

**ORAL HISTORY OF
RICHARD KIRKLAND BOWDEN
Seventh Interview
June 23, 2011**

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 Richard Kirkland Bowden, and the interviewer is Stephen J. Pollak. The interview took place in Stephen Pollak's office at Goodwin Procter LLP on June 23, 2011. This is the seventh interview.

Kirk, you've had six interviews conducted by Joshua Klein, and you have

Mr. Pollak:

reviewed the transcripts of those interviews, as I understand it, and concluded that you wanted to come back on the record and do some amplifying of what you've said before, both clarifying some of the statements that you've made, some of the recollections that you had, and also addressing one or more additional topics. So rather than try to bring Mr. Klein back in, who's actively involved as an Assistant United States Attorney, you and I agreed I'd step in and hold the interview we're doing today. So here we are. I know you've brought a pad of paper that you've listed the topics on, so why don't you address the first topic you'd like to speak to and go ahead with your remarks on it.

Mr. Bowden: Thank you. In 1962, when I first joined the United States Marshals Service, the courtrooms in the E. Barrett Prettyman Courthouse were the same as they are today, but I want to talk about the personnel that I witnessed inside the courtroom. The court reporters have always been there, but I remember very distinctly there were two court reporters who reported by using Gregg shorthand. Today, court reporters use a stenotype machine and give real time reporting and that transition I witnessed from the Gregg shorthand to the electronic recording in those years.

Mr. Pollak: What was the transition like? Did it speed up proceedings in the courtroom or change the way the proceedings unfolded?

Mr. Bowden: No. These were very talented people and they recorded the court proceedings as it actually happened, and they did not have the benefit of a PA system, so attorneys had to speak up loudly so that they could be heard by the Judge and jury. So most attorneys would stand back inside the well of the court near the entrance of the courtroom where the small gates are and project their voice in that fashion in order for the jury, the court, and the reporter to hear. But the rhythm of the court did not change. Cross-examinations were vigorous, and sometimes emotions got into it. Very rarely did the reporter have to ask to slow down. I thought they were very talented. I can't recall their names, but there are two I remember seeing. It was interesting for that transition to take place.

And speaking of the courtroom, there were no black courtroom deputy clerks at that time.

Mr. Pollak: At that time being?

Mr. Bowden: 1962 until probably 1964 or 1965, before the first African-American courtroom deputy clerk. It was a male. His name was Hugh Harvey, who had a law degree from Terrell Law School. Terrell Law School was a black law school here in Washington, D.C. and it was not in competition with Howard University because Terrell was open to students who worked during the day. It was more of a night law school, and African-Americans who were working and wanted to get a law degree couldn't go at night to Georgetown, Catholic, American and Howard. They did not have a night law school. Terrell Law School is no longer in existence because there came a time when blacks could go to night school, to law schools here in the city, and Terrell became defunct.

Mr. Pollak: When you say they couldn't go to George Washington or Catholic University, what do you mean "they couldn't?" They weren't admitted because they were black?

Mr. Bowden: Right. They weren't admitted because they were black. Mr. Harvey had a degree from Terrell as a lawyer and he was relegated to the Clerk's Office and there were some deputy clerks in the courtroom who were just high school graduates, and he had a law degree and couldn't get the position. But there came a time that they dropped the barrier and allowed him to work in the courtroom as a deputy clerk.

Mr. Pollak: Let me ask, when you say "they dropped the barrier," who's the "they?"

Mr. Bowden: I would imagine it was the court administrators. I suspect the chief judge and the court administrators decided it was the right thing to do. I was not privy to the decision making of course. I just remember that all of a sudden he got the job. He applied, applied, applied, denied, and then I looked up and there he was. There was a big celebration in the black community in the courthouse to see him in the courtroom conducting business, and not because of lack of talent or lack of knowledge, I venture to say that he was more knowledgeable than many. Of course, he had a law degree and the language they were using; you have to understand that the lawyers who participate in proceedings in those days were more prone to use official terms and some Latin expressions that you don't hear now in the courtroom. It was interesting that it took them that long to make that decision.

I talked earlier about my involvement with the *Watergate* trial and the sequestration of the jury, but I failed to say how I got involved initially. When a subpoena was issued by Judge Sirica to serve on the President of the United States, President Nixon, George K. McKinney was the U.S. Marshal at that time

who had been appointed by President Nixon and it was his duty and responsibility to serve the subpoena because the United States Marshal is the only person authorized to serve a subpoena on a President. I had the occasion to drive him to the White House. The security then was not near as it is now, so we just drove up on the property, parked the vehicle, got out and showed our credentials to the agent and explained who we were and why we were there. The White House had been notified that we were coming, so it was not a surreptitiously showing up, they knew we were coming, they expected us. But he, the Marshal, had to physically give it to the President. He could not give it to an aide or someone. So that was my beginning involvement.

Mr. Pollak: Did you go with Marshal McKinney to deliver the subpoena to Nixon?

Mr. Bowden: I was in the car. I went into the White House; I didn't go into the Oval Office.

Mr. Pollak: Did Marshal McKinney make any statement to you after he came back from serving the subpoena?

Mr. Bowden: Yes he did. He was concerned as how he was going to be received, or how he was received by the President who had appointed him as U.S. Marshal, but he resolved it by saying, "Well this is my duty and responsibility," and he felt the President would think no less of him. That was his job, to do the service of the subpoena. There was some discussion earlier as to whether or not someone else could serve it, that is, an FBI agent or someone from the Department of Justice. There was a big hullabaloo about it. As a result, they said the U.S. Marshal had to do it. The return had to be made on the subpoena. It had to be certified as to who served it, and it had to be his signature in order for him to attest that the subpoena had been served on the President. He would have to do it himself.

Mr. Pollak: Did the Marshal who served the subpoena make any comment to you on what the President said to him, or what transpired when he delivered it?

Mr. Bowden: No, not anything of significance. We may have talked about it. That's the reason I didn't discuss it earlier, until after I read over the interview. The question may come how I got there. Then after the grand jury, the indictment, and it got to trial time, then Marshal McKinney said, "Bowden, since you were with me when this thing started, you stick with it." I was a supervisor at that time, so that's how I got involved in the *Watergate* trial. I had some history if you will. And I served some subpoenas on some of the defendants who had been arrested at the Watergate office. They were arrested, brought to – then it was General Sessions Court – for presentation and Justice had issued some subpoenas to testify before the grand jury in U.S. District Court. Those subpoenas were hand-carried from U.S. District Court to Court of General Sessions where I was assigned as a supervisor. They were given to me to serve on them – them meaning the defendants who had been released on personal recognizance. I don't recall the names. I do remember Haldeman was one. I just remember that name. There were five or six who were arraigned at that time, and I had subpoenas for them. There were some questions about when do you serve the subpoena. We couldn't serve it in the courtroom itself so I waited until they came out to the hallway. They had attorneys with them, and I introduced myself to the attorneys and told them who I was and why I was there. They knew who I was and why I was there but I had to do it. I did not want down the road someone to say that the subpoenas were not lawfully served, so I identified myself by showing my credentials, and asked for their name, and they gave me their name even though I recognize who they were. I had been in the courtroom when they entered their

plea before the court and later gave them subpoenas to appear in U.S. District Court before the grand jury and then you know the process.

Mr. Pollak: Judge Sirica was conducting?

Mr. Bowden: Yes. And then there came a time when there was a trial and, as I said, the Marshal said that since I was already in it, I should stay with it. So that's how I got involved in the *Watergate* trial.

Mr. Pollak: Is there anything else you want to recount about the *Watergate* matters that you hadn't covered before?

Mr. Bowden: No. I think I covered everything about the *Watergate* trial. Occasionally today – this is 2011 – I see people in the hallway and I stop and talk with folk who served on that jury.

Mr. Pollak: Really?

Mr. Bowden: And they say, "Are you still here?" We chat a little bit. So they get rotated back into the jury system.

I've served under 13 Chief Judges, 13 U.S. Marshals, and 14 Directors of the United States Marshals Office.

Mr. Pollak: Are there any of those chief judges that you have any comments to make about that you haven't already made?

Mr. Bowden: Judge Norma Johnson, who became Chief Judge at some point, when she came to the court, to the U.S. District Court. I had known her before she was appointed to the Court of General Sessions as a school teacher, so our relationship, if you will, was different. And in 1964, we in the Marshals Office, developed a program in conjunction with the D.C. school system, the Superintendent of the D.C. School system, to invite juniors and seniors in high school in the District to come to the court to see how the court worked, see their government at work because in those

days they were teaching government classes and civics classes, which I understand they no longer teach in the District. So in order for them to have an appreciation for the judiciary and how it works, we developed a program where we invited the classes down. I solicited members of Metropolitan Police Department, the U.S. Attorneys Office, and the Junior Bar Association to give me one person each, for each one of those sessions, and each one of those persons represented would talk to the class about their role in this judiciary system. And given time, we would do a mock trial with the students so that they could have a little play, if you will, to appreciate and understand the roles that were played. That's how Judge Johnson became involved because I would, on occasion, ask a judge who was free to come in their courtroom. I would ask permission to use their courtroom and see if they had a few minutes to talk to the class, and none rejected. If they did, it's because they didn't have time. But Judge Johnson got to the point that she anticipated, and looked forward, to doing it, having been a former school teacher. So she suggested to me that we should write up a program, write up something to give to the students, so when they come to us, we would have something formal to present, so we took a very simple position. We took Goldilocks and the Three Bears, the story, every kid knows Goldilocks and the Three Bears, and we concluded some crime committed in that place, in that story, unlawful entry, destroying private property, breaking a stool, a bed.

Mr. Pollak: Stealing the porridge.

Mr. Bowden: Yes. So we wrote that into a play, and we would ask the students to identify the crime as we went along, as a teaching tool, and we still use that today. It's been modified, rewritten, and we went from Goldilocks and the Three Bears to the Big Bad Wolf huffing and puffing and blowing the building down. Judge Tatel, that's

his love today, but it started with the D.C. school system and introduced those students as to what happens in the courtroom so they know what a defendant is, the prosecutor and the roles.

Mr. Pollak: Very interesting.

Mr. Bowden: Oftentimes members of the bar come to me now and say, "I was in one of your classes and that got me interested in the law and I decided to go to law school." There are two or three who are now judges who came through that process.

Mr. Pollak: Anyone ever ask you who are your favorite chief judges?

Mr. Bowden: All of them are my favorite chief judges.

Mr. Pollak: [laughter] Well said.

Mr. Bowden: There are some who I knew better than others because of contact, that kind of thing. I have had a wonderful relationship with every member of this judiciary, present and past, and I'm proud of the relationship I've had with the court. That's one of the reasons I'm still here, is that I enjoy the relationship. I try not to abuse that relationship, and I hope I have not offended anyone. I'm sure they would tell me if I had. I've enjoyed the relationship with the court.

Mr. Pollak: I'm sure your history probably records this, but have you served as a marshal for particular judges in their courtroom?

Mr. Bowden: Yes.

Mr. Pollak: What judges were those?

Mr. Bowden: Judge Bryant, of course. I talked about that earlier. And while we're talking about Judge Bryant, I remember he sentenced a young man. Judge Bryant, I guess you would classify him as a lenient sentencer. He didn't like to give harsh time for offenses that were not too offensive, if you will, against the community, but if there was a situation that required a long sentence, he would do it. This is

before mandatory sentences. And I remember he had a young man who had been a repeat offender and he was just a bad guy, and the Judge gave him 15 years or so. The fellow was in his late 40s, early 50s, and while I was escorting him out of the courtroom, back into the cellblock, he mumbled something, and Judge Bryant asked him, "What did you say?" He says, "I can't do all of that time." And Judge Bryant looked at him and said, "Just do the best you can."

You were asking a question?

Mr. Pollak: What judges did you serve as a courtroom marshal for, and you mentioned Judge Bryant.

Mr. Bowden: Judge Bryant, and then I went into the field. I was not assigned to a particular judge. Then I came back out of the field, and I worked with Judge Lamberth for a long time, several major cases. Joyce and June Green, John Penn, Charles Richey, John Smith, Emmet Sullivan, Penfield Jackson. I did *Microsoft* with him, both versions of *Microsoft*. They were long. But I worked at various times with everyone who has sat on that bench. And up until a couple weeks ago, I had the privilege and the pleasure of opening court for the investiture of every judge since 1964 up until today. Judge Amy Jackson, who was recently sworn in, had investiture services, chose to deviate, and she wanted her courtroom deputy clerk to announce the opening of the court. Up until then, I had opened the court for every judge and magistrate judge who had investiture services in the United States District Court. And I was very proud to have the honor to do that. I started to say about a trial that I attended, and I can't recall who the judge was, but it was a narcotic case where the government, it was a slam-dunk case, what we refer to as a "slow plea." The government had a tremendous amount of evidence, and the defense didn't offer anything substantial for a defense. The

presiding judge had gone through great pain in instructing the jury to choose among themselves a foreperson and to deliberate and listen to your colleagues, instructions about sharing your thoughts, the standard instructions. So when he submitted the case to the jury, I escorted the jury back to the jury room to deliberate, and I gave them, the jury, my instructions as to what was expected of them, what's expected of me during the deliberation, that is don't ask me anything about the case, you can't just get up and walk out of the jury room, those kinds of things, and before I could close the door, one of the young men on the panel announced to his colleagues, "When you get around to discussion, guilty, wake me up, I'm taking a nap." And of course I closed the door. And of course the jury came back with a guilty verdict. I thought his expression was interesting. He didn't want to discuss it; he had made up his mind based on the evidence. That's about all I have.

Mr. Pollak: You've witnessed a lot of juries.

Why don't you lay down a couple remarks about your observations, how the juries work, your observations of juries, seeing them do their job, and how you feel that it serves the cause of justice.

Mr. Bowden: Jurors, as far as my observation, are very sincere about their job, but they're human beings and there are a lot of individual observations on their own part. I've heard them through the door during deliberation say, "I feel sorry for the defendant because he could not afford his own attorney" – he had a court-appointed attorney. "How do you know he's a court-appointed attorney?" someone says. "Well," the response, "he's worn the same suit three days in a row so he's not making much money so he must be court-appointed." I don't how the case came out, guilty or not guilty, but that's something that they bring to the

room. Now whether or not they feel the court-appointed attorney is not as qualified as a retained attorney, that was not said. But I just remember they observed how the attorney was dressed. I've heard them say, "something's going on over at the table, the defense, because the attorney doesn't look at his client, doesn't talk to his client." I've heard them say that the defendant didn't seem to be interested in what's going on; he's busy looking out at the audience, at people, and not listening to the witness testifying on the stand. What they do with that information, I don't know. Does it factor into their conclusion as to guilty or innocent, I don't know.

Mr. Pollak: Were you ever called to serve as a juror?

Mr. Bowden: Yes.

Mr. Pollak: Did you serve?

Mr. Bowden: No. I served on a civil case, but not in a criminal case.

Mr. Pollak: How did that go?

Mr. Bowden: It went well.

Mr. Pollak: In Superior Court or District Court?

Mr. Bowden: Prince George's County. The judge appointed me as the foreperson.

Mr. Pollak: Were you impressed with how the other jurors served?

Mr. Bowden: Oh yes. I'm a big proponent of the jury system. Rarely have I seen the jury miss the mark.

Mr. Pollak: How many trials do you think you've observed?

Mr. Bowden: Oh, don't do that to me. I would say 96%, 98% of the time, they hit it. Just from my observation and what I've observed and based on my experience and what is presented to them in the courtroom, notwithstanding what I hear at the motions, what I hear at bench conferences. I'm able to take that out of – I try to look at it

with their eyes and their ears. The jurors, they rarely miss it. I've seen some hung juries because of a dislike by one or two of the members of the jury panel as to some of the participants. I've seen some cases where it appeared that the government was coming down on someone and unnecessarily so, and the panel says he may be guilty, but I'm not going to find him guilty because they shouldn't have brought him here, that kind of thing, but not the facts. They weren't ruling on the facts. They were ruling on emotions.

Mr. Pollak: They should have been struck.

Mr. Bowden: I know that. But during the voir dire they should have when they got back in the jury room. Narcotic cases in voir dire, the litany of questions that are asked are supposed to purify the panel. I've heard them go back there and they're experts on drugs and say, Those are not his drugs because if they were he could put them in the stash. What do you know about stash? That's my question. Or, That's not the way drug dealers operate. Those kinds of things that only a person who has had exposure to the drug culture would know.

Mr. Pollak: Kirk, how do you come by the knowledge or recollection that a juror would make a statement like that? Did you hear it after the trial was over?

Mr. Bowden: Sometimes you can hear through the door. The marshal is duty-bound to stay outside the door to keep them pure. They get rambunctious with the conversation and you can hear. I've had to go in and break up fights.

Mr. Pollak: I suppose you've looked at the movie, "Twelve Angry Men."

Mr. Bowden: Yes. Years ago. That has some realism.

Mr. Pollak: So you've had to go in the jury room and break up a fight?

Mr. Bowden: Yes. You can hear the pounding on the desks. I said I better get in there before someone gets hurt. Of course I let the court know what's going on and the judge deals with it. That doesn't happen often.

Mr. Pollak: You mentioned when we were talking about having this further interview that there was at least one recollection you had about now-Chief Judge Lamberth that you thought you had covered it but couldn't find it. Do you recall what that was, and do you want to put it on the record now?

Mr. Bowden: It was a civil lawsuit that was filed by some inmates at Lorton against the Department of Corrections, alleging that they had been brutalized by the Department of Corrections. The Department of Corrections decided that they were going to eliminate this element at Lorton that was creating a lot of problems, which the Department of Corrections had complained about. A quasi-riot took place out there. So members of the Department of Corrections decided they were going to weed these people out, separate them, and ship them off to other institutions to get them out of Lorton, and they had them in one section of the jail and they decided that they – the Department of Corrections – early in the morning they would go in there and separate these people out. And in preparation for that, they took the name tags off of the uniforms and they went in, tried to take people out, and people resisted. There was a big physical to-do, the inmates claimed they were brutalized. So the captain was on the stand testifying, the commander of this group that went in to take the folk out. The question was put to him what happened.

Mr. Pollak: This is an ongoing trial before a jury and Chief Judge Lamberth?

Mr. Bowden: We're in trial now. He's a witness in trial before the jury. Judge Lamberth was not chief at this time presiding. Question to the witness, "What happened?" The

captain says, "I had three choices. I could coax them out of the cellblock, I could gas them, or I could beat the hell out of them." And that's a quote. That was his testimony. Judge Lamberth looked at me, I looked at him, and he recessed the court. Did you hear what he was saying? That's the reason we're here. Because you beat him. Needless to say, the jury came back with a verdict on behalf of the inmates. I just thought that was horrible for him to say that.

Mr. Pollak: That's quite a story. Well you could say it was horrible for him to do it but it was not horrible of him to say it because he was actually telling the truth. But it is amazing how rarely a witness who had been engaged in something like that would do that.

Mr. Bowden: He would defend it. I wonder what happened with the Corporation Counsel's Office on whether they should go to trial or not.

Mr. Pollak: Anything else?

Mr. Bowden: I think I've about covered it.

Mr. Pollak: Are there any institutions that used to be at the court that are gone now that you think were good, that shouldn't be gone? Any practices or doings?

Mr. Bowden: Good question. I can't think of anything. A lot of the things done in the Marshals Office are no longer done. At one time, I'm sure you're aware, a lot of lawsuits had to be served by the United States Marshals, civil and criminal lawsuits. They're mailed out now. There's no more knocking on the door and giving the lawsuit.

Mr. Pollak: Are procedures or proceedings in the court rooms more or less formal than they used to be?

Mr. Bowden: Much less.

Mr. Pollak: What was some of the formality that's now gone?

Mr. Bowden: The chairs were inside the well. Upright chairs, with four legs, no rollers. You sat at the counsel table with both feet on the floor. You didn't dare cross your legs in the courtroom. If you had an objection, you stood up, recognized by the court, and make your objection. You didn't make your objection from a seated position. The dress was dark clothing, dark suits. Women wore dresses and skirts, no pants. Nothing was on the table except law books or whatever was necessary during the course of the trial. Attaché cases, other personal items, were not on the counsel table. Counsel would not dare approach a witness with evidence or ask a question without first seeking permission of the court. Some judges required that there be a red zone between the counsel and the jury box, you just didn't get in that buffer there. And there was a reason for that. Some attorneys had a way of saying something under their breath that only one or two members of the jury could hear, just enough so that person could take that information back to the jury room for deliberation. I've witnessed that.

Mr. Pollak: Of course it wouldn't be in the record, would it?

Mr. Bowden: Of course not.

Mr. Pollak: Have you observed any change in the courts with the emergence of many more women attorneys and women judges?

Mr. Bowden: Oh yes.

Mr. Pollak: How would you describe the change?

Mr. Bowden: It was a gradual at first, then all of a sudden look up and both the U.S. Attorneys Office as well as the private bar had a lot of very talented female lawyers.

Mr. Pollak: Has it changed the way the courts handle their responsibilities or changed the way the proceedings go?

Mr. Bowden: I don't know whether they've changed. I think they're a little more tolerant. Let me go back. Let me say this. I think the court itself has relaxed from a lot of formality. I went to headquarters in 1983 and I came back about three or four years later, and I didn't recognize the court in terms of demeanor. I had never seen a judge on the bench with his robe open. You could see his shirt. I didn't own a sport jacket and pants because we wore dark clothing, suits, in the courtroom, as marshals. The court room was much more formal until the mid-1980s, early 1990s. Now I'm not a lawyer, but from my vantage point, I didn't see any depreciation in the practice of law in terms of the legal minds in interpretation of the law, any depreciation there, it was just the way it was done. I think more litigation – there's a shift in period before we get to trial where a lot of things are cleared up, a lot of motions, a lot of paper flow, those kinds of things, before you get to trial. It didn't used to be. So when a case goes to trial now, it's pretty well cut-and-dry, to a degree.

Mr. Pollak: Just march through the evidence.

Mr. Bowden: Right. Whereas earlier, you would get a witness on the stand, ask a question, and that answer is not something that anybody was prepared for. So then you have to deal with that. But now, I think you have to declare up to a point what your expert is going to talk about, what this witness is capable of testifying to. A lot of stuff is cleared up before you get to trial. Very few surprises, if you will.

Mr. Pollak: I don't only want to ask the question about the advent of women in the courts as lawyers, but I really need to ask the same question about the advent of African-Americans in positions as judges, as lawyers, as courtroom personnel. You've seen that occur in your lifetime.

Mr. Bowden: Absolutely.

Mr. Pollak: What commentary would you make about that?

Mr. Bowden: It's something I'm very proud of that did happen. I'm proud of the fact that I was witness to it. Because talent is talent. Intellect is intellect. I don't subscribe to the notion that the color of a man's skin determines his intellect or a person's gender determines their ability to do certain things, particularly practice law or to administer justice. We all come to the forefront with something historically about us, how we were reared, what our indoctrinations are, but to administer justice, to practice law, you have your personal experiences that you can draw on, but to follow the law is everyone's responsibility. Now, there are some folk who are more astute than others, but I don't equate them out in terms of race. They're human beings and there are some who are smarter than others, some grasp situations quicker than others. Practicing law as I observe it, administering justice, is not like playing basketball. It's not like catching a pass. It's not an athletic game. It's not a dance, not on the dance floor. Some folk are more adept at dancing than others, some more adept at swimming, at catching the ball. But when we talk about the mind, and moral turpitude and intelligence, race has no bearing in it at all.

Mr. Pollak: Is that all we can do today?

Mr. Bowden: I suspect so.

Mr. Pollak: It's been a privilege to be part of your interview. I'm glad you did this oral history.

Mr. Bowden: So am I.