration of Blacks and whites in each of the covered areas. In Mississippi, six percent of the Blacks were registered in 1965. We kept the statistics up to date every week or so and within a short period of time, Mississippi was up over 50 percent Black registration. Local authorities were doing the registration in the large majority of counties. I recall it was John's view that most local authorities

were committed to applying the law: If you told them what the law was, they would comply with it once the pressures of state government to discriminate were removed.

John was inspiring in all respects and an enjoyable colleague to work with. Much as he had a hand in everything that was going on, he gave his colleagues full authority to do their work. His standards were very high and everyone tried to meet them.

Ms. Garrett: You mentioned that an award was created carrying his name.

Mr. Pollak: Yes.

Ms. Garrett: Tell me a little bit about that.

Mr. Pollak: During the Clinton years, on the 35th or 40th anniversary of the Division, there was a ceremony announcing that the Attorney General had determined that the highest award for performance by a division attorney would be named the John Doar Award. That was universally acclaimed. I did not serve in the Civil Rights Division while it was headed by Burke Marshall, but in acclaiming John's performance as Assistant Attorney General, I would add that John thought that the leadership of Burke Marshall through the period 1961-'65 was outstanding. He revered Burke and looked to Burke during his tenure as Assistant Attorney General for advice and counsel. I, too, hold Burke Marshall's leadership of the government on civil rights in the highest regard. I consider that his position on the restraint that the federal government should show in approaching civil rights law enforcement, founded on fundamental principles of federalism, to have been

deeply influential throughout the 1960s and pivotal to the restoration of order in the desegregating South. I agreed with his views, which were subject to a lot of criticism. During the period when he was Assistant Attorney General, the civil rights organizations were having sit-ins and other significant activities in the South which led to attacks on individuals and civil rights organizations. Many people thought that the federal government should have taken over the police function in communities where these attacks were occurring. It was the view of Burke and John Doar in those days that the federal government could not and should not do so. I think that was the correct view, except where compliance with the orders of a federal court was at issue as in the case of the admission of James Meredith to the University of Mississippi or the Selma-Montgomery march where the Alabama guard was federalized. There are occasions in law enforcement where supervening federal authority is proper. But in general, and this has interesting parallels to problems we are now facing in Iraq, if we are going to have a civil society that is able to navigate on its own, Uncle Sam can't step in on the way and take it all over.

Ms. Garrett: We've seen problems with that in Afghanistan recently. Hopefully we are not due for a repeat of that in Iraq. These interviews are taking place against a fairly turbulent global backdrop but they are about a much more turbulent domestic time, I think it's fair to say.

Mr. Pollak: John Doar was also a major player in advising the President and Department of Defense with respect to urban riots and the handling of those situations.

Ms. Garrett: Did you have any involvement with the Administration's role in the developing policy or determining a course of action with respect to any of these riots during your first stint in the Civil Rights Division?

Mr. Pollak: The riots in the Watts section of Los Angeles occurred, I recall, in that 1965-66 period. I did not have a role in Watts. I don't recall a particular role with respect to urban unrest. I had a role when I went to the White House as the President's Advisor on the National Capital Area. I was there from February 1967 through probably October of 1967. The summer of 1967 was the so-called "hot summer," meaning that there were concerns about unrest in Washington and elsewhere. The President charged me with responsibility for keeping Washington cool in the summer and having programs for young people. I worked with Deputy Secretary Vance and General Counsel Paul Warnke of the Department of Defense and we got buses and programs for young people. I hired Bruce Terris, who had been in the SG's office with me and was active in city affairs, to play a major role in working to keep the city cool. I carried those learnings with me back to the Department when we faced the riots following the slaying of Dr. King in April 1968.

Ms. Garrett: I'd like to ask you about your time as the Advisor to the President for National Capital Affairs, but I want to make sure that you have finished up with anything you wanted to highlight for your first stint in the Civil Rights Division from 1965 to early 1967. Was there anything you wanted to add about that time?

Mr. Pollak: I was impressed with the caliber of the people working in the division, from John Doar down. I would record for history that John who joined the Division as First Assistant to Harold Tyler at the end of the Eisenhower Administration, had ties, of perhaps six years standing, with leaders in the division in whom he had great confidence, particularly D. Robert Owen who was John's right hand person and a leader in the division; David L. Norman, who was blind and was a major leader in the division and a major thinker; and St. John "Slim" Barrett, who was the Second Assistant when I joined the Division. John relied heavily on those three. He had great regard for Harold Greene who was head of the Appeals and Research Section. I don't think John ever felt as at home with Harold, not to say that he didn't have equal respect for him. The other three men were on the fact development side of law enforcement and Harold was on the law side, the legal argument side. John felt more at home with the facts. There were significant numbers of others who were outstanding and John played them all like the notes on an instrument. He knew where their strengths were and how to use them.

In the fall of 1966, President Johnson set up a cabinet level committee or task force to develop his human resources or human relations legislative program for the new Congress which would be seated in January 1967. Ramsey Clark, then Attorney General, was the head of it. Ramsey asked me to be the working head. Every cabinet secretary or agency that had a relationship to human relations named a working member. We reviewed all possible legislative initiatives that the President might propose. I devoted a lot of time and effort to that activity and

had some paralegal assistance. Primarily the committee work fell to me to do. I developed and Ramsey then reviewed and approved notebooks of recommendations. In the end I had a single lead notebook of recommendations in the field of housing, civil rights, education, and other human relations areas. I had underlying notebooks that had large amounts of materials for each recommendation that had come out of the departments. I mention this both because it was a major undertaking, but also it had a major effect on my life. It fell to me to present the materials to the President's Special Assistant for Domestic Policy, Joseph Califano, and the Counsel to the President, Harry McPherson. I did so, and my guess is that the work product was considered by them to be excellent. So when the President's Advisor for National Capital Affairs, Charlie Horsky, was ready to return to his law practice at Covington & Burling, Califano and McPherson settled on me to succeed him. They knew me because of that Task Force report.

Ms. Garrett: What was your reaction to being tapped for that position? Was it something that you were wanting to do?

Mr. Pollak: I endeavored not to do it, and consulted Ramsey who was close to the President and Barefoot Sanders who had been the Acting Deputy Attorney General under Ramsey, and then had gone to the White House to head up the congressional relations office. I asked them to try to get me out of that invitation to come to the White House. I wanted to keep doing what I was doing in civil rights. I recall Ramsey and Barefoot, who were perfectly ready to support me in what I wanted,

saying, “Well, if the President ends up asking you, you don’t have any choice.” So, ultimately that’s the way it worked out. I recall thinking that the District of Columbia job was too narrow a portfolio compared to what I was doing in the Civil Rights Division. Califano and McPherson, with whom I dealt – and I considered their views essentially the same – then agreed that the President would ask me to be his Advisor on the National Capital Area and also his Special Assistant responsible for relations with HUD. I knew something about housing. So, there came a day when I was asked to come over to the White House and the President met with me and said, “I want you to come take responsibility for the District of Columbia and you will also have responsibility for HUD.”

So, I moved to the White House. I had a rewarding time there. I wasn’t sorry, although I didn’t want to go. It is a fact though, that I never had any responsibility for HUD, so that was all either a fake or window dressing. Secretary Weaver related to the President through Califano and I’m sure he was damned if he was going to relate to the President through me. And I’m sure Califano didn’t want it either, so it never came to pass. I had plenty of responsibility for concerns of the National Capital Area. My most major responsibility was that the President had presented to the prior Congress a full home rule bill for the District of Columbia and Horsky had worked for its passage. It had failed to pass. My guess is that the President was ready for Horsky to go because the bill had failed. The President wasn’t one to accept failure of something he put his heart into. So, when I got there, the President,

with the advice of the Bureau of the Budget, was taking a different tack. That was to present to the Congress a reorganization plan, because it was constitutional then, under a statute that provided that a plan of reorganization would become law if neither House vetoed it. A one-house veto would bar the plan. The plan was to change the District of Columbia government from its then weak, three-commissioner form to an appointed mayor/commissioner and an appointed city council.

The President said to me, probably when he offered me the job, "I want you to work on that as a first priority matter. I want you to get the plan fully developed," because it was still somewhat nascent. "I want to know whether the Congress will accept it and if the Congress will accept it, I'll send it up and then I want you to support it and get it approved." I worked greatly on that, but on many other things as well. The major creator of the plan was an expert in public administration who was an Assistant Director of the Bureau of the Budget named Harold Seidman. Harold died within the last year at a very elderly age. He was brilliant about public administration issues and he and the Bureau of the Budget staff drafted an outstanding plan to reorganize the District Government. It was the President's feeling that if the government was reorganized to the form of a mayor and a city council who were appointed by the President, it would be very easy then to propose legislation to make these offices elective. Of course, the President, as he was so often on domestic matters and domestic legislative matters, was 100 percent correct. That's what happened.

I had a major legislative portfolio for the President in that Congress. Even though this was during the height of the agony of the Vietnamese War, the President was vitally interested in this reorganization and devoted himself to it. I remember one time that I met with him, I'm sure with his legislative liaisons, who were Barefoot Sanders and Mike Manitos, Henry Hall Wilson and Larry O'Brien, and a coterie of people that related to the House and the Senate for him. He said I think primarily to me, "I'm not going to send this plan to the Congress unless I know that it's going to be approved, so I want you to go up there and meet with every Congressman" -- maybe he also said every Senator, but I remember every Congressman – "and find out whether they'll support it." Well, that was kind of an impossible order since there were so many, 435. I made it my business to go and see all of the people who had any responsibilities related to the District of Columbia, appropriations people, District committee people and a broad range of people. The other legislative experience I had had before that was the Voting Rights Act. By that time the plan had been developed, I had prepared good talking papers. I found that Republicans and Democrats alike were willing to deal with the issue on the merits. I had a good product to sell and they bought it.

I remember one amusing event. I tried and tried and tried to see John McMillan, who was a senior congressman from Virginia, Chair of the House District Committee, and a power in the House. He never would see me. He wouldn't give me an audience. He never returned my calls.

Ms. Garrett: Why not? Do you know why that was?

Mr. Pollak: I think that he wasn't anxious to do anything that the President wanted and he wouldn't see me. It was clear why I wanted to see him. I wanted to talk to him about this plan. I don't know whether the plan had been set up by then, maybe it had been, but in any event, the plan was not sent to the District Committee because it was a reorganization plan. It was sent to the Government Operations Committee, and McMillan certainly didn't like that. Well, there developed a characteristically House seniority brouhaha because McMillan complained that the President had not talked to him, that he hadn't been communicated with. But I had all the records of my repeated efforts to see him and we spread those out and it just silenced him predictably. That was rewarding.

I dealt with a whole cast of characters that related to these District matters who were just almost out of "Guys and Dolls." Some were for, some against. In any event, when things moved along, the President invited all the interested people to the White House and talked to them about the plan. He then called to the White House all of the legislative liaisons of all the departments and said to them, "I want you to fan out with all of the people on the Hill and support this plan." It was a characteristic Johnson effort, amazing in light of all of the things that were on his plate. They did and it ultimately came to a vote in the House, and it passed. I remember John Erlenborn of Illinois, a Republican, was good on the bill and Frelinghuysen, a Republican of New Jersey, was good on the bill. Democrats, many Democrats were good. And it passed and we didn't even need to bring it to a vote in the Senate. With the House vote, it was accepted in the

Senate and by late summer I was involved in trying to identify people to be named to the City Council. I did that working with John Macy, head of the Civil Service Commission. I give the President credit for identifying and selecting Walter Washington as the Mayor. I would like to say I pushed him to name a minority to be Mayor of the District of Columbia, which had a majority minority population, but it was his doing, not mine. I was not involved in proposing candidates for Mayor. I searched all over the District, which I knew pretty well, for candidates for the City Council. I would give the President memoranda which would name seven or nine -- whatever number there were to be -- individuals as candidates, and would give thumb nail sketches as to their ties to the community and their characteristics, woman, minority, region of the city in which he or she lived, and other variables. Those memoranda, and of course, all of the materials, are in the Johnson Library. The President was merits oriented. He wanted a good city council.

There's a somewhat famous story about how John Hechinger came to be selected as the first chairperson of the City Council. The President was going to name Max Kampelman, who was very able and certainly deserving, but at about the moment that he wanted to have the name so he could make the announcement, there came some publicity that raised questions about Max's involvement with some machinery deal for India. I don't think it reflected adversely ultimately on him. He has had an illustrious career since. But at that moment, there was sort of a bubbling up of that story and the President determined, as he often did, that he

wasn't prepared to go with Max. But he wanted to name the people the following day. One of the names on the list was John Hechinger, head of the hardware store chain and long-time District resident and leader. Califano said to me that I should go get with Hechinger and ask him if he would accept the appointment. That was about 7:00 or 7:30 at night. If you work in the White House, there's no time of the day when you're not on call. I was at the office, so I tried to reach Hechinger and he was at the opera with his wife. At about the time the opera was getting out, I drove over to the Hechinger's house and met them when they returned from the opera. I said, "The President would like you to be the Chair of the City Council. Are you willing to do it if he asks you?" Hechinger and his wife considered it. I'm sure John has recounted this publicly. I can't recall whether they took it under advisement overnight or told me then, but at least by the next morning he said he would do it and the President announced the Mayor and the City Council that day. That was a fascinating experience.

What I had learned in this job was that the government of the District of Columbia was weak. I believed that it was meant to be weak so that the power of running the city could reside with the House District Committee where southern congressmen were dominant. There were many players in governance of the District, each of which had a slice of power. Because of that, the government was weak. There were the three Commissioners, one of whom was the general in charge of the Corps of Engineers of the U.S. Army, the so-called Engineer Commissioner, and two Commissioners appointed by the President. Then there

was the District Committee of the House, the District Committee of the Senate, the District Appropriations Subcommittee of the House, the District Appropriations Subcommittee of the Senate and then there was an Assistant in the White House. My feeling was that because of the many persons and entities that had power, the government was exceedingly weak. So when the reorganization plan was approved, I urged the President to put my job out of existence, to rely on the Mayor, and to try to aggrandize power in the Mayor and the City Council. The President either took my advice or made his own decision. In any event, he put my job out of existence and on the day that the White House was holding a reception in honor of the newly named Mayor, City Council and Deputy Mayor, I was going through the receiving line with my wife to greet the President, Mrs. Johnson, Mayor Walter Washington and members of the City Council. I got to the President and he took me aside right there in the East Room or wherever it was and he congratulated me on the job I had done and said, "I'm going to name you the head of the Civil Rights Division." That was the first I knew of it.

Ms. Garrett: What was your reaction to that?

Mr. Pollak: Well, I have a photo that shows my wife and me. Of course, we looked happy and stunned.

Ms. Garrett: I have a couple of other questions about National Capital Affairs and then we might want to wrap up for this session.

Mr. Pollak: I did a lot of other things as Advisor for National Capital Affairs, but that was the biggest.

Ms. Garrett: Well, are there any other things that you want to mention?

Mr. Pollak: There were other legislative initiatives. I had a tally list and kept track of them and dealt with them. We were creating and funding the new Federal City College and Washington Technical Institute, which were ultimately combined into the University of the District of Columbia years later. I spent time dealing with that. There was a Pennsylvania Avenue Development Commission, and I was endeavoring to assist it in shaping up Pennsylvania Avenue. There were any number of significant legislative matters. There were administrative issues.

There was a large tract of land at the northeast gateway to the city which I believe had been a reform school for boys that was coming available. The question was what kind of plan for redevelopment would there be. I had been a student of housing and redevelopment and had been active in the District of Columbia through the Washington Planning and Housing Association which I had chaired. I may even have chaired it just before I moved to the White House. I was away for a weekend when the redevelopment issue came up. Califano's office in particular one of his major assistants, Larry Levinson, had had to deal with it over the weekend. I had been developing support for having a balanced community there of middle income housing and public housing which was clearly the way to go. I came back and found that Levinson had given at least preliminary approval to a plan for placing public housing only on the area, which would have been a mistake in my judgment. I took hold of that and got it back on

track, which was just one of many kinds of things that I was responsible for doing.

One of the other things that came up during my time was the reservation of the land that is between 34th Street and Connecticut Avenue that is now occupied by embassies and the University of the District of Columbia. It had been the site of the Bureau of Standards which moved to Maryland. I shepherded that plan. I dealt a lot with GSA and with the District Government and as I say had spent a major amount of activity dealing with the hot summer. The President always talked about his Assistant as the "Mayor" of the city and, because of the weakness of the government form, not in the weakness of the people who were running the District, the White House had a great deal of real power over the District. I remember we gathered together a large group of governmental officials who were to deal with the hot summer of 1967. We used to meet every week or so in the Indian Treaty Room in the old Executive Office Building and coordinate them to get some of the activities and jobs done. The city was calm that summer, a credit to the city and to Bruce Terris and others who worked to make it so.

The White House was a good place work but you worked awfully hard. I went to work early and worked late. I had a wonderful office on the first floor of the Executive Office Building in the southeast corner. It was the office of the Secretary of War in the Lincoln Administration.

Ms. Garrett: How historical. What a wonderful spot.

Mr. Pollak: It was gorgeous. It opened on a secretarial space and then the next office to the north was Betty Furness'. She was the President's Assistant for Consumer Affairs. She had advertised GE refrigerators on the television. Judge Gesell's daughter, who had worked as a paralegal in the Civil Rights Division, worked with me as a Special Assistant, Patsy, and I brought my secretary from Justice. I communicated with the President primarily in his "night reading."

Ms. Garrett: What do you mean?

Mr. Pollak: I could do my job with making up my own mind and keeping the President informed. Whenever I had a significant decision that needed to be made, I wrote him a memorandum identifying the issue and the relevant considerations and presenting a box that he could check yes or no, or I need more information. I would put the memo in his night reading and in the morning I would have an answer. I admired his energy and commitment because he was responsible for the whole government and he had Vietnam going on all the time I was in the job. I always heard from him the very next morning.

Ms. Garrett: Impressive.

Mr. Pollak: Very impressive.

Ms. Garrett: You had mentioned to me at another point a headline that appeared when you were named as the Advisor to the President for National Capital Affairs. Can you recount that?

Mr. Pollak: There was a headline saying, "Stephen Who?"

Ms. Garrett: That was it.

Mr. Pollak: Right. I have the article at home. I was not a public figure when named and I don't suppose I was a public figure when I finished. I think I did a good job and I think the *Post* editorialized favorably when I left the job. In any event, I was very fortunate in being able to return to the Civil Rights Division.

Ms. Garrett: Did you give any value then or subsequently to seeking a position in the District government?

Mr. Pollak: The President asked me if I wanted to be the Deputy Mayor, or maybe Califano said he wanted to propose me as the Deputy Mayor. I urged him not to because I didn't want to get in the same position that I had gotten into in respect to the White House job in the first place. I think the suggestion was made that I could be the Chair of the City Council, but I didn't want any of those positions. Not that I didn't think they were challenging, but I thought that my place was in the Civil Rights Division and that was what I was best qualified for. So I was never a self-seeker for positions growing out of the White House job. Ramsey Clark must have talked to me about the Civil Rights Division position. John Doar was preparing to try the case of those police officials of Neshoba County, Mississippi, charged with slaying three civil rights workers in 1964. He was going to try it in the fall of '67. He had expressed his desire to leave the Division as soon as that trial was over. Ramsey was looking for a successor and that's how my appointment by Johnson came about. I returned to the Department of Justice. I assisted Walter Washington in getting him informed to become the Mayor and worked actively to help him transition into the position. There was also help

provided to him by Ben Gilbert who was an editor of the *Washington Post* and a friend of Walter's and Bennetta's, Walter's wife. Bennetta was a major figure in her own right and had been head of the Job Corps at OEO. Walter was an excellent selection for the first Mayor.

I returned to Justice in October 1967 as a Special Assistant to Attorney General Clark. John Doar was in Mississippi. I pretty much ran the Division until John's trial was completed successfully. My recollection is that he did not pick up the work of the Division after the trial ended, but moved to become the President of the Bedford-Stuyvesant Corporation, an effort sponsored by Robert Kennedy to try to do something about the unfortunate conditions for minority youth, including the economy, in Bedford-Stuyvesant, a part of New York City.

Ms. Garrett: Okay, we've been going about two hours and I think we'll wrap this up for today. Thanks, Steve.