

August 6, 1998

MS. GERE: Good morning, Judge Green.

JUDGE GREEN: Good morning, Sally.

MS. GERE: Today is, as we've just checked the calendar, August 6, 1998, and this is a continuation of your oral history for the court. I see that you have come prepared and have done your homework for our session today. We are going to talk a little bit about some of the cases that came before you after you were appointed to the bench. I believe you have with you some materials that were kept by your former secretary, is that right?

JUDGE GREEN: Eleanore Soltanoff, yes. I do, and she was with me from the beginning, and she scrawled these notes and kept them, which I finally found. All of the ones that she kept were the criminal cases. I had tried many, many criminal cases, because the court was so far behind at that time.

MS. GERE: When you were first appointed, then, most of the cases were criminal cases.

JUDGE GREEN: They were. The newer judges volunteered to take all of the criminal cases that were already in the court. Then all of the others were on an individual basis to be drawn by chance for each of us, whenever an indictment came down.

MS. GERE: When you say the new judges, that was you and Judge Pratt.

JUDGE GREEN: Right. The newer ones, anyway, because we were the junior judges, we'll say, because the senior ones—the ones who were more senior but had not taken senior status—were very opposed to any change. Many of us had been working on the Gesell Committee on the Administration of Justice, which as I believe we've talked of before, was

chosen by the Judicial Council to study all of the courts in the District of Columbia to find out why they were all so backed up. So after three or more years of work we had finally come up with our suggestions, that the United States District Court should not be handling the local crimes, which it always had, along with the federal crimes. We felt that the local court—which at that time was the General Sessions Court—was not up to taking the full load, and so part of our committee worked on the establishment of what turned out to be the Superior Court, where we increased the number of judges who would be available, raised the quality, in that they were given longer terms and more money.

MS. GERE: Were they Presidential appointments then?

JUDGE GREEN: They were anyway. They had always had to be okayed, but I don't really think there was any great "hurrah" by the Senate of confirmation on any judges at that time. They didn't do it that way. When I say, the newer judges for the federal court were appointed from working on the committee, Judge Gesell was the first one that they took and he was the chairman. He was appointed, then Newell Ellison succeeded him. He was a well-established gentleman who didn't want to be on the court. He was pretty old at that point but he was a fine chairman. I served under him as well, because I was still practicing law. Then after that was John Pickering, he succeeded Ellison. When we started, President Johnson had apparently been induced to go along with the situation of the courts. He felt that something should be done, and he looked to the people who had been working on the committee and appointed many of them. A number of the people were appointed who were on the sub-committees, because obviously the nine of us couldn't do everything. We had sub-committees for each of the courts. Judge Gesell had appointed me to the Juvenile Court Committee. That

was not exactly my long suit, because that was the only kind of case I had never tried. But anyway. When we were appointed—first of all, Aubrey Robinson was appointed before this, he was one of the early appointees, who came from the Juvenile Court in the District. The Juvenile Court was indeed a mess at that point, because they had supposedly three judges. But the Chief and another member didn't speak to each other. They worked at counterpurposes all of the time, and they were, in effect, ineffective judges. This was what we came up with, that they would all have to be doing something different, and that the juveniles, who had never been given counsel when they were indigent—and most of them were—they should have counsel appointed for them. Otherwise they were in never-never land for years. One of the very active members of that sub-committee was Pat Wald.

MS. GERE: Right, I think you mentioned that.

JUDGE GREEN: She had been very active in the criminal law projects that she had done for Congress, when she, I think, was in the Department of Justice, and working with them. She was tremendously helpful in this, in the litigation preparation. Barrington Parker was on one of the sub-committees. I'm trying to think who else came along right afterwards. Judge Richey came about five years afterwards.

MS. GERE: How about Judge Waddy?

JUDGE GREEN: Judge Waddy was already on the court.

MS. GERE: And Judge Jones was already on the court?

JUDGE GREEN: Judge Jones was already on the court. Judge Waddy was perfectly willing to help anybody that he could, but he was not very well at this point. I'm trying to remember, I think Judge Gasch took over with this situation; he had been appointed about

three years before, before I was.

MS. GERE: Who else was there? Judge Smith?

JUDGE GREEN: Judge Smith had been Chief Judge of the Municipal Court, the General Sessions Court. We also had a Chief Judge who was on our court, and he was the one who had told me to hire my first law clerk.

MS. GERE: Judge Walsh?

JUDGE GREEN: Len Walsh. He was on there. I don't remember but I expect Aubrey could fill me in with exactly who the seven were, because we talk about it a lot at the judges' lunch table.

MS. GERE: The seven of you then, pretty much, were the core to get the new way of—

JUDGE GREEN: And the only way we were able to do it was to volunteer to take the cases that the other judges hated. We said on this basis we'll want it to be an individual calendar, and they said, "We won't go for that on the civil cases. But if you're willing to do it on the criminal, we'll just find out how you're doing after a year."

MS. GERE: Individual calendar meaning that, as soon as the case was indicted—

JUDGE GREEN: As soon as it was filed in this court.

MS. GERE: It was assigned to a judge.

JUDGE GREEN: It was drawn.

MS. GERE: It was for all purposes.

JUDGE GREEN: Right. But it wouldn't go to these other six, or the seniors.

MS. GERE: When you then first were appointed to the bench in '68, your court

still had general criminal jurisdiction, correct? That was phased out and over to Superior Court.

JUDGE GREEN: The principal felonies in the District. And that is why I tried so many criminal cases. Not only criminal, but ones that were life imprisonment cases. Before there were the big drug cases. These were a lot of mandatory sentences. But when people said that I was a tough sentence, I was, indeed. I felt that the streets were so bad in the way of—people were being raped and robbed and murdered then, that I felt when they had been fairly found guilty, that it might be a good thing to see that they were taken off the streets for quite a while, as long as the law would allow. I thought that helped, personally, yes.

MS. GERE: Do you think in your years on the bench that you remained a tough sentence or did you see either yourself change or the types of individuals who came before you change, or the crimes change?

JUDGE GREEN: Well the crimes certainly changed. Although occasionally you have some very serious situation, it is not like it was when we had the local crimes. And I might say, we never sent to the new Superior Court or to the old General Sessions, we never sent any of those cases to get rid of them. We kept them all and dealt with them ourselves, and we were getting the new ones all the time. It was federal that we were getting, and it was amazing how many federal crimes there were in those days, especially bank robberies.

MS. GERE: Yes, I remember when I clerked there were a number of bank robberies.

JUDGE GREEN: Lots of bank robberies.

MS. GERE: The crimes that you tended to see after you'd been on the bench for a number of years turned more to drugs?

JUDGE GREEN: More to drugs and more to these interceptions of the so-called mules, where they are just bringing it by bus, train, and airplane, through the District. The fact that they are being treated and required to be sentenced under the guidelines, which are not guidelines, they are mandatory, as we have all found out. You are required to sentence them if they are carrying a particular amount of drugs. The idea is that they will be able to turn in the person that they have picked them up from. In many cases they don't even know him. They know that somebody said, "Here's a round trip ticket to go down to some place and stop in the District en route." You may find they make delivery, as they do most of the time now, to South Carolina, because that brings much more than it does on the street in the District.

MS. GERE: That's interesting. So, I made you kind of jump forward a little bit, but to go back then. The criminal cases were assigned on an individual docket per judge. How were the civil cases assigned or handled?

JUDGE GREEN: They had an assignment commissioner, and they always had an assignment commissioner, but the civil cases were five years behind, and more. I think I mentioned to you that I was chosen by our committee, I was chairman of the Committee on Relations with the District Court. They had asked me to do something about getting the—and I might say it was one dear to my heart, because I was not getting my cases tried either, there. When I had been the one to bell the cat, with two gentlemen from the committee, the two gentlemen from the committee sort of vanished into the wall.

MS. GERE: Faded into the woodwork, yes.

JUDGE GREEN: That was when I told them that we did think if they didn't have any other way that perhaps they should not be taking off all summer. That was the dumbest thing

I ever said. In any case, I don't think they paid attention to it at the time, until our report came out on what to do about setting up the cases and setting up the courts, and so on. They were saying that they would see how this worked. And of course the older judges were delighted, because they did not have to have the problem of any of the criminal cases, and they were still handling the civil cases. I might say, you want to know how they got them. I can tell you how, as a lawyer, how those were done. The assignment man, and it was a gentleman, would look at some of these cases—I don't think there was any rhyme or reason or rote or anything of the sort—but they'd pick one, I suppose when counsel's screaming, they would pick one and they would send the notices to the lawyers in the case and the notice that I would receive, as with everybody else, the case would be reached for trial within two weeks. They would give you a two-week spread.

MS. GERE: There are still courts that do that, but I just think that's ridiculous.

JUDGE GREEN: They would give you a spread of the two weeks. Now, as I did so many personal injury cases, eventually, I would have a very difficult time with doctors, either for defense or for the plaintiff, because you can't have these arrangements with the doctor. If you could get them within a few hours they would cooperate with the court, but they couldn't practice their medicine in any such manner; they just said they wouldn't come. You'd either have to have testimony by deposition, which you knew was not as effective, so it was really a very bad situation. Especially since I was all over Maryland, besides, all over southern Maryland, not the rest of Maryland, which was enough. When they set a case, you went to court on that day and they expected you and you were there, and you tried the case. And it often was not a one-day case. It would be something that maybe the judge was going to be going to the tobacco fair, sale,

and if so, he would just take off in the middle of it, and you would have to stay all night the night before, trying the case with a jury who was out on their feet, out of their seats, too. Of course lawyers who were absolutely—and clients who were still ill were almost unconscious. Then I would be having this hanging over my head. They would say “call the assignment office in the District Court and we’ll let you know whether you’re excused in the morning or not.” I was constantly wondering whether I was going to be able to make this whole situation work. I would go in and they’d say, “Oh you’re excused until afternoon.” Of course I was in the middle of this trial, so I’d call after lunch, fear and trembling. “It doesn’t look like they’re going to reach us this week. Try on Monday, we’ll find out where we’re going.” So they were still doing that, I’ve no doubt, while we were trying the criminal cases.

MS. GERE: So just whatever judge happened to be available is the judge that got the case. The judge wouldn’t have done any pre-trial, wouldn’t know anything about the case.

JUDGE GREEN: Not only that, there would be motions, multiple motions, as I found when I was getting civil cases, because I had started with a few civil cases. I think my first two were civil. There were multiple motions filed in the ones that I had, and there were multiple orders from different judges that would conflict with each other. Nobody had ever read what went on before evidently. It made it very difficult. What Eleanore had noted on those criminal cases that I had was 1968 when we managed to get this going. I was sworn in as you know in June. I tried Albert Washington in March 1969, he was tried and found guilty, and it was reversed by the Court of Appeals.

MS. GERE: Do you remember that case?

JUDGE GREEN: No. I should because he’s been around, now, in more recent

times. Well, all of these things, let's see what they were tried for. Here's a first-degree murder, judgment of manslaughter entered. That was in '68 and '70. '68 I had a judgment of manslaughter, this other one, first degree murder. The Darrell Bradford case was affirmed, we had all of these, I won't give you all of these names, but there are a number of them.

MS. GERE: You've got pages and pages there.

JUDGE GREEN: Yes. These were all affirmed, and these were reversed, remanded.

MS. GERE: It looks like most of them were affirmed.

JUDGE GREEN: Yes, I think so. One, two, three, four, five, six, seven, eight, on that page. One of them was remanded for re-sentencing. Another one that was jointly tried was remanded. As I say, one, two, three, four, five, six, seven, were affirmed. The next page, one, two, three, four, five, six, seven, eight, nine, were affirmed. One was remanded for re-sentencing. Two others were remanded. Two for re-sentencing, and two remanded for retrial. We had one, two, three, four, five, six, seven, were affirmed. One was reversed and two were remanded.

MS. GERE: You've just got pages there, how many would you say, you've probably got seven or eight per page there, and you've got a lot of pages. You've probably—

JUDGE GREEN: There are homicides and murders, robberies and assaults and burglaries. We did note what they were. Homicide, murder, murder I and II, assault, burglary, kidnaping, sex offenses, escape—thirty-three escapes, firearms, 65, narcotics, 165. Those were heroin and LSD, I think, at that point. Obscenity, perjury, 3, UV, 37.

MS. GERE: UV. Unauthorized use of a motor vehicle.

JUDGE GREEN: Use of a motor vehicle. See, we had every kind of thing out of there from the District.

MS. GERE: I remember when I was clerking—

JUDGE GREEN: Gambling, 10.

MS. GERE: —that we had a pickpocket from the bus station over on New York Avenue. I thought that was quite interesting. I think the guy showed how he did it, it was quite something. The defendant. So you probably had, even in your early years on the bench, several hundred criminal cases that you tried.

JUDGE GREEN: Oh yes.

MS. GERE: I know, you've got pages there, pages and pages. Do you have, from your early days on the bench, switching to civil, a few cases in the civil docket that you were assigned that really stick in your mind or made an impression.

JUDGE GREEN: Yes indeed.

MS. GERE: What ones were they, or what one?

JUDGE GREEN: One of the first that I received was a TO that was brought by the Governor of Florida to stop the Army from disposing of nerve gas off the coast of Florida. I asked if they had any alternative to the proposed site at the preliminary hearing, and they said absolutely. We think we have a number of alternatives. This one would be so dangerous to swimming and sea-life, and so on. Apparently the Army was just trying to destroy the nerve gas that they had at that day and time. This case was about 1970. It was on pretty early. It may even have been '69. In any case, I was getting some things like that would be heard, along with my criminal cases. I worried about this, I checked it out to try to see what could be done. The Army

didn't bring any witnesses for their preliminary injunction hearing who were knowledgeable, who were really trained in, I thought, what was going to happen. This nerve gas had been brought from the West Coast—not California, I've forgotten whether it was Nevada or some area similar, it might have been New Mexico. It had been put on a train and had come through different states, and every time the state found out about it, that these were all put in concrete casket-type things—

MS. GERE: Were they moving them by train?

JUDGE GREEN: They were moving them by train across the country. Each and every state was screaming, but they would soon get out of there and then they would be in another state. They ended up in Wilmington, North Carolina. They were there and they had them stacked up. What they planned to do was to have the Navy Old Liberty boat, that scuttled, they were going to put them on it, and they were going to scuttle the whole thing in very deep water, as it turned out. I had tried to find out whether it was possible to get rid of this nerve gas in some other fashion. I inquired, not on the record, but I had, in camera, found out why it couldn't be done as they were disposing of nuclear waste. That is, bury it in the ground. I learned then, and it certainly did not show up in my order, which was fortunate I think, since I know what happened to Judge Sporkin. They said don't ever recommend that because the nuclear disposal never stays in the ground either. It always comes up and pollutes the atmosphere.

MS. GERE: That's not very reassuring.

JUDGE GREEN: No, and as I say, it was not supposed to be told to the general public. I knew enough to know that I could not do that, and I didn't know what the hell else to

do, and nobody was telling me. This was one that hit all of the headlines in the United States and Mexico, because I received from all over, all kinds of advice as to what to do and what not to do. They had all the concrete holders stacked on the dock. I had explanations of what was done. These were all designed to be used as warheads. We had this nerve gas, and they had decided they had to get rid of these warheads because they were too old. So they made these concrete vaults, and they would put one in one direction with a warhead this way, and then they would put another one in the other side, the opposite, and then they did that until it filled up. Then they marked some of them, because some of them would last, nerve gas was supposed to last, say, two years, and some of it was supposed to last 200 years. The 200-year ones were pretty vicious and scary, so they painted those with notices, so that they'd know what they were dealing with. Somebody decided when they were in storage that paint was peeling and so on, so they ordered them all painted, and nobody knew then whether they were the 200s or the others, and furthermore nobody knew which direction was the warhead was pointed. This is, I would say, one of the really worrisome things, as it would be today. I still would have all the same problems. It was leaking on the dock down there.

MS. GERE: Already?

JUDGE GREEN: Yes. And I didn't think that it was a right thing for me to sit in Washington, a nice, safe spot, and have the people gassed down where they were. I was cogitating on it, so the hearing lasted about two or three days. But I might say quite sleepless days.

MS. GERE: By this time did both sides have witnesses who testified about the effects and all that sort of thing?

JUDGE GREEN: Yes. They said, for instance, that the salt water was what would take care of it, that it would do just the job. But they were putting it down in such a deep place, they'd never tried that before. I said I really had questions about that, because why take the chance of having these things all burst, because they said that with the pressure they would, because it was so deep. Why shouldn't they give some consideration to that. I certainly was in no position to order it, I simply asked that they consider it. They were preparatory words and I made sure that they understood it that way. Then I said there was no way apparently that it could be handled at this time without allowing them to load their ship and scuttle it. All I thought was please to consider the area, whether there wasn't some place that was a little safer. They went out to scuttle it where they said they were going to do it anyway. There was not anything that anybody was doing in the Court of Appeals, they didn't want anything done about it anyway. I don't think they wanted to fiddle with it, so it was done. The Navy people—because they had a lot of them that testified—decided that I was so concerned about it, that they undertook to take pictures undersea to give to me. I think it was probably the next year, to show that this was all alright, the fish still were down there. I thanked them, but there was no sign of any ship remains. There was no sign of any of these concrete containers that might have lasted a bit, and I just couldn't leave the thought that here was a nice clean thing, and they thought this would be nice and fine for me, but I didn't buy it, because I figured the pictures were taken someplace else.

MS. GERE: Was this off the east coast of Florida?

JUDGE GREEN: Yes. Apparently they had all kinds of testing afterwards and there was no sign of anything at all, of course otherwise they would have all—we'd have all heard about it. I learned during the course of this case how many other countries, including England,

had the stuff that they were just dumping in the North Sea. I didn't think that what I learned was very comforting to me.

MS. GERE: No, not very.

JUDGE GREEN: We are now worrying about Iran and Iraq, and the other countries, not cooperating in disposing of nerve gas. I am less than thrilled. But that was one of the most difficult cases. The *New York Times* had an article on me, woman of the week, person of the week or something or other.

MS. GERE: A profile of you, about the case.

JUDGE GREEN: A little profile, yes. The headline was "Judge Orders Drop," as though I thought it up. I had letters from mothers who said, "I think you are outrageous and ought to be removed," and "how can I walk with my children on the beach; I don't want them to pick up anything that is polluting," and so on, and "you are not taking care of anything approving this." You know, "What a dog."

MS. GERE: Did you get any positive reactions?

JUDGE GREEN: No.

MS. GERE: No? People were just upset.

JUDGE GREEN: Most people were upset about the whole thing. There were people who sent me clippings from all over, that's how I know the containers were all over the country, including, there was one restaurant apparently in Mexico, which had a paper place mat everyday with whatever the news was, and somebody sent me their place mat.

MS. GERE: The news café.

JUDGE GREEN: Well anyway, enough of that one.

MS. GERE: Looking at the other side of the ledger, then, are there any of the criminal cases that particularly stand out from your early years on the bench?

JUDGE GREEN: Yes, absolutely. The case of Heidi Fletcher. It really was not her case alone, because she was the driver of a getaway car. She happened to be the Deputy Mayor's daughter, the Deputy Mayor of Washington, D.C. She was at that time a not very attractive young woman, she was rather large and somewhat ungainly. Unfortunately her mother had wanted to have a nice little delicate ballet-type daughter. She had not had a very good childhood. She was not very popular and it wasn't helped by, I'm confident, her family, although her father was in court every day during the trial. But in any event, this case involved the robbery of a bank on MacArthur Boulevard. Her young, one boyfriend was intrigued with her and she with him. He was from a nice family and a quite nice-looking young man. He had this criminal-type acquaintance he had become friendly with.

MS. GERE: So there's Heidi Fletcher, and then her boyfriend was?

JUDGE GREEN: Her boyfriend was Timm. Eros Timm. The other person was Lawrence Daniel Caldwell.

MS. GERE: He was the one you described as having a criminal background.

JUDGE GREEN: Here is what they said in this article from a newspaper in Rapid City, South Dakota. It said, "Bethesda, Maryland. Eros Anthony Lewis Timm, named by his Italian mother after the god of love, leaves the family's \$100,000 home on tree-lined Portsmouth Road for National Airport. His father kisses and hugs him and slips him a last-minute \$10 in spending money. Then Eros Timm flies off to college. The father, 30 years a Pentagon budget analyst, will later recall that his only son almost never got to college. There had been serious

academic and disciplinary problems in the last two years of St. John's College High School, and when C.W. Post College at Long Island accepted Eros Timm, he was the last of that year's dummies to get into college. Five months later Eros Timm was home. He had flunked out. Bloomington, Indiana. Lawrence Daniel Caldwell is a gawky, six-foot five scholarship student at the University of Indiana Music School. He plays the clarinet. When he doesn't, friends later said, he sits in his room and memorizes concertos or reads books about the occult. But when a greeting arrives from the Selective Service ordering Caldwell to report for a physical examination, he turns anti-establishment. He leaves Indiana, and like a basketball hardship case, turns professional as clarinetist for the Akron Symphony. But Caldwell gets no \$100,000 bonus, only \$40 a week, and when he is passed over for the post he covets, lead clarinetist, he becomes enraged, moves to Washington, and begins dealing drugs. Heidi Fletcher, Eros Timm, Dan Caldwell, once typical kids with brains, youth, promise, likeable kids with friends, skills, interests, and now in their early twenties, after a wild gun battle last May, in which a D.C. policeman was killed following a bank hold-up, federal prisoners. The last act came Thursday night. Timm and Caldwell were found guilty after a 19-day trial on all eighteen counts of an indictment charging two bank hold-ups and the slaying."

MS. GERE: What year was that, Judge?

JUDGE GREEN: September 1967. It says, "In a way, it all started in September 1967." Let's see, this was— [Break in tape.] "Where she had no background of any trouble at all—"

MS. GERE: It was her father who was the Deputy Mayor of Washington.

JUDGE GREEN: This also has said about him, to get the whole picture. "Rapid

City, South Dakota. Thomas W. Fletcher, City Manager of San Diego, California, is on vacation with his family. Lyndon Johnson wants him to become Washington's Deputy Mayor immediately, but Fletcher cannot be found. Dramatically the President orders a ten-state search. The FBI finds Fletcher in a Rapid City motel with his wife and only daughter, Heidi Ann. He is flown to Washington by Air Force jet, where he accepts the job. He is then flown back that same afternoon to South Dakota and his family. His daughter cries when she hears of their impending move." She drove the getaway vehicle.

MS. GERE: How did she meet up with these two fellows?

JUDGE GREEN: I don't really know, and I don't know that this article ever went that far or not.

MS. GERE: She drove the two of them to this bank then on MacArthur Boulevard. How did the police officer come to be on the scene, or was he just—

JUDGE GREEN: He was undercover. So many banks had been robbed at this time, that they had thought that they might be a sitting duck. So he was in there, unbeknownst to anybody; of course the bank knew it. When Timm and Caldwell went in, with guns, the officer jumped up and ordered them to drop the guns and he pursued them out the door. They had gotten money from the teller, and they were on their way out, and he started to shoot. Timm always felt, and said that if the officer hadn't been shooting at him, he wouldn't have shot at all. But he was being shot at, so he shot back, and killed him. Of course this is a very serious thing. As it happened, they were wearing wigs, the two men.

MS. GERE: Disguises.

JUDGE GREEN: Yes, they were wearing wigs. They threw those things in the

back of their—it was like a panel truck, nowadays they call them something different, fancy jobs, but this was a panel truck in those days. They threw that in the back and the money and the guns, and they took off, rather rapidly, on Van Ness Street, toward Connecticut. Before they got to Connecticut they were apprehended. The television crew was there, the news, all the people. They had pictures of the money, they had pictures of the people. They were taken, all of them, in, of course. A very serious situation. They set no bond for any of them. I did not think that this young woman should be treated in this fashion. There was never a time before this when the prosecutors would charge a driver of a getaway who didn't participate in anything else. They wouldn't charge them with first-degree murder. They charged her with first-degree murder and they charged her with nine other counts. I didn't think she was safe to go home. I didn't think that was a good place for her, because I didn't think they paid enough attention to her, which is how she got into this trouble. One of her neighbors, a very respectable, decent person, I found out, with all kinds of recommendations from the public, offered to have Heidi, to take her in for custody, protective custody, anything I wanted to require. She had a daughter the same age, and she came down and talked with me. I decided that this was a fair, proper, decent thing, while she was awaiting trial. The DA in the case, Assistant U.S. Attorney, was trying to be very helpful and he was trying to make the plea to the U.S. Attorney, who was Tom—

MS. GERE: Flannery?

JUDGE GREEN: Yes. Tom Flannery said in my presence, and in my chambers, that he hadn't the slightest idea of breaking down this charge for this woman, when he was being considered for a judgeship. I've never forgotten it. I have never forgotten it. I sit with him at lunch time—now you see why I have to embargo some of my comments here. He would not do

anything except a murder charge. She was eligible—they only want eligible—for the Youth Center under the Youth Corrections Act. He would not take—they were offering a plea—and he would not accept anything except first-degree murder. Immediately, before she became 21—and her birthday was just about then -

MS. GERE: She would have been eligible for treatment or whatever under the Youth Corrections Act.

JUDGE GREEN: Right. And of course they were B and C types, as I recall, and this would have been a C that she was pleading to. I think I gave her nine years, or when rehabilitated. Because that's the way—

MS. GERE: What was the cut-off age for the Youth Corrections Act? Was it 18, or was it 21?

JUDGE GREEN: I think it was 21, I'm not sure. But it talks about the fact they were all in their twenties. I think that she was, at 22, she would lose eligibility.

[After a break in interview.]

MS. GERE: You were talking, Judge, about Heidi Fletcher and her eligibility for treatment under the Youth Corrections Act.

JUDGE GREEN: Yes. And I might say I received much vilification for—I received many letters telling me that they thought that I had been a decent, kind, person and that was just what I was supposed to do. I received one from a high government official, who wanted to know why I didn't just give her a medal.

MS. GERE: A very sarcastic comment, obviously.

JUDGE GREEN: Right.

MS. GERE: So your decision was that you would sentence her under the Youth Corrections Act.

JUDGE GREEN: Right.

MS. GERE: The government had asked that she be treated as an adult?

JUDGE GREEN: They didn't have that, they just decided that she would have to plead to every one of the counts. The Assistant who handled the case was trying very hard with the powers that be, to talk to them, to get, to accept a lesser plea. It just, they wouldn't do it.

MS. GERE: Who was, I've forgotten, the Assistant U.S. Attorney?

JUDGE GREEN: One that we both know very well, and I'm trying to remember his name.

MS. GERE: Bob Higgins didn't try it, did he?

JUDGE GREEN: No, no.

MS. GERE: John Aldock?

JUDGE GREEN: No, they all were civil.

MS. GERE: Well, it will come to us.

JUDGE GREEN: I say all civil, they were assigned to us to clear up stuff, so I'm not sure. I think maybe they were criminal, weren't they?

MS. GERE: Yes, I think they were.

JUDGE GREEN: This fellow is still a very active attorney and they asked him all kinds of questions about the Independent Counsel and all that.

MS. GERE: The Independent Counsel, on all of the current issues.

JUDGE GREEN: Yes. He was and is a nice one. Anyway, I might say that I did

receive letters, one from a man in Seattle, who said that he didn't really have occasion to write to judges, but he just wanted to say that I had treated this defendant, that he was interested to hear what had happened, he thought it was most unusual. The complaint that I received was that she was white and she was female, and that that was the reason I was being decent to her. That's the only reason.

MS. GERE: And obviously that was not part of your thinking.

JUDGE GREEN: It was not. I sentenced her, under the Youth Corrections Act, to nine years.

MS. GERE: She actually stood trial?

JUDGE GREEN: No, because she pled. She pled to every one of the charges. I felt that I really had to give her the maximum that was for serious matters, but under the Youth Corrections Act. She was sentenced and they sent her to California. She was at Terminal Island, I believe. This apparently was very good for her. We finally had, when the two men were set up for trial, they had screamed that they wanted her back to testify on their behalf. I asked them what she could possibly say that would be of any assistance. I had counsel in chambers and I had a reporter, court reporter, taking down the things that I was saying. They had subpoenaed her from the prison, and they were going to bring her. I inquired as to exactly what it was that she would be able to do for them, because it didn't seem to me to make such sense to spend the money, to have Marshals fly back with her and come into the court and have her plead the Fifth. There were other things they were going to try to claim about her, so that there was always a likelihood and she hadn't, I don't think, there had ever been an appeal. She wasn't appealing, and it was a plea, so that was the situation. But in any case, afterwards I said, "I will tell you, if

you insist upon it, obviously I'll okay it. But I just want to call your attention to the fact that I think it's stupid." Well, she was brought back. At this point I received a letter from the *Washington Post's* editor, and I received all kinds of flak. I was being governed by my bias in this defendant, and this was an outrageous thing that I had, whatever it was, that I had this meeting that was off the record. So they complained to the Court of Appeals, and Judge Bazelon, who hadn't anything to do with the case as far as I knew. He ordered the transcript of my in camera hearing. I never heard anymore about it again, I mean, officially.

MS. GERE: They were upset because you had brought her back and that you'd had some conversation with counsel that they couldn't inquire into, I take it. As the newspaper—

JUDGE GREEN: They were complaining about it because I hadn't brought her back, they didn't know she was coming back.

MS. GERE: I see.

JUDGE GREEN: When Bazelon took a look at it, it certainly wasn't anything that was—and I had both sides, and I said, "Isn't this kind of stupid?" I mean really. "Do you really, what is she going to say? What can she say for them?"

MS. GERE: I can't imagine what she would say that would be helpful to them. But she came back.

JUDGE GREEN: Which she did, and then, preliminarily, it wasn't before the jury, she testified, gave her name and location, and she took the Fifth. Timm started up from the counsel table, almost to the witness stand, and said, "Why would you do this to me? All we meant to each other" and all this. It really was a tragic little scene. It really did her in, just about, but she managed to get over her tears and get out of there, and that was it.

MS. GERE: What did he think she was going to say that was going to—

JUDGE GREEN: I couldn't fathom it anyway.

MS. GERE: He was there, he had the gun and he—

JUDGE GREEN: Caldwell had complained all the time in the trial that he was unable to move, so he sat there in a wheelchair, which he'd never used before in his life, as far as I can tell. He had a sheet tied around to keep him, because he would just, and I would realize that he would be so uncomfortable, not moving for hours, and I would look and try my best to see him move, and his hands would be under the table, but you could not see him move. He played all this stuff all the time. He ended up writing a letter to the editor before the case was finished, saying "Aha, I fooled you," and all these things. It was a jack-ass thing, and the next day when he came in for the final arguments and so on, he was sitting up there paying no attention at all, like he was just fine, needless to say, I knew that right along.

MS. GERE: Were they sentenced?

JUDGE GREEN: Earl Silbert. Earl Silbert was the one who was—

MS. GERE: The Assistant who tried the case.

JUDGE GREEN: —was trying hard to do it in his usual fashion and that was not biased.

MS. GERE: So what did Timm and Caldwell receive as their sentences?

JUDGE GREEN: Life imprisonment.

MS. GERE: So they're still incarcerated.

JUDGE GREEN: No, Timm is dead. He was stabbed. I ordered Timm and Caldwell sent to separate places. I felt that Caldwell was such a much different character, that he

really had a bad record. I thought that he was the one who really induced the others to do this stuff. He was sent to, of course the court has no authority, to pick the place. All I could do is suggest that they not be incarcerated together, because I thought it was a bad combination. They sent Timm to Lewisburg, and as a matter of fact, he still would have been considered for probation, after having served 15 years or something like that. He had served more than that. He was stabbed to death sixty-some times by inmates, and I have always felt so sad about it.

Caldwell had been in a very secure—Redstone I think it is, or one of the very secure prisons. But he had filed a civil action about something local, and when they took him to the local court to have a hearing on it, he ducked out the bathroom window and escaped. He was always the one that was a bad actor. He was captured and I believe he was put in a place—it's mostly solitary I think, that he's in, which is not a very humane thing either. It isn't humane at all in fact. When I was notified about Timm, it really disturbed me indeed, and I'm sure, Heidi. Well, after Heidi was in there for a while, I think three-and-a-half years, she was taking some college courses. She was doing all of the landscaping for the facility, which apparently she'd learned to do very well. They thought it was wonderful. They allowed her, eventually, to work outside, maybe she was working for them at that point. But toward the end, after about three-and-a-half years, she came up for parole. They decided that she was totally rehabilitated. She had never had an infraction. It was very, very fine. She had this wonderful record. She was in every way a changed person. She was intelligent and she had instituted these things at the prison that were so helpful to the management. She had worked as a secretary, I think, before, when she met Timm. I don't know how she met him, but in any case it was an unfortunate meeting. Certainly unfortunate for him, too—although she certainly didn't induce him to do these things. That was for sure. The trial,

each time she'd have to be in court, because there was a lot of preliminary activity as we all know in that kind of thing. Her father was always there. But her mother never showed up. Finally, I heard that, when she was transferred to California, he went out to California and got a job there. I thought it was so that he could be closer to her, and almost as soon as Heidi moved into the place, maybe a month, he got a job elsewhere, and they left. So it was not just in my head. Although he wrote to me very nicely and said how much he appreciated my handling of the case, that he knew that I had some rough times, because, he read it in the paper, people were giving me hell. He said he realized that I had always had his daughter's best interest at heart. The prison decided that they were not going to release her, because of the seriousness of the charges to which she'd pled guilty. I quoted them—of course she still had her lawyers—the Youth Corrections Act, which states that you may not hold the prisoner, if they are rehabilitated. I thought I was ordering the Attorney General (and the prison) to let her out the next day, no later than 12 noon. It turned out I had the wrong date, and I was stating today, and by God they let her out.

MS. GERE: Well, it was moving right along.

JUDGE GREEN: She had gotten a job as a secretary in a law office. Her grandmother was apparently the only person who was back looking after her, going to see her and all that sort of thing.

MS. GERE: Where did she go for her job after she was released?

JUDGE GREEN: San Francisco, I think. They said that she had friends. I think she's married now and has a family. She wrote to me and I didn't write to her, because I just thought I was just as well not. That was a very difficult case, and I'm sure that I have made lots

of mistakes in my time, but I haven't made one because of my own best interests. I think I can honestly say that. I don't really think that I have put myself in front of somebody else.

MS. GERE: Right, that is the way something should be decided.

JUDGE GREEN: If they haven't turned out that way, there were other reasons for that.

MS. GERE: So those were two of your more memorable cases from your early days on the bench, one criminal and one civil. Are there others?

JUDGE GREEN: One that I felt very strongly about was the farm workers who had absolutely no outdoor personal hygiene facilities. They were required to go out and pick these vegetables and fruits and all sorts of things. They would be sent for, picked up in a truck, before dawn. They would then supposedly stay until it was so dark that they couldn't see anymore afterwards. A very full day of stoop work and back-breaking things. They had no facilities for going to the bathroom. They had nothing, except the fields, and they were required to stay there, so that if no one cared about them, they should have cared about the fact that the food was coming out of someplace where people were urinating and defecating on it. However, OSHA decided that this was not that anything they thought was important. This was not a popular cause, either. These people didn't have anybody to speak for them. The only thing that had been done was Caesar Chavez's work.

MS. GERE: Right.

JUDGE GREEN: —in California had managed to get facilities for the people there, because he had unionized them. But the other people who were not unionized and were not educated and were not any of these things had no facilities. They couldn't get a drink of

water. They'd say "well you can have it from the ditch." They wouldn't even provide them with clean drinking water. They had no facilities for washing their hands. Many of these fruits and vegetables were poisonous, had been sprayed with pesticides, and the workers were never allowed to wash their hands to get that off, to say nothing of regular facilities.

MS. GERE: So this was a suit brought on their behalf against the Labor Department in order to have them effectuate regulations that would have protected their health and safety.

JUDGE GREEN: This was against the Labor Department, indeed OSHA. Because they wouldn't do anything for them. That went on for a number of years. I had that case. I decided that this is what should be done. There is no basis for any human beings being treated like this. I would order OSHA to come forward, publish their records of what was done and what was recommended. Several years later OSHA would come in, only when subpoenaed, and I finally had subpoenaed a woman who was the head of OSHA. She was the OSHA Commissioner. There was an article that really was something. It talks about me as though I am a moron, and that I am so unfit for being a judge because I was so angry with her, that I was, when she was testifying, I was throwing my glasses around and rolling my eyes, and showed my irritation. Damn right I was. She was lying through her damned teeth. The article said that I was known as an absolutely trigger-tempered, hot-tempered individual anyway.

MS. GERE: Was this in the *Washington Post* article?

JUDGE GREEN: Yes, I think so. It was done by a fellow I thought was fairly good, ordinarily. But he was amusing himself with this one. Well anyway, the OSHA Commissioner said that there would be at least a four-and-a-half years further study, and she

didn't think they could act until Congress did. I said Congress acted at the turn of the century, when they decided all workers were entitled to sanitary conditions for their personal habits, personal needs. And that does include safe drinking water on the job, clean, decent things, not one ladle for everybody. They talked about flush toilets in the field. Of course I didn't talk about flush toilets. I said the johnny-on-the-spot type could be used—if they couldn't understand this, I would make the suggestions. That is, they could take one of their farm trucks and put one of those things on it. When the people were out working in the field they could keep it all day. They were required to have other facilities than their drinking water where they could wash. In the first place, another thing, they had statistics to show that these people have a life expectancy of 45 years, and it's because they haven't any bladders or any kidneys that are in decent shape. All of these problems because they are embarrassed to go in front of somebody. They hold it all day for ten hours or something like that. They have no facilities for even wiping themselves. Each time the Court of Appeals would say it was up to OSHA, that it wasn't my say. I got it back three or four times.

MS. GERE: I remember it was still there when I was there. It was there after I left.

JUDGE GREEN: It was many years. It finally got to a point where I had given them a deadline on what to do with these dates, beyond which they didn't go. They had changed the law of the APA a little bit. That is, if it's a date that is a deadline, it would not go to the trial court anymore, it would go to the Court of Appeals. It went to the Court of Appeals and Pat Wald got it, thank God, and she wrote a beauty. That is the law now.

MS. GERE: It took a long time getting justice done on that one.

JUDGE GREEN: It surely was. But that's one that I really felt pretty good about.

Finally. Well, as I say, I think that Heidi is a reasonably good member of society today. I've heard other reports that people have been checking on her.

MS. GERE: Are there other people, other individuals in criminal cases that you think have gone on, at least as far as you know, to be contributing members of society.

JUDGE GREEN: Yes indeed. I think that I had a woman, one who had embezzled \$80,000 from Riggs Bank, all at once. She was a very decent member of society, a hard-working person, and somehow to take money like that was sort of, according to the psychiatrist who testified—

MS. GERE: Kind of aberrational, it sounds like.

JUDGE GREEN: It was a cry for help. It wasn't for her to get away with it. She apparently was manic depressive, and principally could not stand her father and felt that he was mistreating her mother. Ostensibly, she was taking the \$80,000 so that she could take her mother and her mother could leave him. She would set her up with the \$80,000. Now before the case came on at all, she paid back the whole thing, but Riggs wanted her prosecuted. Lovely thing to remember, too. So she was. She was found guilty, she pled guilty, it is my recollection. I gave her probation provided she would have mental care, that she would go to a place of her own choosing. It had to be okayed, a standard one. I wanted her to take whatever they were requiring in the way of medication or whatever—

[After a break in interview.]

MS. GERE: Judge, you were talking about the woman from Riggs Bank who had embezzled \$80,000.

JUDGE GREEN: She got a job with the Brookings Institute, and I had reports

from her all the time on her qualifications—her fitness reports, or whatever you call that in the service. They said that she was doing beautifully and that they couldn't do without her. She had superior on every single solitary thing. She was being given raises and she would tell me that she was very happy with what she was doing. The last letter—oh I might say, she's been pardoned by the President. She had said to me, she wrote to me and said that I had saved her life, that she took her medication, that she was perfectly all right at this point. But if she had not been ordered to get the mental attention, she would never have made it. She had had the sense to realize that her father was what was driving her nuts, and now that her mother was dead, she had severed all relations with him and she was having a lovely time. She wrote such a wonderful letter, and afterwards she wrote to tell me that she had—I was notified that she had been pardoned. You cannot institute a pardon if you are the trial judge. But as a matter of fact, somebody else asked me—I guess it was the Pardon Attorney—asked if I would make some reports about it. I said I had followed her and she had done a remarkable job with Brookings. I thought she was in every way entitled to a pardon, and that I would be delighted to hear it.

MS. GERE: That was relatively recent?

JUDGE GREEN: Yes.

MS. GERE: You think the late '80s, around then?

JUDGE GREEN: Maybe even 1990, I don't know. She's been pardoned recently. I think that they won't even consider a pardon under seven years. I think that she had had some intelligent friends who had worked to try and get her to do it. I think it's unusual because I don't believe the President has granted very many.

MS. GERE: The pardon was by President Clinton.

JUDGE GREEN: Yes.

MS. GERE: So it was very recently. Are there other criminal cases that particularly stick in your mind?

JUDGE GREEN: I think they probably all stick in my mind.

MS. GERE: That's true, for one reason or another. Are there other criminal cases that you recall—for good or bad, or just plain interesting?

JUDGE GREEN: One involved the man who was referred to as "Miami Mike." His saga started out in Montgomery County, when he and another person, who was his co-defendant, robbed a drug store, Austin Drugs. Then they entered the District of Columbia, and ended up—there was a call out for them that was reported as they were approaching the District. They went down to the Tidal Basin area, and they had a flat tire. They got out and started to try to fix it, and they didn't have a spare. The Park Police came, a Park Policewoman came and asked if there was anything she could do for them. They said, "No indeed, thanks, we're fine." She called, as you would—she said, "Maybe I could get somebody to help you with the tire, or I could help you." They wouldn't allow her to look in the trunk. So when she called in—she was calling in to Central to find out whether they had anything on these people—and they said yes, we are looking for people who just robbed a drug store. At that point they shot her right through the hand, while she was holding her telephone. There was another policeman she was able to call for help. Another one came on, at which time Miami Mike's friend, associate in this crime, took off in the car in spite of the fact that the tire was flat. The other officer came, I think they shot him, too. Then Miami Mike's cohort took off. Mike was out on the ground. Mike went up on Fourteenth Street. He approached the Fourteenth Street Bridge, and stood in the street for a taxi

cab. The taxi cab had a passenger who was getting ready to go to New York. He was anxious to make a plane.

MS. GERE: He was going to the airport.

JUDGE GREEN: Yes. Miami Mike forced his way into the cab with his gun, and he had him move over and took the cab. Eventually he ditched it. The accomplice had gone into the first apartment house complex, where he saw a car coming out. He wanted to leave the car with no tire, and so he had a woman get out of her car and he took hers. Miami Mike ended up in a filling station I think, where I guess he—

MS. GERE: He was the one that was in the cab?

JUDGE GREEN: He was in the cab, yes. They finally caught both men, and the trial was a very interesting trial. This poor policewoman had to be retired on disability because she couldn't use her one hand at all, and that was for life. The other one I think was a glancing blow; I don't think it was too bad for him. Anyway, they shot two police officers who were trying to be of assistance to them. At the trial, the man who was from New York came back to testify about what happened in the cab and identified Miami Mike. Everything went like clockwork. It was an amazing thing that every witness did what they were supposed to do, said what they were supposed to, and knew what they were talking about. It was a rather fascinating situation, because it so seldom happens. They had the woman who was stopped, they had taken her car, one of them, I don't remember if it was Miami Mike or the other one. The interesting thing is, by the time I sentenced them, I think I gave them 30-some years, as it was serious and furthermore, Miami Mike had a case that was pending for murder in the Superior Court.

MS. GERE: Sounds like a bad actor.

JUDGE GREEN: He filed everything you can imagine, that a jail lawyer would do, in his case. It got to a point where most of my middle law clerks came to know him, because he was always on the phone or filing papers. I took him not very seriously in all of these things. He was also found guilty, I believe, of the murder, but he was still trying to work on getting his
2255—

MS. GERE: Getting his sentence reduced.

JUDGE GREEN: Ineffective assistance of counsel and all these things, he dreamed them up. Every now and then I would end up having to have a hearing with him, and he was always, “Oh Your Honor, how nice to see you. You’re looking well.” This kind of bull. He managed to get that murder case from Superior Court dismissed. I think on appeal it had already been affirmed, but he managed to get out because there was error. He’s out now is all I can tell you. What he is doing is working for lawyers; they all know him.

MS. GERE: Working for lawyers in Washington?

JUDGE GREEN: Yes. I was taken to lunch by Phil [Inglima] and Liz [Wieser]—

MS. GERE: Two of your former law clerks.

JUDGE GREEN: Right. They said, “By the way, we have just seen somebody who knows you very well, and perhaps you’d just as well not see him.” They told me who it was. I said, “Yes, I’ve seen him enough, thanks.” And they said “He knows more law than most anybody we can find.”

MS. GERE: I suspect he had plenty of time to read it.

JUDGE GREEN: He is working for lawyers who are doing defense work—criminal defense. He has a whole group of people he helps. He files papers for them and he does all

kinds of work. They had told me this while we were on our way to lunch, as they'd just seen him. When we came back, there he was.

MS. GERE: At the courthouse?

JUDGE GREEN: No, he was at the car. He just wanted to report on something or other that was going on that he thought they might be interested in. Apparently he is straight, as straight as anybody knows that he is. He helped, if you will recall—there was a very fine lawyer who was sentenced for not paying his income tax. He was a gambler.

MS. GERE: John Shorter.

JUDGE GREEN: Yes. He was working for John Shorter, that's one of the jobs that he got. He worked on that, and you know that one got reversed, too.

MS. GERE: I wonder if he'll ever end up going to law school.

JUDGE GREEN: Well I think he probably could teach it.

MS. GERE: Probably he doesn't even need to go to law school!

Are there civil cases, and I know you've got all of these scrapbooks here and years of cases and years of memories, but are there—

JUDGE GREEN: I think you've had enough, that's what I think.

[After a break in interview]

MS. GERE: Judge you were about to tell me about another case that you remember well.

JUDGE GREEN: Yes. I had a case where a very poor old lady had applied for a loan. This company said she could have a mortgage loan on a house that she owned in the District. She got the money, and afterwards they came and took the house. She had made the

payments, but she had not paid them all and it turned out not to be a mortgage. It turned out to be a deed that they had gotten from her. Not a deed of trust, a deed. And they had put her house up for sale to the public. I ordered a stop to that.

MS. GERE: This was a business in the District of Columbia.

JUDGE GREEN: Yes, and I'll try to remember its name, at the moment I can't. I don't think they are in the District of Columbia anymore. I received a letter years later, well in any case, she got her house free and clear from this mess. I ordered damages against the defendants.

MS. GERE: Had the company made similar "loans" to a lot of other people?

JUDGE GREEN: Loads, that's how they were doing so well. I had a letter I found recently that had been written to me in the '90s, because this was very much further back than the '90s that it happened, that case. It was from a lawyer who came in looking for our decision. I had never sent it to the publishers. I simply had an unpublished opinion in the case. The lawyer was defending, bringing another poor soul's action, and had heard of the case before me. He wanted to know if we could help him at all. Both my secretary and law clerk helped look for the opinion and found it. He wrote back to tell me how much he appreciated it, his client had appreciated it, that everybody had treated him with such courtesy and politeness and gone to all this work for him, and that he won his case. He didn't believe for a second that he would have been able to do it without a certified copy of that order. He just wanted me to know, to thank everybody because it had been so helpful. I thought, well that's a nice one, too. It's sort of nice to realize that people occasionally think that you did all right.

MS. GERE: Do you keep a file, or do you have files of all of the opinions that

you've written?

JUDGE GREEN: Yes, generally. Nowadays I send them to West, but I didn't in those days.

MS. GERE: Do you actually have copies, or how were you able to locate the one that you gave the lawyer we just discussed?

JUDGE GREEN: I probably wouldn't have been able to locate it, because I didn't personally save it, but either Joan [McGowan, Judge Green's secretary], I think it was Joan, personally located it. She will skim these things out when the time comes because she does not have room for anymore. If the case has been affirmed and she's not worrying about a new trial—of course you can't be sure of that—on anything. After it's been a while, she will try to thin the files out. There really isn't any necessity for keeping everything. But if it's an order, a reasoned order—a memorandum opinion at least—I try to keep a copy.

Judge Harris fights the Court of Appeals on preparing memoranda opinions because it's not a requirement in the rules to write an opinion on everything. Well, who can win against City Hall? Mostly you can't. I do try to tell the Court of Appeals the reasons for my decisions. They have said to district judges, make it a little clearer. It makes the Court of Appeals do so much more work if the district judge doesn't write it. Time after time I get these opinions back from the Court of Appeals that say, "Unpublished opinion, for the reasons that have been stated by the trial court, we affirm." That's all very nice, but nobody sees it but me, and nobody can quote it, and I think it's pretty rotten. They have been working on a change to require the Court of Appeals to do something about it, at least publish it—not have an unpublished opinion. That's why, even if I'm going to get reversed or fear that I am, I'll have it sent to Fed. Supp. anyway. I

don't believe anything in the cites when people say it's just the District Court saying it, so what. That's one of my colleagues or no better. They may be better than the ones sitting up there on the other end, and some of them are really asinine with what they come down with. The Court of Appeals has said they don't want to have to read all the trial court record to decide if the District Court is correct.

MS. GERE: So they want you to do—

JUDGE GREEN: One time I had sent a memo to the Court of Appeals because [Judge] Roger Robb suggested that I do so. There's no mechanism for the District Court to say to the Court of Appeals, if the lawyers just do not respond to, or address, an issue on appeal, you're mistaken based on the trial court record. Roger Robb said, "Well, by God, you know who's on the panel, send them each a memo. Explain to them what it's about." Judge Tamm later said at the judges' lunch table, "I heard about one of these district judges out West, who,"—I was always "out West"—"who sent memos to the Court of Appeals judges. It just isn't done. Nobody can do that." My face was bright red I'm sure, but he never said that it was I who did it. He was trying very hard to make a good judge out of me. Years afterward [Judge] Gary Gesell was livid, because the Court of Appeals was saying all these things that he never said. "They just damn well didn't read the record and that's all there was to it." Of course Gary said it to anybody who would listen. It got to a point where he insulted the Court of Appeals so often that they didn't come in anymore to have lunch with us. Well that's too bad, but it's their loss.

October 21, 1998

MS. GERE: Good afternoon Judge Green, how are you?

JUDGE GREEN: Fine thanks, Sally.

MS. GERE: Today is October 21, 1998. We are continuing the oral history of Judge June L. Green of the United States District Court for the District of Columbia. When last we met, in August I believe, Judge, we were talking about some of the more memorable cases that you have had, over which you have presided, during your time on the bench. I think we've probably just scratched the surface. I doubt that we'll be able to do much more than this unless we plan to have many, many more tapes to hear about your many trials. But perhaps there are a few more that you would be willing to share with me this afternoon—some of the highlights of the more significant cases over which you presided.

JUDGE GREEN: You have forced me to look at some of the cases, so that it's been brought to my recollection, finally. I know that some of them I have felt were more worthwhile for the general human race than others. One that I feel was worth spending the many months, and years even, had to do with farm workers. The farm workers originally came to court on the basis that they had no personal facilities in the fields where they worked. These people who were expected to pick our vegetables and fruit were not given any of the facilities for their own health at all. They were never provided with any bathroom facilities, they did not even have clean drinking water. If they finally were given one big bucket of water for a whole group of people, it would have maybe a ladle in it, and everybody would share it.

MS. GERE: It was communal.

JUDGE GREEN: It was. Neither men nor women—and they were working

together—had any facilities for going to the bathroom. The women were very embarrassed to have to urinate in front of their colleagues, so they wore very, very long skirts to protect them if they had to do this. Elimination probably would be done on the vegetables, and there was no toilet paper for the workers. They would use leaves of whatever vegetable or whatever was around. The workers would be in very terrible shape. The case was brought against the Labor Department, so that they would require, under OSHA, that require people to have certain facilities.

MS. GERE: Right, certain minimal requirements. This case was brought in the late to mid-seventies, is that right?

JUDGE GREEN: Yes.

MS. GERE: My recollection was that I think that it was pending, at least some portion of it, when I was clerking for you.

JUDGE GREEN: It was indeed. It started and it went for years. We had a full-blown hearing on it. We had witnesses who came in to testify. We had the clinical doctors who were utilized by these people. It was finally proven that their life expectancy, for this group, any of these workers, was 45 years.

MS. GERE: That's very young.

JUDGE GREEN: It really is. This was a very serious matter, and I felt that there was no way that the government could possibly turn them down. I met with most vigorous defenses.

MS. GERE: What could the defenses have been? Were they technical legal defenses?

JUDGE GREEN: They were claiming that I was trying to order them to put flush toilets in the fields, which of course was an absurdity. I indicated that I thought that we had already, the law had been taken care of at the turn of the previous century, that all workers had to be given facilities for sanitary reasons and reasons of health, if nothing else. There were ways that this could be done. I expected OSHA to provide for notice and comment and make the necessary changes and do what was right. These workers were not provided with any way to wash their hands. They were not able to get pesticides from their hands, so it was going through their bodies. In addition to which, the general public should have been dissatisfied because of germs that were passing from these fields. I could not understand why the workers' request was met with a "pooh-pooh" attitude—that Judge June Green just wants to be so impractical. So, when I'd get it back from the Court of Appeals—

MS. GERE: It went up to the Court of Appeals?

JUDGE GREEN: Back and forth.

MS. GERE: More than one time?

JUDGE GREEN: Back and forth, back and forth. The Court of Appeals would tell me various and sundry. Sometimes that I was no expert and that OSHA was. I didn't think OSHA acted like experts so I would utilize witnesses that the plaintiffs had sensibly brought. We kept trying. Eventually I realized that OSHA would never implement the details of a regulation to require necessary and appropriate facilities for the workers, so I thought I'd better think it up myself. I decided that there was no reason in this world why, with the use of farm trucks, which they had when they had at least eleven people in the field—they would not consider any smaller group of being under control of the Labor Department—there was no reason why they

couldn't use the typical johnny-on-the-spot on the truck, with paper cups and a washing machine, as well as clean, cool, drinking water. Sometimes in the past the people had been drinking what was in mud puddles, in desperation, when they were so hot and so thirsty. OSHA finally published a regulation. I might say, Chavez, the situation on the West Coast, did a lot for those workers. OSHA realized, I think, that it could be done.

MS. GERE: Both to bring it to the public's attention and that there could be some way of resolving the issue.

JUDGE GREEN: Finally we received the agreement from OSHA. I might say I had required the head of OSHA to come in and testify on several occasions, and she didn't distinguish herself. OSHA did eventually agree that it was going to promulgate the rules and regulations and they were going to do it by a certain deadline. Meanwhile, there had been a change in the rules, that cases that had deadlines would go straight to the Court of Appeals, if that was the only subject matter. So when it was brought before me again I utilized that and said it was in the hands of the Court of Appeals, under this particular new section. Finally, Judge Patricia Wald, who was the chairman of that panel, made a wonderful opinion, and had indicated the tracings where it had gone back and forth for all those years with my court, and said enough. This was outrageous and the regulations were overdue and OSHA was going to be in contempt. They'd had it now. This is one that made a lot of difference to me. And I might say I did receive some wonderful letters from people who had been in the clinics taking care of the people as well as they could, and other people who had been working them, saying that they wanted to tell me thank you. I felt this was worth my being there.

MS. GERE: Do you think, Judge, that there were more cases that were brought

before your court that touched on significant social issues in the '70s and '80s than there are now?
Do you see any change in what's being brought to your court?

JUDGE GREEN: Yes, I think that's true. I think every now and then we'll have something that I think means something to somebody, and it means something to me, because I feel that it has accomplished something. One I remember was not a world-shattering situation. There was a poor woman who lived out in northwest Washington, who owned her own house, and it was in dire straits and apparently needed to have every kind of repair made. I think she had already been ordered to make changes by the powers that be. She was trying very hard to get a new mortgage.

MS. GERE: I think we talked about this case.

JUDGE GREEN: Did we talk about that one?

MS. GERE: Yes. This is the one that, she thought she was getting a mortgage but they had gotten the deed to her home.

JUDGE GREEN: Gibraltar was the name of the outfit. Gibraltar was doing business by leaps and bounds. They also had a set-up in Annapolis, as well as Washington and Virginia, the Rockville area and all these places. I haven't seen the name since, for quite a while. In any case, they didn't get away with it.

MS. GERE: Those represent sort of the spectrum of cases for you. The one involving the farm workers really touched a significant number of people across the country. And Gibraltar, one that really touched—

JUDGE GREEN: One at a time.

MS. GERE: Yes, an individual or smaller group of individuals. I take it from what

you're saying that both kinds of cases were rewarding for you as a judge.

JUDGE GREEN: Absolutely. One significant case, to me at least, was, and I don't think I've mentioned it before, was where the women who had been picked up for a driving offense, or parking offense, were being taken down to headquarters and strip searched.

MS. GERE: I remember hearing about this.

JUDGE GREEN: They had ordered women to be sprayed with lice remover. All of these people were normally clean, normal, decent, whatever race was immaterial. They were only picked up for something that was totally—no violence, no anything of that sort—and they made them show what they might have had inside their bodies, and hold up their breasts, and jiggle up and down, and do this sort of thing at the police station. When I learned this, they had brought an action. I had ordered that the police must cease and desist, that they had absolutely no basis in security or any other thing for this conduct. That was still an outstanding order. Later, when a woman drove into a parking lot, they kept motioning her in so she wouldn't be blocking anybody. She stopped and then she tried to find out how much it cost. They said, "Well we only have it by the day." And it was a very large amount of money by the day, \$10 a day or something of the sort. She was only going to run in some place and pick up something, and she said she couldn't stay and so she started to drive out, never having gotten out of her car, and they called the police and had her arrested.

MS. GERE: This was here in D.C.

JUDGE GREEN: It was indeed, it was in D.C. This was a large, open parking area, parking lot. They said that she owed them this money and she was not paying them and they wanted to have her arrested. She was taken down and given this same treatment. I did

indicate my displeasure at that and indicated that they had violated the terms of the court's order. I believe it's been of aid, as far as I can tell.

MS. GERE: How long ago was that?

JUDGE GREEN: In all it's been about ten years, I would say. I'm hesitant, now I'm trying to think of these other things that strike me, but I think that I did mention to you that I felt that so often, when one of the prisoners or one of the defendants would take the stand, and they were shown an exhibit by an attorney, it was perfectly obvious to the court—and probably to anybody else—that the person couldn't read. They would say that they hadn't their glasses, or they would just clam up and look stricken. I always said to counsel, I think you should read it into the record, so they at least would know what the contents were of what we were seeing. About that time was when I wanted to do something for these people who were illiterate because I thought it was so pathetic. I had the feeling that everybody was being thrown down the drain by this court, since I was handling so many criminal cases, a necessity at that point. I wanted to do something to feel that I was a help to some part of civilization. When John and I were in the public library one day, we saw that they were advertising a course to be given to adults who were unskilled in reading and writing. They were going to teach the teachers. John having inveigled me into the law business, I inveigled him into the teaching business. I asked him if he would be willing to go with me to the D.C. Jail to see whether there was anyone who would like to be taught to read and write. He said yes he would and we took the course, then went to the jail. I told them that I would be willing—the jail was not under my jurisdiction at that time—that we were willing to give our time to whatever inmates would like to be taught. They explained to me that they couldn't possibly get us in there. They only had one schoolroom and that was being

occupied all the time. I had explained to them that we didn't need a whole classroom because we were going to work one-on-one. All we really needed was two interview rooms, which I knew very well they had, because when I had been appointed to represent indigent defendants I went there to the jail and utilized them. I knew they were never full. All we needed was one each of the interview rooms, no matter how small. We would have one inmate apiece, at a time, and we would like to come 6:30 to 8:30, twice a week, if anybody wanted to have our services. They didn't know what else to put in my way, so they would say the jail count hadn't cleared, so we would have to wait to have our students come to see us. In any case, we were patient, and they'd get there. The students were so pleased, because many of them hadn't anybody to come to see them at all. As much as the fact they were going to learn something was the fact that they would get to have a human being speak to them. We had very many students in time, because we found that we had to go a little more often to get them all in, then they finally gave up on telling us that the count was always so late all the time. They were expecting always that I was a spy in the place, but I never saw anything. I was very careful to not see a thing out of order. That was not what I was there for. I had felt in hearing from all of these people when they finally got out, some of them hadn't even been tried, they were there awaiting trial and couldn't make bond, and had been there for a very long time. In some cases they were found guilty and were sent off to Lorton or Occoquan, or one of the others. But the ones who were still in the jail, we finished—and as I say many times they just hadn't made bond, they couldn't do that—in time they did get out. They would tell us what they were doing for a living. We had a number of Hispanics, and they had been taught by one of our, it was John's, student from Puerto Rico, who knew English as well as the Spanish. He was teaching them himself before we came there. He

had classes of thirteen, I remember, and he wrote his own dictionary for them.

MS. GERE: With truly useful words.

JUDGE GREEN: It really was, I wish I had it. In any case, he would say to his “students,” this is meaning the people “stateside,” and then he would put it in their way of saying, in Spanish, so they would get the pronunciation, and explain exactly what it really meant to them—the words. They were very, very good. There was only one person that we’d had in the whole group who was not able to be taught, really was so unemployable as well as unable to learn anything. He couldn’t remember the ABC’s, but that really wasn’t our fault. He was disabled. The others all learned, and we would always teach them how to make an application for a job.

MS. GERE: Good useful skills.

JUDGE GREEN: We taught them how to put their money in the bank, we taught them what they were supposed to do about those things. We taught them about streets, street names and how to get someplace. So that when they were now able to read, it would help. We taught them arithmetic as well. As I said we had people who were waiters and able to take the menus, explain to the people what it was, and able to write it, write their tickets and so on, and they were doing well. Another thing that had not occurred to us in the first place, but which we certainly should have thought of, and that was the people who were doing assembly things could not read the directions on how to do them, to assemble the simplest things. They were now able to do those things, and they were getting jobs doing it. All of them, the wonderful fellow, the one from Puerto Rico, had changed so much and had so much self-respect from what he was doing teaching his colleagues, that when he went to trial he was found not guilty. He was let go

back to Puerto Rico right away. When he was there, as soon as he got there, he was killed.

MS. GERE: How?

JUDGE GREEN: I don't recall whether he was shot to death or stabbed to death, but he was killed violently.

MS. GERE: How sad.

JUDGE GREEN: Really, this upset John tremendously. He had an elderly woman after that, who was his next student, and he was quite taken with her. She was always saying that she had done everything that was bad in this world and she'd been found guilty of them, all of them, but that she loved her granddaughter so much. She wanted her granddaughter to not have any troubles, so she was learning so that her granddaughter would be proud of her. John said, "And I know you will stay without any of these troubles anymore," and she said, "Oh don't say that, I wouldn't lie to you. I wouldn't know how to go straight to save my soul." But he said, "Well to save your granddaughter." She was a very interesting elderly person, who was still trying to do some good.

MS. GERE: To improve herself, her family.

JUDGE GREEN: Eventually I had cases of conflict with the jail and I had to stop going there. I decided I would try to take people who were on probation and teach them in my chambers during about the same hours and so on. The difference was, when you're on probation, or been acquitted or whatever, you're out, you have your own life, and it's not nearly so important to—it's important but it's not enough giving up the things you've been deprived of. I found that most of them were so irregular in coming that that was not working. With one exception, and that was one whom I had started with at the jail, who went to Lorton and did ten

years, and was then on parole. He was anxious to still get his G.E.D. So he came to me, religiously, every time that I was there. I could always count that he was going to be early, he was not going to be late. He was going to be working and keep you informed if for some reason he was held up. I was interested to find that he had gone to school in Guatemala, that was his home. For all of the fact that he was not proficient in reading and writing, he had great knowledge of science, which apparently they'd had very good courses in Guatemala for certain things. The G.E.D. things are really quite varied, the lessons, but the science ones, he always knew more than I did. He, of course, is slated to be returned to Guatemala, but he is resisting that. Incidentally, he is now married and he has a brand new baby, who he brought in to see me, about two months ago.

MS. GERE: Did he end up getting his G.E.D.?

JUDGE GREEN: Yes, he did. Now he's trying to get into community college. Incidentally, there's still lots of discrimination going on. They told him that he didn't speak English well enough in one of the county places.

MS. GERE: Was he applying for a job?

JUDGE GREEN: No, he was applying for school.

MS. GERE: Oh, for school.

JUDGE GREEN: The community college.

MS. GERE: And they wouldn't admit him because his English wasn't good enough?

JUDGE GREEN: Well, his English is pretty great. He still will write me themes, and the only trouble is, I have a very difficult time getting through to him, that you don't want to

use every big word you've ever heard of in your life.

MS. GERE: Right. That's not a prerequisite to good writing or good English.

JUDGE GREEN: He loves to do that with Reader's Digest, you see. They want you to learn these different words, but you don't want to put them all in the same paragraph, I'm afraid. He never misses my anniversary on the bench, he never misses my birthday. This little tiny baby that he placed in my arms was a surprise. He brought his wife in, too.

MS. GERE: Today Judge, we're doing this interview here in your home in Washington. We previously have been out in Annapolis. I know when I came in today you showed me a painting that someone, a prisoner, had given to you. Is that correct?

JUDGE GREEN: Yes.

MS. GERE: Tell me, there was a little letter, a little note with the painting that's here in your dining room.

JUDGE GREEN: He is one, I performed his marriage. He is still in Lorton. He has a sad story. He and his wife were always sending me cards for every holiday, telling me how much they appreciated me and how they were so happy. One of these days they'd be able to get together. He did indeed get paroled. When he got out, he started to drink, and apparently it set him off. He became violent and mistreated his wife. It was so upsetting that he realized that he had been in jail so long, that he really didn't know how to act when he got out. He went back to Lorton and turned himself in and said, "I don't ever want you to let me out again, in my lifetime. I don't know how to act." They took him back, and he's still there. I still receive cards from him that he has made himself. He has been doing the art forum down there that they have. Mia has been very loyal. She's a wonderful art teacher. She goes down there and teaches the people,

things that she can be a help with. Every year she has them do paintings to have in an exhibition and sale. They are for sale and they get their own money from that, I mean the individual artists. I always go to the show every year, and I have bought one of the paintings every year.

MS. GERE: I notice you have one this year, that you have gotten. I like it. It's a purple cabbage.

JUDGE GREEN: Right. It was unusual, but it hadn't been very popular in the show. There were a lot of other people who wanted some of the others, and I thought that this would be nice to have, and I might say there is another one I remember, it's in the living room, that I had bought at another show. It's a pastel, and I think it's rather nice. I have some of them that I have thought maybe they could re-do, put them in another show and sell them, because the ones that look like gallows, for instance, I could not stand myself. I think that maybe somebody else would. They are well done, but I don't really—

MS. GERE: They're not your theme.

JUDGE GREEN: They're not my theme, no.

MS. GERE: Actually you've had a fair amount of contact, then, with Lorton, not just these individuals but on the bench. Isn't that correct?

JUDGE GREEN: Oh yes.

MS. GERE: I'm not sure if that's one of the cases that you would—well I'm not sure in what category you would put the Lorton case, other than one of longevity.

JUDGE GREEN: Well, it is going on forever. I might say that I don't know whether you had caught one of the things that I had said one day, about the fact that at one point, one teacher down at Lorton had been raped by an inmate, and everybody was up in arms about it.

It was in the papers and much to-do, it was probably twenty years ago. In any case, when they were asking the mayor, Barry, on his first time around, how outrageous you should have had more people who were supposed to be guards, watching out, then this would not have happened. He said, “Well, it’s all the fault of Judge June Green and Judge Bill Bryant.”

MS. GERE: And his reasoning was?

JUDGE GREEN: He said that we had spoiled the prisoners to such a degree that, after all, I had ordered air conditioning, color television and steak every night for the inmates. Barry’s comment was picked up by the papers and they realized that it was made out of whole cloth, because they had been there, and they knew what had been ordered, and they reported that in the paper, for which I’m glad. Because, as you know, I don’t give interviews, and it’s nice if somebody actually follows through with something, that maybe you’re glad they did. Customarily, I’d just rather not have somebody saying that. But the reason for that actually, of course, I wanted to know what he could—what his reasoning was. Television, all I had said, was that it was too loud for the people who couldn’t stand it and they couldn’t sleep—and they had to cut down for the sake of the rest of those in the dormitory.

MS. GERE: That’s a far cry from ordering color T.V. for everyone.

JUDGE GREEN: Next, they were not given anything that anybody could tell for sure was food. It was something that was so disgusting, that it was not even a legitimate gravy, with something under it that everybody was frightened to try to find out what it was. I indicated that they had to be fed regular, normal food. Clean, cooked.

MS. GERE: But not necessarily a steak.

JUDGE GREEN: Not steak, no. They had over-crowded Occoquan. Occoquan

was the largest facility at that point, down in the Lorton area. They were putting triple decks in what, first of all, had never been designed for a dormitory. They were designed for storage room. They were warehouses, and without changing the condition of the warehouse, they simply put in triple-decker beds. It made them go—the top one was almost scraping the pipes that were going across the roof of the room. Those pipes were steam pipes, and were something over 300 degrees. I ordered them to stop putting triple-decks, because it was cooking the inmates. They had to stop it or move the pipes. One or the other. One of them had to go.

MS. GERE: Not air conditioning.

JUDGE GREEN: No. It is still overcrowded, all of these things, but I have stopped them from doing some of the things.

MS. GERE: Were any of your rulings ones that led to the decision to close Lorton and move people, or is that just in the ordinary course of whatever their plans are?

JUDGE GREEN: The buildings are in horrible shape. They are really uninhabitable, but here they are being overly inhabited. They're still overcrowded. The way they met with our terms at one point, you know, whenever there was to be a count, in the normal events, they put them in buses, and drove around from one facility to another, until such time as they had the count and then they'd bring them back. People were suffering very much in that situation too, because they were taking them around in bus rides all the time. They wouldn't stop for any kind of facilities. It, of course, solved absolutely nothing, but they thought that this would look good on the record that they didn't actually have all these people there, which, in fact, they did. At one point there had been a riot, and they had started to burn down buildings. That is something that we are always very careful, to never make any such allusion to in our

remarks about it. With our Special Master, we are always very mindful also of not saying it's likely to bring on a riot. But when they were not being fed food at all, I said I didn't know of any man who was not in pretty bad shape if he didn't get his meals. I did say at that point that I thought that this was something that we were not going to tolerate, having people not be fed decent food. Mrs. Moore [Prison Superintendent] indicated that she couldn't help it, because they owed everybody and nobody would ship them anything. Then she said that they had finally cleared some money that they could spend, and I said, "Well, then, have somebody go to the store and buy it and serve them a decent meal tonight." Well, she couldn't do that, but I said the next night would be all right then. I have received word from some of the people, thank God, but they still didn't have enough food, as they were giving them skimpy portions.

MS. GERE: Do you still to this day maintain some review process or some residual jurisdiction over the case?

JUDGE GREEN: Yes, for all time.

MS. GERE: Still.

JUDGE GREEN: Yes. Many of the things that we decided about the women's place at the jail area, CTF, that was designed really for people who were either mental cases or needing special attention—that was a good idea but they never used it that way—they were just locking all of these women in their cells, and they were being raped. Many times they would not be pregnant when they would enter the place, but they'd become pregnant while they were there, having been impregnated by a guard, or an inmate. Then they wouldn't be given any kind of medical attention. I did order all kinds of remedies which turned out to be rather much more than I should have. But still a number of those things that the Court of Appeals did not strike down

are still in effect.

MS. GERE: It went to the Court of Appeals?

JUDGE GREEN: Yes. That was an interesting approach to some of it. The position was that certainly women didn't have to have the same opportunities in the way of bettering themselves as did the men.

MS. GERE: That would be a bad argument to make before you.

JUDGE GREEN: Yes.

MS. GERE: Or was this the finding of the Court of Appeals?

JUDGE GREEN: The Court of Appeals. They cited a Smith College case, what they'd found about this and that. I ordered people to stop, if the person was having a baby, actually having one, that they were not to be chained with their feet together. I didn't think this was exactly necessary. They were not going to jump up and go running out.

MS. GERE: After just giving birth, no, probably not.

JUDGE GREEN: Furthermore, they were having trouble giving birth, if you're not able to open your legs. Although I have never had any children, I didn't have to have anybody explain that to me.

MS. GERE: As they say, that doesn't sound like rocket science.

JUDGE GREEN: Right. There are a few things like that I'm still monitoring, up there.

MS. GERE: In your talking about matters that you are continuing to monitor, have you found the time you have served as a senior judge to be significant to you and a contribution to the court? I guess those are two different things. Maybe you don't know what the rest of the

court thinks, but what you think.

JUDGE GREEN: My feeling is, I am still in the regular draw. I'm in it for fifty percent of the civil cases. That is anything that comes down the pike, except I'm not taking new OSHA cases. I don't mean OSHA, I mean Freedom of Information cases. But I still have the numbers. They usually start with people in the deck seven times, and four is fifty percent. I never did know how you always got four out of seven to be fifty percent, but that's what it is. There is never a time that I don't get to be in the docket, four out of the seven times. I have recently had a number of bankruptcy appeals, and they are very time consuming. You have very little ability to move them because you are dependent upon the bankruptcy courts, taking all kinds of additional actions, and back and forth and back and forth they will come. The day that you realize that you can finally say it's finished is one happy thing, because they are very unreasonable people in many cases who are engaged in bankruptcy. I would not care to specialize in that.

MS. GERE: I can imagine a lot of emotional issues, people tied up with their money and their lives.

JUDGE GREEN: Oh yes, oh yes. Some of those have been memorable but not in the way I'd like to remember them. I have had several big antitrust cases.

MS. GERE: Those are coming back to the fore.

JUDGE GREEN: Right. I have one that goes on, it's quite a lengthy thing, from the construction of the subway. All of the insurance companies are fighting each other over that, who was responsible for the failure of the plates that went under the tracks and so on. Every time there is a status call we'll have maybe fifty lawyers attending, and they are just about as

representative as you can get. All the people from all around, and out of town, all running the meters. I find that the sympathies are not as much in this, although I am quite aware that it's very important to get these things straightened out, and one of them has finally decided something, which should have been done some time ago, and that is to file an interpleader. Now they have done it. A particular antitrust case, now that it's filed—I have not been notified officially—but I have read in the paper that the government is withdrawing the case, because they have withdrawn their desire to purchase. That's Rupert Murdoch, and so on. That's Primestar.

MS. GERE: It doesn't sound as though having taken senior status is really a significant change, at least in the kinds of cases, perhaps only in some of the numbers.

JUDGE GREEN: And now lots of people are filing these employment cases. They are just about akin to domestic ones, they are pretty close to a domestic squabble. One wonders how they could either go back to work at the same place or—

MS. GERE: Or how they ever worked there in the first place.

JUDGE GREEN: Right, or how they would be hired someplace else with the reputation that they get in some of these cases. I don't know that the almighty dollar is going to be worth that much to them in the long run. But we try them the way we see them. I am not in the criminal draw, but I do take cases, for instance I have had several criminal cases because Judge Rick Urbina is just starting his long Espy case, and so I've taken a couple from him, and some of them have been—and I've also taken some civil ones from him.

MS. GERE: What kind of an impact—it seems as though your court goes through this probably on a fairly regular basis, from Watergate to the major drug cases, where there is one judge who will have a case that will go on for weeks if not months—what impact does that have,

for example, right now with Judge Jackson in the Microsoft case that's projected to last a fair number of weeks—what impact does that have on the rest of the court?

JUDGE GREEN: That's one of the problems. That judge would be taken out of the criminal draw, so that he or she wouldn't get ones that really had to have attention. The only ones that you'd take from them would be ones that had already been set, and sometimes that's ticklish. You have to change your own schedule. I try when I'm setting up my cases with counsel, because I certainly don't try to set anything arbitrarily—both sides, all sides are agreed to—and I don't interrupt them in the middle of the trial, especially with a jury trial. Therefore I set a lot of cases for a status call at 1:15 or 1:30 so that I can take a shorter lunch and take care of that business and not hold up other people. That works I think pretty well. Of course you get pretty tired by the time you get finished and find all of those papers on your desk that still need attention.

MS. GERE: Are there any cases—talking about the Microsoft case and Watergate—in your years on the bench, are there any cases, that truth be told, you wish that you had been assigned?

JUDGE GREEN: No. I don't think so. In the first place, I don't want publicity. That is not my game at all. I couldn't be less interested in that. I am interested in having the report correctly, if they are going to report a case. I think we've been very fortunate in having some very good reporters assigned to our cases. I think that generally speaking the ones who have gotten into this Clinton business have been far out of line, and I think they should have known better, and I'm sure they did. To have been having the mobs around the courthouse all the time, to have never known if you're going in one door that you're going to have to push

through all of these people. You can't see. If you're going directly, instead of out to C Street, if you're going to Pennsylvania Avenue or Constitution, they have blocked it to such degree, it's a very dangerous operation to go that way.

MS. GERE: With all of the trucks and the satellite dishes on top of them and all that.

JUDGE GREEN: This is an absurdity. The idea of lawyers going out there and giving all these self-serving speeches to everybody. It's an intolerable situation. I think that it is demeaning to the entire profession, not of just the press, but of the legal profession. I feel very strongly about that.

MS. GERE: As you were saying that Judge, I think that many years ago I had a case before you and the name of it was Halkin, H-A-L-K-I-N, and it went up to the Court of Appeals. It had to do in part with extrajudicial statements made by lawyers. The Court of Appeals read the local rule very narrowly, as I recall. I hope I have this right, if I can remember. We had thought that the lawyer on the other side was saying things outside the courtroom about matters in discovery that we thought was violative of the local rule. I think that you ruled in our favor—the government. It went up on appeal and the Court of Appeals affirmed your ruling, as I recall. But it seems to me that that local rule must have gone out the window of late because that was not even anyone giving an interview outside the courthouse on the steps or anything like that. I guess the times change. Lawyers do things that they think may help in the case but probably as much, that will help them personally get on TV or develop new business or new clients. I agree with you, it's not very seemly.

JUDGE GREEN: It certainly isn't. Of course, as we've talked about before, I'm

sure, the incivility in the profession is troubling. Absolutely, the lawyers are so rude to each other. They do not care about anything. I just was happy when I was in practice. I had friends go to war on the opposite sides of cases. We certainly didn't have any clients suffer as a result of it. It was simply, nobody was giving anybody anything that they weren't entitled to. Instead of fighting on every item, and I now am putting out little notices to people, do not call chambers or write letters to the judge. We will only receive motions and orders. Many of them now are giving you in the title, "Proposed Order." What good does that do?

MS. GERE: You could put some white-out on it.

JUDGE GREEN: It's so dumb, and also I dislike very much signing my name as "the Honorable," and something. I hope I'm honorable. I believe it to be, I am, but I don't want it coming from me. I'm a judge, and that's what it's supposed to be. It's what I really feel. I remember receiving a card from a judge from another court one Christmas, which he had indicated was from "the Honorable so-and-so," and I thought "what taste." Not from him, he shouldn't be saying "the Honorable." I'm perfectly willing to have him say what his title is. When I complain about it in the office, they say, "Well you don't want to strike it out and say I'm not honorable."

MS. GERE: That wouldn't have the right effect exactly either.

JUDGE GREEN: But there's so many questions of just plain normal taste.

MS. GERE: Do you think, Judge, that there are additional ways to remind lawyers of the importance of civility, both in the courtroom and out? In addition to orders that you're publishing, do you have occasion, and do you take the occasion, to remind lawyers who appear before you that you value that?

JUDGE GREEN: I do, in every pre-trial, where we're very informally gathered, no clients in there. The lawyers, I can see immediately whether they're going to be troublesome or not. I've already found it out, usually, by that time I've seen them a few times, at status calls. If it's necessary, and I have had reason to believe it is, I will explain in the first place. There is another thing besides the fact that I don't want to have somebody demanding, indulge me, Your Honor. I always explain to them that I find that offensive. I won't indulge anybody. But if it's a simple matter, that you will be delayed picking up something, just say excuse me please, Your Honor. I will. But I won't indulge anyone. Along with that, I'd like to say another thing. I know that many courts, this is different, so I want to make sure, I'll just tell you, in mine, you don't have to ask to approach the witness. Just do it, but don't hang over them when you get there. Point out what you're going to ask them, and go back to the lectern. There is another thing. You are professionals, I know that, of some standing. So I expect you all to do the professional thing, and that is, the give and take of normal gentlemen, ladies, decent people, and not be coming down here in court or demanding to have a conference telephone call because you can't agree to something that's totally immaterial, just because you want to be obnoxious. I will tell you, because I have a short fuse on it, and that is, you start this, I'm going to pin your ears back. Because I don't think this is how you practice law. It has very often had a rather salutary effect.

MS. GERE: That's good. But listening to you, Judge, by the same token, you are advising the lawyers that you, as the judge, intend to treat them civilly and courteously.

JUDGE GREEN: And I expect to have it the same way.

MS. GERE: Are there judges that you recall from your days of practice that you

think demonstrated civility to lawyers that was something that you still remember and that you use as a model for your own practice as a judge?

JUDGE GREEN: I think there were a lot of them. There were some I thought were incompetent. There were some I thought didn't care about anybody or anything. But basically I think, just as I think the lawyers were, they were nice, decent people. I think that most of them, if you are willing to give and not be a taker, then somebody else will be giving as well. I had, I think maybe I've mentioned to you, a very fine judge before whom I appeared for many years. It was Judge John Gray, who was in the Southern Maryland circuit. He was courteous, he didn't fool with anybody, but he absolutely knew what anybody was doing at any time. When I was being treated to some of these comments—oh well, I don't know what kind of lawyer she is, she's decorative or some such thing—when you'd really want to go bam bam, I never had to change the expression on my face because he would tromp up and down on them.

MS. GERE: He would set them straight.

JUDGE GREEN: That's right. Sometimes it would really build my ego and I'd think: "So I don't give a damn what you think. The judge thinks I'm all right."

MS. GERE: I guess because you are on the bench now and have been on the bench for a number of years, that you've not had the opportunity to appear before any of your colleagues.

JUDGE GREEN: Not anymore, but I had when I came on the bench of course. I had been before most of them.

MS. GERE: Are there some now that you think demonstrate some of the qualities that you thought were good of a judge who is civil and treats attorneys respectfully?

JUDGE GREEN: I thought there were more of them than I keep hearing about, frankly. I really thought that most people were behaving better. I believe, for example, Judge Rick Urbina, although I don't yet know Rick Urbina very well, but I think that we are very similar in our reactions. There is one thing though that I don't do that he does. He asks, in a criminal case, to have pre-trial. He has the defense indicate what they are relying on, and I know enough about criminal cases, I think this is an unfair burden that he is placing on the defense. I think there are times that something will come up in a criminal case that a defense attorney has a perfect right to take advantage of. I don't mean something illegal or—

MS. GERE: Unethical or improper.

JUDGE GREEN: Right, but it wouldn't have been known. Or if it were known, it was tipping it, so that they wouldn't ask the question for instance.

MS. GERE: To open the door.

JUDGE GREEN: Yes, this is what I mean. So I don't believe that that's a good way to do it. Basically, Judge Urbina is a gentlemanly individual, and I think he is a caring individual. It seemed to me that the rules he had laid down I could utilize in many ways, and a little gentler, maybe, but there. As I say I don't believe, I think I will discuss it with him when he has some time, because he can talk with me very well. He takes it very well, any comments. Some of them wouldn't take a comment about anything. "Who does she think she is?"

MS. GERE: Right. But there are some of your colleagues I think that, at least I as a practitioner, have heard positive things about, in terms of lawyers who appear before judges. Judge Joyce Green is known for being polite, civil to litigants who appear before her.

JUDGE GREEN: Well I would expect she would.

MS. GERE: But that may be because you have certain expectations for people.

JUDGE GREEN: That's right.

MS. GERE: I guess she, in particular, since you know her so well.

JUDGE GREEN: Yes, I remember when she actually started.

MS. GERE: Are there certain characteristics that over the years you have concluded really make someone in your view a good judge?

JUDGE GREEN: Care. I think you have to care. I think if you don't care it shows in your work.

■ JUDGE JUNE L. GREEN

When Judge Green married in nineteen thirty-six, a legal career was not in her personal forecast. In fact, it took considerable persuasion by her husband to get her to visit the local law schools. There she discovered that most did not admit women. She did find one, the Washington College of Law, founded by two women, where she was welcomed. And it is this school, now the legal component of American University, which embraces her as one of its distinguished graduates.

Jobs for fledgling lawyers did not come easily in the depression era and they were scarcer for pioneering women. After experiencing several rebuffs, she was hired as a trial attorney by the Washington branch of a national insurance firm. There she built a record of success which earned her the recognition and respect of her fellow trial attorneys. Thus, when she decided to strike out on her own, she found the client base of both plaintiffs and defendants supporting a rewarding career. During the period she served on a number of legal committees, including the Gesell Committee chosen by the Circuit Judicial Council to examine the operation of all the courts and to recommend significant improvements. There she, and her fellow members, presented their recommendations to the Congress where most were adopted after the usual discussion and debate.

This active career earned a number of commendations and awards. Among these, she was a Bar Examiner for the Admissions and Grievances Committee for the District Columbia, examining in legal ethics, torts and evidence. She was a director of the Bar Association for the District of Columbia and president of the Womens Bar Association for two terms. In 1965 that organization named her "Lawyer of the Year."

In 1968 President Lyndon Baines Johnson nominated her for the Federal Bench where she succeeded Judge Burnita Shelton Matthews, the first woman judge on the United States District Court for the District of Columbia.

Judge Green served on the United States **Judicial** conference Jury Committee from 1979 to 1986. She also was a Judge of the Special Regional Rail Reorganization Court, serving from 1987 to **1997**.

In the **community**, she has been commended for her "commitment to the rehabilitation of **the** offender and the **ex-offender**." One element of this commitment was a project, undertaken by Judge **Green** and her husband, at night **to** teach District Jail inmates how to read and write.

In 1984 when she assumed "Senior Status," she **was** warmly commended by the Judicial Conference, the Bar Association of the District of Columbia and the District of Columbia Bar. Also, in the following year American University **awarded** her the University's "Lifetime Achievement Award."

June 7, 1968 Appointment as Judge, United States District Court for the District of Columbia, signed by President Lyndon B. Johnson

July 26, 1968 Resolution by Members of the Committee on Admissions and Grievances of the United States District Court. (Loyally and ably served as a Member of the Committee and upon her resignation due to appointment as Judge of the United States District Court for the District of Columbia, enters an expression of affection and high regard former associates on the Committee hold, of their gratification of appointment and with warmest good wishes for a long, happy career on the bench.)

1972 National Association of Probate Judges Certificate of Life Membership

1972 International Association of Probate Judges Certificate of Life Membership

November 1981 American Patent Law Association Quarterly Journal Plaque (Vol. 9, No.2-Issue from the Judiciary)

May 21, 1984 Resolution - Members of the 1984 Judicial Conference of the District of Columbia Circuit (expressing deep admiration and respect and great appreciation for years of service rendered with honor and extraordinary distinction as Judge of the United States District Court for the District of Columbia)

June 13, 1964 The District of Columbia Bar Certificate of Appreciation (for unselfish service to the United States District Court for the District of Columbia and with grateful appreciation for continuing dedication to the administration of justice.)

December 1, 1984 Bar Association of the District of Columbia
(Plaque in recognition of loyal, faithful and
unselfish efforts to improve the
administration of justice in the United
States District Court for the District of
Columbia.)

April 19, 1986 American University Alumni Association
Lifetime Achievement Award (in recognition of
a lifetime of professional achievement and
outstanding commitment to national service.)

1991 Liberation of Ex-Offenders Through Employment
Opportunities (Plaque award for pioneering
efforts in bringing into existence the
LEEO/DCDC Vocational/Technical Training
Program and for commitment to the
Rehabilitation of the Offender and Ex-
Offender

April 1991 Washington College of Law of American
University (Recognition as a **Golden Advocate,**
Class of 1941)

October 29, 1992 Bar Association of the District of Columbia
Certificate of Appreciation (in recognition
of significant contributions in the
administration of justice as Senior District
Judge, United States District Court for the
District of Columbia)

March 18, 1998 Certificate of Appreciation (for
participation in the Women's History Month
Program of the Courts of the District of
Columbia Circuit as the second woman
appointed to the United States District Court
for the District of Columbia and as a pioneer
woman in the legal profession)

April 24, 1999

Washington College of Law Distinguished Alumni Award (recognizing outstanding service as a judge, as well as distinguished career at the bar, presented on the occasion of her return to the law school where, *in* the company of fellow alumni judges, accomplishments are publicly and proudly honored.)

May 13, 2000

Judicial Excellence Award presented by Trial Lawyers Association of Metropolitan Washington District of Columbia

ELIZABETH SARAH GERE
2737 Devonshire Place, N. W., #411
Washington, D.C. 20008
(202) 662-2043 (Business)
(202) 234-6949 (Home)

PROFESSIONAL EXPERIENCE

September 1987-
Present

ROSS, DIXON & BELL, L.L.P.
Washington, D.C.

Partner in 100 lawyer firm specializing in litigation with emphasis on professional liability defense, employment disputes, legal ethics, insurance coverage and alternative dispute resolution.

October 1986-
September 1987

UNITED STATES DEPARTMENT OF JUSTICE
Washington, D.C.

Senior Trial Counsel, Civil Division: Responsible for the litigation of a variety of complex civil cases, including matters relating to international law and diplomacy.

September 1985-
October 1986

ATTORNEY GENERAL'S ADVOCACY INSTITUTE
Department of Justice, Washington, D.C.

Assistant Director: Directed advocacy program for federal civil litigators. Conducted intensive two week training courses to teach trial skills in federal practice.

July 1980-
September 1985

UNITED STATES ATTORNEY'S OFFICE
Cincinnati, Ohio

Chief, Civil Division (1982-1985): Managed civil litigation for three office District (Cincinnati, Columbus, Dayton); litigated wide variety of civil cases including medical malpractice, wrongful death contract, constitutional and regulatory challenges to federal programs, Bivens actions, employment discrimination, tried a number of criminal cases as well.

Assistant United States Attorney (1980-1982): Handled a wide variety of civil litigation in appellate and district courts.

January 1975-
July 1980

DEPARTMENT OF JUSTICE
Washington, D.C.

Assistant Branch Director, Civil Division (September 1978 - July 1980): Supervised approximately 30 trial attorneys; litigated a variety of civil

cases with an emphasis on matters relating to constitutional and regulatory issues in national security and military affairs.

Trial Attorney, Civil Division (December 1976 - September 1978):
Litigated variety of civil cases including employment discrimination, Bivens actions, national security matters, constitutional and regulatory challenges to government programs.

Trial Attorney, Criminal Division (January 1975 - December 1976):
Litigated civil cases filed against federal officials for damages arising out of criminal investigations and trials.

May 1972 -
January 1975

**LAW CLERK TO UNITED STATES DISTRICT JUDGE
JUNE L. GREEN, Washington, D.C.**

February 1971 -
May 1972

**LAW CLERK FOR DISTRICT OF COLUMBIA
CORPORATION COUNSEL, Washington, D.C.**

PROFESSIONAL HONORS AND ACTIVITIES

Hearing Committee Member, District of Columbia Board on Professional Responsibility, 1994-2000

Member, District of Columbia Court of Appeals Committee on Admissions, 1995-2002

Chair, United States District Court for the District of Columbia Committee on Pro Se Litigation, 1995-1998

Co-Chair, District of Columbia Courts' Conference on Ensuring Fairness and Access to the Courts in a Changing World, October 2002

Member, United States District Court for the District of Columbia Lawyer Counseling Panel, 2002-present

Fellow, American Bar Foundation

Member, Judicial Conference for the District of Columbia Circuit, 1975-1980, 1984, 1986-present

Member, Judicial Conference for the District of Columbia Superior Court and Court of Appeals, 1988-present

Master, American Inns of Court, 1984-1996; Secretary-Treasurer, 1986-1987; Counselor, 1988-1989; Membership Chair, 1992-1994; Counselor, 1994-1996

Lawyers' Club of Washington

Attorney General's Special Commendation Award

TEACHING

Adjunct Professor, Georgetown University Law Center, 1993-present

Instructor, Attorney General's Advocacy Institute, 1981- 1986

BAR ADMISSIONS

Maryland, District of Columbia, Ohio (inactive)

EDUCATION

GEORGE WASHINGTON UNIVERSITY NATIONAL LAW CENTER, J.D. 1972

- Graduated with Honors
- Trustee Scholar
- Journal of International Law and Economics - Associate

DENISON UNIVERSITY, Granville, Ohio, B.A. 1969

- Graduated with High Honors
- Phi Beta Kappa

Oral History of JUNE L. GREEN

APPENDIX

Two of the following three interviews were conducted by Hon. Vanessa Ruiz for the D.C. Circuit Task Force on Gender, Race and Ethnic Bias. The third interview was conducted by Stephen J. Pollak for the Task Force. The interviews were conducted during the 1992-94 period. Copies of these summaries were provided to Judge Green by the Task Force; the summary of each interview taken by the Task Force was confidential, subject to the discretion of the judge who was interviewed. Following Judge Green's death, her husband, John C. Green, donated the summaries to the Historical Society so that they could be appended to Judge Green's oral history.

Judge: 92

Interviewer: V. Ruiz

Steve Pollak was present for a portion of the end of this section of the interview on race and ethnicity issues.

Q. The first thing we'd like to do is to use you as an observer, especially because you have been in the courtroom for such a long time, and are such a pioneer. In terms of the different people in the courtroom, attorneys, jurors, law clerks, marshals, and so on, have you ever observed people being treated differently in the courtroom because of their race or ethnicity?

I'm happy to say that I don't see any of it as far as race is concerned. I have found that people for whom English is not their first language have generally good interpreters. We have interpreters available, and it has helped very much.

The problem I've observed is not race-related, but those defendants who do not have the ability to read or write and do not want to admit it. I will hear from some when they are asked to read something, that they "haven't brought their glasses" -- and they do not have glasses. When an attorney offers a person who cannot read a document, the witness is in a difficult position. I always insist that the document be read into the record so the witness will not be embarrassed.

I found that so many people, defendants in criminal cases, were just being warehoused for years without improving themselves -- especially now with the sentencing guidelines. My husband and I took a course to learn to teach adults to read without insulting them. We then went to the jail for several hours each week and taught one-on-one, which I think is the best way. They gave us problems at the jail and tried to discourage us, saying it wasn't possible to come there, that there wasn't room to teach, that teaching would interfere with their other courses. I told them we did not need a classroom, that we'd just take one interview room each -- just as I had when I was in practice. They didn't know how to buck us! We did that for eight years. We haven't been over for the last several years. My husband became ill and decided he wasn't up to it.

At one point I figured out we had successfully taught 48 people. Many were Hispanic. Though both of us spoke some Spanish, we would say that we didn't because we didn't speak enough to teach using that language. We had some people who were illiterate in Spanish, others who were proficient at reading and writing Spanish but not English.

When my husband dropped out I couldn't go to the jail alone at night. I didn't want him

to know I was **still** going to the jail, and he would have missed me had I not showed up for dinner! I tried to go over during the day when I had some time, but that got very difficult.

Was this at Lorton?

This was at the DC Jail. I had the Lorton cases by then and I felt there might be a conflict.

So that is how you resolved the possible conflict.

Yes. I studiously avoided seeing anything out of line while I was there. They decided they could heckle me. I had arranged with the employees to have a parking space, but when I finished and was ready to leave, there was often a truck parked right behind my ~~car~~ so I could not get out, And no one would know who was the driver, who had parked it there, where to find someone to move the truck. I put up with this night after night, waiting another hour or so after I finished teaching. They always said they were innocent and didn't know how it had happened. I had always avoided throwing my weight around. I didn't want to "raise hell" with them, but just wanted to go there and teach. They would also sometimes say the count hadn't cleared, delaying us **an** hour, regularly. Then the students would say there had been no problem with the count. I decided I did not need this.

At about this same time, the Probation Office here put in their **training** course for probationers, so I decided to work for them. It is a very different thing to have someone on probation, with all kinds of outside interests. They have divided attention. That is very different from someone who is incarcerated.

For a while, then, I taught in chambers while the course was going on in the basement. The Probation Office may have given up on the course -- there were a lot of absenteeism problems.

One of my students was from Guatemala and very eager to learn. My husband had a student from Puerto Rico who spoke English perfectly and was simply perfecting his ability *to* read and write. He was in jail for two years awaiting trial on a murder charge before the Superior Court. We talked him into helping his colleagues who were learning English. He did a wonderful job of preparing a textbook -- with phonetic pronunciation of words. He said he was willing to set up classes and teach the course so long **as** he could speak with my husband and me when we came to the jail. He had two classes, each with **13** students, both very successful.

One of the frustrations was that some of the people we would be working with would be transferred out of the jail, to Lorton, for example, before we would be able to finish with them. I couldn't follow them there because I have all the Lorton and Occoquan cases. I did keep in touch with some students.

My husband's student was acquitted after two years in jail, and had meanwhile done a wonderful job excluding with one student I had had no luck with. The student who **was** teaching him told me that he thought the person was mentally impaired, **as** he could not even remember the alphabet.

The Guatemalan had been sentenced, something like **24** years, and was seeking to have the judge reduce his sentence. One does not interfere with another judge's sentences] but I did tell my student to tell the judge how he was doing in learning to read and write. He did, and the judge asked me and I told him. Then the student was transferred from Lorton to Texas. He has immigration issues still pending and is on parole, trying to get his GED. He came here regularly until **4** or **5** months ago. He is working and has a green card. We went over GED materials with him, including science and math, which he does well. He made me the sign [with judge's name carved in wood] on my desk. I had never had one, I always figured that by the time people got into my office, they would know who I am. But I put this one on my desk. He made another sign for my 25th anniversary on the bench. This one showed me that we still had a little work left to do. [Gestures to sign in bookshelf, which reads "anniversary"] He is not yet letter perfect.

The students who were on probation are more difficult. I had one black woman who was on welfare, and had two children. She was not happy. The Probation Office was trying to put her in a program on parenting. I had very much hoped, because this woman is very smart and could do well when she applied herself, that it would work out. She learned to spell. Then she was shacking up with boy friends, and would miss our meetings without calling and letting me know. I asked her to call me in advance, just so I would not be waiting for her. She said, "I lost your number." So I showed her where I was in the phone book. Then she said she had no money to get to the Court. I gave her money for the next visit. Finally, the last time, after she had missed many appointments, I called her phone number (actually, it was her mother's apartment). I learned she was pregnant for the third time and happy that she could get a nicer apartment because of her pregnancy. Her sister **said** that she hadn't shown up because she had a date. I gave her the message that the woman shouldn't bother to come back to the Court. Two weeks later, she showed up and asked whether I had really given that message. I explained to her that I am willing to help anyone who wants to help themselves.

[S. Pollak joins **the group**]

What would have happened **to the man from Guatemala** had **you not** taught **him**?

Nothing. He failed the GED exam by one point. But he passed by high marks all but one section on comprehension or innuendo. He is now studying for the next exam. He is on parole and plans to go to community college after getting his GED if he hasn't been deported.

Have Hispanic attorneys **been** helpful in working with **Hispanic** inmates?

I have had lots of promises, but no action.

What has happened?

They did not show up. **At** least there are finally some prison employees who speak Spanish. The situation at Lorton is so bad. The mistreatment of women prisoners is the subject of a class action that was recently filed before me. The allegations are just awful. According to the papers, the treatment of pregnant women is **terrible**: arrangement are made to take pregnant women to the hospital to deliver, but guards will sometimes refuse to take them and force them to have their baby in jail. Some women, while being taken to the hospital, are raped along the way.

Speaking of the problems **of** literacy, compounded with non-English speaking– how competent **is** the representation of these defendants? **Are most** represented by **Spanish-speaking** attorneys?

All are represented. Some attorneys in the Federal Public Defender's Office speak Spanish. It became embarrassing to me that we could not help the Spanish-speaking inmates. When a Spanish-speaking attorney appeared before me, I would **ask** them to approach the bench to see if they or someone they knew would go to Lorton.

As soon as the Guatemalan is able to, he will work with other inmates. It is difficult, **as** under his parole guidelines he is not to be dealing with felons.

[**because of** time constraints, the interview **on** race and ethnicity issues was suspended, to **be completed at a** later date **to be** scheduled]

Judge: 92

Interviewer: V. Ruiz [cont'd]

This is the second part of the interview on race and ethnicity issues, completed on a second day.

Q.2 The last time we spoke about difficulties encountered by people with limited English ability, and you related your experience with at least one of the reading students you had who had some difficulty with the language. What about the court system here -- what could the Court do to make the process accessible to people with limited English ability?

We have very good translators, I think that nearly all of them are from the State Department. The witnesses understand them, and they appear to be good at interpreting remarks of the witnesses and defendants. On occasion there are people whose attorneys are not sufficiently adept in their language, so two interpreters are needed -- one at counsel table and one for the witness.

Are these court-appointed interpreters?

Yes, most are appointed by the Court. I know that the Federal Public Defender will also provide interpreters.

Looking now at attorneys, do you think more people with language ability are needed on the CJA Panel?

The question is whether there are that many people with language ability at the Bar. There are a fair number of Spanish-speaking attorneys, and they are occupied with cases. We don't really have attorneys with other language ability.

Are there any particular languages that are needed?

There are some people who come here from African countries and don't speak English, French, or Spanish. Every now and then we find an attorney who speaks the language. We have plenty of capable lawyers, but they are not from every place the defendants are from.

Do you think the system is finding the lawyers with language ability then?

Yes.

Q.1(d) Now, not looking at language ability, but looking at race or ethnicity -- have you observed anyone making statements in your courtroom that appear to be derogatory or

appear to stereotype a **person** because **of** race **or** ethnicity?

I don't think so. I mentioned before they may talk down to women, and in my courtroom they get clobbered for that. That kind of person is just ignorant. **And** you have all kinds of people coming in as attorneys -- some are not bright or not very observant.

Q.1(a)/(c) What about others, apart from attorneys. **Do** you think that the race **or** ethnicity makes a **difference** as far as a **jury is** concerned?

I think so. We try very hard to get a *jury* that is unbiased, but they are from all over the city. Some may be from areas that are hotbeds of drug activity and while they are not involved themselves, they see it all around them. They may have some understandable concern with this kind of activity. Some are aware of it and will say so during voir dire and will, of course, be excused. Others may not be **as** aware of it, but may, I think, bring some concern from their own experience to a case where there is, for example, a Jamaican defendant. Some jurors will tell us at the bench that they are afraid of the defendant and don't want to sit. I don't think this is bias, but just a response based on their life experiences.

Is it a fear of retaliation?

Yes. And, I think, a fear of gangs, In any neighborhood there are groups of people who may be involved in criminal activity. Some Latin Americans will express fear **as** well, for example in Adams Morgan where there have been shootings.

Do you think jurors are protective of people who are **of** the same nationality as themselves?

In many of the neighborhoods, you see gangs of people and can recognize drug deals that are occurring. If you are living in a neighborhood, you are going to see that.

Do you think there is a link to race and ethnicity?

Yes. Sometimes it is from Latin Americans themselves who feel they have seen even their own race in drug deals and fear retaliation. I don't think it is mean, or even anything that anyone can do anything about.

Q.1(b) **What about** the US Attorney's Office -- do **you** find that how they handle cases, **or** who they **may** send to **take a** particular case, **is** influenced by the race **or** ethnicity **of** the defendant?

I've really never been able to say that. I don't think that went on under the former US Attorney for the District of Columbia, and I am confident the present U.S Attorney is of the

highest caliber.

Q.3 Do you think your own race or ethnicity has affected how you are treated as a judge?

Not really. I don't think so. If so, I didn't recognize it. I recall years ago when I first came on the bench one defense attorney had been interviewed for **an** article in the Legal Times about the judges in this Court. And he thought I was **terrible**. He wasn't quoted, but it was pretty clear from what he said who it was. He had said that I **was** "quite a ladylike individual, but that was not what he was looking for in **a** judge. That isn't enough." I would agree that wouldn't be enough. Having been in trial work for 25 years -- **as** long **as** I have now been on the bench -- I thought that **his** remarks were not warranted. My reaction was certainly not very ladylike. At a Bar dinner after this article had come out, he came up to me while I **was** speaking with colleagues and friends and, rather rudely, grabbed my arm to say he wanted to take me over to meet his girlfriend. He hadn't had the courtesy to bring her over to meet me. At first I started to go with him, then I stopped and said, "**You S.o.b.** I'm not going to walk over there and meet her!" I figured that I would see **him** on Monday morning and that he would ask me what that **was** all about. But it **didn't** happen.

The next case he had with me I told him I would be willing to recuse myself. He asked me why, and I said "If any judge had called me an **SOB**, I would think that was a good reason." I recused myself then, and continued to do so for years. He was the only person for whom I would recuse myself. Not long ago I agreed to try a case for another judge, in which there were five **defendants**, and it turned out that this attorney was representing one of them. I called him in and asked him how he felt about appearing before me, **as** from my view it was water long over the dam. He said it had never been a problem for him. Since then, he **has** appeared before me a number of times.

Now, what other judges get that kind of **stuff** but women -- it's pure sex bias.

What about the fact that you are a white lady judge? Some other white judges have had verbal abuse from minority defendants, suggesting that they could not be fair because of their race. Have you ever experienced anything like that?

I had a young black man who had been found guilty before me, before he was sentenced, jump up and **say**, "You white m.f." (He said the whole thing.) (I had heard people saying those kind of **things** before, in Greenwich Village in New York.) I sent him to St. Elizabeth's for evaluation because he had to be not quite **all** right to call the Judge that when the Judge was about to impose sentence on him.

Apart from cases where there is extreme behavior such as that you have described, do you think that in the perception of a minority defendant the race or ethnicity of a judge makes a difference?

I suppose so. A lot of people think they are not at fault when they are brought up on criminal charges, even though they admit that they did what they are charged with. They generally vent their spleen at the prosecutor, and think they have been treated unfairly. Sometimes they have, and we *try* to even that out in the rulings and motions addressed.

How does a jury react?

I think jurors come in with open minds.

I was the only one for a long time and apart from Judge Matthews they didn't see women judges. Jurors have always been very sweet with me. They have come back at the end of their period of service (**as** I do not talk with jurors who may be finished before me but who haven't completed their service), to say how much they enjoyed being in my Court, that they found me to be fair.

Years ago, I used to wear a different scarf every day with my black robe. One of the jurors sitting in a two-month trial before me had a boutique. After the verdict, the jurors said they hoped I wouldn't take it wrong, but that they had chipped in and bought me a scarf from this other juror's boutique. I thought that was very nice. I checked to make sure that it would be alright for me to accept the gift, and it was. I have had good experiences with jurors.

There is one thing I wanted to tell you: I am pained when I see a woman lawyer who is inept *or* untrained. I feel I **am** at fault, somehow, and it pains me.

Do you hold women attorneys to a higher standard?

I suppose -- certainly I want to see that they are among the very best of the lawyers before me. It is a very personal pain when I see one who is not good, particularly if they exhibit unsportsmanlike conduct, That I won't put up with, either from a man or a woman.

But I do see very, very able women, mostly: criminal defense attorneys, prosecutors, Justice Department lawyers, private attorneys. So I don't have to wince **as** much.

What about minority attorneys?

Again, it is very much better than it used to be. There is one young black fellow who had been running afoul of some of the judges because they believe he is acting in a racist fashion. I saw some of it myself when he was before me.

Like what?

He would try to put down the **AUSA** (either black or white).

He wanted some advice from me and came in to see me one day. He said he wanted to know how I had become a judge, because he **was** interested in becoming a judge himself. He said he had had some difficulty getting along with the judges. I decided I would really talk with him, and told him that there were some who said he was racist. I also told him that just because he was a specialist in defending criminal cases, he shouldn't take things out on his opponents.

I told him I didn't know how I became a judge, I was just around a long time and people knew me. If they saw him and felt he was **fair** and exhibited a "judicial temperament," then he would be doing the right thing. I told him he should get involved in Bar activities, and should get to know other attorneys.

Since this conversation, I haven't had any trouble with him.

What he was doing that was troubling judges **was** if he were at the bench, or if a ruling had been made against him, he would make faces to the jury -- rolling his eyes and such. Communicating, "This judge is biased and **nasty**." I think it is important to behave in a professional way.

After we spoke, I saw no more of that behavior. He had a sentencing before me in which he wanted to raise a constitutional question concerning the propriety of charging his client for having transported a gun into D.C., when there was no sign at the entrance point giving notice that handguns were unlawful in the District. The facts of his particular case were not really the best for raising what seemed **a** novel issue. When I suggested that he might want to wait until he had some better facts, he laughed with me.

We haven't seen **many** cases **of** interstate transport **of** firearms here.

Well I had one. A man who had been living in a trailer in the desert, making toys that blew in the wind, had sent some papers to the Supreme Court for filing. He got no response from the Court so he drove to D.C. and parked in front of the Court in a spot that clearly says it is illegal to park and warns that **guns** are illegal. This fellow had a shotgun on the wall of his trailer -- in his home, he said. The police told him to move along when he parked there, and he said it was his home. That was a non sequitur. He was eventually charged with interstate transport. His Public Defender did a very, very good job, and there was an intelligent **AUSA** on the other side. They let him plead guilty to a D.C. offense so he wouldn't fall under the Guidelines. The range of sentence in the statute was from zero to some number of months. I sentenced him to zero months because I wanted him to be able to go back to the desert where he preferred to live, which he could not have done had he been on probation here.

Q. 5 Are you aware of any EEO concerns in the Courthouse concerning race and ethnicity?

There was one white woman in the Clerk's Office who brought a case because she thought she hadn't moved up properly. I think she was claiming reverse discrimination. That's the **only** one I have heard of. I think the Clerk's Office has a very good record of hiring blacks, and pushing the blacks on staff for promotions.

What about the other offices within the Courthouse?

I think the same is true for them all, but I don't always know. We have a lot of Department heads, who I had a chance to meet at the Judicial Conference last year. They are all kinds and they are **all** doing a good job.

I have noticed looking at the law clerks this year that there seem to be some Asiatics in the group. And this is the first time there have been any number of them. Most of the judges have had women law clerks and many have been more satisfied with them than with others.

I mentioned the last time we spoke that when I am hiring law clerks, I **am** not purposely looking for particular schools, or for black or white law clerks. I have hired black clerks. *All* of my clerks, **as** I said the last time, are my family. One black woman clerk I had says she is my fourth daughter, and I feel that she is.

Do you think that on the whole the other judges here have the same outlook as you?

Who knows? (laughing) One judge, when the Bar celebrated his **50** years at the **Bar**, **25** of which were at the bench, gave a speech, mentioning people who had been very helpful to him, including his clerks. He has been delighted with his women clerks. He is a gentleman of the old school who you would not think would act in that reasonable way.

Some state court systems have gone to a system where they have centralized recruiting of law clerks.

They have all moved to that and I **am** opposed to it. If I have to -- fine. I will. But I'm not going to initiate that. You see, I don't like having to **turn** down applicants. And I don't feel that I should be hiring clerks for 1995 or 1996 -- **as** they are doing now -- I may be dead and buried by then! (laughing) For the last four to five years, when it has been harder for new attorneys to get jobs, I didn't want to change clerks every year. I don't want to be committed to having someone come in at a certain time, and want to give my clerks an opportunity to find a job. I also hire clerks for two years -- I think it is a better use of their time and of my time. I mentioned last time that I prefer now to hire people who have already had some experience at the **Bar**. I try to find people who **are** perhaps dissatisfied with their current job and who are willing to take a cut in pay to come and clerk, and who

want the **work**. The world is full of very, very capable young people. **So** many of the applicants are well-qualified, educated to the last ditch, up there with their colleagues, **all** eager-beavers. Some candidates don't write **as** well **as** others, and that would be something that matters to me. If I've read something that they have written, which has gone through lots of other people, or if I see something that is misspelled (principal instead of **principle**, for example) that troubles me. I know I could work with them, but I **am** not in that position any more.

Q.7 The question **is** one of access, of opportunity to become a judicial clerk, **to** be appointed to Court committees **or** invited to the Judicial Conference. Many minority attorneys simply aren't aware of these opportunities. One thing we are **seeing** among minority **bar** members is lack of knowledge about how things work **in** the Courthouse -- **how** can we "open the doors?"

If these people would join their bar associations, and get to know their colleagues at the Bar. Get to know others so when someone is looking to appoint a person to a Committee, they will think of you.

Does the Court **go** out and ask?

The Court of Appeals and the people on the Judicial Council have made it very strange in terms of the people who are being invited to the Judicial Conference.

How so?

I think the Judicial Conference was always intended to include those who are active in the Court who wanted a chance to get to know the judges of the court on an informal basis. I was a member of the Judicial Conference when **I was** an attorney, but I don't know how that came about. I was also recommended to be on the Grievance Committee of the Municipal Court, and I ended up as the Chairman. And it was the Chairman.

When I was appointed to this Court's Admission and Grievance Committee it was at a time when this Court was the Court of general admission to the Bar. I think that came about because a sorority sister of mine had been a **Bar** Examiner, and asked if she could recommend me for the spot in her letter of resignation. The judges knew me because I had litigated before all of them. I just think you have to work hard at what you're doing and then someone will think of you.

What is so strange about the Judicial Conference now is that they don't want people who have been at the Judicial Conference for a long time, they instead invite young people and professors. I think professors are great but they are not exactly what the Judicial Conference was to be. It was nice this past year to meet the department heads from within

the Court, but it **was** not exactly a Judicial Conference.

At the next Conference in Baltimore, they have already said they want people who haven't been to the Conference before.

Q.7 (cont'd) How do you know who is to be asked?

This is from the rules the Judicial Conference sends around. They are very clear on the manner in which they want the information -- name, address, job, and all that. They tell us to please consider that they are trying to get people who haven't been before.

Do you think it should be a mix of new and old faces at the Conference?

Yes. I think the Court of Appeals has a different idea from those who see what happens every day in trials.

Q.7 (cont'd) What about other Court committees or appointments that are discretionary within the Court?

I don't know anything except that they are appointed. When I was appointed to criminal cases I never got paid and I would always have my own money tied **up** in cases. Presumably, you were to be paid by being made the guardian ad litem. I was made guardian for a woman in St. Elizabeth's after the previous attorney had stolen money from her. I first had to sue the surety to recover the funds, and then I represented this woman for **7-8** years. **As** payment, I was entitled to a portion of what was spent, but because she was entitle to public assistance little money was spent. I got, I believe ninety-eight cents, and filled out hundreds of dollars of forms. Another male colleague **was** appointed **as** receiver of a defunct club and made so much from that he never had **to** work on anything else.

Is that still going on today?

How do I know, I'm not litigating anymore. (laughter)

What about with Special Master appointments in this Court?

Well, that is different. Generally you are looking for professionals with lifelong experience and expertise in **a** particular area. I have used two, and one of them was not satisfactory because I thought he charged the parties too much. I thought he was a "grasper." I wouldn't use him again, even though the parties didn't complain. Another man I appointed, also a professor, did a beautiful job. He got paid for his work and didn't gouge.

Judge: 92

Interviewer: S. Pollak

Vanessa Ruiz was also present during the interview

Q.1 In your courtroom you see many different interactions involving lawyers, jurors, and parties. Have you observed differences in the ways male or female parties are responded to by lawyers or jurors?

You don't think I'd put up with it, do you? (laughing)

In the time you have been on the bench, there may have been changes in the way women are treated in the courtroom.

There have been a great many. I was the fourth woman judge in any federal district court. I succeeded Burnita Matthews, who was the first. I was a trial lawyer, working from Maryland to Virginia. I had offices in Annapolis and Washington for over **20** years. I tried cases in D.C. and in all the little Maryland towns around here. There was a **time** when the world was not beating a path to get a woman lawyer. I made up my mind if people were treating me differently, I would never see that **as** occurring solely because I **am** a woman. I did not consider my gender **as** a factor.

Did you ever have to step in to handle situations occurring in your courtroom?

I did not have many women lawyers when I started and I have had little of this over the years. There is one recent exception. One male attorney, stupidly, I thought, questioned a black female witness by her first name. He was white, and this was before a mostly black, mostly female jury. I didn't want to put up with this situation because I wanted a fair trial, and he failed to accord her the respect to which she was entitled. I wanted to call him up to the bench but before I could do so his opponent stood up and said, "I object to the way counsel is behaving" and pointed out the conduct in front of the jury. Then on cross examination he asked a series of questions about whether the witness was called by her first name by other strangers. The first lawyer **was** inept to say the lesat -- doing this before the jury. Opposing counsel did far more than I could have, he deliberately embarrassed him for this behavior, and I can't imagine its being repeated. **(P.S. He lost the case.)**

When was this one instance?

About 5-10 months ago.

Q.2 Do you believe your own gender has affected how you are treated as a judge?

When I was in practice, I would find in some towns they'd yell from outside the courthouse, "There's a woman lawyer! Come and see!" **As** though I were a two-headed calf. I decided they would remember me, so I tried not to make mistakes and tried not to do any jackass things, because I thought they would remember those, too. I decided not to consider that this was treatment because I was a woman.

New: My secretary reminded me of one obvious insult because of my gender. **An** official at the U.S. Department of Agriculture was reported in the Washington Post **as** stating at a meeting with growers that I had decided, in favor of the Transportation Department, a **case** brought by the U.S. Department of Transportation against Agriculture — that this showed that women not only should not be district court judges, but they shouldn't be allowed to attend law school. **See copy of article and letter of apology attached.**

I went to law school after I **was** married, and my husband has always been very supportive. After I graduated I went to work for an insurance company because no law firm would hire me. I had gone to Washington College of Law, which had a woman dean. She called me with the suggestion about this job. Apparently the insurance company had called her for suggestions for someone for the position of insurance adjustor. She said she knew of an eligible woman for the job and asked whether the company would hire a woman. They said they hadn't thought about it, but why not. I became the first woman insurance adjustor in the country. When I started, I met the other adjustors, **all** men. They all went out for lunch together every day. After my first day I told my husband this and he said, "Join them. If you make a distinction, they'll make the distinction, so don't do it." I have tried to live by that since.

Some people are obnoxious and I don't much care for them, and some people don't like me. But I expected always to be around. I didn't see myself **as** a flash in the pan. I knew there would be another **case**, and another, and another, and I would see these people again.

Do you find that you are treated differently as a judge because of your gender? By parties or witnesses?

Not that, **so** much **as** by other judges.

Let me ask you about that, then. What are the interactions like inter sese?

When I started, Judge Curran was the Chief Judge. It **is** not my way to make waves, and when I came they had no place for me, no courtroom and no chambers. I would walk to

my courtroom for the day with my robe over one arm and my handbag over the other, because there was no safe place to leave it. I did it the hard way.

Do you think it would have been different had you been a male judge?

I certainly do. I know because one judge appointed several years before me had made sure he got a courtroom and chambers. We have talked about it since. Also, your name was over your parking space then and they had given me a parking space for a compact car that I couldn't use because we didn't have a compact car. I didn't know what should be done, but I wrote a memo to the Chief Judge's Administrative Assistant asking for a different space. I got a really nasty note from the Chief Judge telling me I had no right to contact his assistant, that everyone had his own parking space and that it **was** incumbent on me to figure out what was available, find out who had it and then make appropriate arrangements. I finally found one of my colleague's secretaries had a space that would work, and a car that would fit in my space. The Chief Judge made me make the deal with her myself, which I thought was absurd. I **was** very polite about it and the secretary was quite gracious.

Eventually I got an office. If you think this is an *easy* way to start **as** a judge, it was not. I only knew where I was on any day by looking at a sign that would be posted downstairs. I put up with a lot.

What about in the modern era -- say the last five years?

Everything is lovely. What happened once I got a chambers of my own was that I was told I had to furnish it with surplus furniture from the warehouse. Then two more judges were appointed, one of whom was a friend of the head of **GSA**. Before he started he had a suitable parking space, and an office filled with all new things. That did it. I finally exploded. This was too much for me. I said I wanted these things and that I **was** going to get them.

When did you get a courtroom?

I got it after Judge Pine finally died. I had used his courtroom most often, **as** he wasn't sitting or settling anything and in fact, was old and ill.

When Judge Pine died, that opened up a courtroom and chambers. Judge Waddy took Pine's chambers, and I took his, and these are the chambers I still occupy. When I had the office done I sent in a decorator. I didn't want a conference table, and preferred something more "folksy" for pretrial and settlement conferences.

With all the experiences you have had in suits involving discrimination I am sure you have seen a lot of different kinds of interactions. Without asking you to malign any of your

fellow judges, have you been treated differently than other judges?

No, except now they may think I am different because I **am** a senior judge. I'll tell you, I work too hard **as** a senior judge, much harder than I planned. I **no** longer have the commute from Annapolis. I couldn't count on getting here on time when I did that, and I **am** a stickler for being punctual, having waited for many a judge in my day.

Does it make a difference to have other women judges around?

I couldn't be happier to have [names two female colleagues], and I felt badly they didn't appoint a woman after I took senior status. It **was** a real slap.

Did it make a difference in your interactions with other judges once the other women came on?

No. I was the only woman at lunch for the first 11 years and my colleagues became used to me. [Names one female judicial colleague] - who doesn't come to lunch.

Tell me about that -- is the lunchroom a men's club?

Not really.

Did you feel, the way you were treated when you started was harassment?

Not really, because I didn't bring it to their attention.

One of my colleagues, after I took senior status, would sometimes ride up in the courthouse elevator with me and say, "Oh, are you working today?" When the Bar Association did its interviews with senior judges, I **was** very free. I told the interviewer that I probably regretted saying some of the things I said. I had told him it **was** irritating to have a colleague daily asking if I was working, and to tell him every day that I **was**.

Do you find the lunchroom to be a men's club?

[One female judicial colleague] doesn't eat there. I don't know why. George Hart, who I **am** sure did not want a woman on the bench, graciously came to me on my first day here and said, "I want to take you up to lunch, it is very valuable. It is the only way to find out what it going on in the Courthouse." Judge Tamm came and was wonderful. He'd make a lot of suggestions to me, usually prefacing it by saying that he heard a judge "out West" had done something, but it was really me. I'm sure this was no secret that it **was** really me, because my face would be red, but he **was** very kind in his efforts to "break me in."

For instance, I once had a case sent back from the Court of Appeals with instructions to adduce more evidence on a certain point. When I looked at it, it was plainly all in the record, and I couldn't hold a new hearing for that. I sent a memo to the three judges on the panel and suggested that they look in the record. **At** lunch, Judge Tamm said, "I heard some judge out West sent a memo to judges on an appellate panel. This just isn't done."

Years later a panel with [a colleague from the District Court] sent back a sentencing on an issue that had never been raised, either in my court or in the Court of Appeals, and would be illegal, **as** they were telling me to apply D.C. sentencing law to a federal conviction. I spoke with Judge Robb to **ask** about the mechanism **a** judge had **for** telling a panel that what they were asking a district judge to do was illegal. Judge Robb said to send a memo. I told him I had learned my lesson on that one, though, so I wrote an opinion and published it in the law reporter and indicated why I wasn't doing what they had said. I believe some mechanism for this problem should be instituted officially.

Q.4 Are you aware of the courthouse EEO procedures and processes?

Not really. I haven't had any cases involving court people.

I do not want to ask you about any specific case, but do you have any awareness of court staff who may have sought relief through the EEO process?

I don't have any knowledge. Apart from [names a judicial colleague] working on the Task Force. I think that the Clerks Office people are quite happy, although they are not happy with the pay.

Do you have any indication that there is any inequality in treatment?

No. Judge Matthews **was** the only one who took all women law clerks. I took both men and women, and I have had minority and non-minority, and clerks from a variety of schools. My law clerks are family, and I have said that I have had the best of all possible worlds, **as** they are all decent, bright people.

Is the flow of clerks, in terms of gender, decent?

There is a balance now.

Have you made any special effort to balance it?

I have one male and female now, I have had two women. I have presently [since the interview] never had two men.

What about minorities?

I hate to **turn** someone down so I interview **as** few people **as** possible. They are all qualified. It's a question of how they feel about me **as** much **as** how I feel about them. So much of the decision is chemistry.

I had my 25th anniversary on the bench last June and the clerks gave me a nice party. Former clerks came from all over the country -- California, New England, all over. One clerk who wasn't able to get here is in town now and we are **going** to go out to dinner with him tomorrow night. I try to keep up with my clerks.

Is it any different for you relating to female clerks than male clerks?

I don't think so.

The last clerks, both women, were experienced. I had hired a young man who on the day I **swore** him in told me about an opportunity he had to run for a position **in** Baltimore, asking if I would release him. Of course I did, I just asked him why he hadn't asked before I Swore him in. I then had to get two clerks, and **my** former clerks helped me. We found two women who didn't know each other, but who were unhappy at big firms and were willing to take a cut in pay. Their experience made a difference and spoiled me. I'm no longer hiring someone straight out of school, but I want someone who has had some experience. I **generally** keep my clerks for two years and tell them they **can** just let me **know** when they have a job. **The** two experienced clerks were dissatisfied at the big firms because no one had said "good job" to them or they felt at their firms there **was** gender discrimination. They'd take less pay to be treated like human beings. One of these women called a male classmate who she thought I would like and he came down and we spoke. I **talked** about the kinds of cases we had coming up, to see if he was interested in them. I hired him. It is not a question of picking people from among the whole gamut of applicants. It is not considered right, but **as** a matter of fact, that is what I **am** doing, looking for someone **with** experience and interviewing very few people.

V. Ruiz: Are you interested in people with different life experiences?

Most of the clerks I see do have different life experiences. Those are the ones that interest me. People who have paid their own way -- these people are wonderful.

Q.6 Do you or others have a dress code in Court?

No. One time when a young woman with no visible underclothes on sat at counsel table with her skirt hiked **up** to here (gestures) I did **ask** the **US** Marshal to speak to her quietly to have her pull her skirt down. I remember a male attorney who was a symphony in **pink**.

Pink shoes, pink suit, pink shirt, pink tie and he was a strawberry blond. I never did hear what he **was** arguing because I was so fascinated with his outfit. I never said anything to him because he was covered up. That's my standard.

Q.7(B) What about gender and selection for Committees, special master, the Judicial Conference -- does it play a role?

I don't do that any more because I am a senior judge. I believe it did. Now they've loaded the Judicial Conference with professors. That is not what most of us contemplated for the Judicial Conference. We District Court judges feel that the people who are practicing before us all the time are the ones we should have there. The three people I invite are generally my former law clerks, some are men, some women.

Q.8 Do you perceive in gender discrimination cases that a defendant is better served by a female attorney?

I really don't. I think it is the ability of the attorney that is important. I think the ones who make a great mistake are the attorneys who badger witnesses who are co-employees, because the client may be going back to that workplace.

Do you think a plaintiff is as well represented by a male or female attorney?

I think so.

Q.10 Do you have any sense of whether prosecutors make a distinction in charging and plea agreements between men and women?

No.

Both before and after U.S. Attorney Stephens, do you think that gender was taken into account in charging and plea decisions?

I think so, years ago. Women got lighter sentences. They did on occasion get some time. In later years, it turned out that there were efforts to treat them **as** though they were in the same situation **as** men, but they were not, because so many were heads of households. We can't do much of anything with the Guidelines in place now.

In pretrial, there is some room for discretion, and in pretrial detention does gender play a role?

It could, but the law is pretty much on the side of the prosecutors.

Are there any aspects of the courthouse that are different for women or men?

Bear in mind I don't see colleagues' courtrooms. Initially, one didn't go into others' courtrooms; now it is more relaxed. I did think it was out of order once when Court of Appeals judges visited my courtroom. They might be sitting on the case later. Maybe they came because I **was** a woman, I really don't know.

Are the courthouse facilities adequate?

I think so. The jury room is so small uncomfortable for jurors. I thought it **was** stupid to have separate bathrooms when occasionally the jury would have many of one gender and only one or two of the other. **So** I had the separate signs taken down and replaced with signs reading "Toilet." I thought it was dumb to worry about having both genders using one bathroom, one after another, when you don't worry about it in your own house.

Is there anything else on gender that you think we should record? I take it things have gone from a situation that was not so good when you started to one that is better?

The "grim reaper" took care of a lot of it.

And that brought on a younger group?

I think so. The colleagues with whom we lunch regularly, are used to me and we get along well.

Do you think that away from the Court or in Court proceedings that gender is still making a difference -- that males seek to be overbearing to female lawyers?

Some of them seek to be overbearing to everyone. Yesterday I had a settlement conference and one **party** had a man here for his client, who said he didn't have authority to make the decision we needed to settle. He was not easy to deal with. When I asked who had the authority to make the decision, I was told that person **was** in a meeting. I said it was as important for us to talk **as** for that meeting to continue without interruption. They called the person, who **was** a woman. She was very tough and strong to deal with. We spoke about the relative merits of the case, and the case **was** settled when I told her she might get nothing if the case didn't settle. I did **think** it was nice that we ended up on friendly terms when the case settled. She had certainly been more reasonable than her underlings.

[end of interview on gender issues]

How did you get the names of people for Special Masters?

From other judges -- my colleagues. Now I understand we will have a list pulled together by a committee, with qualified people on it. The better of the two attorneys I used is now dead, so he is no longer available.

I use Special Masters sparingly, because I do not think it is an expense the parties should bear.

Does the Committee that is preparing the list of Special Masters have in mind opening up the pool?

I would hope so. They are, I am sure, intelligent people.

Q.10 During our public hearing we heard from a woman who had a case **in this court** and was trying to proceed pro se. She had difficulty finding an attorney **to** represent her. The Court has assistance for people who file pro se, either helping them with their filings or finding them an attorney. Do you have any evaluation of the assistance the Court is giving?

I don't know how the pro bono group works, I would assume that it **was** available to this person. But I believe that if someone can afford an attorney they should retain one. I do not believe that people who can afford it should *try* to get anything free. I know I've talked to a lot of people to get them to assist pro se plaintiffs. One attorney [names a white male attorney] **has** a reputation for representing people in the EEO field. He seems to be fair-minded and doesn't charge them too much.

Have you had any pro se plaintiffs in your court'?

Yes.

Have there been any that you were surprised could not find an attorney?

Sometimes attorneys see these cases as "lost causes."

Have you **seen** any cases where a party had no attorney and you thought it was a good case, where the party should have had an attorney?

I don't think I have had any. In the first place, the world is full of people taking cases on contingency. The Court recognizes the need for this, and attorneys may get a higher rate for taking an "iffy" case on contingency. The court is trying hard to encourage people to take these cases. I see little excuse for people who don't find a lawyer.

Finally, are there any areas that **you** would suggest we **look** into -- **you** have **seen** the range of issues we have **been** exploring. Are there any areas, either **positive or** negative, **in connection with** race **and** ethnicity that **you** think we should **look into**?

I think you are asking all the questions.

I told you about the parolee I teach. He called to wish me happy birthday. He believes he is put upon because he is Guatemalan, and that this causes him problems in getting jobs.

What did he have to say about his experience in Court?

First of all, he was in Superior Court, not here. He felt he was very badly treated, **as** he lost his daughter while he **was** in jail, and has been fighting since he got out *to* get her back. She is living with her mother's family in California. They are trying to get him to terminate his parental rights. He is upset about this. He did kill his Wife, so her family's reaction is understandable.

[end of interview on race/ethnicity issues]

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Deputy's Remark Sowed Resentment

BYLINE: Ward Sinclair

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No matter how dogged the agricultural researchers might be, they can't find the cure for outbreaks of foot-in-mouth disease that occasionally zap the Agriculture Department.

The malady last week seized Richard W. Goldberg, a deputy undersecretary for international affairs and commodity programs, who apparently thought he was secure in a good-old-boy farm atmosphere of the U.S. Feed Grains Council.

Goldberg, addressing the council on export matters, lamented a recent ruling by U.S. District Court Judge June L. Green. The judge held that the USDA acted improperly last year by exempting a \$536 million wheat sales agreement from cargo-preference requirements that would have sent at least half the grain on more expensive U.S. merchant vessels. The ruling sent exporters into a tizzy.

But Goldberg stunned the gathering by saying a male judge would have understood the issue better and would have ruled against the cargo-preference provision, opening the way for less expensive exports. "This is an illustration of why women shouldn't be allowed to go to law school, let alone be appointed to the bench," Goldberg said, according to a Commodity News Service reporter who attended the gathering. The remarks did not make the news wire services, but word spread quickly and Washington women involved in agriculture issues were furious.

"I was quite distressed," said Susan McCullough, the council's public affairs director, who was the only woman at the meeting. "But I was gratified that my male colleagues afterward privately expressed to me their displeasure with Mr. Goldberg's comments."

Goldberg conceded yesterday that he had made a remark "something like that," but said "it was a poor joke that reflected my frustration over the decision and its impact on our export efforts." The former North Dakota farmer and state senator added, "It was clearly a dumb thing to say . . . a bad joke and it isn't even funny. I am sorry -- it was just my frustration with things."