

D.C. CIRCUIT ORAL HISTORY PROJECT

**INTERVIEW OF J. PATRICK HICKEY**

**by Joel P. Bennett**  
**First Interview, August 27, 2007**  
**1:00 P.M.**

Mr. Hickey: You want to just see also if it picks up my voice from where I'm sitting, too?

Mr. Bennett: When and where were you born?

Mr. Hickey: I was born in Iron Mountain, Michigan, October 20, 1939.

Mr. Bennett: How long did you live in Iron Mountain?

Mr. Hickey: For about three years, and then we moved to Milwaukee, Wisconsin, for a year, and then we moved to Washington State, where I grew up.

Mr. Bennett: The name "Iron Mountain" suggests that it's a mining community.

Mr. Hickey: Yes, it's right on the Wisconsin-Michigan border in the Upper Peninsula, and at one point was famous for having the world's largest artificial ski jump. But I don't know if that's still true.

Mr. Bennett: Do you remember anything about your three years there?

Mr. Hickey: No.

Mr. Bennett: And you moved next to Milwaukee?

Mr. Hickey: Yes.

Mr. Bennett: And how long did you live in Milwaukee?

Mr. Hickey: Just for about a year.

Mr. Bennett: And do you remember anything about that?

Mr. Hickey: Very little.

Mr. Bennett: And then you moved to Washington State?

Mr. Hickey: Yes.

Mr. Bennett: And where in Washington State did you move?

Mr. Hickey: We moved to Walla Walla, which is in the southeastern corner.

Mr. Bennett: Now that town sounds familiar to me. What is Walla Walla's claim to fame, if anything?

Mr. Hickey: Al Jolson once referred to it from the stage of the local vaudeville house as "the valley they liked so well they named it twice."

Mr. Bennett: (laughs)

Mr. Hickey: Other than that, it's been in more than one punch line of a joke. It is an agricultural area. The Washington State Penitentiary is also there. But when I grew up there it was pretty much a farming community—wheat, peas, some fruits.

Mr. Bennett: Was your father a farmer?

Mr. Hickey: No.

Mr. Bennett: What was he doing in Iron Mountain, Milwaukee, and Walla Walla?

Mr. Hickey: He was in the theater business. He ran movie theaters and the company that he was working for in Wisconsin had purchased a chain of movie theaters in Washington State and sent him out there to basically run the chain of theaters.

Mr. Bennett: So did he travel all over the state of Washington?

Mr. Hickey: Pretty much up to Seattle. There were – on the eastern side of the Cascade Mountains up from Walla Walla to Ellensburg is the last little town before you go across the mountains and then down into Seattle.

Mr. Bennett: And did you live in Walla Walla until you graduated from high school?

Mr. Hickey: Yes.

Mr. Bennett: And did you go to public school there, K through 12?

Mr. Hickey: I went to Catholic school, St. Patrick's.

Mr. Bennett: And what are your memories of your Catholic school education?

Mr. Hickey: It was a great experience. I had— It was a small school. Focusing on high school, there was a large public high school in town and then St. Patrick's High School, where I went, which was significantly smaller. We had a graduating class of about 35 students. But it was a great experience. Because it was smaller, there was a strong athletic program, and we all participated in it. We were state champions in a smaller classification because of our total enrollment. We had mostly nuns teaching us, who were wonderful.

Mr. Bennett: What sports did you play?

Mr. Hickey: Football, basketball and track.

Mr. Bennett: And what was your event in track?

Mr. Hickey: I was a miler.

Mr. Bennett: And in football, what was your position?

Mr. Hickey: I was the center on offense and a linebacker on defense.

Mr. Bennett: Very good.

Mr. Bennett: While you were in Catholic school, did you do anything that would have predicted your career in law, like debate club or student government or anything like that?

Mr. Hickey: No, I can't say that I did. I was a musician, I spent a lot of time and effort on my musical skills as a pianist, but I did not—. I don't think we had a debate organization, and I was not in student government. I completed my high school program in three years and joined my older brother, who was a year ahead of me, in the graduating class. And he was the student body president.

Mr. Bennett: Uh huh. And what did you do after you graduated from high school?

Mr. Hickey: Then I went off to college. I went to Carroll College in Helena, Montana.

Mr. Bennett: That's two Rs and two Ls?

Mr. Hickey: Yes.

Mr. Bennett: Named after John Carroll?

Mr. Hickey: No, after a different Carroll, but it is a Catholic liberal arts college in Helena.

Mr. Bennett: And what led you to go there?

Mr. Hickey: Well, there were a number of things. I knew some—I had some contacts with people who had been there who had been on the faculty. And I wanted to go to a Catholic school, and it's not too far up from where I lived, and it just seemed like a good place. We made those decisions, when I was leaving high school at least, in a much more casual fashion than kids do today. I mean I didn't go look at schools anywhere. Just kind of decided at the last minute where I thought I'd go and went.

Mr. Bennett: Did you apply anywhere else, or was this your sole choice?

Mr. Hickey: I did. No, I had applied to some other schools, and had been accepted at other schools, but this was the one I decided to go to.

Mr. Bennett: Good. How did you like the college experience?

Mr. Hickey: It was great. It's a great place. Since we're talking about the D.C. Circuit Historical Society, it has actually quite a few contacts with the District of Columbia. Former Chief Judge Bill Jones was the football coach there—

Mr. Bennett: Wow.

Mr. Hickey: . . . after he graduated from Notre Dame and came out of the Depression era before he came back east as a lawyer. You may not remember Judge Ed Tamm—

Mr. Bennett: Oh, I remember him, yes.

Mr. Hickey: He was on the D.C. Circuit.

Mr. Bennett: Actually argued before him.

Mr. Hickey: There was another Helena person. Charlie Horsky, who was a preeminent member of the bar here,

Mr. Bennett: Remember him, too.

Mr. Hickey: grew up in Helena. I don't think Horsky had a Carroll connection, but he was a Helena native. So for a small town it had a lot of people end up in Washington.

Mr. Bennett: I see. And in addition to the normal academic activities, what else did you do while you were in college?

Mr. Hickey: I was a seminary student in those days. There was a seminary program at Carroll, and I was involved, contemplating studies for the priesthood and taking a philosophy degree as part of that preparatory process. I continued to pursue my music, just privately, they didn't have a music program there at the college. I guess that's about it.

Mr. Bennett: Let me go back and do a few fill-in questions about your family. You mentioned your father, you mentioned you had a brother a year older. Did you have any other siblings?

Mr. Hickey: Two sisters.

Mr. Bennett: And how—was there anything unusual about your family life growing up, or was it pretty much a typical American family.

Mr. Hickey: I would say typical.

Mr. Bennett: Now after you graduated from college, what did you do next?

Mr. Hickey: I was off for a year. I worked in Walla Walla. Because it's mostly an agricultural town, the job opportunities are plentiful in the summer and not so plentiful the rest of the year.

Mr. Bennett: What year was this?

Mr. Hickey: This would have been '59, '60. I graduated from college in May of '59.

Mr. Bennett: And what did you do during that year?

Mr. Hickey: And so I taught school at the local St. Patrick's grade school. I taught some piano lessons. I drove a school bus. And when summertime came, I went back to work in the harvest, which is what I had done most of the summers as I was growing up.

Mr. Bennett: When you say you went back to work in the harvest, do you mean—were you working machinery or were you hand-picking things?

Mr. Hickey: There was a large Bird's Eye frozen food processing plant there where I had worked for several summers.

Mr. Bennett: So did you work indoors?

Mr. Hickey: Indoors, where the machinery was used to process the product. Mostly peas, but also spinach.

Mr. Bennett: What were the working conditions like?

Mr. Hickey: They were fairly tough. I mean, we worked, we worked 12-hour shifts six or seven days a week. There was no air conditioning. There was a lot of—the processing of peas involves first what they call blanching them in a steam process. There was lots of water, lots of humidity and lots of heat. And—

Mr. Bennett: So it sounds like it was pretty uncomfortable.

Mr. Hickey: Yeah, it was fairly— It made me appreciate having air-conditioned jobs later on in life.

Mr. Bennett: Right. And when you—how old were you when you first started working in—

Mr. Hickey: 16.

Mr. Bennett: And do you remember how much you got paid?

Mr. Hickey: \$1.35 an hour.

Mr. Bennett: Did you get paid overtime when you worked more than 40 hours a week?

Mr. Hickey: Uh, yes. We did. It might have been over 50, though. I think—

Mr. Bennett: There might have been exemption under the Fair Labor Standards Act to agricultural workers, or something like that? But you were glad to have the job and make the money, I take it.

Mr. Hickey: Right. When I decided that I wanted to go to law school, which I decided early in 1960, I knew that I was going to have a difficult time financing it. And so I wrote—I took — Again, I'm struck by the difference between the way young people approach these things today, and how we did it in our day. I didn't take the Law School Aptitude Test in the fall and decided, you know, January or so of 1960, that I wanted to go to law school; found out that you could take the last aptitude test in February or March, so I just walked down and took it.

Mr. Bennett: You didn't take any prep courses or buy any books or anything like that?

Mr. Hickey: Nothing like that. And you could in those days send your results to three law schools and if you wanted to send it to more, you had to pay additional fees. I really, I only could think of two that I knew anything about.

Mr. Bennett: What were those?

Mr. Hickey: I sent one set of scores to Georgetown. I had a friend who was a lawyer in town who was a Georgetown alumnus. And I sent them to Michigan because I still had relatives in the Michigan area and I knew by reputation that it was supposed to be a good law school. So I sent them to those places. I applied for scholarships there, and I got tuition scholarships at both of the places. But I was not sure I was going to be able to finance it even with that, because it didn't cover room and board expenses. Then a friend of my father's—when my dad told him that I was wanting to go to law school but was concerned about whether that would really happen, who was a Harvard Law School alumnus suggested that Harvard had a really excellent financial

aid program. This by now is around May, and I applied there so I paid an extra two dollars to get my law school aptitude test scores sent there. Then, in about the third or fourth week of June, I got an acceptance notice with a scholarship award that was significantly better than what I had gotten at the other schools and really made it look like I could do it with some stretching.

Mr. Bennett: So did you enroll in Harvard, then?

Mr. Hickey: So I went to Harvard that August and studied there.

Mr. Bennett: Do you remember how much it cost a year back in those days?

Mr. Hickey: I think I do. I think it was, I think it was \$1500 a semester tuition.

Mr. Bennett: So that was three thousand dollars a year plus whatever your living expenses were.

Mr. Hickey: Right.

Mr. Bennett: Do you know what the tuition is now?

Mr. Hickey: I would guess it's around 35.

Mr. Bennett: I just had a reunion at Georgetown last fall, and the tuition there is 37 (thousand) a year, so I'm sure Harvard is that much or more.

Mr. Hickey: Yeah, probably 35 or 40 (thousand).

Mr. Bennett: And where did you live when you were in law school?

Mr. Hickey: I lived in the dormitories.

Mr. Bennett: They had dormitories for law students?

Mr. Hickey: They did, right there on the campus. It was a—They were really very, very good to me. There was a very tiny Irish Catholic woman in the financial aid office who I think thought I needed some help. And so, I mean I worked all the time that I was there at a variety of different jobs and she was very good about floating loans. And then finally, I think in my last year, she said, you know when we get to a certain stage of loans, we don't want to, we

don't want to burden our students with too much, so we just give you a grant after that. Which I thought sounded pretty good.

Mr. Bennett: What types of jobs did you work at while you were in law school?

Mr. Hickey: Oh, I did a lot of things. I worked at the Harvard Undergraduate Theater, both selling tickets and ushering for the nighttime performances. Usually if you worked during the day in the box office, you could study while you were sitting there until a customer came by. I translated a scientific treatise in Latin for a professor at MIT who was doing work in the history of metallurgical science. It was an avocation, a sideline of his. He had this 17th Century treatise by a Swedish metallurgist that had been written in Latin and posted a sign on a bulletin board at the college, you know where they had job opportunities, someone to translate this. I did that. I'm a published author in that sense, a published translator. More than once I—in those days, the hospitals in Boston offered twenty-five dollars a pint for blood, which they let you give once every two months. And so I did that. I worked for the Department of Economics in the undergraduate school just doing typing and clerical work.

Mr. Bennett: So you knew how to touch-type when you were in law school?

Mr. Hickey: Yes, I actually became quite a good typist because when I first went to law school, I got a ride back early with one of my fellow Walla Wallans that I didn't even know before. But he was driving across country and wanted someone to help with the driving and the gas. And so I went with him. He was going back a little early because he was on the Law Review, and they had to show up early. So I got there about three weeks before classes began and needed to find a job and in those days, the professors used clerical help often to type multilith materials or class materials when they didn't have textbooks. So I got a job.

Mr. Bennett: What were multilith? Multilith like mimeographs?

Mr. Hickey: Yeah, like mimeographs. You typed stencils and they're a real pain to correct, so you learned to do them well. And I got paid piecework. So I got paid—don't know what it was—I think a couple of bucks per page. And so if you were good, it was, you know, legal-size papers, and I first discovered the beauties of the citation system, which I had never been exposed to. And all the numbers that you have to type as you cite these case reports. And he had a lot of foreign materials because he was an international law professor. So I mastered my typing skills pretty well.

Mr. Bennett: When did you first learn how to type?

Mr. Hickey: I taught myself typing between high school and college, in the summer, just got a book and practiced.

Mr. Bennett: Was it rare when you were in law school for a law student to be able to type well? Or was there a lot—

Mr. Hickey: Uh, I don't think it was so rare. I have a recollection from law school. In those days, you could type your exams in —

Mr. Bennett: In a separate room?

Mr. Hickey: In a separate room. They had two rooms. One for the writers and one for the typers, and I always went to the typing place because it was so much faster that I could really spend more time thinking about it. And there were a lot of people in the typing room and the usual big rooms. And my class was 550 students or something. And—

Mr. Bennett: Was it noisy in the typing room when you took an exam?

Mr. Hickey: Well, it was. I mean, everybody was pounding away. What I remember is that the first person who hit a key always provoked a hiss

Mr. Bennett: (laughs)

Mr. Hickey: because everybody else was still in the middle of the problem and trying to understand what they were going to say and then somebody would start to type.

Mr. Bennett: You brought your own typewriter to the room?

Mr. Hickey: You brought your own typewriter.

Mr. Bennett: And were they portable electrics in those days? Or just portable?

Mr. Hickey: Portable.

Mr. Bennett: Portable manuals.

Mr. Hickey: Yeah, portable manuals.

Mr. Bennett: Hmm. So they were pretty noisy, I'm sure.

Mr. Hickey: (laughs)

Mr. Bennett: And did you go straight through law school in three years?

Mr. Hickey: Yes.

Mr. Bennett: What was your first law clerk or lawyer-type job while you were in law school, if you had any.

Mr. Hickey: The first summer I came back to Walla Walla and worked in the pea harvest again. The second summer I worked for a law firm in Walla Walla, for the lawyer friend of my father's who had suggested Harvard.

Mr. Bennett: You worked as a law clerk?

Mr. Hickey: I worked as a law clerk there after my second year.

Mr. Bennett: How big a town was Walla Walla in those days?

Mr. Hickey: Twenty-five thousand.

Mr. Bennett: And how many lawyers would you say there were?

Mr. Hickey: Thirty or forty.

Mr. Bennett: How did you enjoy working in the law firm?

Mr. Hickey: It was good. They had a general practice and it was, you know, fairly formal. The bar was tightly knit and cordial to each other, and there was a small-town atmosphere that encouraged everyone to behave like gentlemen. I thought it was a good experience for the summer.

Mr. Bennett: Would this have been the summer of '61 or '62?

Mr. Hickey: Uh, '62.

Mr. Bennett: Do you remember how much you got paid as a law clerk?

Mr. Hickey: No, I really don't.

Mr. Bennett: Okay. So then you went back to Harvard for your third year. Did you do anything differently third year in terms of working?

Mr. Hickey: No, I did more work as a research assistant. One of the professors that I was taking a class from on law and medicine was updating a textbook or something. But he needed a research assistant and had money to pay for it, so I hired on, did that.

Mr. Bennett: Was it hard to get research assistant jobs when you were in law school?

Mr. Hickey: Not too. Not too. I don't think there were a lot of law students that were working in those days.

Mr. Bennett: Cause some of the, historically, some of the most famous professors people liked to deal with, Frankfurter or whatever, seemed, from what I've read about them, seemed to have their favorites of people that they would hire who then would go on to Supreme Court clerkships, and things like that. I suppose that was sort of a higher level—

Mr. Hickey: Yeah, yeah, I think so. I think—I don't think a lot of the professors used research assistants. Don't know why, maybe because they—

Mr. Bennett: Did you have a favorite professor when you were in law school?

Mr. Hickey: I did. I did. Paul Freund was the constitutional law star of the faculty. In my second year—in those days, the curriculum was almost all mandatory. I think you had one choice your second year, none your first year, one your second. So in the second year, I had to take corporations, tax, accounting, commercial law, constitutional law, and one other thing. And I had never had a taste for, generally speaking, business law. I never had thought that I'd become a corporate lawyer, and I couldn't care less about accounting. And I had this enormous dose of all these business-oriented practices. I found the classes just painful. But constitutional law was a joy because Professor Freund, besides being enormously smart, was a terrific teacher. Witty and clever and kindly and just kind of—

Mr. Bennett: This was second year?

Mr. Hickey: This was my second year.

Mr. Bennett: Let's go back to first year for a moment. Did you have a favorite course or professor first year?

Mr. Hickey: We did have kind of a favorite professor. We, several of us, we were just assigned, and the first-year property course had different sections to divide up the 550 first-year students. And I was in a section taught by Barton Leach, who was a, who had the property textbook that was used in many of the schools. We used Casner and Leach, Professor Jim Casner taught one section and Professor Leach taught the other. Professor Leach was a character of some renown. Things were somewhat different in those days. He was famous or infamous for conducting what he called "ladies' day," when he required the female students in the class to kind of lead the class from the stage while he sat in the audience and peppered them with questions. I think he actually helped them secretly prepare for it, to take off some of the anxiety. But it was still a fairly anxious performance and, of course, you know a class of 550, we had about a dozen women. Unlike today.

Mr. Bennett: Any minorities that you recall?

Mr. Hickey: I don't think so.

Mr. Bennett: So that was about two percent, two to three percent women.

Mr. Hickey: Yeah. He was kind of gruff and quick, but then he also had a sense of humor and a warm streak. The last class before the Christmas break, I remember, without any advance notice he came in, this was like 11 o'clock in the morning, and he took his usual spot at the front of the lecture hall and said, "We're going to do something different today." And kind of gave a signal to the back and three or four of our classmates came in with cases of beer. He pulled out a flask from his jacket and had a little nip and then took out his accordion. And led us in song for the class. It was kind of a humanizing gesture for a place that could otherwise be kind of big and—

Mr. Bennett: Have you seen the movie "The Paper Chase"?

Mr. Hickey: I don't think I have. I'm familiar with the story.

Mr. Bennett: Was the Harvard Law School of your day anything like that or, the movie basically makes it seem like it was very cutthroat and people were having, students were having nervous breakdowns and this particular professor was a real autocrat, used the Socratic method to humiliate people.

Mr. Hickey: I would say there was some of that. But I think there was an effort to try to avoid it on the part of some of the, particularly the younger faculty members. There were some very kind and caring senior faculty members as well who were terrific teachers and very interested in the students. The students that I became friendly with from my dorm and my classes and so on were just good friends. I never saw that kind of cutthroat, you know people taking advantage of other people. I mean you heard stories about some of it going on, but I can't say that I saw any of it.

Mr. Bennett: Nothing like books being stolen out of the library when you needed them to prepare for an assignment or anything like that?

Mr. Hickey: No.

Mr. Bennett: And what was your third year like?

Mr. Hickey: My third year was finally a little bit more peaceful because I found it a challenging experience. I'd always gone to a really small, very small schools in very small towns, and I was kind of thrown into a much bigger pond. And I worked very hard. So I was glad by the time the third year came that I could see the end in sight.

Mr. Bennett: And when you – did you have any goal in terms of what you were going to do after law school? What did you do immediately after and how did it happen?

Mr. Hickey: I did have a goal. In those days—I think still today—it was required that all of the first-year students participate in a moot court, which was an appellate moot court. You did it twice. Once in the fall, and once in the spring of your first year, and all of the students participated. And through some good luck I did very well in the fall competition and won an award for the best oral argument. And did well in the spring, too. And about that time, as part of the speakers' series, Edward Bennett Williams came to Harvard and spoke at the Harvard Law School forum and gave a very entertaining and interesting talk about his practice and kind of criminal defense work and so on. And so it gave me an interest in litigation that I tried to structure to the extent I could in my third year, some of my coursework towards that area. I had a trial practice course much different from the way they teach it today. And not nearly as good, I would say.

Mr. Bennett: Less clinical and more book oriented?

Mr. Hickey: Yeah, yeah, yeah. And I took, you know, the usual course in evidence and some things like that that were related but—

Mr. Bennett: One of the criticisms of law school is that teachers don't have practical experience for things like evidence and trial practice. I would think that would be particularly important. Do you remember whether your professors third year had any great practical experience in evidence?

Mr. Hickey: I think not a lot. The person who taught the trial practice course had done some work, but I think more on a higher level for large insurance companies, not as a trial lawyer but as a risk liability lawyer type. So, yeah, I don't think they had a wealth of practical experience like many more of them do today. And then in the third year there was an announcement from Georgetown for the Prettyman Fellowship program. And I remember that Ken Pye, then the—no, he was not then the dean. He was in charge of the Prettyman Fellows program but he was not then the dean of the law school. He came up and interviewed, and I interviewed with him. And I think it was not until the spring that we had, that the selections took place, but I was called in the spring and said I'd been selected.

Mr. Bennett: Spring of '63?

Mr. Hickey: '63. That required that I be admitted to the D.C. Bar as part of the program, so after law school I came to Washington, took the bar, and started in September. Well, I worked in the summer at the Prettyman program. They were putting out a book, and so I did the index and did some editorial work on the book.

Mr. Bennett: What was the book about?

Mr. Hickey: Criminal defense.

Mr. Bennett: And was the Prettyman Fellow program in those days a strictly criminal defense program?

Mr. Hickey: Yes. It was only—I think we were the third or fourth class of Prettyman Fellows. It had been set up before in honor of Judge Prettyman of the Circuit Court through the

assistance of John Warner, the Senator from Virginia, in terms of making some funds available since he was married to a Mellon in those days. And there were six of us. And the program was that you came, did a lot of studies and training just among the group, represented indigents in the District Court where all the criminal work was done, and took some classes and ended up with an LLM as well.

Mr. Bennett: Did you do appeals, too, or just the trial work?

Mr. Hickey: I think we did an appeal, Joel, but I don't remember actually arguing any in the Prettyman session. It was mostly trial work. In those days, in '63, there were preliminary hearings in what was then the Court of General Sessions. And preliminary hearings before a United States Commissioner—that was then—much later a magistrate in District Court. But all the felonies were tried in District Court. And so once we were admitted to the bar in the late fall of '63, we started taking cases, going to trial as they progressed through the system.

Mr. Bennett: When you had your first actual courtroom experience, was there a more experienced person with you or did you do it on your own?

Mr. Hickey: You just did it on your own. Typically, the director of the program would come and observe sometimes. If you happened to be in a case with co-defendants, you might have a more experienced counsel representing the other—

Mr. Bennett: And was Ken Pye the head of the program the entire time you were in the program?

Mr. Hickey: No. George Shadoan, now still a prominent trial lawyer, mostly in Rockville, became the director. No, he'd been the director in '62 and '61, and then Bill Greenhalgh was the director the year that I was there. And Ken Pye had administrative responsibility for the school.

Mr. Bennett: As some type of dean, perhaps?

Mr. Hickey: Yeah.

Mr. Bennett: And so in terms of your training, was Professor Greenhalgh the primary person who trained you?

Mr. Hickey: Yes. And he brought over guest speakers. I remember particularly Bill Bryant came over and talked to us. He had sessions with several representatives from the prosecutor's office to talk about papering cases, the grand jury system, things like that. We met with the bail to get the story on how they operated. It was quite an experience. It was really great.

Mr. Bennett: So you enjoyed those two years?

Mr. Hickey: Oh, yeah. In those days, it was one year.

Mr. Bennett: Oh, I see. It's now, it subsequently became a two-year program?

Mr. Hickey: It subsequently became a two-year program.

Mr. Bennett: So you did that from '63 to '64. And what did you do in '64?

Mr. Hickey: In the fall of '64, I remember that I had a first-degree murder case that I had been working on that was coming to trial and I wanted to make sure that I tried that, which I did in the September/October '64 time frame. And then, because I had been receiving draft deferments all through my educational career, the Draft Board decided that it was time that I did my—

Mr. Bennett: Faced the music. (Laughs.)

Mr. Hickey: So in those days there was a program in the Navy Reserve for lawyers where you could get a commission, but the requirement was that you had to serve six months' active duty first. And the Navy didn't have openings in their six-month active duty program. So I enlisted as an enlisted man in the Air Force Reserve, did six months on active duty, and basically a year before I could get my Naval commission and I became a Lieutenant (j.g.) in the

Navy JAG Reserve and spent the rest of my time in the reserves so that I could practice law basically and just do this—

Mr. Bennett: So how long were you actually on active duty in the military?

Mr. Hickey: Six months.

Mr. Bennett: So that would have been in '64 to '65?

Mr. Hickey: Right.

Mr. Bennett: So you were living in Washington when JFK was assassinated.

Mr. Hickey: Yes, I was.

Mr. Bennett: What are your recollections of that day and the days that followed?

Mr. Hickey: I do recall it. I recall hearing it at the bus stop outside Hecht's, 5th and E, 6th and E, as I was catching the bus to go home. And being shocked and horrified.

Mr. Bennett: Where did you live when you were a Prettyman Fellow?

Mr. Hickey: I lived in a wonderful house in Georgetown I stumbled on through the greatest good luck, at the corner of 31st and R, with three other young lawyers and an elderly woman, who worked for the Defense Intelligence Agency and kind of manned the house, and a live-in cook. So it was a great place to live and the price was right.

Mr. Bennett: How long did you live there?

Mr. Hickey: I think about three years.

Mr. Bennett: So that would have been from about '63 to '66?

Mr. Hickey: Yeah. Oh, when I came off active duty, I got a job with what was then called the Legal Aid Agency, the forerunner of the Public Defender Service. And I started there in the spring of '65 after I got off active duty, like March/April, around then. And I went right to work for Legal Aid.

Mr. Bennett: Who was the head of the Legal Aid Agency at that time?

Mr. Hickey: Charlie Murray was the director. He was a very distinguished older gentleman, a fine man and a good lawyer. I think he had been an Assistant U.S. Attorney and in private practice. He may have been if not the first, then probably the second, director of the agency. Because it had only been started about 1960 or '61.

Mr. Bennett: How many attorneys were there in the agency at that time?

Mr. Hickey: I think there were about a dozen of us.

Mr. Bennett: And was it divided into sections at all or did everyone do everything?

Mr. Hickey: Well, there really weren't many sections. We—all the criminal cases were still in the District Court so we all just took felony cases. I think one person served at the United States Magistrate, Commissioner as it then was, and one person provided representation before the Mental Health Commission on cases from St. Elizabeth's Hospital.

Mr. Bennett: Did you do your own appellate work? If you took a case to trial, did you do the appellate work or did you have a couple of specialists within the Legal Aid Agency?

Mr. Hickey: We didn't have appellate specialists. I think most of those ended up being farmed out. I think the private bar took more of those, as I recall.

Mr. Bennett: And do you remember how much you got paid when you worked at the Legal Aid Agency?

Mr. Hickey: I remember when I was a Prettyman Fellow I got \$4,000 a year. But because it was an educational stipend, it was tax-free. I think at Legal Aid it paid somewhere around like seven, maybe, something in that vicinity.

Mr. Bennett: So you were at Legal Aid from the spring of '65 until when?

Mr. Hickey: Until the spring of '67, at which point I had been approached by a lawyer who had gotten some help from the Legal Aid Agency on an appointed criminal case and had

come back to them to ask if there was anybody there that might be looking to move on because he was looking for some help. And he was a young partner at Shaw Pittman.

Mr. Bennett: What was his name?

Mr. Hickey: Phil Bostwick. And so he talked to me about whether I might be interested in moving on and I decided I was. And so I came to Shaw Pittman in the spring of '67.

Mr. Bennett: And were they located at 910 17th Street at that time?

Mr. Hickey: Yes, they were. It was a grand old building, the Barr Building.

Mr. Bennett: I started out there in 1976, and I had Gerry Charnoff's old office.

Mr. Hickey: Oh. Well then you know where we were.

Mr. Bennett: Right.

Mr. Hickey: Overlooking Farragut Square. And when we moved there, they still had the elevators that were operated by some very elderly ladies—

Mr. Bennett: They were still there in '76 when I was there. And how many attorneys did Shaw Pittman have when you joined the firm?

Mr. Hickey: A dozen.

Mr. Bennett: And that was in the spring of '67.

Mr. Hickey: Right.

Mr. Bennett: And when you joined Shaw Pittman, what type of work did you do?

Mr. Hickey: I was doing litigation work. They had a significant practice, mostly with foreign, primarily British, aviation insurance companies. And so we did aviation accident defense work for those companies and underwriters at Lloyds. And that's what I was hired to do and what I did for them.

Mr. Bennett: Was that work local or all over the country or all over the world?

Mr. Hickey: All over the country primarily.

Mr. Bennett: So you did a lot of traveling?

Mr. Hickey: A lot of traveling, yes.

Mr. Bennett: And when you came on board you were an associate?

Mr. Hickey: Yes.

Mr. Bennett: And how long did you remain an associate?

Mr. Hickey: I stayed there until 1970 and then I left. The Public Defender Service had just been created as part of the court reorganization of 1970. And so I went back to the Public Defender Service.

Mr. Bennett: As the director?

Mr. Hickey: No, I went back—one of the mandates from the new legislation was that the Public Defender Service was to take greater responsibility for training and utilization of the private bar to assist them in the representation of indigent defendants. And so I went back to head that portion of their new responsibility. And there was a program that we embarked on to try to increase the amount of private bar participation because it was—this may be slightly before your time—in those days, there was the very small Legal Aid Agency, then the Public Defender Service, and there was the local bar from the Court of General Sessions primarily, and to a lesser extent from the District Court. But there were not many attorneys who practiced down there regularly except for regulars—and there were concerns about some of the regulars—whether they were really providing adequate representation.

Mr. Bennett: They were called "Fifth Streeters"?

Mr. Hickey: They were called the "Fifth Street Bar," yes. And one of them pointed out to me once with pride that Daniel Webster had his office on Fifth Street. But—I think everybody felt among the judges that there was certainly room for improvement in the quality of representation that they provided. So the goal was to try to increase private bar participation.

There was a plan which we had negotiated with what was now the Superior Court of the District of Columbia to try to bring down more attorneys. I think Chief Judge Harold Greene, although initially supportive, felt pressured by the volume of cases that he was responsible for processing in that court and was worried that an influx of private lawyers would drive away the existing bar that he had no choice but to rely on to get representation for people processed in his court. So it all pretty much came to naught, although I think it did serve a function in bringing to light some of the situations and conditions at the Superior Court, the need for some improvements.

Mr. Bennett: What was your title when you went to PDS in 1970?

Mr. Hickey: I was the Director of Criminal Justice Act Programs, or the Criminal Justice Act Program.

Mr. Bennett: And how long did you maintain that title?

Mr. Hickey: I became then the Deputy Director of the Agency in about '72 or '73. And then I became the Director in '75.

Mr. Bennett: And how long did you stay as the Director?

Mr. Hickey: I stayed until 1979.

Mr. Bennett: Let's go back to your career at PDS. Having graduated from Georgetown and became a member of the D.C. Bar in 1972, I remember while I was a law student at Georgetown that there was a lot of talk about abuses in the CJA system, that several attorneys were making too much money or were falsifying records or padding time. Did you get involved with that or are you strictly with training?

Mr. Hickey: Mostly with the training and trying to increase their participation because the courts, the judges, continued to sign off, I think some of them reluctantly, on voucher requests for payment. I mean there were a lot of other—there were other issues about the—other

concerns about the quality of the representation from some members of that bar that the judges tried to deal with.

Mr. Bennett: Was there ever any discussion of trying to create a PDS that would do all of the criminal defense work or somehow—

Mr. Hickey: There was some talk about that, but never, I don't think it ever really got going very far. A little bit of the history that I recall is that, well I remember specifically when the Legal Aid Agency was set up, which I was not around for, but I was there three or four years after, I remember being told that it was very much intentional that it was not called the Public Defender Service at the start because in those days, the District of Columbia was very much a creature of the congressional committees (unintelligible) that were chaired in many important instances by conservative southern congressman who were not really supportive of representation for indigent criminal defendants in the District where most of them were minority people anyhow. So they were, they were tacking their sails a little bit to try to make sure that it got established and in the early days, when I was first there Gary Bellow, who later became a professor at Harvard and set up their clinical program at the law school, was the Deputy Director. And they did not have an individual calendar system in the U.S. District Court. They had an assignment court, do you remember that?

Mr. Bennett: I was admitted in '72, and I think they were just changing over to individual system. But of course in Superior Court, they've had that until fairly recently and the Eastern District of Virginia has that, too. And to me, it's a nightmare.

Mr. Hickey: Well, when I was first at the Legal Aid Agency, the chief judge was Matthew F. McGuire, who was a real character, interesting man. And he would run assignment court in the morning, and it was always a show. And poor defense counsel would sometimes—basically, they'd call the case and the prosecutor would say they were ready and

defense counsel would have to say whether they were ready or not, and if there was a judge available and Judge McGuire would say, "All right, report to Judge Holtzoff."

Mr. Bennett: (Unintelligible) (laughter)

Mr. Hickey: Tried one of my early cases before this man. But there was some pressure on the court to assign the Legal Aid Agency lawyers cases when they couldn't find other counsel. And Gary Bellow, among others, let it be known that while he was a hardworking lawyer and was prepared to do that, he was not going to take cases that he couldn't handle. And he was sent out, over his objection, by Judge McGuire to try a case that he had just recently been appointed to. And it went to Judge David Pine, who was then a senior judge, had been around since the '40s, a wise old man, I say that in a complimentary sense, and at the start of the trial, when the judge asked if they were ready and whether they should start empaneling the jury, Mr. Bellow said no, he was not ready, that he hadn't had time to prepare the case, that he had not done any of the following things that he enumerated, and that if he were compelled to go trial and there was a conviction, he would think it was his professional responsibility to testify on behalf of the client that he had not received effective assistance of counsel. And the story was that Judge Pine called Mr. Bellow to the bench and said, "You know, young man, you're not going to be very popular around here, but I understand what you're saying." Then he called Judge McGuire and said, "Unless you want to try all of these cases over again, you better recognize that you can't make these cases go to trial when counsel says they're unprepared to try them." And so it kind of set a tone that the Public Defender Service, unlike defender offices most everywhere else in the country, would control its case load and would not take cases that they couldn't handle. And it made all the difference in the world in being able to give quality representation.

Mr. Bennett: Let me go back to your Prettyman days and then Legal Aid Agency days—I've never done criminal defense work at the trial level, I did a few CJA appeals early in

my career, but there's at least one book that's been written where the title was something like, "How can you represent these people?"

Mr. Hickey: That was a lawyer that worked for me, yes.

Mr. Bennett: And did that syndrome ever bother you when you were doing criminal defense work?

Mr. Hickey: No, I can't say that it did. There were a lot of very emotional and troublesome cases, where you felt sympathy and sorrow for what had happened to people. But I frankly found that most of the clients that I represented, I was able to feel some empathy with as well. That's not a hundred percent true, but I would say it's about 90 percent true. Many of them were people who had had few advantages and a lot of difficulties in their lives. Usually I had a good relationship with them, they were kind and respectful to me, and they seemed to appreciate what I was doing for them, or trying to do for them. And we were just, I think, able, maybe of necessity to some extent, to block off the horrors of the offense with which they were charged and focus on what our responsibility was. I mean, we used to say to ourselves and to each other, "I'm not the judge of this person, I'm his lawyer or her lawyer and whether they're morally culpable or not, I leave to someone else. I can't—I'm not in a position to figure that all out given their background and circumstances, and so on." So we just put that aside and focused on what we were being charged with doing, which was providing them the best representation we could.

Mr. Bennett: Sure. During the years that you were actually a litigating attorney for both Legal Aid and Public Defender, can you give me any approximation of the cases you handled, what percentage pled out versus going to trial?

Mr. Hickey: Well, there was—even in those days there were a lot of pleas, probably even more in some ways because we didn't have sentencing guidelines and we had some ability to arrange for cases for pleas to be given before certain judges. And some of the judges were

more receptive to sentencing arguments for mental health services or probationary services. The Legal Aid Agency had, through a grant, one of the first offender rehabilitation social work programs in the country connected with a defender office. And they did excellent—it's now a permanent part of their agency, but they did excellent service with juveniles and adults as well in attempting to provide rehabilitative programs, including drug care and treatment, psychiatric or psychological counseling, job placement services, family services, so that you could go to a judge who was considering a sentence to impose and say in a fairly persuasive way, "It's not necessary to put this person in jail or not for a long time anyhow. He deserves a chance and we have a program that has a reasonable prospect of success." And so we were able to, I think, make a much more positive impact both on the system and on the individual defendants. Now the swing of the pendulum has been so much that there's a, I think, an over-readiness to wash your hands of them and a resultant over-incarceration and enormously severe sentences that are really just delaying the problem that we're going to have to deal with sooner or later. But I think I tried about maybe a third or so of the cases that I had as a Legal Aid lawyer.

Mr. Bennett: Well, from what I've seen of statistics, that's a pretty high rate of trials in the criminal system.

Mr. Hickey: Yes, I think that's true.

Mr. Bennett: And the other thing that I remember we used to discuss in law school—Sam Dash was my criminal law teacher first year, which was very interesting—was what do you do when you have a client who is gonna get up there and lie, and you have some basis for knowing it's a lie. Did you ever face that situation doing criminal defense work?

Mr. Hickey: Really, it came up much less frequently than I had been led to expect. I had, first of all I had few clients who would admit that they had—would admit their guilt at the start. And when they don't do that, you're always left uncertain—I mean you know, or you try to

know and try to find out what the evidence is against them. But if their posture with you is that they are denying that they were guilty of the offense, then there's no problem from an ethical point of view of having them testify to their denial. Obviously, there's a psychology and a human relations aspect to it so that if you have a good relationship with your client, and if you're not insisting that he confess to you in a way that will make it difficult for him, and are able to persuade them that their chances at trial are slim to none, then you can attempt to work out an arrangement for them and bring them gradually to admit their guilt to the judge as they must at the plea proceeding.

Mr. Bennett: Were you generally successful in doing that, would you say? Or I don't know if—it may be hard to quantify that, I suppose.

Mr. Hickey: I think generally I was.

Mr. Bennett: And we're about to end this tape so I'll just ask one more quick question. In the years when you were actually trying cases as a criminal defense lawyer, did you have any particular favorite judges that you liked to appear before?

Mr. Hickey: Yes, Judge Bryant was one, for sure. The others were more of a mixed bag. I tried a serious homicide case before Judge Sirica. I had one of my first trials before Judge Holtzoff, that was a unique experience, later reversed on appeal. Judge Luther Youngdahl who was the former governor of Minnesota, was a kindly judge. Judge Spottswood Robinson when he sat in the trial court was an excellent judge, very meticulous and careful and detail-oriented so that it took a long time to finish your trials.

Mr. Bennett: And back in those days, was all your work in District Court?

Mr. Hickey: Yes. Yes. There were—I'm trying to remember if I ever tried a misdemeanor in General Sessions—I don't think I did. I had some preliminary hearings over there. I remember going there at two or three in the morning one night for a presentment of an

individual defendant who had just been involved in the homicide of a police officer and who was being presented before a judge at 2:00 A.M. and the prosecuting attorney knew he needed to have counsel for him and called me and asked me to come down.

Mr. Bennett: Were all your cases—all your cases were indigent, correct?

Mr. Hickey: Yes.

Mr. Bennett: And were any of them what we would call today "white collar people" who just happened to be indigent or were they all pretty much what we'd call "street crimes"?

Mr. Hickey: I would say more street crimes. There were some, I had some people involved with drug cases who came from a more middle-class background, some of whom were white and they had gotten into the drug problem. There were in those days—I didn't have them—there were a couple of instances where there were indigent securities fraud cases that were brought, that required appointed counsel, but I didn't get involved in those.

Mr. Bennett: And once you became deputy director and then director, did you no longer try cases anymore?

Mr. Hickey: That's right. I was in—well, that's not quite true. I tried the—in 1971, the Public Defender Service had some wars to fight. Public Defender Service had filed a case about conditions at the D.C. Jail, and I kind of consulted on it, but then as it went on and as some of the lawyers left, I took a more active role.

Mr. Bennett: That was a civil case?

Mr. Hickey: That was a civil case, and I tried it in 1975.

Mr. Bennett: Who was the trial judge?

Mr. Hickey: Judge Bryant.

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Mr. Bennett: Interview of Patrick Hickey on August 27, 2007, this is Tape 1, Side B.

Mr. Hickey: Yes, and we're continuing with the interview.

Mr. Bennett: Okay, we were talking about the civil case that you tried involving the conditions at D.C. Jail. Was that the only civil case you handled when you were with PDS or did you have other civil cases?

Mr. Hickey: No, that was all.

Mr. Bennett: And how long was the actual trial?

Mr. Hickey: Oh—

Mr. Bennett: Any idea?

Mr. Hickey: I would say it went over—I mean there were a lot of hearings in it at various stages. As you may know, the case went on forever. But my recollection is that the trial took part of two weeks.

Mr. Bennett: And what was the ultimate outcome?

Mr. Hickey: The outcome was that Judge Bryant issued a terrific opinion that found that conditions at the jail were unconstitutional and that we needed to implement, that the District needed to implement, remedial programs to improve conditions there.

Mr. Bennett: And when you left in 1979, did Judge Bryant still have jurisdiction over the case?

Mr. Hickey: Yes, he did.

Mr. Bennett: And it went on for quite a while after that, I understand.

Mr. Hickey: Yes, I took it with me when I left and brought it to Shaw Pittman and it ended in 2003. That was like 32 years or something.

Mr. Bennett: Amazing.

Mr. Bennett: Let me try to wrap up your Public Defender Service era. By the time you left in 1979, how many attorneys did the Public Defender Service have?

Mr. Hickey: I think at that point we had about 35 or so.

Mr. Bennett: And were you divided into an appellate section and a trial section?

Mr. Hickey: Yes. We then had an appellate section, we had a trial section for the District Court. We were then—no, we were moving out of District Court and by then, were mostly in Superior Court. We had a juvenile branch, we had a mental health branch at St. Elizabeth's Hospital.

Mr. Bennett: You still handled some cases in District Court?

Mr. Hickey: A few. Yeah, but because they had shifted most of the jurisdiction to the Superior Court in those days, that's where most of the trial work was.

Mr. Bennett: Did you try any criminal cases in Superior Court yourself?

Mr. Hickey: No.

Mr. Bennett: Several of the attorneys who worked with you went on to become Superior Court judges, correct?

Mr. Hickey: Yes, that's true. Fred Weisberg was the first, but there's I think more than a dozen of our lawyers, many of them from that period in the '70s, who are now on the bench in Superior Court or in the D.C. Court of Appeals judge. Judge Glickman is a former PDS attorney. Thought there was somebody else up there, but maybe not. Maybe he's the only appellate court judge.

Mr. Bennett: Okay. Now in 1979 you came back to Shaw Pittman?

Mr. Hickey: Yes.

Mr. Bennett: And did you come back as a partner?

Mr. Hickey: Yes.

Mr. Bennett: At that time, how many attorneys did Shaw Pittman have, would you say?

Mr. Hickey: I remember when the partner that I was talking to about coming back was describing changes in my absence he said, "You won't believe the place. I think next year we're going to have 50 lawyers."

Mr. Bennett: That was at 1800 M?

Mr. Hickey: We moved to 1800 M in 1987. So I came back to the Barr Building at 910 17th Street.

Mr. Bennett: I think you're mistaken about that. Because I moved into the Barr Building in October of 1976 and Shaw Pittman was out.

Mr. Hickey: Oh, I'm sorry. That's right. That's right. I'm sorry, I was thinking about this building. You're right. 1800 M Street.

Mr. Bennett: Right. And Shaw Pittman stayed at 1800 M until it moved to 2300 N.

Mr. Hickey: Yes. And that was in 1987.

Mr. Bennett: Because I remember visiting over there shortly after you moved in because it was considered quite the modern, elegant office and that would have been around '76, I think.

Mr. Hickey: I remember in those days the idea of having 50 lawyers in a firm was just—people were just astonished that you could put that many lawyers together. And of course now, that's not even a medium-size firm.

Mr. Bennett: And when you came back to Shaw Pittman, was the firm divided into sections or groups or anything like that?

Mr. Hickey: Yes, we had always had a number of fairly discrete practices. You mentioned moving into Gerry Charnoff's office when you moved to the Barr Building. He was part of our nuclear energy group which was one of the first in the country, had been involved

with the original contract and licensing of the first nuclear reactors in the early '50s and on into the '60s. That was always a very significant part of the practice. We had a large real estate group, we had a corporate business group, we had litigation, and that's where I returned to. I recall that, I think it was the first week I came back to the firm, the accident on Three Mile Island had happened about two or three weeks before that, and a couple of my partners had basically moved to Harrisburg because Three Mile Island was a client of ours, you know working around the clock to try to deal with the multiple legal issues arising out of that incident. And not long after, although I was continuing to work on aviation defense cases, there were some grand jury actions that commenced involving various nuclear industry issues in which our firm was involved. And because there were not any lawyers at Shaw Pittman who had any significant criminal experience and our nuclear lawyers didn't feel comfortable addressing grand jury issues, I was asked to come help on the grand jury side. I started doing that in the early '80s and I still do it today. It's no longer so much criminal, now it's more just government regulatory investigations and enforcement actions by the Nuclear Regulatory Commission. I know you do employment law, I do a lot of whistleblower law defense work for our utility clients who have employees or former employees who claim that they have been discriminated and retaliated against for raising safety concerns.

Mr. Bennett: And from 1979 to the present, have you been continually with Shaw Pittman and the successor firm?

Mr. Hickey: Yes.

Mr. Bennett: And has your practice changed much, that's almost 30 years, has it changed much over that period of time?

Mr. Hickey: Yes, I gradually got out of the aviation work and moved more and more into this government investigation employment-related work. That's not all been with the nuclear utilities, although a good bit of it has, but I've done work also for other corporate clients.

Mr. Bennett: And how many lawyers does the worldwide firm have today?

Mr. Hickey: About 800.

Mr. Bennett: Twelve to 800—that's quite a change. (Laughs.)

Mr. Hickey: Yes.

Mr. Bennett: I know that a friend of mine, Bob Weinberg, who is a retired partner from Williams & Connolly, told me that that was quite a change because when he joined Williams & Connolly, the firm was a group of guys sitting around a table with Ed Williams brainstorming cases and he never got that after that, after a period of time and it was never the same, even though it was enjoyable in many ways but it was never as good as it was when it was a group of guys sitting around a table with Ed Williams. Do you ever have that feeling?

Mr. Hickey: Well, I think, you know, things change, and you have to anticipate that that's going to happen. I think Shaw Pittman and its successor have certainly tried hard and done reasonably well in avoiding some of the major problems of size. I have a vivid recollection, I think this was at 1800 M Street, when we were growing by leaps and bounds, some of the founding partners, when the discussion was raised about whether we shouldn't have name tags on the office doors, were just appalled at the idea that you'd be practicing law with someone and needed to have a name tag on their door to know who it was. But the reality was, that was true. I had partners, you know, that did real estate work that I didn't lay eyes on more than once or twice a year, and so we finally put the name tags up and moved on from there.

Mr. Bennett: When you left Shaw Pittman to go to PDS, you were an associate, right?

Mr. Hickey: Yes.

Mr. Bennett: And when you came back, you were a partner, and there was about 50 lawyers. How has it changed being a partner in a 50-lawyer entity as opposed to an 800-lawyer entity?

Mr. Hickey: Well, I don't have a lot of experience at that. I took Senior Counsel status in—at the end of 2004, and our merger was effective in April of 2005.

Mr. Bennett: Okay, but let's back up to just the Shaw Pittman era. Shaw Pittman went from 50 attorneys to many more by December of 2004 and as an entity, in governance and management, and so on, did it change a lot from your perspective?

Mr. Hickey: Some. I mean we had more committees, I think. And the burdens on the managing partner became more intense, and we finally went to having a full-time managing partner, whereas in the past it was just something that you kind of do on the side as well as keeping your own practice going, which was an enormous burden on the people who had to do it. But I think we recognized that when you are of that size and with that number of professional people, you just need more administrative and staff support and you hire appropriately for it. You get an HR Department, and a Personnel Department, and you have financial and accounting people, that's just one of the things you have to do.

Mr. Bennett: Sure. And were you ever interested in being involved in the management, or do you prefer just to litigate and let someone else do that?

Mr. Hickey: Yeah, I didn't have any taste for management. I've tried to stay active in the firm's pro bono program and have served as the committee chair for that for a number of years. But I have never been part of the firm management and never missed it.

Mr. Bennett: (Laughter.) Okay. And in terms of your group, the group that you were in from '79 to 2004, how, what was that group, was there a specific name for that?

Mr. Hickey: I was in the litigation group.

Mr. Bennett: Is that separate from the employment group?

Mr. Hickey: Yes. Although the employment lawyers were really a part of the litigation group, most of them. They did some counseling work, but also litigation work.

Mr. Bennett: Did you have chairs of the different groups?

Mr. Hickey: Yes.

Mr. Bennett: Were you ever the chair of the litigation group?

Mr. Hickey: No.

Mr. Bennett: By the time you took Senior Counsel status, how many people were in the litigation group, would you say?

Mr. Hickey: Around 20.

Mr. Bennett: It was a fairly small group.

Mr. Hickey: Yeah.

Mr. Bennett: It was really like a firm within a firm, perhaps in some ways?

Mr. Hickey: Uh huh.

Mr. Bennett: You have to answer audibly. (Laughs.)

Mr. Hickey: Yes. I would say yes. That's correct.

Mr. Bennett: We told them not to make this a deposition, but I have to tell you that.

Mr. Hickey: Thank you.

Mr. Bennett: Okay. Now during the time since you've been back at Shaw Pittman, what else have you done with your life other than practice law?

Mr. Hickey: That's a bit of a challenging question. Because it's been a fairly —

Mr. Bennett: Almost 30 years.

Mr. Hickey: It's been a fairly full-time occupation. I will be 44 years at the bar this December. I will tell you that when I was back at the Public Defender Service and spending a

lot of time on the D.C. Jail case, including a lot of weekends at the jail, my oldest child was in kindergarten and being asked with her classmates by the kindergarten teacher what their fathers did, reported that her father was in jail—

Mr. Bennett: (Laughs.)

Mr. Hickey: because that's where I was that particular day. That's one of our family legend stories, but it actually is true.

Mr. Bennett: That brings up another issue and that is there is a lot of stuff in the legal press about young lawyers being more disaffected than they were years ago about pressure for billable hours, pressure on the bottom line. From your years going back to 1970, or '67, to the present, do you think that's exaggerated or has it changed a lot?

Mr. Hickey: No, I think it has changed. I think there is more pressure along those lines and that it's more of a challenge for young lawyers to find a way to balance their lives with their work life. Two of my children are lawyers, both spent some time in private practice and then both left private practice to do other things. And I think that was one element of it. It's not a question of not being willing to work hard, but it's wanting to have some ability to control your life so that you can have other interests and meet other obligations.

Mr. Bennett: You mentioned earlier that you've been active in the pro bono program at Shaw Pittman. How has that changed over the years? Years ago, from my observation, it was very informal and unstructured, and it seems like the larger firms are much more structured these days in how they deal with that.

Mr. Hickey: We do, I mean we try to encourage everybody to participate in it. To do that, we have set up, as many firms have, programs where associates are credited with the time that they put in on pro bono cases. We try to help them find appropriate pro bono cases. Like all of our matters, we require that there be a supervising partner on any case, pro bono or otherwise,

and so if there is an associate who has a particular area of interest in the pro bono field, among the things I often say to the summer associates that are here with us for the summer is that a good thing about practicing law in Washington is that almost any kind of interest group that exists in the world you can find here, whatever your interests as a lawyer in doing pro bono work – whether it's children, families, or battered women. We have one associate who's doing work on animal cruelty, something which is very much in the news these days.

Mr. Bennett: (Laughs.) Today especially.

Mr. Hickey: But there's a lot of opportunities and so we try to help them find something that would be appropriate for them and also meet the interest that they're trying to—

Mr. Bennett: That brings up an interesting issue. Back when I first came to the bar, other than Edward Bennett Williams' firm, the big firms in Washington did little or no paid criminal work, white collar criminal was the bailiwick of a few small firms and solo practitioners. Today, several big firms have white collar criminal departments, Steptoe and others, and do very high-profile criminal work. Does your firm do that at all?

Mr. Hickey: Yes, we do. We do. We have several very capable criminal lawyers. I haven't done any for quite a while. And the ones that I did were ones that came out of nuclear industry investigations. But yes. We do white collar criminal work in a variety of areas. I think all the firms these days, or most of them, because of the increased—for want of a better word, "criminalization" of everything from banking law to products liability to mortgage financing—

Mr. Bennett: Something Fortune 500 corporations have to worry about a lot more than they did—

Mr. Hickey: Absolutely.

Mr. Bennett: 20, 30, 40 years ago. And so you see a firm like Covington bringing in an Eric Holder, whatever, that where years ago he might not have been a good fit for a firm like that, nothing about him personally but in terms of his background.

Mr. Bennett: Now, let's go back to your career here and comparing it to PDS. When you were with PDS, for the attorneys, what was it like in terms of support? In terms of support staff and technology, remembering, of course, that was in the decade of the 1970s when technology was in its infancy for law offices. I can remember starting out in 1976, having a Correcting Selectric was pretty much state-of-the-art for most people and a few fringe people had what were called "dedicated word processors" that looked like computers but weren't really computers. At PDS in those days, were you pretty much behind the curve technology-wise?

Mr. Hickey: Yes, I would say we were. I mean, we still did a lot of typing, I remember that. And the support that we focused on was, I think the right choices were made. It was always a very emotionally supportive place because it was a challenging job that we had undertaken to do and a challenging environment. We had any number of judges who were not sympathetic to the positions we were taking, that there were time and workload pressures, there were lack of supportive resources, so we all kind of clung together and supported each other as we had to do and it made it interesting. It was a wonderful place to work, which it still is today as far as I can tell. And very much a desired place to work by all kinds of great young lawyers who want to spend some time there. I would say we had adequate support, we had some very dedicated secretaries and we had the social work support from the Defender Rehabilitation Group, and we had investigators. All of which were an important component of our defense responsibilities. But I think they've come a long way since then.

Mr. Bennett: Sure, sure. Right. And from my dealings with government agencies in my practice and from my recollection when I was a government attorney, the typical secretaries

are pretty much disappearing from the federal government because today all young lawyers know how to use computers, know how to type, know how to prepare their own documents, and so unlike when I was a young lawyer, giving a secretary a yellow pad and saying, "Here, type this brief," doesn't really happen any more.

Mr. Hickey: That's right. I mean, it's happened in law firms, too. We have many fewer secretaries per attorney than we had before.

Mr. Bennett: And again, when I was a young lawyer, even the lawyers who could type would close the door because it was kind of embarrassing, and you were an exception to this rule because you are seven years older than I am, but when I was a young lawyer, for a lawyer to sit there typing, people would make jokes. This is in the government, people would make jokes. And so, and especially female attorneys particularly did not want to be seen typing because they would be considered to be a secretary.

Mr. Hickey: Right.

Mr. Bennett: But you apparently did your own all along then, but you were atypical, I suspect.

Mr. Hickey: Well, and I mean I've had a lot of good secretarial assistance over the years. I didn't, I was slow to come to the technological revolution and to become at all, I wouldn't say "adept," I'm not there yet, but comfortable enough at a computer. But I used to use a secretary a lot. I think those days are gone, though.

Mr. Bennett: Right. Now when you were with PDS, were you getting really high-quality law school applicants because people wanted to do this kind of work and get responsibility and so on?

Mr. Hickey: Absolutely. We would have—I remember we were governed then as now by an independent board of trustees and we would have a monthly dinner meeting, we used to do it at the old Lawyers Club down on 19th and L, is that where it was?

Mr. Bennett: I think it was at 1815 H when Earl Kintner started it for Arent Fox. That was his baby.

Mr. Hickey: And the board was always very supportive and they were great lawyers and fascinating people. In the '70s, Sam Dash was our chairman; Sidney Sachs was on the board; Paul Connolly was on the board, Ed Williams' partner; Fred Vinson was on the board. And so during Watergate, you'd start off with about a 20-minute gossip session about what was the latest thing happening with Watergate at the moment. Because we had a lot of people who really knew what was going on. But I remember once going to the board and reporting on our, we just finished our consideration of applicants, and I said, "We've made offers, and here's who we're bringing on in the fall, the following." It was always a small number, usually we got to hire four, five, six lawyers. And several of the trustees said that any law firm in town would give their right arm to have that kind of caliber of applicant.

Mr. Bennett: And the starting figure was considerably less than private practice, no doubt.

Mr. Hickey: That's for sure. That is for sure.

Mr. Bennett: Hopefully back in those days people didn't have the kind of loans they come out of law school with today.

Mr. Hickey: But no, we had very talented lawyers and really very good people, and they worked hard and it was just a terrific place to work and to develop your skills, to do something that was very worthwhile to do. It was a great experience.

Mr. Bennett: You were with Legal Aid from—

Mr. Hickey: '63 to '65.

Mr. Bennett: Right. And then came back in '70, right?

Mr. Hickey: Right.

Mr. Bennett: What changes did you notice, if any, between the Legal Aid of '63 to '65 and the PDS of '70 to '79?

Mr. Hickey: Well, it was, it was, we always had a kind of a precarious toehold on our continuing existence, that's the Legal Aid Agency. It was small, you know, and funding was every year a crisis. Our hope was—and it proved to be true—that with the court reorganization in 1970, and the creation of the Public Defender Service, it really gave it a foundation and I was going to say a legitimacy, not that we were not "legitimate" before, but a recognition as being an important part of the equation for the criminal justice system, not something you could, you know, maybe have or maybe not have. You had to have it and it was important to have one that functioned well. And so I think we all felt in the '70s that we were no longer at such risk of being legislated out of existence or having our budget cut off.

Mr. Bennett: Was your original legislation federal or D.C.?

Mr. Hickey: No, it was always federal.

Mr. Bennett: And I would think, notwithstanding the fact that I haven't done this type of work, that for the judges, having this entity around for the more complicated cases, the difficult cases, would be a benefit rather than a detriment—

Mr. Hickey: Yes.

Mr. Bennett: because of the caliber of the people you had there, the training, the support, the backup.

Mr. Hickey: That's true. And I think they used that, I mean that's why, in general, our lawyers were assigned to the more serious cases because courts knew that it would make things

proceed on a more efficient basis, and one where they could be confident that they weren't going to have issues about ineffective assistance, that the defendants would be well represented.

Mr. Bennett: Right. Because, unfortunately, the Board of Professional Responsibility of the court, they get a lot of cases involving complaints against CJA attorneys, and I've been involved as a hearing committee member sitting on them, and some of the people in the CJA program operate pretty much out of their jacket pocket and it's a problem in terms of recordkeeping and other administrative issues that don't relate to courtroom advocacy or legal skills.

Mr. Hickey: Yes.

Mr. Bennett: And of course your people didn't have to worry about administration in the same way that a solo practitioner doing CJA work would have to worry about it, if they worried about it. (Laughter.) So that was a benefit to them. Going back to the private practice experience, we talked a little bit about associates and disaffection and things like that. What changes and one of the other key phrases of the era is "quality of life"—what changes have you seen from 1979 to the present, if any, about what law firms do about quality of life for associates?

Mr. Hickey: Well, I've seen a couple of changes. One of them is, I think, attributable in large part to the presence of many more female attorneys, which has been, I think, a real good thing for the profession and the practice. And, it has helped the firms recognize the importance of letting lawyers have a life outside the law firm. Our firm, Pillsbury Winthrop, was one of the first to have a female managing partner who had been a part-time attorney. And we have been recognized for being very receptive to arrangements for lawyers, male and female, who want to carve out some portion of their life. And I think just in general, partners, even the more senior partners, now are more sensitive to the fact that you don't want to impose on a junior associate

unless it's really essential. I mean, everybody knows that in the law, like in other professions, there are times when everybody has to kind of pull together and it may be a Friday night or the day before a holiday, or whatever, and you just have to do it. But you don't do it unless it's necessary. And if you have that kind of a screening process for it, you find that it's really not necessary very often. Sometimes, yes. But not often.

Mr. Bennett: I know a friend of mine who had been in the government and in political jobs in the government took a job at a large law firm that I won't name, and he told me, and this was I'd say in the late '80s, early '90s, this is a multi-city firm, a big national firm, that they actually had something for new lawyers, even people who came in laterally like he did, that they called "boot camp," where you went someplace and you worked like round the clock and were subjected to all kinds of pressures. I was astounded to hear this, just dumbfounded. Because I've always felt that there were some people in big—not just big law firms, but even small law firms—who felt that this was a necessary process to put people through, like the military.

Mr. Hickey: Yeah, or like the medical profession.

Mr. Bennett: Yes.

Mr. Hickey: Still does some of it. But the idea that you can't be a doctor unless you, you know, work 36 hours or 48 hours straight on your feet as a resident is just nonsense.

Mr. Bennett: In fact, if I were a patient, I wouldn't want someone working on me who hadn't slept for a couple of days. (Laughs.)

Mr. Hickey: True.

Mr. Bennett: And the other thing that's interesting is this—until your merger with Winthrop Stimpson, this was a firm that had been founded right after World War II?

Mr. Hickey: Yes, we had our 50th anniversary in 2005, so '55.

Mr. Bennett: And for many years the main partners were still active in the firm.

Mr. Hickey: That's true.

Mr. Bennett: And by the 1990s perhaps, they were either phased out or a second group of—

Mr. Hickey: Well, there were a lot more younger partners, Ramsay Potts and Steuart Pittman, Ramsay Potts passed away just in the last year and continued to be Of Counsel to the firm. Steuart Pittman still comes down occasionally although he's in his upper eighties, and they were—our other founding partners are deceased. And yes, I think they have.

Mr. Bennett: So when was the torch passed would you say from the founding partners to the next group, if you can put a time period on it

Mr. Hickey: I would say in the early '90s.

Mr. Bennett: And was that a painful transition or something that went fairly smoothly?

Mr. Hickey: I think it went quite smoothly as a credit to the senior partners who were always willing to share responsibilities and credit with the rest of the firm. I think their attitude was what somebody has characterized as the willingness, the recognition that there's just no limits on what you can get done if you don't care who gets the credit for it. And I think their attitude always was we want to have a first-class law firm. Whether you get the credit or I get the credit, who cares?

Mr. Bennett: And before the Winthrop Stimpson merger, did you have a mandatory retirement age for partners?

Mr. Hickey: We had a presumptive retirement age, retirement from the partnership.

Mr. Bennett: And what was that?

Mr. Hickey: It was 65.

Mr. Bennett: And has that changed since the merger?

Mr. Hickey: It's in the process of changing. We have some partners who are over 65. I chose that as a good time for me to try to ramp down a little bit, so I took Senior Counsel status the year I became 65.

Mr. Bennett: Have you found you're actually spending less time at the firm or does it—

Mr. Hickey: Yes, I am.

Mr. Bennett: Did the firm ever have a sabbatical policy?

Mr. Hickey: I remember when that was the—

Mr. Bennett: Vogue?

Mr. Hickey: fad of the moment in the firms. I don't think we ever did it. I can't remember it anyhow, and I do remember the effects of it at some of the other firms. I mean the almost without exception experience was lawyers would go off for their sabbatical and do something wonderful and then three-quarters of them wouldn't come back. And they suddenly discovered—

Mr. Bennett: A lot that they were missing.

Mr. Hickey: Yeah, that there's life out there, and they could have a good time. I know a lawyer who took a sabbatical from Arnold & Porter and ended up teaching surfing in Hawaii.

Mr. Bennett: Quite a change.

Mr. Hickey: Huge one. (unintelligible)

Mr. Bennett: That's great. Let me look down my list of questions, suggested questions here and see if there's anything else we should pick up.

Mr. Bennett: So two of your children became lawyers, so they weren't completely turned off by your experience, although after they had a taste of private practice, they realized that there were better opportunities for their particular needs.

Mr. Hickey: Yes.

Mr. Bennett: Let's go back to your time in the military. What did you do when you were actually on active duty?

Mr. Hickey: That's really a not very exciting story. I was, first I was in basic training—

Mr. Bennett: That was the Air Force?

Mr. Hickey: Yes.

Mr. Bennett: And where was that?

Mr. Hickey: At Lackland Air Force Base, Texas. San Antonio, Texas.

Mr. Bennett: That was as an enlisted man?

Mr. Hickey: As an enlisted man.

Mr. Bennett: I was in the Army. The rumor is the Air Force is the most civilized of the services. In the Army, in 1969 in Fort Bragg, North Carolina, it was pretty abusive and humiliating, not physically, but mentally. What was Air Force basic training like, was there a lot of yelling and screaming and name-calling?

Mr. Hickey: I never saw, you know, and I was obviously a little bit older, most of the—

Mr. Bennett: Now this was what year again?

Mr. Hickey: This was in '64.

Mr. Bennett: '64. So you would have been 25, you were out of law school, and, now again, when I went in in '69, I was 23, I had finished one year of law school, and I was with a bunch of 17- and 18-year-olds who were going to be shipped off to Vietnam in combat. And I was like a grandfather to them. Did you have a similar experience?

Mr. Hickey: Yeah. I mean, I think people recognized that I was older and most of them were just out of high school. Some of them were, you know, looking to spend some serious time in the service. There were a couple—

Mr. Bennett: Vietnam was not yet heated up when you were there? We weren't sending hundreds of thousands of troops over there yet anyway.

Mr. Hickey: I remember considering the possibility that I might have to go there, which was not an appealing prospect. But I think, yeah, I think, I mean I can't compare it with the other branches, but I thought the Air Force experience was okay. I came back and was assigned to Andrews Air Force Base where I worked on the reserve side of the base.

Mr. Bennett: What was your military occupational specialty?

Mr. Hickey: I was a warehouse materials specialist.

Mr. Bennett: So you sorted nuts and bolts?

Mr. Hickey: Yeah, basically, and desk chairs, filing cabinets—

Mr. Bennett: Making full use of your educational background and intellect, right?

Mr. Hickey: Processing my papers to get my Navy commission.

Mr. Bennett: Now, you spent all your active duty time in the Air Force?

Mr. Hickey: Yes.

Mr. Bennett: That was about six months?

Mr. Hickey: Yes. And then it took me about another six months to get my Navy commission, so I was in the Air Force Reserve for one year.

Mr. Bennett: One weekend a month?

Mr. Hickey: Yes, and I went to two weeks of summer camp that summer, also at Andrews Air Force Base. And then I think in the fall I got commissioned as a Navy JAG officer.

Mr. Bennett: Once you were a Navy JAG officer, were you strictly reserve or did you have to do active duty?

Mr. Hickey: I was in the Reserves. I went one—mostly we went to drills that were held at the GSA auditorium. I belonged to a law company. It was just lawyers. And one summer I went to Naval Justice School at Newport, Rhode Island.

Mr. Bennett: At this time, you were working for the Legal Aid Agency.

Mr. Hickey: Yes.

Mr. Bennett: Part of it, at least.

Mr. Hickey: Yes. And then at Shaw Pittman.

Mr. Bennett: Right. And so you did your drills and then your two weeks summer?

Mr. Hickey: Just the one two weeks because you had to get the satisfactory reserve career, you had to accumulate a sufficient number of points, which you could do by attending drills, doing correspondence courses, or going to active duty.

Mr. Bennett: You didn't—I had to do six years total, including the reserve part. You didn't have that long a commitment.

Mr. Hickey: I think I did. I was—

Mr. Bennett: But you didn't have to go to meetings and summer camps the whole six years. Or you did?

Mr. Hickey: I did. Not summer camps, but I think when I was in the reserves, I went to a lot of meetings.

Mr. Bennett: (Laughs.) And the meetings were typically in a GSA auditorium or something like that?

Mr. Hickey: Yeah, you know, there'd be some presentation about some aspect of military justice. There were—some of the people in the law company were old Navy hands, and—

Mr. Bennett: They were going for the retirement, putting in their 20 years or whatever.

Mr. Hickey: There were several of us who were young lawyers in various law firms around Washington. We were less enamored of the whole experience.

Mr. Bennett: Right. And about the time you were out, the Vietnam thing had heated up, so there were a lot of people who wanted to be there, as opposed to going to Vietnam, even in the Navy.

Mr. Hickey: I'm sure that's true.

Mr. Bennett: During your tenure at Shaw Pittman, I'm sure they did committees, and you mentioned you were involved in the pro bono program. What other committees or firm things have you done other than the traditional practice of law over the years.

Mr. Hickey: Oh, over the years I think I've served on the recruiting committee, gone off to interview applicants.

Mr. Bennett: Did you enjoy that?

Mr. Hickey: Yeah, it's usually pleasant to go to the law schools. Sometimes you go places where you know somebody that you can see. And the interview was usually a fairly crowded, intense day or two days where you just interviewed one applicant after another. They're all interesting young people and fun to talk to, and eager about the practice of law. I always found that a kind of rewarding experience.

Mr. Bennett: You mentioned earlier that you have a lot more women in the firm now than when you started,

Mr. Hickey: Yes.

Mr. Bennett: And I know that at law schools, the percentage of women has gone up tremendously, 15 percent when I was in law school, it's 40 to 50 percent now.

Mr. Hickey: Yeah, I think it's great. I think they are the majority at Harvard, for example, female.

Mr. Bennett: From what I read in the trade press, the one place where the recruitment hasn't picked up a lot is minorities, particularly African Americans, for most law firms. And this is across-the-board, from what I hear. Is that a particular—was that a particular challenge when you were involved in recruiting?

Mr. Hickey: Yes. It is. It still is today. Part of the issue is that the minority enrollment in law schools has not increased. And I remember at the Public Defender Service trying to recruit minority lawyers was doubly hard, because often for financial reasons, the attraction of a law firm position was very hard to resist for young minority lawyers with debts from their educational experience. And it's—I think it's still true today that it's a challenge to find minority lawyers.

Mr. Bennett: That concludes my first session with Pat Hickey.