

Oral History of STEPHEN J. POLLAK
Seventh Interview-April 12, 2004

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 April 12, 2004. This is the seventh interview.

Ms. Garrett: Steve, when we last left off, we were talking about your time in the White House and I think there were some issues that you wanted to touch on before we wrapped up with that moved on.

Mr. Pollak: After I had been working in the White House for a number of months, Ruth and I received an invitation to join the President and Mrs. Johnson for dinner in their personal quarters. It was exciting to both of us to contemplate. We went to the White House. It was a lot easier then than it is today. I'm sure all I had to do was to show my pass and we parked probably on West Executive, which was between the old State House and the White House. We rode the elevator to the Johnsons' living room on the second floor where they were serving hors d'oeuvres. The President and Mrs. Johnson were there and the guests included Robert McNamara and Margie McNamara whom we had known from skiing in Aspen, Howard K. Smith and his wife – he was an ABC television broadcaster – Barefoot Sanders, the President's Legislative Assistant, and his wife, Jan, the Attorney General Ramsey Clark and Georgia, Arthur Krim, who was a major donor, a film executive I believe from the West Coast. Perhaps that makes up the group. All were close friends of the President and Mrs. Johnson. It felt like a

family affair. I recall the President's teenage daughters, Luci and Lynda, entering in at one point. One jumped into the President's lap. I have a memory of the President spending considerable time talking with Howard K. Smith and McNamara because Howard K. Smith was going to leave the following day to go out around the country and speak in support of the President's program in Vietnam. The President was fixated on Vietnam that evening and was encouraging – that's too mild a word – exhorting Smith to be strong in drumming up support. The President's concern with Vietnam and single-mindedness about it was disturbing. He seemed so captured. But the dinner was extremely pleasant and we felt welcome over the evening. I remember that the food was excellent, which I knew from having dined in the White House Mess while on the job. Dessert was cherries jubilee. I don't have other recollections of the evening. Possibly I dictated a memo afterwards just to record what had gone on, but I haven't found it. If I do, I'll attach it.

I had one other somewhat personal exchange with the President and Mrs. Johnson. When I was named to be the Assistant Attorney General in charge of the Civil Rights Division, the President was making several other nominations, including Erwin Griswold to be Solicitor General and Edwin Wiesel to be Assistant Attorney General for the Civil Division. All the nominees, along with the Attorney General and Barefoot Sanders, who was then the Acting Deputy Attorney General at Justice, traveled by Jetstar to the President's ranch and he spoke about each of us to the press. Then we had lunch served Texas ranch style

and I sat next to Mrs. Johnson. I remember the table cloth was very colorful. I dictated a memo of that day and attach it to this history. Otherwise, my relationships with the President were all professional.

Ms. Garrett: What was LBJ like in this more intimate atmosphere?

Mr. Pollak: Well, he was what comes across when you read the biographies, larger than life. He was a big man, forceful in his manner of speaking, used to being at the center of attention. I didn't find him overbearing. I had no experiences with him in which, and most of those experiences were professional, in which he misbehaved. He took reasonable positions in respect to what I was doing and sought to be well informed and to act in a knowledgeable manner. I would give him very high marks in the performance of his responsibilities in the areas where I was working. When Reorganization Plan No. 3 – my major responsibility was to present this plan to reorganize the District of Columbia government to the Congress – survived the vote in the House in August 1967, which meant that the Senate would follow suit and there would be no veto of the Plan and it would become effective, I was in my office in the Old Executive Building and the phone rang and whoever handles those things said, “the President’s calling.” I felt in the strongest way the need to stand up out of my chair to talk with him on the phone.

Ms. Garrett: Did you?

Mr. Pollak: Yes, I did (laughs). He was calling to say well done and how pleased he was. So, his personal force carried through strongly to me.

Ms. Garrett: Even over the telephone, you stood up and no one was around to know whether you were sitting on the floor or the chair?

Mr. Pollak: Yes.

Ms. Garrett: Is there anything else you want to touch on from your time at the White House?

Mr. Pollak: There were hundreds of experiences. I considered that the job had total call on me. I often think of that time as I've looked at the White Houses of Carter, Reagan, Bush I, Clinton, and Bush II handling events since then. As Special Assistants to the President, we considered that we were not open to subpoena from the Hill. We were part of the President's personal staff. We considered that our records and materials were personal to the Presidency and not subject to subpoena. There have been great changes in that regard. It's probably harder to be a part of the President's staff today than it was then, although the challenges were great then. They seem doubly great today in 2004 with Iraq. I felt extremely fortunate to have had the experience in the White House. I felt extremely fortunate to hold the job at a time in which my only charge was to conduct my responsibilities to the best of my ability as I saw the interests of the President and the interests of the country. I never was asked to take a stance that caused me to have some concern whether it was the right thing to do, not ethically, but, I mean, an unwise position. The whole presidency was looking to me to advise on what should be done in all the areas for which I was responsible and if my presentations and recommendations were sound, the President and staff would follow them. I suppose that's pretty unique in terms of the totality of what

goes on in the White House. It may be that the nation's capital was shielded from politics because there just wasn't that much politics involved, although creating a self-government for the District of Columbia was certainly a political event.

Surely, the District Committee and virtually all the Virginia Congressmen opposed it. In any event, it was a great opportunity to perform a public service.

Ms. Garrett: You mentioned that you considered that your papers and some of the work you did as not having been subject to subpoena. Was there any attempt while you were working in the White House to have you come and testify about a matter?

Mr. Pollak: There never was. With respect to matters of concern with respect to the District of Columbia, I not only had all of the substantive responsibility for the President, but I was the chief lobbyist. I was the communicator to the Hill.

Ms. Garrett: Do you want to talk about that transition? How you came to end up back at the Department of Justice?

Mr. Pollak: Well, I know that I have spoken of how it came to pass that I moved from my job in the White House to the Department of Justice. I spent October, November and December as a Special Assistant to Ramsey Clark, but in effect was running the Civil Rights Division while the Assistant Attorney General, John Doar, was in Mississippi trying the case of the slayers of the three young men who were murdered in the summer of 1964 in Neshoba County.

My time in the Division began again in October and I was confirmed after a brief hearing before the Subcommittee of the Senate Judiciary Committee chaired by Senator Ervin. Even though Senator Ervin had significant differences with the

legal positions of the Civil Rights Division, the hearing was without incident. Senator Hart came and spoke in my favor. I was confirmed and Justice Brennan swore me in, in the Justice Department on the third of January of '68. It's significant that Attorney General Ramsey Clark said to me early on that he thought the days of the Assistant Attorney General, or the First Assistant John Doar, walking the clay roads of the South were past, that there needed to be someone pretty much on duty running the Division in Washington and directing it and, he thought, putting more attention on the recently enacted equal employment law. He was not speaking pejoratively of the prior heads of the Division. His priority was to emphasize, more than had been the case, enforcement of the equal employment laws and to reach for a new fair housing law.

While I was Assistant Attorney General the number of attorneys in the Division came up to 100 for the first time. We had an excellent and experienced staff of attorneys. There were few women, due primarily to admissions to law school. However, we were fortunate to have outstandingly capable women who were paralegals, rather than attorneys. We called them "research analysts" and they performed a myriad of tasks assisting the attorneys in preparing their cases for trial. It was like having additional attorneys without degrees. Many of these women married men in the Division, and many later became attorneys – outstanding attorneys. But the effects of gender bias in society were certainly a reality.

Ms. Garrett: In spite of the mission of the Division, it was a mirror of the times as well?

Mr. Pollak: Yes, it was. There were no limitations on hiring women and the Division did and I did hire women attorneys. But there were fewer of them coming to be hired because there were fewer going to law school then.

Ms. Garrett: Looking at it globally, I'd be interested in your views of what you thought about that job coming into it, the head of the Civil Rights Division, what you thought about it then and what your view of it is now.

Mr. Pollak: I have often said in an exchange with my wife that government is a young person's game. There are senior positions in the United States government that you and I know about from observing the incumbents on television and they're often in their 50s or 60s, but I think that the working arms of the federal government are really young people. When I became Assistant Attorney General, I was 39 and I had been the First Assistant in the Division for a couple of years. I aspired to the job and I was not over-awed by the responsibility. Looking back, it seems to me that it was probably a much more daunting responsibility than I was giving it credit for, but it seemed a natural thing to do after doing the First Assistant's job. One of the things that I came to believe after I held the job was that I satisfied myself that I was doing the best possible job that I could do by working unstintingly at doing the job. That meant working from early in the morning until late at night and working six to seven days each week, putting nothing ahead of the job. The priority was always the job. Nothing did I consider too small to have my attention if it came across my desk or to my attention. A pleading, a particular brief or decision to do or not do something. After I got out

of the government, I thought that working hard, unstintingly, is not necessarily the best measure for performing a top government job well.

Ms. Garrett: What do you mean?

Mr. Pollak: One still may need to put in that kind of time, but I have come to feel that in that job I was called on possibly to do less but to think more. One can mask the inability to address and resolve some major issues by saying, "Well I'm working all out, I'm working so hard all the time." What the job really calls on one to do is to try to set priorities, to try to identify the most difficult problems and to try to figure out how to address them and to task people you are working with to provide you with the materials necessary to finding solutions. I'm not prepared to point out deficiencies in my administration, although I'm sure there were deficiencies because of the nature of the problems, but it seems to me mature to have that view of what running a Division of the Department is. It isn't enough to work hard.

Ms. Garrett: When you say mature, do you think it's the kind of maturity that comes with experience in the government, sufficient experience within the government itself or rather is sort of a natural byproduct of simply having been out for a certain number of years working and practicing and being a lawyer?

Mr. Pollak: In part it comes from experience in government. But in private practice, I've made "to do lists" and I've had sequences of time in private practice where I just couldn't believe that I could live until the end of the week because I had so many things to do. The Assistant Attorney General in charge of the Civil Rights

Division never had all of the work on his plate. It wasn't I who had to do all the work, but I had an endless number of responsibilities and decisions that were coming up all the time. I wonder whether I had the best plan for performing them all. I can tell you when I got out of the Department, in the almost 40 years since then, periodically I have been asked to make talks. For one, I looked at the first half of 1968. The first half of 1968 was one crisis after another, all the way up until June. The ones that come most immediately to mind are the slaying of Dr. King which set off riots in major cities and less than major cities across the United States, including the most serious one in Washington, D.C. Then in June, there was the slaying of Bob Kennedy. There were other events that I noted in that talk – the Poor People's Campaign, which Joseph Lowery and Ralph Abernathy, who were Martin Luther King's successors at the helm of SCLC, and Andy Young brought to Washington in the spring of 1968, after Dr. King's death. The Civil Rights Division was responsible for seeing that the encampment on the Mall south of the reflecting pool was protected and safe, and it was responsible for setting up meetings with representatives of all the departments of government from which the Campaign sought redress. There were the marches on Washington contesting the Vietnam War where the Civil Rights Division was responsible for helping to get the government in a position and the localities in a position to handle mass arrest situations. It became amazing to me that the Division was able to march along and do its normal responsibilities of enforcing the civil rights laws, along with the added burden of these crisis events.

Senator Everett Dirksen who was the Republican leader who supported civil rights legislation always made it a requirement that lawsuits that were permitted to be brought on voting, schools, employment, and fair housing, had to be presented to and signed-off on by the Attorney General, so we had major justification memoranda to present to the Attorney General. All of that marched along and did itself during that crisis time. Oh yes, we also had responsibility for conducting and directing the FBI in searching for the slayer of Dr. King.

Ms. Garrett: That must have been interesting work. Were you personally involved in that?

Mr. Pollak: Absolutely. The memoranda that went to the Bureau came out of the Civil Rights Division. I remember that the Canadian Mounted Police found James Earl Ray in North Africa, as I recall. He was brought back to Britain and Attorney General Clark sent the head of the Criminal Division, Fred Vinson, to Britain to work out extradition. We drew the extradition papers in the Civil Rights Division. I can remember going over them with Nat Lewin, the Second Assistant. We faxed them to Britain. I remember talking to Fred Vinson on the telephone. I remember him saying that the women in Britain were wearing these amazing skirts, which later came to be known as miniskirts. That was the first that he had ever seen of them and I think it was the first I ever heard of them.

It was a natural reaction for me to think that work was the only answer to administering the law fairly and effectively because literally there was no time to do anything but work. After Dr. King was slain, Attorney General Ramsey Clark slept in a bed above the level of this office – there's a bedroom up there – for

three days and we worked virtually around the clock. I remember going home early in the morning and coming back again early in the morning. Ramsey went to North Carolina to make a long-scheduled speech. We talked about it beforehand. He was determined to give a speech saying that it was wrong to shoot looters, and I thought it was courageous of him to give that talk at the height of the crisis. And he was right. I remember working with Chief Judge Harold Greene of the local courts to have lawyers on duty all around the clock so that people could be arraigned and the processes of justice would go on. It was an exciting time. The caliber of the people who worked in the Division was outstanding and the priority of the Attorney General was the work of the Civil Rights Division. When we had to have more attorneys, he would draw on the other divisions to give us additional help. We were monitoring elections in the southern states with federal observers and providing examiners to register people. Voting processes were still under siege in certain areas and we were dealing with the enforcement of the Voting Rights Act. We were bringing the first equal employment cases. The Fair Housing Act was enacted in April 1968 and we were working at and developing the first fair housing cases.

Ms. Garrett: And all of this with 100 attorneys, or did that number grow?

Mr. Pollak: No, no, that was the high water mark. I had learned of running the Division from John Doar who was both running it and also handling individual cases on his own, and in some instances prosecuting criminal cases. While I was Assistant Attorney General, I assumed responsibility for bringing and litigating an equal employment

case against pipefitters' and sheet metal workers' unions, maybe also the plumbers' unions, in St. Louis. I traveled out there to present the case. I also handled personally another equal employment case in Cleveland.

Ms. Garrett: How did you manage that, handling cases personally plus running the Division?

Mr. Pollak: It was what I learned in watching Mr. Doar. I considered that having my hands into a couple of the cases meant that I would be attuned to how the cases were being prepared and presented and I would know better what was going on in this new field of the Division's responsibility, so I did it. Then late in the year, there was a major voting case involving the preclearance requirements of Section 5 of the Voting Rights Act, *Allen v. State Board of Elections* [393 U.S. 544, 554-57 (1969)], in the Supreme Court. I participated in briefing it for the United States as amicus and then argued it. It was decided favorably to Section 5 after I had left the government. Also in May 1968, the *Green v. New Kent County* school case was decided. The Supreme Court struck down "freedom of choice" plans, saying that minority students were entitled to schools, not white schools or black schools. The Division had 525 school cases on our docket and we were responsible for bringing the cases forward to comply with *Green*. When the case came down, Burke Marshall, who had preceded John Doar as Assistant Attorney General and was revered by me and by others as the father of the modern Civil Rights Division, came by my office. I said, "Burke, this major decision came down calling for non-racial schools, all grades and faculty, and we have 525 pending cases. What advice do you have for me?" He looked at me and he said, "You

know much more about this now than I do. You'll have to make up your own mind." Well, I'm sure he was right.

Ms. Garrett: That's interesting because it does speak to the youth of the Civil Rights Division as an entity within government and how much of it was being invested as this legislation was cast and came into your hands.

Mr. Pollak: It is correct to talk about the 1957 to 1968 period as the "Second Reconstruction," because those great fundamental laws were enacted in that period, particularly the Civil Rights Act of 1964, the Voting Rights Act of 1965 and the Fair Housing and Interference With Rights Act of 1968.

Ms. Garrett: And all of which you had some hand in, either in the development of the legislation or the implementation of the law or both?

Mr. Pollak: I had a hand in the development of the legislation of 1965 and '68. There was a Fair Juries Act of 1967 and I had a hand in that. I had a hand in implementing those statutes as well as the 1964 Act, particularly the equal employment provisions of the 1964 Act which became effective July 1, 1965. I had no hand in the drafting or enactment of the '64 Act. I wasn't there. I wasn't in the Division then.

The Department was a good place to work. It appeared to me to be devoted to enforcing the law in an even-handed manner, to bringing cases that were justified. It all looked good. Perhaps it wasn't all that good, just because nothing ever is, but that is the way it looked to me. And I meant with respect to

the other divisions, too. Ramsey was an excellent Attorney General. He was committed, fair and well regarded. He too worked hard.

Ms. Garrett: What sort of relationship did you have with Attorney General Ramsey Clark when you were the AAG of the Civil Rights Division?

Mr. Pollak: I had a very close working relationship with him. Except for some kind of semi-personal occasion where somebody was leaving the Department and there was a dinner or something or a holiday gathering or something, I don't recall exchanging social dinners with Ramsey and his wife Georgia, but I considered myself a close friend of theirs and of him. I often ate with him on the roof of the Department. We'd climb up a little rickety stairs and sit on the roof and look out over Washington and talk over what we were doing.

Ms. Garrett: Who even knew that there was a stairway up to the roof?

Mr. Pollak: I don't know. There was then. I had worked closely with him when I was First Assistant and he was the Deputy A.G. He was much more closely connected to President Johnson. When I faced the need to go into the White House, I counseled with him and he gave me the best counsel he could as to what I should do. As Assistant Attorney General, I was constantly communicating with him on the problems that were at hand. I think he had confidence in the kind of materials I gave him and he approved of what we were doing. He gave me the advice that I've referred to about prioritizing equal employment. He was certainly strongly supportive of continuing what we were doing in voting. I never have had an occasion either then or since to know whether in his unspoken mind he would

have wished me to do something other than I was doing. If he did, he never told me. Of course he had senior staff meetings which are customary in the Department and I attended those. The heart of the Department in terms of the Attorney General's concerns, I thought, was right in the Civil Rights Division. He thought that's where it was, although there were plenty of other important activities going on in other parts of the Department.

Ms. Garrett: Did the FBI – ?

Mr. Pollak: I want to make just one more comment. Some time when I was in the White House, I believe, Warren Christopher was named Deputy, so I knew Warren well as the Deputy and related to him all during the time I was Assistant Attorney General. I think that he was there during some considerable period that John Doar was Assistant Attorney General. In running the Division, I would deal with Warren on legislative matters because the Deputy had the legislative responsibility, but Warren didn't have anything to do with running the Division. I dealt only with the Attorney General.

Ms. Garrett: Was there an Associate Attorney General?

Mr. Pollak: No. And my access was with the Attorney General. I could and did see him anytime I needed to. It was probably a much simpler line of communication.

Ms. Garrett: One can only imagine what it is now. I was going to ask you a question and I don't know what you can tell me about this, but did the FBI handle investigations for the Civil Rights Division?

Mr. Pollak: The FBI handled investigations for the Civil Rights Division. During Burke Marshall's and John Doar's time, they were at pains to educate the Bureau in what they needed in order to prosecute civil and criminal civil rights cases. The FBI was our investigative arm and in the early years of voting rights cases, John Doar and his staff developed investigative requests that were like scripts and ran 50 pages, so that the Bureau had detailed instructions as to what we needed and wanted.

Ms. Garrett: Why was that level of detail needed with the FBI, because of the novelty of the issues?

Mr. Pollak: I can only surmise because this was going on when I got there in March 1965. It was true that these were new avenues and the attorneys in the Division were learning their way through what they needed. There is no question that there were elements in the Bureau that were hostile to what the Division was trying to do, but I didn't consider that the leadership of the Bureau was hostile to us. It was prepared to carry out investigative requests, but to some extent, may have either asked or telegraphed that it preferred to have detailed requests so that it was not left to its own to do what we wanted, but rather had our instructions.

Ms. Garrett: Did the hostility among some elements in the FBI ever present itself in a particular case in any troubling way?

Mr. Pollak: I can refer to two instances. As First Assistant, the instructions were that requests for investigation that we wanted from the Bureau needed to be presented in Washington by memoranda to J. Edgar Hoover. If you were in the South carrying

out a responsibility, it was not open to go to the local FBI office and ask for assistance. You had to go through Washington.

Ms. Garrett: And that was unusual for requests to go through Washington?

Mr. Pollak: Well, I don't know that it was unusual, that is the way it was. John Doar made it a point to tell me that I should not expect to go to the Jackson, Mississippi, office to obtain assistance. The Bureau had opened a Jackson, Mississippi, office in the early 1960s, especially to work on civil rights matters. Roy Moore was in charge. He was committed to enforcing the civil rights laws. I think the Bureau dealt with the civil rights requests by requiring the T's to be crossed and the I's to be dotted. In the aftermath of the capture of James Earl Ray, I was with the Attorney General when he called J. Edgar Hoover's liaison to come to his office. Hoover had announced the capture of Ray and Ramsey thought that the facts had been withheld from the Attorney General's office so that Hoover could make the announcement. Ramsey presented that to the liaison, and Ramsey and Cartha DeLoach, the liaison, then expressed strong differences over the behavior of the Bureau. Ramsey asked whether the liaison had failed to be candid with him when Ramsey had asked him a direct question as to whether Ray had been captured. My memory is that the liaison said that if it required lying to serve the interests of the Bureau – lying to the Attorney General – then he would lie. I trust that that was remedied soon thereafter.

Ms. Garrett: One can hope. Interesting. Any other details from the Division's relationship with the FBI?

Mr. Pollak: No. I think that it was a responsibility of the Division to find ways to utilize the great investigative engine of the FBI. The engine was not immediately available to the Division. It had to be harnessed through requests and it fell to us to draw good requests to get it done. I think that was a workable way to do it. Government isn't for sissies and we were expected to know what we needed and wanted and to write it down.

Ms. Garrett: And that's what you did.

Mr. Pollak: And that's what we did, right.

Ms. Garrett: Was J. Edgar Hoover's office in Justice?

Mr. Pollak: It was on the fifth floor of main Justice, halfway down Ninth Street, between Constitution and Penn. He came in every morning and rode up the elevator that was right outside my office on the first floor at the corner of Ninth and Constitution. To my knowledge, I don't think I ever met with him while I was there.

Ms. Garrett: I understand that J. Edgar Hoover's office subsequently became the offices for the Civil Rights Division?

Mr. Pollak: I know it did, because I once visited there. There must have been a lot of ghosts in that office (laughs).

Ms. Garrett: If walls could tell stories.

Mr. Pollak: I did have occasion once to call on J. Edgar Hoover in his office, but I can't remember what it was for. I remember going in to that old office, but I can't recall whether I was in the Civil Rights Division at the time. I dealt a little back

in 1964 or so with an Assistant Director named William Sullivan. I think he must have thought I was a possible source of information because he seemed to befriend me. It was when I was working on the poverty program. He called me up to go to lunch. I remember another one of the lead people of the FBI, an Assistant Director named Rosen, who had responsibility for civil rights matters. We in the Division dealt with him. I thought he was cooperative and supportive of what we were doing in the Civil Rights Division.

Ms. Garrett: Do you have any idea what the relationship is now between the FBI and the Civil Rights Division?

Mr. Pollak: Absolutely none. When you get out of government, you rapidly cease knowing anything about it.

Ms. Garrett: The doors close behind you don't they?

Mr. Pollak: They really do.

Ms. Garrett: Tell me about some of your colleagues in the Division.

Mr. Pollak: I had great colleagues. There was a natural selection of people who wanted to serve in the Civil Rights Division. A number of young attorneys came from the South, the Deep South. There was George Rayborn from Mississippi. He's a prosecuting attorney in Philly. His wife became an equal employment lawyer practicing with one of the good firms in Philadelphia. George has always called me Mr. Pollak, even years and years afterwards. If I see him now, he calls me Mr. Pollak. The First Assistant, D. Robert Owen, joined the Division probably in 1959 or '60. He was John Doar's right hand person and outstanding. David L.

Norman, who became a Superior Court judge, was some of the brains behind the Division's approach to various doctrines that had to be put in place before there was legislation. Harold Greene is justly famous for his many accomplishments. His staff included outstanding appellate lawyers. A woman named Battle Rankin lives in Delaware. Howard Glickstein who is a Dean of the law school at Truro, New York. David Rubin became Deputy General Counsel of the NEA. Alan Maher, Gerry Choppin. They were all on Harold Greene's appellate staff. A man who's justly famous as a law professor, Owen Fiss, came from clerking for Justice Brennan to be a Special Assistant to John Doar. He stayed on and worked with me and became head of the Appeals Section. Maceo Hubbard, an African-American, was head of the Eastern Section, Frank Dunbaugh, head of the Southern Section, Frank Schwelb, who is on the D.C. Court of Appeals, became head of the Eastern Section, and Brian Landsberg, who is a professor now at McGeorge Law School, was the head of the Education Section and then the Appeals Section. Brian's wife, Dorothy Landsberg, was an outstanding paralegal. John Rosenberg was head of the Western Section. Jim Turner was head of the Central Section. Chad Quaintance was an outstanding attorney and leader. I've not named all the outstanding attorneys and paralegals with whom I served, but these were very capable trial attorneys who could put a case together. Because many of the times district courts that we were litigating in front of were hostile, the Department had to make doubly fine records and often won only on appeal.

Ms. Garrett: Do you think that as the receptivity of the courts to civil rights cases changed the nature of the lawyering changed?

Mr. Pollak: Well, it certainly didn't change in my time. I put a high priority on making outstanding records in each case. That was the way the Division was schooled. I don't know how it developed after we were gone. John Doar always used to say that he wouldn't stand for having "Gee Whiz" lawyers, lawyers who wanted to come into court and say, "Gee whiz, Your Honor, we certainly got the right side of this case and we ought to win." He wanted lawyers who found the facts and presented them as a basis for prevailing on the law and that was my own credo.

I observed when I joined the Division that John Doar, the Assistant Attorney General, manifested what I saw as an independence from the civil rights organizations. It seemed to me that those organizations felt – somewhat erroneously – that we in the Division were never doing all that we should do and that we were not adequately supporting their efforts. That had been a big thing in the first half of the 1960s when there was violence against civil rights workers and the Department was seen as unwilling to become a national police force to protect them. There was hostility to the Department. I thought then that I was observing some hostility by the Department to certain activities of the organizations. I now think that that was a misperception on my part. I believe that the attitude that I was perceiving was that we were the United States Government and it was up to us to reach our own judgments on what cases were brought and on what facts motivated us to bring cases. We weren't doing the bidding of one side or the

other. We were making our own independent judgments. There was in John Doar a great respect for what those organizations were doing and the courage with which they were doing it. It's been some comfort to me to reassess my own reactions to that picture. The Department had more legal resources than the civil rights groups. There was a statewide school case brought in the U.S. District Court for the Middle District of Alabama before Judge Frank M. Johnson called *Lee v. Macon County*. The Court put the United States in that case as an amicus because it knew that the civil rights organization didn't have enough staff to prepare the case and we did. I think our independence was needed as we went before the courts. We weren't in the pocket of people who were litigating on the same side, we were independent. I don't think it meant that we were hostile to them or what they were doing.

Ms. Garrett: As the AAG for Civil Rights, did you have direct dealings with civil rights leaders?

Mr. Pollak: Some, but not a lot. Burke and John had been known to and walked with some of those giants of the movement. My job description didn't really require me to do it. There were occasions in which our paths crossed. Sometimes, as I remarked at a prior session on the meeting we had with the leaders of the women's movement, people would come in and I would meet with the Attorney General and with them. Mostly, I just worked away doing our thing. We had laws to enforce, a mission to carry out and I just worked at it and those people may have met with the President or met with the Attorney General. If they met with the Attorney

General, I was with them. When Dr. King was slain, the Attorney General sent me to Memphis where there was going to be a march two or three days after the death and the day before the funeral. I went down there and was the President's representative in terms of dealing with nationalizing the Tennessee Guard and the whole fabric of trying to maintain civil order. I'm confident that I met various people at the time I was there. I never had occasion to meet Dr. King.

Ms. Garrett: What were your feelings when you were sent down to Memphis for the march, because it was a potentially volatile event, right?

Mr. Pollak: It was.

Ms. Garrett: What were you thinking about that?

Mr. Pollak: I was consumed by the mission. I considered that my major responsibility was to work with the local authorities, Governor Ellington, the leadership of the Tennessee Guard and the federal officials. I can't remember whether we had federal troops there, I believe not, or whether we relied on Tennessee Guard to assure that the march could go off peacefully, that there was no violence against the marchers, and that there was no eruption out of the march that would bring about violence. Our purpose was to have armed force available but unseen in the event there was trouble. I'm sure there were other people that felt it as well, but I felt as if I was in charge for the President and the Attorney General. I got there very early in the morning because everything was beginning to happen and about the time the march was about to begin, I looked around toward the line of march. I was on an upper story of a downtown building along the line of march, and I

saw a tank rumbling down a side street toward the line of march. I thought that was the last thing we wanted. I called down and said, "Get that tank out of there," or "Get that back out of sight." And so the tank went rumbling off out of sight, and the march and the Memphis Police and the Guard all cooperated and the march went off without incident. It was a good day in those sad times, and it was the right thing. They were able to demonstrate their grievances. As soon as that day was over, I went to Atlanta where the Civil Rights Division had responsibility for liaison on the street with those seeking to maintain order there for Dr. King's funeral.

Ms. Garrett: What was the reception like with the local officials you were dealing with in that time?

Mr. Pollak: Well, it was excellent in Memphis and I think it was the same in Atlanta. That's my recollection. It was tense. It was certainly tense in Atlanta, particularly, but, as much as it may sound sophomoric, we had a job to do that was all-consuming and so we just did that job. We did it all to the exclusion of thinking of anything else, and the job was again the same thing, to see that the funeral procession could go ahead, could go where it was to go, that there wouldn't be interference and that the civil authorities would be carrying out the job of maintaining order for the funeral. We were restoring the civil fabric of the country.

Ms. Garrett: What did your wife, what did Ruth think about your launching yourself or being launched into hot spots at moments like this?

Mr. Pollak: I think that the major thing she thought was that she had a lot to do at home. She may have worried about it, but I had never considered that my job was dangerous. It just didn't seem that way. It was all-consuming. The most difficult call that I handled was one night while I was First Assistant. I was asleep and a telephone call came in from a small town, Greenwood, Mississippi. Some black young people had gone to a movie theater to desegregate the theater. When it came time to go home, there was a mob outside. Someone either in the theater or outside was calling to ask me what they could do or what I could do to assure the safety of the young blacks inside the theater.

Ms. Garrett: And what was the answer?

Mr. Pollak: I thought that was really scary. What I believe happened was that I urged them to be cautious and not rush out of the theater. I spoke to the Bureau and asked whether they could intercede with the local police to see if there could be a police presence brought on the scene. I can't tell you how it all came out but there was no report of violence.

Ms. Garrett: Let me ask you this. How old were your kids at this time?

Mr. Pollak: When I became First Assistant, my youngest, Eve, was 3 and Roger was 6, and David was 9 and Linda was 11, so 11, 9, 6 and 3. When I left government, they must have been 14, 13, 9, and 7.

Ms. Garrett: Did your kids, particularly the older ones, have an understanding what your work was?

Mr. Pollak: I thought they did. I thought Roger did who was my third child. I have a photograph of Roger at the swearing in by Justice Brennan. My father was there and he and Roger are looking at the commission the President had signed. There was a lot of sacrifice that I asked the family and Ruth to make. Ruth thought that I needed somehow to get away from some of it and we bought a place in Rappahannock County in 1965 which she scouted out for that purpose. That was good, I went out there occasionally.

Ms. Garrett: How often did you go out there?

Mr. Pollak: I don't recall. It had nothing on it for a time, so we would go out there and camp in a tent. We went out there and roamed around often enough. We go now about every other weekend. The period of my government service from 1961 to 1969, which was a period when my children were really young, indeed Ruth had our youngest in 1962, was a period in which I was working all the time. I lost a lot. Ruth carried a lot and I think I asked a lot of her and the children. I missed a lot of their childhood and they missed having more of me. It's just not any longer a one-way thing. Women are government leaders and asked to make similar sacrifices. The non-government spouse in that situation is asked to do a great deal, and the government spouse misses out on a lot of wonderful family activity.

Ms. Garrett: Do you have any recollection about how you talked to you kids about these enormous and historic events that were occurring around you and with you?

Mr. Pollak: I recall talking to Linda or David's eighth grade class about what the Civil Rights Division did. I took my son Roger with me for a trial of a race case in the

Northern District of Mississippi in the early 1970s when I was representing the NEA. The children had a good awareness and feeling for the purpose served by the Division, equality and equality before the law and non-discrimination.

Our kids seemed to have a pretty good idea about what I was doing. I don't know that I was making it all seem as significant to them as it was to me. It's a heady experience, government. I can remember being present on the Meredith March from Memphis to Jackson and each day going along and then staying in very rural out-of-the-way motels and watching it all happen. There were a lot of interesting and challenging things to do. I don't know that it struck me at the time they were fun, but in the larger sense they were captivating. I consider myself very fortunate to have had the opportunity.

The men and women in the Division have all gone on. Some stayed and had careers in the government, in the Division, but many of them went on and had interesting and rewarding careers of one sort or another outside government. It was a great bunch.

Ms. Garrett: We've talked a fair amount about the cases and some of the issues that you confronted as you came in as the AAG of the Civil Rights Division. Were there any pieces of legislation that you wanted to touch on that were particularly prominent that you developed or played a significant role in your time as AAG?

Mr. Pollak: Well, I think I've alluded to them. I remember having a major debate when we were drawing the Fair Jury statute with Attorney General Clark. His view was

that you didn't have to be able to read to be a juror, and I think that's the way we drew the bill, and it became law.

Ms. Garrett: Did you disagree with him on that point?

Mr. Pollak: I had to be persuaded, but I don't recall that we were in disagreement at the end. As enacted, the Jury Selection and Service Act of 1968 authorized the chief judges of the district courts to recognize a person as qualified to serve as a juror unless he or she was unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out the juror qualification form. In developing the provisions of the jury bill, we worked closely with then District Judge Irving Kaufman who was the chair of the committee on juries of the Judicial Conference of the United States.

In January 1968, President Johnson asked the Congress to enact several pieces of civil rights legislation in addition to the jury selection bill. Primary planks that became law were the Fair Housing statute, Title VIII of the Civil Rights Act of 1968, and the bill to strengthen federal criminal laws penalizing violent interference with the exercise of civil rights which was passed as Title I of that Civil Rights Act. The problem we were working to address in what became Title I was left by the Supreme Court's 1945 decision in *Screws v. United States* [325 U.S. 91]. The Court was reviewing an indictment charging county police officers in Georgia with a conspiracy to violate a Reconstruction Era civil rights statute [Section 20 of the Federal Criminal Code, 18 U.S.C. 52] making it a crime under color of law to willfully deprive a person of any rights, privileges or

immunities secured by the Constitution or laws of the United States by reason of the person's race or color. The Court was concerned that the statute's terms were unconstitutionally vague and set no ascertainable standard of guilt. To save its constitutionality, the Court interpreted the term "willfully" to require proof of a specific intent to deprive a person of a federal right made definite either by the express terms of the Constitution or laws of the United States. Over the years, satisfaction of *Screws* posed a difficult problem of proof – described to me in law school as requiring a showing that the defendant had in his head at the moment he was striking a black person or a white person aiding a black person a specific intent to take away a specific civil right of the person.

So Louie Claiborne, who was in the Solicitor General's Office, and I drafted a new section of the federal laws protecting against criminal interference with civil rights, now codified as 18 U.S.C. 245, to specify precisely the various actions proscribed; for example, interference with any person because he is or has been voting or qualifying to vote or is or has been enrolling in or attending any public school. Congress enacted the bill just as we drafted it. It also passed the historic Fair Housing Act as well.

Louie Claiborne was a lifetime member of the Solicitor General's Office with whom I served 1961 to 1964. In his later years, he resided in Britain, the home country of his wife, where he became a barrister and Queen's Counsel. He continued to serve as an attorney in the SG's office during periods when he returned to the United States.

Ms. Garrett: How on earth did he manage that?

Mr. Pollak: He did. He was so outstanding. He was such an outstanding lawyer. He's now deceased, I am sorry to say, but he was there when I was in SG's office and became a friend. He was a wonderful lawyer, a delightful man. It was a great privilege to work in the SG's office when I did because there were only nine of us, including Archibald Cox who was an outstanding Solicitor General; Oscar Davis, who became a federal judge, succeeded by Ralph Spritzer as First Assistant; Dan Friedman who became a federal judge as Second Assistant; Wayne Barnett who became a professor of tax law at Stanford and then the University of Washington Law School; Frank Goodman who also became a professor of law; Philip Heymann who became a professor of law at Harvard and later Deputy Attorney General; Nat Lewin who later served as my Second Assistant in the Civil Rights Division; Bill Doolittle who became a private attorney here in D.C.; and Bruce Terris who created a special small private law firm representing "good" causes. That's probably the whole of the office. All wonderful lawyers.

Ms. Garrett: Ever since, you have kept in touch with a number of the folks you worked with?

Mr. Pollak: I have, although I haven't been in touch with them in a year or so. I knew them all well. We were so close. We generally had our meals together and we often ate at the Federal Trade Commission cafeteria on the 7th floor. Archibald Cox ate with us every Friday and sometimes we would eat with him on Saturday because we all worked Saturdays. We often ate at a restaurant where the Hoover Building

is on the north side of Pennsylvania – Harry’s Raw Bar. Being in the SG’s office is a totally all-consuming job because you always have a big brief on your desk.

Ms. Garrett: Before a big court.

Mr. Pollak: Yes.

Ms. Garrett: We’re winding into the end of your term of Assistant Attorney General.

Mr. Pollak: I think so. When Nixon was elected, Richard Kleindienst, the Deputy Attorney General designate, interviewed me as he did all the Assistant Attorneys General, and he later communicated the message that President Nixon would accept my resignation, so I submitted my resignation. I don’t know whether I would have been willing to serve had they asked me to stay on, but I put my resignation in. It was accepted and I was out at noon on January 20. My successor was confirmed and in office on January 20, 1969, at noon.

Ms. Garrett: Slightly different than the pattern in recent administrations.

Mr. Pollak: Right. He had been confirmed and everything. My last act was to tell the guards at Justice that Jerris Leonard, my successor, was indeed to be permitted to enter the Department of Justice. I went home and had nothing to do. I had not had an interview with a law firm. I hadn’t spoken to anyone about work. I had no job. I had nothing.

Ms. Garrett: Was that because you had been so consumed with your work?

Mr. Pollak: I didn’t consider that I wanted to have anything to do with anybody about a job while I was in office, but in addition, we worked full bore up to the moment I

went out of office. We brought a lot of suits, made the whole engine go, and then we were out.

Ms. Garrett: Then you and Ruth took a vacation didn't you?

Mr. Pollak: John Rosenberg and his wife Jean came to live at our house, and Ruth and I took a couple of weeks. John was a lead attorney in the Division, and Jean, a super research analyst. We went skiing in Aspen and then we went to Mexico, but that was a little after I got out of the government. I negotiated with John Gardner who was head of the Urban Coalition, he wanted me to come on as his deputy and with Bill Gorham who was President of the Urban Institute who wanted me to become his deputy. The Urban Coalition was supported by management and labor. The labor movement apparently believed that John Doar and I were anti-union because we had brought equal employment cases against unions. The unions we sued had very poor records in terms of non-discrimination. We were not anti-union, we were pro-non-discrimination. In any event, when the labor movement objected, Gardner withdrew his offer. I guess he counted on funding from labor unions. Gorham pressed his offer, but wisely, and with some reluctance, I turned him down. I remember buying him a bottle of Napoleon brandy and giving it to him as a gift when I turned him down. I did so feeling that my calling was to be a lawyer.

After I had been in the government for a couple of years, Gerry Gesell, with whom I had worked at Covington & Burling, told me I should come back, and suggested that the firm would not necessarily take me back if I stayed longer.

Of course I did. Although Covington was beating the doors down to hire Ed Zimmerman who had been head of the Antitrust Division, they were not interested in hiring me. My colleague at Yale, Bill Dempsey recommended to Frank Shea that Shea & Gardner hire me. It was an outstanding and well-respected firm of perhaps 20 lawyers, all with great academic and practice credentials. I went to lunch with Frank and Bill at the Metropolitan Club. On the way back we walked along H Street, the firm's offices were at the corner of H and 15th, we were standing on the northwest corner waiting for the light, and Frank said, "Well, I hope you'll join Shea & Gardner. We'll bring you into the partnership as the youngest partner and I'll pay you what you would have earned at the Department if the raise which Congress had enacted had been in effect before you left." which it was not. I said, "Well that sounds fine to me," and so I had a deal.

Ms. Garrett: Well it sounds like there was a little more parity between government and private salaries at the time.

Mr. Pollak: Probably so. He was offering me something like \$28,000. I didn't think the money made any difference. I felt that I would make my own way as a partner, that the future would take care of itself.

Ms. Garrett: Well, it's worth noting because in this day and age starting associates can command over \$100,000 per year, right out of law school.

Mr. Pollak: Right.

Ms. Garrett: Well, in the government they don't make anywhere near that.

Mr. Pollak: Well, there was more parity certainly.

Ms. Garrett: Interesting. That's for somebody else to explore. Did you want to add anything else?

Mr. Pollak: Let me just say this. Immediately after my leaving the Department, someone I didn't know from the Archives called and asked me to do an oral history, so I did four sessions with the Archives. I think they are a valuable contribution. Certainly valuable to me. One thing that didn't come through on the tape was that in giving those histories over those four days, it emphasized to me how much I had lost by having to give up that work.

Ms. Garrett: Bittersweet.

Mr. Pollak: I felt pretty much adrift. That was my mental state as the questions were put to me by the Archives person. Transition out of government is demanding because you're dealing with national problems because of the office you hold and then you're just a newspaper reader.

Ms. Garrett: Physical withdrawals is how I described it.

Mr. Pollak: Right. You have to learn to live with it.

Ms. Garrett: All right, Steve. Why don't we wrap up this interview here and we'll pick up at our next interview with life in the private sector.

Mr. Pollak: Right.