Mr. Hitchcock: Judge Attridge, first of all let me thank you for agreeing to participate in this oral history project and taking the time to get us the history. As you know, the circuit is trying to put together a project to add to the archives of the federal district court and the court of appeals here in Washington. In the course of the conversation we will eventually talk about some of the judges and the lawyers that you have encountered over the years. But to put the history in context, what we would like to do is get a life history of the people who are a part of the courts. So, I would like to talk first a little bit about you and your career. To start at the beginning, your biography indicates that you were born in Queens, New York on May 14, 1929. What are some of the things you remember about growing up in New York?

Magistrate Judge Attridge: Well, I would like to say first of all, I am very pleased to participate in this project. You are doing a very worthwhile and valuable service preserving the history of this court and this circuit. Growing up, it's hard to capsulize something of that nature. I went to parochial grammar school in New York and then to high school and college all within a few miles of my home. I took the subway to high school and then for four years of college. The college was right across the street from the high school.

Mr. Hitchcock: Which high school was that?

Magistrate Judge Attridge: St. John's Prep in Brooklyn, New York and then St.
This interview is being conducted on behalf of the Oral History Project of the District of Columbia Circuit. The interviewee is Magistrate Judge Patrick J. Attridge. The interviewer is Cornish F. Hitchcock. The interview took place in the chambers of Magistrate Judge Attridge on July 17, 1997.

Mr. Hitchcock: Judge Attridge, first of all let me thank you for agreeing to participate in this oral history project and taking the time to get us the history. As you know, the circuit is trying to put together a project to add to the archives of the federal district court and the court of appeals here in Washington. In the course of the conversation we will eventually talk about some of the judges and the lawyers that you have encountered over the years. But to put the history in context, what we would like to do is get a life history of the people who are a part of the courts. So, I would like to talk first a little bit about you and your career. To start at the beginning, your biography indicates that you were born in Queens, New York on May 14, 1929. What are some of the things you remember about growing up in New York?

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Mr. Hitchcock: Which high school was that?

Magistrate Judge Attridge: St. John's Prep in Brooklyn, New York and then St.
John's College, which was right across the street. Upon completion of college I was drafted into the Army.

Mr. Hitchcock: Let's talk about the college experience a little bit. What are some of the things that stand out in your mind from college. Any memorable professors, courses, anything of that nature?

Magistrate Judge Attridge: Well, nothing out of the ordinary that I can think of at this time. The college that I attended was part of St. John's University and was very small at that time. It was a single building about three stories tall. The classes were very small. I can recall our dress code was very stringent. We were required to wear coats and ties. And when you became a senior, you had to wear an academic gown. The gown was a mixed blessing since you could discard the coat and cover a multitude of what now would be considered casual clothing. When I started college there was an influx of veterans coming back from World War II. Nothing otherwise extraordinary.

Mr. Hitchcock: So you graduated from St. John's in 1951?

Magistrate Judge Attridge: June 1951.

Mr. Hitchcock: And then you went into the Army when?

Magistrate Judge Attridge: At about the same time, I was drafted into the Army and I went on active duty in July of 1951.

Mr. Hitchcock: Where did you do basic training?

Magistrate Judge Attridge: I did infantry basic training at Ft. Dix, New Jersey, and after that I went to Infantry Officer Candidate School at Ft. Benning, Georgia. I entered OCS in January 1952, completed that training in June of 1952. I went to airborne school and
completed jump school in July of 1952. I was then reassigned to Ft. Dix as an instructor in infantry small unit tactics. I held that assignment until the end of 1952, at which time I received orders to the Far East. I left the United States from San Francisco on an air contract carrier – private carrier – with stops in Hawaii, Wake Island, and Japan before ending up in Korea.

Mr. Hitchcock: What was the situation like then in Korea?

Magistrate Judge Attridge: It was just at about that time that President Eisenhower came into office. The war had been very static for a couple of years. It was just trench warfare. The Chinese communists had what is called a MLR, meaning main line of resistance, and we had our main line of resistance with no-man’s-land in between. Most of the fighting involved small units such as platoon patrols and company-sized probing actions.

Mr. Hitchcock: What were some of the first impressions after you arrived in Korea? What do you remember from that?

Magistrate Judge Attridge: I remember being very lonely. I didn't travel with a unit. I wasn't assigned to a unit. I was an individual replacement, so once I left California I traveled alone. There were a few others, of course, whom I had not previously met. When I arrived in Japan I spent a few days at Camp Drake, which was a personnel replacement center, before receiving further orders to Korea. I traveled by troop train to Sasebo, Japan, which is a seaport; I boarded an LST, a small ship, for an overnight trip to Pusan, Korea. From Pusan I traveled by truck to Seoul. From there I was transported through the various components of I Corps before being assigned to the 7th Division. All of this travel took the better part of a week. At division headquarters I was assigned to the 31st Regiment and finally to Company E, which was on the line at that time. I remember being dropped off at the bottom of a small mountain
with my duffle bag and carbine and being directed by the jeep driver, "Right up there, lieutenant."
I went up the mountain and reported to my company commander and was assigned to the 1st
platoon.

At that time the Chinese were very active probing our lines. It was the time of the spring
offensive. We had a number of attacks on some of the hills in our sector. One of the hills known
as Old Baldy was overrun by the Chinese and my company was pulled off the line to prepare for
a counterattack. After a week of preparation and rehearsal we were told the plans for
counterattack were rescinded. We were then moved back on the line to an outpost called Pork
Chop Hill. While there we were hit by a massive Chinese attack. I was wounded and evacuated
on a stretcher tied to the top of a tank and then by helicopter to an Army evacuation hospital.
Later the same day I was taken by helicopter to a Navy hospital ship in Inchon Harbor and treated
for a couple of weeks before being evacuated to Osaka, Japan. After a week or so I was further
evacuated to Hawaii, then to California and, eventually, to Walter Reed Hospital here in
Washington.

Mr. Hitchcock: The attack on Pork Chop Hill, that would have been what, March
or April?

Magistrate Judge Attridge: April 17, 1953.

Mr. Hitchcock: I noticed in your biography you were awarded both the Silver Star
and the Purple Heart in Korea.

Magistrate Judge Attridge: Yes.

Mr. Hitchcock: Very impressive. Can you talk a little about that?

Magistrate Judge Attridge: Well, I am proud and humbled to have received both
awards.

Mr. Hitchcock: What were the injuries? How bad were your injuries – you were hospitalized for a while?

Magistrate Judge Attridge: Yes. I received injuries primarily to the right side of my face. I lost the sight of my right eye and the hearing in my right ear, and I had a nerve severed near my right ear which left me with a paralysis of my right face and I also had a wound to my right thumb and I received shrapnel wounds in both wrists.

Mr. Hitchcock: Did you have your helmet on?

Magistrate Judge Attridge: Yes. I was lucky because a piece of shrapnel entered my head at the bottom of the helmet next to my ear. I am sure a lot of other shrapnel must have hit my helmet. I am sure the helmet saved my life.

Mr. Hitchcock: What was going through your mind during the battle – while all this was going on?

Magistrate Judge Attridge: I was just hoping it would be over. The Chinese preparatory fire started at eleven o'clock at night.

Mr. Hitchcock: I'm sorry. What kind of fires?

Magistrate Judge Attridge: Preparatory fires. The artillery barrage that preceeded the attack by the Chinese troops. After the artillery fire stopped, the Chinese infantry moved in and completely overran us. At about 2:00 a.m. my platoon sergeant and myself made our way to the company command post to see if anyone was alive. All our telephone wires had been severed by the artillery fire. My CO and others were alive in their bunker but the Chinese were all around us. I was forced into the bunker. The Chinese were all over the hill, so by means of a radio we
called our own artillery on top of ourselves. We had some scary incidents during those hours, with the Chinese right on top of our bunker. They placed a sachel charge - a bag of dynamite on the end of long pole in the doorway and blew half the bunker away. Some of the 12x12 rafters fell and almost crushed me. At about 6:00 a.m. another company from our regiment counterattacked the hill. I left the bunker to join in the counterattack when I was wounded.

Mr. Hitchcock: The other company managed to repel the Chinese attack?

Magistrate Judge Attridge: They pushed the Chinese from the hill and then the Chinese came back with their counterattack and overran us again. We counterattacked again. The fighting went back and forth for several days before the Chinese gave up the fight. General S.L.A. Marshall, an Army historian wrote a book about the battle entitled *Pork Chop Hill* which was later made into a movie starring Gregory Peck.

Mr. Hitchcock: You saw the movie when it came out?

Magistrate Judge Attridge: Yes, it came out in 1957 and –

Mr. Hitchcock: Was it close to the real story, or was it somewhat fictionalized?

Magistrate Judge Attridge: Well, General Marshall's technique was to interview survivors and weave a narrative. Unfortunately there were not many survivors from my platoon. By the time he arrived I was either on the hospital ship or in Japan so I was never interviewed. He has written a number of military books using the same technique including one about the Israeli Six-Day War in the 1960s.

Mr. Hitchcock: You were injured, you said, about 6:00 in the morning. How long did it take before you were evacuated?
Magistrate Judge Attridge: I don't remember. I remember being dragged back into the bunker. I remember hearing someone say they were going to take me out. I recall being carried on a stretcher and the stretcher-bearers running down the hill and then being strapped on a tank. I wasn't able to hold on, I thought I was going to fall off. I remember being in the pod on the outside of a helicopter and hearing the loud engine noise. I thought that noise would never stop – I kept drifting in and out of consciousness.

Mr. Hitchcock: And you shipped out, you said, to Osaka?

Magistrate Judge Attridge: I was on a hospital ship, the USS Consolation which later became the hospital ship Hope, the flag ship for Project Hope, a humanitarian and health organization founded by Dr. Walsh of Georgetown Hospital. After the war the Hope sailed around the world providing medical and surgical treatment to people from third world countries. After I left the ship, I was transferred to Osaka Army Hospital in Osaka, Japan. I was there about a week and then evacuated to the U.S. I was ambulatory and able to move about.

Mr. Hitchcock: Where did you go?

Magistrate Judge Attridge: Ultimately to Walter Reed Hospital here in Washington. I arrived here in Washington the latter part of May 1953 and remained hospitalized until I retired in March 1954.

Mr. Hitchcock: You were here when they announced the armistice?

Magistrate Judge Attridge: Yes, the Armistice was in July 1953.

Mr. Hitchcock: Was that the first time you had been to Washington, when you got to Walter Reed?

Magistrate Judge Attridge: No, no. I had been to Washington on two occasions.
before that. Once in 1950 for the ordination of my brother-in-law, who was ordained a
Franciscan priest while I was in college, and in November of 1952, while at Ft. Dix, several
Army buddies and I decided to go to the Pentagon to inquire if we were on orders to the Far East.

Mr. Hitchcock: When did you first think about going to law school and becoming
a lawyer?

Magistrate Judge Attridge: It was quite accidental. While I was at Walter Reed, a
number of friends who had also been wounded and I would get together for coffee in the morning
and talk about what we were going to do after we left the Army. On one occasion I recall
someone saying, “Don't you know you can go to law school and get a job with the government
and make $10,000 a year?” I thought that was a lot of money. I applied to Georgetown, was
accepted, and went off to law school.

Mr. Hitchcock: You entered Georgetown in the fall of '54?

Magistrate Judge Attridge: No, no. I went on an accelerated program that
Georgetown had at the time for veterans. It enabled you to complete your law school courses in 2
years. I started law school in June 1954 and went throughout the summer to the day school in the
morning, and to the evening school at night. In that way I was able to complete a semester during
that first summer. I did the same thing the following summer. So I made up a year that way and
was able to graduate in 1956.

Mr. Hitchcock: When did you find time to study?

Magistrate Judge Attridge: Well, I would study in the afternoon. The classes
would finish up in the late morning I would go to the library and do my work from the morning
courses and then prepare for the evening classes. It was a long day. I started at about 9:00 in the
morning and finished at about 8:00 at night.

Mr. Hitchcock: This was a program for veterans that you would attend with all the other students? You were just going to more courses and getting out more quickly?

Magistrate Judge Attridge: Yes. Yes. We overlapped with the others in the regular curriculum.

Mr. Hitchcock: Who were some of the professors that you remember in Georgetown at the time, that stand out in your memory, and courses that stand out?

Magistrate Judge Attridge: I remember Ed McManus. He was one of my first professors during the summer of 1954. Then there is Walter Yeager who taught a contract’s course. I remember him well. Most of them have died by now. Father Dexter Hanley was a classmate of mine who later taught at the law school. Joe Gaghen taught what we used to call legal bibliography, legal research, and of course there was Ed Williams and Phil Ryan.

Mr. Hitchcock: I think you mentioned to me once before you had a trial advocacy course taught by Edward Bennett Williams?

Magistrate Judge Attridge: No, the trial advocacy course was taught by Nick Chase, a one-time partner of Ed Williams. Williams taught criminal law on Saturday mornings.

Mr. Hitchcock: Did Williams have any stories to impart then? He must have been a rising criminal trial lawyer at that time.

Magistrate Judge Attridge: No. Williams never spoke of his cases. I do remember Professor Yeager always coming up with stories to illustrate various aspects of contract law, the elements of a contract and things of that nature. He always told the story of Jimmy Lake, an entrepreneur on 9th Street NW. Jimmy Lake met a fellow called the “Human Fly”. Jimmy Lake
offered the “Human Fly” so much money if he would climb up the side of the Washington Monument. After the “Human Fly” climbed half-way up the side, Jim yelled out, “I revoke.” Of course, the point he was illustrating was the concept of partial performance. Well, in any event, we always thought that this Jimmy Lake, Professor Yaeger kept making reference to, was a figment of his imagination. During the following year, when we were taking Professor Chase’s trial advocacy course, one of my classmates went up to 9th Street and found Jimmy Lake. He was quite a character, an elderly man with a large white head of hair, white beard, a big red bow tie, and a semiformal dress coat. Jimmy Lake came to the classroom, which was used as courtroom in the trial advocacy course, and appeared as a witness in one of the mock trials we were presenting. We all had a big laugh.

Mr. Hitchcock: That’s interesting you were taking trial advocacy. Was this where you were doing trials themselves to learn how to try cases or was it –

Magistrate Judge Attridge: Yes. We were required to try a simple case, a traffic case or negligence case or something of that nature. We were responsible, as part of a team for the preparation and presentation of a trial and you were graded on your performance.

Mr. Hitchcock: So, you graduated from Georgetown in 1956?

Magistrate Judge Attridge: 1956, yes.

Mr. Hitchcock: Tell me a little bit about your thinking in terms of what you were going to do after law school?

Magistrate Judge Attridge: I was interested in litigation. I wanted to try cases, and at that time most of the trial work was either in criminal cases, as court-appointed counsel, or in insurance work, negligence cases, things of that nature. I wanted to get a little background in tort
litigation so I started out as a claims adjuster for Allstate Insurance Company investigating accidents. I did that for a year. And then I got an opportunity to go with a lawyer in the practice of law.

Mr. Hitchcock: How did you decide that originally you wanted to be a trial lawyer?

Magistrate Judge Attridge: I don't know. Trial law always had an appeal to me. I just liked the idea of being in a courtroom and was attracted to the goings on in a courtroom.

Mr. Hitchcock: You were going to law school. Were you married at the time?

Magistrate Judge Attridge: Yes. Terry and I were married in August 1953. I started law school in June 1954. Dan was born in 1954 and Pat in 1956.

Mr. Hitchcock: You had two other children later on?

Magistrate Judge Attridge: Yes. Maura was born in 1958 and Deirdre was born in 1963.

Mr. Hitchcock: Your wife must have been busy then.

Magistrate Judge Attridge: Yes, yes, yes.

Mr. Hitchcock: Tell me a little bit about what it was like starting out as a young lawyer in those days. When you decided you wanted to be a trial lawyer you signed up with a firm, Doherty, Attridge and Doherty?

Magistrate Judge Attridge: I started off as an associate with Cornelius H. Doherty. It was tough to break into law. There weren't the national law firms of today. I think either Covington & Burling or Hogan & Hartson was the largest firm in town. They were just local firms. I don't think either firm had more than 25 lawyers.
Mr. Hitchcock: Just going back to sort of the nature of finding jobs – did Georgetown have a placement officer or were students pretty much left on their own?

Magistrate Judge Attridge: They were pretty much left on their own. Georgetown posted openings on a bulletin board but there were not many of them. Most of the placement was by word of mouth.

Mr. Hitchcock: Quite different from what it is today?

Magistrate Judge Attridge: Oh, yes. It was very tough, very tight. It was a very close knit market.

Mr. Hitchcock: So you started out with Neil Doherty's firm in 1957?

Magistrate Judge Attridge: In '57 and I stayed with him until he died in 1969, and then I opened my own office. I was in the Southern Building at 15th and H Streets NW. I remained there until I moved to Maryland in 1976 where I remained until my appointment as a U.S. Magistrate in 1983. Bernie Harig had joined me in the early 1970s.

Mr. Hitchcock: Let's talk a little bit about what practicing law was like when you were starting out. What do you remember about the first case that you tried?

Magistrate Judge Attridge: My first trial was in the old municipal court and the judge was Judge Walsh, who was the chief judge at the time. It was a bench trial. I can't remember anything else about the case other than I won. Judge Walsh later became a United States district judge in this court.

Mr. Hitchcock: How did the lawyers learn to try cases when you were starting out?

Magistrate Judge Attridge: Well, you learned to try cases by trying them. I guess
in many instances you kept making the same mistakes. I took some PLI courses in New York regarding various aspects of litigation and read a number of books involving trials.

Mr. Hitchcock: I heard people say it was common for people to go down to the courthouse and watch other lawyers trying cases and that was the way you learned?

Magistrate Judge Attridge: I did that as well. When I was in law school Georgetown was where the SEC building now stands at 5th and E Streets, NW. So Georgetown was very close to the courthouses and in the afternoon I would frequently go to the courthouse and watch cases being tried. I recall seeing Edward Bennett Williams on several occasions and observing how he did things.

Mr. Hitchcock: Do you remember any cases that Williams tried that stand out in your memory?

Magistrate Judge Attridge: Yes. I remember one particular motions hearing involving the OSS, the predecessor to the CIA. The OSS conducted operations during World War II in Italy. An OSS officer was alleged to have been murdered and his body dumped in one of the Italian lakes. One of the members of his unit was suspected of being the murderer. Since there was no body, he was never tried on murder charges.

In any event, he was brought before one of the congressional committees, and later indicted for perjury for allegedly lying to the committee. Ed Williams filed a motion to dismiss the indictment on the grounds that the committee had exceeded its legislative authority because the committee subpoenaed my witness to testify, not in its capacity as an investigative arm of the Congress seeking information for a legislative purpose, but solely for the purpose of causing him to perjure himself. Williams had one of the committee members testify that the intent of the
committee was to get the witness to commit perjury.

Mr. Hitchcock: Do you remember the congressman?

Magistrate Judge Attridge: No, I don't. I don't remember who it was, but he was very, very honest, and acknowledged that their intent was to have him perjure himself. And, as a consequence, the motion to dismiss the indictment was granted, and he was released. You don't usually see members of Congress coming over and testifying in court. He may have voluntarily appeared. I don't know how Williams ever found out about that.

Mr. Hitchcock: Do you remember who the judge was?

Magistrate Judge Attridge: No, I can't recall. I can't recall who the judge was at that time. I remember the courtroom was packed with spectators. The matter received a lot of notoriety at the time.

Mr. Hitchcock: Did the congressman just admitted it freely from the stand.

Magistrate Judge Attridge: Yes, pursuant to a question Williams asked.

Mr. Hitchcock: It must have been some very effective cross-examination?

Magistrate Judge Attridge: Well, yes.

Mr. Hitchcock: What kinds of cases were you trying yourself as you were starting?

Magistrate Judge Attridge: Mostly automobile subrogation cases. It was a tremendous means for young lawyers to learn how to try cases. The law was the same even though the claim was minor involving, perhaps, a couple of hundred dollar fender bender. You had to learn the law. You had to learn to try cases. Many of the cases were tried to a jury. So, you had exposure before a jury. Unfortunately, this type of training is no longer available to young
lawyers. We started our training with subrogation cases and as you gained experience, you progressed to personal injury cases which had a larger exposure. All the litigation at that time involved "slip and fall" cases and automobile cases and when the medical malpractice cases became fashionable, it became a fertile field for litigation along with claims against other professionals such as accountants, architects, engineers and lawyers, etc. Of course, then in the '60s, many of the statutory causes of action that are prevalent in this court now came into being.

Mr. Hitchcock: Was it easier or faster to get cases to trial starting out?

Magistrate Judge Attridge: No, no. It was much more difficult to get to trial.

When I started out, most of the litigation under $10,000 would go to municipal court. At that time the federal courts, United States District Court and Court of Appeals, wore two hats. The United States District Court was not only a federal court as we know it today, but also a local court. All D.C. code crimes which were felonies were tried in this court. The misdemeanors were tried in the municipal court. Our court of appeals was not only an appellate court for appeals from the district court and federal agencies but also the "court of last resort" for local matters. Any appeal from the municipal court went to the municipal court of appeals, an intermediary court of appeals, and then the final court of appeals would have been the United States Court of Appeals for the District of Columbia.

Mr. Hitchcock: So, the D.C. Circuit then devoted a lot of time to developing common law, negligence and "state law" issues.

Magistrate Judge Attridge: Yes, yes. It got involved in that aspect of the law. As I recall, I am not sure of this, I think you could only go from the municipal court of appeals to our court of appeals on something in the nature of a petition for cert. I don't think that you had an
absolute right to appeal from the municipal court of appeals to the D.C. Circuit Court of Appeals in every case. But, of course, appeals in this court would go right to the court of appeals.

Mr. Hitchcock: I imagine that the discovery process was quite different earlier on than it is sometimes today?

Magistrate Judge Attridge: At that time the bar was small. Everyone knew each other, and although there were discovery problems due to legitimate differences of opinion, motions were not filed for harassing reasons or to generate fees and punish an opponent. Discovery motions were heard by a motions judge and if following a hearing, the judge awarded a nominal fee of $50 or $100. In most instances the prevailing lawyer would tell the loser not to bother to pay the fee because the next time "the shoe might be on the other foot." There were never any fee hassles. You didn't get involved in fee problems. Of course, technology has also changed the discovery practice. We didn't have Xerox machines or computers. Typewriter would only provide about six legible carbon copies. That was about the most you could get out of it and revisions were not made very frequently because your secretary would have to type the whole document all over. Secretaries would get very upset about typing documents all over again just because you wanted to change a word or phrase. So they discouraged revisions and pleadings were kept short in the event a revision became absolutely necessary. The opinions of the courts of appeal – both the municipal court and this circuit – were also much shorter. And document production was a lot simpler because there were no Xerox machines. Although there was a commercial copying facility available, it was only on rare occasions that documents were copied commercially. First of all, photocopying cost about $2 or $3 a page, and secondly, the quality
was not very good. The copy produced was a negative copy, that is black background with white lettering. Most of the times you would give the originals of whatever documents were requested to the other side. They would make typewritten copies and return the originals to you. That's the way document production was carried out.

Mr. Hitchcock: I hope you never had a case where the original was sent out and disappeared.

Magistrate Judge Attridge: No, I can't recall any. I'm sure it happened, but most of the time since everybody knew everybody else, documents didn't get lost.

Mr. Hitchcock: Let's talk a little bit about some of the lawyers that you've encountered that you saw try cases or that you tried cases against when you were in practice. Who were some of the great lawyers that you remember seeing in action?

Magistrate Judge Attridge: Well, most of my exposure at that time was in tort litigation, and, of course, that was where most of the litigation was, either in tort or in criminal law. In the plaintiffs bar, I guess, one of the leaders in tort litigation was Joe Bulman. Joe had offices in the Woodward Building at 15th and H Streets, NW, and then there was Dave Bress, of Newmeyer and Bress, an active plaintiffs' firm at the time. Dave Bress later became the U.S. Attorney for the District of Columbia. On the defense side, Hogan & Hartson did a lot of defense work. That's where Ed Williams got his start, as a matter of fact, I think representing the D.C. Transit Company, which was the predecessor – no, it was the successor to the Capital Transit Company. It was the Capital Transit originally, then the D.C. Transit, and then later on Metro.

Mr. Hitchcock: And now it's WMATA, the Washington Metropolitan Area Transit Authority.
Magistrate Judge Attridge: WMATA, yes, the transit system. At that time it was privately owned, and known as the Capital Traction Company, I think, originally, and then Capital Transit Company, and then D.C. Transit. But Hogan & Hartson did a lot of work for the transit companies. Gallagher and Stewart did work, a lot of defense work for the transit companies as well. Bill Stewart later became a judge of the superior court. Brault and Graham, Al Brault and Denver Graham, Larry Scott – they did defense work as well – and, of course, Neil Doherty.

Mr. Hitchcock: How about on the plaintiffs' side. Who were the lawyers that were plaintiffs' counsel?

Magistrate Judge Attridge: As I said, Joe Bulman did a lot of automobile litigation, and slip and fall cases. Henry Berger did a lot of auto litigation. Dave Bress and Alvin Newmeyer did a lot of litigation. There were some major accidents in the late '40s and early '50s with catastrophic injuries that resulted in major litigation. One involved an airline crash, I think the first fatal airline accident at Washington National Airport in the late '40s, when a mid-air collision occurred between a Bolivian military fighter and an Eastern Airlines airplane. A substantial number of deaths claims were filed, and I believe Dave Bress was involved in that litigation. Then, in the early '50s, a train failed to stop at Union Station. It plowed right into the station, and a great number of people were hurt. Litigation arose out of that incident. I think Hogan & Hartson was involved in the defense of those claims.

Mr. Hitchcock: Do you remember watching either of those cases going on?

Magistrate Judge Attridge: No, no. They started in the late '40s or early '50s before I began to practice. There were small residual aspects of those cases remaining when I
started practice.

Mr. Hitchcock: Judge Attridge, you mentioned that your practice started shifting more towards district court here in the 1960s. Could you tell me a little bit about what the federal district court practice was like?

Magistrate Judge Attridge: Well, at that time, this court maintained a master calendar, and litigation was controlled by the lawyers. I don't know if that was the reason for it or not; however, there was a substantial and a long backlog. It took at least 4 years to get to trial. Cases were not assigned to a judge but instead to an unassigned master calendar. Twice a year a calendar call was had before John Finn, the pretrial examiner at which time he would inquire if the case was at issue and ready for trial. If the lawyers said they needed more time the case was returned to the clerk's office until the next calendar call. If the lawyers were ready to proceed to trial they would file a "ready for trial" praecipe and the case was referred to the assignment office. If the lawyers disagreed, they were generally given additional time before it was referred to the assignment office and placed on the "ready for trial" list.

Generally 4 to 6 months before a case was scheduled to be tried the lawyers were informed that their case had been assigned for trial either the first, second, third or fourth week of a certain month. During the week of your assignment you were kept on telephone call to await a specific day on which to report to the assignment office where you would then wait to be assigned out to a judge. The assignment commissioner generally kept the lawyers for two or three cases in his office and would assign a case to a judge after the judge informed the assignment officer that he or she was available for trial. Sometimes you might have to wait 2 or 3 days in the assignment office before getting sent to a judge.
Mr. Hitchcock: The clients and witnesses must have liked that.

Magistrate Judge Attridge: Everyone agreed it was the most inefficient system possible.

Mr. Hitchcock: So you didn't find out who was going to be the judge in your case until you reported to the assignment office?

Magistrate Judge Attridge: That's right. When the judge finished one case, he'd call down to the assignment office and have the next case sent to him for trial.

Mr. Hitchcock: Out of curiosity, how did lawyers handle the motions practice, which seems such a part of civil litigation these days?

Magistrate Judge Attridge: There was a day set aside for motions, I think it used to be Thursday or Friday, I forget which day it was, but that again was procedurally complicated, and an neophyte lawyer could get hoodwinked very, very quickly.

All motions had to be accompanied by a motions card containing whatever information was required on that card and whether you wanted an oral hearing. You were required to file the motion with clerk's office, and then physically take the motion together with the motions card around the corner to the Motions Commissioner who would examine the motion to see whether or not it conformed to the local rules as to form and number of pages, etc. The opposition would also have to be taken to the Motions Commissioner after being filed with the clerk's office and the same with the reply. If you forgot to fill out the motions card or filled it out improperly you may never get a hearing on your motion. The motion would remain in the commissioner's office until you made further inquiry.

Mr. Hitchcock: I imagine lawyers learned pretty quickly about that rule.
Magistrate Judge Attridge: There were a lot of procedural impediments that were built into the system. (laughter) I do not think it was anything deliberate, but you had to learn the local idiosyncrasies. All pleadings were scrutinized by the clerk at the filing counter for conformity with the local rules and if the clerk concluded that the pleading did not conform it was handed back to you and not accepted. Moreover, lo and behold the lawyer who arrived at the clerk's office at 3:30 or 4:00 o'clock in the afternoon to file. You would hear from the clerk, "This is no time to be filing because I won't be able to process it at this hour." So you learned that you did your filing in the morning.

Mr. Hitchcock: I always thought that was why the clerk's office closed as early as 4:00. (laughter)

Magistrate Judge Attridge: You would never file on a Friday after 12:00 noon unless you wished to incur someone’s wrath.

Mr. Hitchcock: How then could lawyers save everything to the last minute? (laughter)

Magistrate Judge Attridge: But no, they were very helpful. There were numerous quirks in the local practice that could be the downfall of a novice lawyer if you did not have someone take you by the hand and show you what had to be done.

Mr. Hitchcock: I would think it would be tough to be a motions judge, having all these cases come before you that you have never seen before, but you are expected to rule on.

Magistrate Judge Attridge: That's exactly right. Although the judge may have the motions calendar the afternoon before the morning of the motions hearing and have an opportunity to look through the files, however, there might be 50 or 60 short motions on that
calendar. There were generally two motions calendars – long and short. Short motions generally involved matters such as the sufficiency of answers to interrogatories whereas the long motions calendar involved more substantive matters and would contain fewer cases. Motions for summary judgment were discouraged and rarely granted. Most experienced lawyers would not file a summary judgment motion since they were seldom, if ever, granted but, more importantly, you would be tipping your opponent off about the weaknesses of his case. And, as the saying goes, forewarned is forearmed. Of course, a number of years later, the Supreme Court in, I believe it was the Celeotex case, encouraged the grant of meritorious dispositive motions. So quite naturally the thinking and the practice changed to what we have today.

Mr. Hitchcock: It seems like a lot more cases actually went to trial than seems to be the case today?

Magistrate Judge Attridge: They did. A lot of cases went to trial. Dispositive motions were rarely granted. The concept was to try cases on their merits. Of course, there were a lot more directed verdicts at that time. The judge would hear a case and, in many instances, would direct a verdict at the end of the plaintiff's case.

Mr. Hitchcock: Which meant that people had a chance to get a lot more trial practice than might be the case today, even if the case washes out on a directed verdict.

Magistrate Judge Attridge: That's true.
Mr. Hitchcock: This is Tuesday, July 22, 1977. We are in the chambers of United States Magistrate Judge Patrick J. Attridge. Judge Attridge, when we stopped talking last time you were describing some of the practice in district court in 1960s and I recall you were telling me about the civil assignment office up on the third floor, the assigning of cases and the general docket at the time. When did the court move to individual dockets with the judges?

Magistrate Judge Attridge: As I recall, it was about the late 1960s, I think the second half of the 1960s. Judge Will from Chicago, I believe, was an advocate of the individual docket. He came and talked to our judges about that concept, it was something new. I recall that Judge Will was invited to speak to the Bar Association about the individual calendar which he did. Judge Pratt was one of the leaders in our court in developing an individual calendar. The court eventually adopted that method and the individual calendar replaced the master calendar. There was better control of cases and better case management.

Mr. Hitchcock: Was there much resistance to the idea either among the judges or lawyers?

Magistrate Judge Attridge: I don't recall. I don't recall much resistance. The judges sort of called the shots and everybody else had to fall with the line. But I don't think there was much resistance.

Mr. Hitchcock: As a practitioner, did you find that helped move cases along more quickly?

Magistrate Judge Attridge: Yes, yes, it eventually changed it from a 3- and 4-year delay in getting to trial to what we have now wherein most cases can be resolved in less than a year.
Mr. Hitchcock: Tell me a little about your own practice then in the '60s. You said last time that the types of cases you were doing changed – started moving into medical malpractice and other types of cases in this court in the 1960s. What sort of things were you doing during that time?

Magistrate Judge Attridge: Well, my practice was primarily civil litigation. Of course everyone received his share of criminal cases by appointment, but most of the litigation was civil and mine in particular was in the personal injury field, either auto accidents, slip and falls and the like. It later developed into the defense of professional malpractice cases. As for the criminal cases, once the Supreme Court determined that defendants were entitled to a lawyer, everyone was appointed to criminal cases on a pro bono basis. There were no funds available to pay lawyers who represented criminal defendants. However, since this court still wore two hats the probate division was in this court and judges tried to compensate the lawyers for participating in criminal cases by assigning you a probate matter. For example, if someone died with a will but without an executor, or if a trust was created without a trustee or something of that nature, a judge would assign a lawyer to fill that void. More often than not you would earn some fees for that service.

Mr. Hitchcock: Hopefully, it all washed down in the end.

Magistrate Judge Attridge: Hopefully. (laughter)

Mr. Hitchcock: Tell me a little about the criminal cases that you had. To most lawyers these days, Gideon v. Wainwright is now 35 years old, and a lot of younger lawyers certainly can't remember back before the days when lawyers were appointed for people. How did it work in practice? Did you get cases where you said, “Gee, I feel like I'm over my head. Can I
turn this over to somebody who has more direct experience with this?"

Magistrate Judge Attridge: You could, but that was a ready-made excuse. I can recall Judge Curran, the chief judge at that time, was very tough on letting anyone out of an assignment. It was very difficult to get out of a criminal case. He didn't very willingly let anyone out, so I guess that if you were able to satisfy him that you really were incompetent, he may let you out. But for the most part, the cases were not very sophisticated. Remember all the local felonies were in this court so most of the cases were either unauthorized use of a motor vehicle, assault, breaking and entering, robbery, etc. We didn't have the multi-defendant drug conspiracy cases we see today. I had my share of the run of the mill cases such as auto theft, unauthorized use of a vehicle, robbery cases, assaults, and the like. Many of them went off on pleas, there was always some type of plea bargain that you can make and then you judge shop in order to get the best accommodation on the plea bargain.

Mr. Hitchcock: How did that work?

Magistrate Judge Attridge: Well, you'd work with the ASA. You made a plea offer and if your client agreed to it, you would shop around to plead before a certain judge you knew was an light sentencer. They all had their reputations. If you had a gun case you would never go to Judge Curran. But if you had a numbers case, a gambling case, Judge Curran was the judge to plead before. You would generally get probation. There were no sentencing guidelines or mandatory minimums except for aggravated felonies such as murder.

Mr. Hitchcock: The Assistant U.S. Attorneys were willing to go along for the most part?

Magistrate Judge Attridge: Yes, for the most part they would go along if there
was a plea, depending upon the defendant's criminal record. If it was a non-violent record, they
would have no trouble going along.

Mr. Hitchcock: Were the criminal cases in those days handled the same way as
the civil docket if there was no individual calendar?

Magistrate Judge Attridge: Yes, later on the whole calendar developed into an
individual calendar, i.e., not only were the civil cases assigned to an individual judge upon filing,
but criminal cases were also assigned to a single judge once an indictment was returned. Then
you were stuck; for the most part you couldn't judge shop.

Mr. Hitchcock: Interesting. Let's talk a little bit about some of the practice in the
1960's. You were talking about how the district court here had jurisdiction beyond simply that of
Article III district courts elsewhere; that they had major felony cases on the criminal docket. They
had probate. What are some of the other areas that were then in this court?

Magistrate Judge Attridge: They had adoption cases and every type of proceeding
that was found in a court of original jurisdiction. The court had civil jurisdiction regardless of
diversity in all cases with an ad damnum of over $10,000.

Mr. Hitchcock: That was by statute?

Magistrate Judge Attridge: Yes, and the criminal jurisdiction encompassed all
felonies including common law and D.C. Code crimes. The old municipal court had civil
jurisdiction of cases with an ad damnum of less than $10,000 and all D.C. Code misdemeanors.
Federal misdemeanors were in this court as well as traffic cases involving federal enclaves such
as the Veterans Hospital, the Brentwood Post Office facility and St. Elizabeth's Hospital.

Mr. Hitchcock: Somebody once told me, or I read it somewhere, that the district
court judges here for a while appointed members of the School Board and possibly other things as well?

Magistrate Judge Attridge: Yes.

Mr. Hitchcock: How did that come to be?

Magistrate Judge Attridge: I don't know how it came about. I assume it was statutory, but the judges of this court did appoint the School Board members.

Mr. Hitchcock: It is an interesting assignment for a federal trial judge.

Magistrate Judge Attridge: (laughter)

Mr. Hitchcock: I think you told me at one point that you still, as a magistrate judge, see some aspects of the court's earlier practice come before you – adoption cases, other cases where people come back and want a matter unsealed. Could you talk about some of those cases that you see?

Magistrate Judge Attridge: Not infrequently during the course of the year people who may have been adopted back in the '40s or '50s now have a desire to open up their adoption records, unseal the records for medical reasons or other reasons, and all those requests come to this court because the original adoption orders were signed by judges of this court before the adoption division moved over to the Superior Court. So, we continue to get those requests, on a basis of several a month.

Mr. Hitchcock: That many?

Magistrate Judge Attridge: Yes. And most of the time we refer them to the District of Columbia Department of Human Services, to assign an investigator to make an inquiry and file a report with us. They're initially assigned to magistrate judges so the Department
of Human Services would file a report with us detailing their findings and we in turn make a recommendation to the judge hearing motions that month. We make a report and recommendation whether to unseal.

Mr. Hitchcock: Let's talk a little about the changes that took place when Congress passed the D.C. Court Reorganization in 1970; it changed quite a bit the nature of the cases that get filed here – a number of cases were moved over to the Superior Court. What are some of the changes you saw for the most part that affected you as a practitioner?

Magistrate Judge Attridge: Well, at about the same time or shortly thereafter that the individual calendar system was adopted, Congress created first, the general sessions court and shortly thereafter, the Superior Court. This court became strictly an Article III court, and the Superior Court became the court of original jurisdiction for the District of Columbia. Of course there were a lot of growing pains for that court. It went from 15 judges to over 50 judges in a matter of a couple years. And before the present Superior Court was constructed, they didn't have the facilities to accommodate all those judges nor facilities to try all those cases, so the old Pension Building, which is now the National Building Museum on G Street, was used as a courthouse and the Potomac Building, which was on 6th and G Streets, was leased. The Potomac Building had recently been constructed so space was carved out to create what amounted to hearing rooms. In many instances support columns were in the middle of the rooms. The judge's bench was a desk and the lawyers sat on folding chairs at card tables. The jury also sat on folding chairs. The spectators sat on folding chairs. The judge had no robing room and was forced to hang his coat on a hanger in the corner of the room and don his robes in front of the jury and spectators. The jurors lacked interest which was reflected in the verdicts.
Mr. Hitchcock: Where did the jury deliberate?

Magistrate Judge Attridge: They would be taken to another room, maybe next door. In some instances they deliberated right in the courtroom, and the lawyers and everybody had to go outside, wait around in the hall while the jury deliberated in the courtroom. The Pension Building, it's now the Building Museum, was a little more judicious. Decent courtrooms were constructed on the first and second floors. The judges had chambers and there was somewhat of a judicial atmosphere compared with the Potomac Building. That situation lasted for a couple years. I guess it was sometime in the mid-'70s or late '70s when the present Superior Court building was constructed.

Mr. Hitchcock: Around the same time, you switched your practice and began with Attridge and Harig in 1969?

Magistrate Judge Attridge: Yes.

Mr. Hitchcock: How did that come to be?

Magistrate Judge Attridge: Yes. Cornelius Doherty, the elderly gentleman with whom I had been practicing died in 1969. Following his death I opened my own office in the Southern Building at 15th and H Street and after a few years, Bernie Harig joined me, and we practiced together there until 1976 at which time we moved to Rockville, Maryland. Our practice included civil litigation in both the District of Columbia and Maryland.

Mr. Hitchcock: Tell me a little about Mr. Harig.

Magistrate Judge Attridge: Bernie Harig had spent many years in claims with Allstate Insurance Company initially as an adjustor, then as a claims manager and ultimately as a litigation attorney. After he left Allstate he joined me in the practice of law. He is a very fine
individual and fine lawyer. We enjoyed practicing together. He is retired—living in Florida.

Mr. Hitchcock: One of the things that struck me when the court reorganization took effect in the 1970s is that although a number of the cases were removed over to the Superior Court, the number of judges allotted to the district court stayed the same at 15. Did that have any effect in terms of how quickly cases started coming up for trial or how fast the docket moved?

Magistrate Judge Attridge: Yes. The judges' caseload dropped dramatically and, as a consequence, cases came up for trial much more quickly.

Mr. Hitchcock: Did Congress ever consider cutting the number of judgeships when it was moving cases to Superior Court?

Magistrate Judge Attridge: I don't know. I believe it would be very difficult. Since they're all lifetime judgeships, there isn't any way to terminate any who were in office.

Mr. Hitchcock: Just not fill vacancies, I suppose.

Magistrate Judge Attridge: Well, since they were all permanent judgeships, I think the Congress would have to abolish a permanent judgeship, as they have in some situations.

Mr. Hitchcock: One of the later developments that came along in the 1970s was the development of the District of Columbia Bar, which was established as a mandatory bar which everyone had to join. Did that have much of an impact, do you think, in terms of the practice of law here?

Magistrate Judge Attridge: Yes, it did. It created a disciplinary arm that never really existed before. The then existing bar associations such as the Bar Association of the District of Columbia were all voluntary. Although the courts could control admissions, they had no effective arm to investigate lawyer conduct outside the courtroom and no finances to conduct
an investigation. The mandatory bar came about in the early 1970s at about the same time all the other changes were taking place. At about the same time a couple of cases were decided by the Supreme Court which opened up the practice of law, the parochial concept, and led to a more national concept. Larger firms then came into being and the practice changed from a local practice to a national practice at many firms.

Mr. Hitchcock: Let's go back a step. You mentioned the Bar Association of D.C., the voluntary bar. I take it you were active in the bar association. What are some of the things that you remember in terms of what it did for members when you were in practice?

Magistrate Judge Attridge: The voluntary bar had a number of committees which like any large organization performed the long term work of the association. The Junior Bar Section was the so-called committee where young lawyers received their introduction to bar association work. It was very active in community and substantive law affairs. It had a communications committee that broadcast every Sunday morning explaining significant legal events and happenings to the public. They also interviewed over the air various people in public life. There was a separate community affairs committee and a military law committee. The association conducted continuing legal education forms and was the vehicle for acquiring group health and life insurance. It still carries on its two principal social activities; the annual dinner on the first Saturday of December and the annual excursion. A number of our now deceased judges were past presidents – Judge McGuire, Judge Pratt and Judge Gasch come to mind.

Mr. Hitchcock: Must have been stiff competition to be president?

Magistrate Judge Attridge: Yes, but it seems to have been a stepping stone.

Mr. Hitchcock: You mentioned a moment ago also the change in terms of law
practice, more of a national practice. Can you think of any specifics that you remember back in
the '70s when we were in practice in terms of how things changed here the district court?

Magistrate Judge Attridge: Well, I said there were tremendous changes at that
time. The Civil Rights Act of 1964 was passed. FOIA (the Freedom of Information Act) was
enacted, and a number of statutory causes of action came about that we never had before. Law
firms got bigger, the law schools got bigger and were turning out more lawyers.

Mr. Hitchcock: Is that good or bad?

Magistrate Judge Attridge: I don't know. I assume there was a greater need for
lawyers with the advent of the new legislation. Many young people at that time were very
public-spirited. They wanted to go to law school, change the laws and change society. That was
the approach. The whole concept of law just exploded. The law firms exploded. It became easier
to practice in more jurisdictions. More specialties developed in various phases of law. It was a
very interesting period which is still ongoing.

Mr. Hitchcock: Did you find much of a change in the trial bar. I remember you
telling me last time about how when you started out, everyone knew everyone else. And all of a
sudden in your practice then, there were a number of new faces you didn't know as well, but had
to deal with at counsel table?

Magistrate Judge Attridge: It did change, it did change along those lines. There
were a lot of new faces, younger lawyers, lawyers from other jurisdictions So there was a
tremendous change and the small bar with which we had been familiar disappeared We didn't
have the same social component to the bar that previously existed. You might have a case with a
lawyer and never see him again. In many instances it changed the attitude about the practice as
well, which led to a lot of problems which we are still trying to address discovery problems, professional courtesy. A different attitude developed.

Mr. Hitchcock: Let me follow up on that with a fast-forward. In your role as a magistrate judge, do you find it a problem periodically that you see a lawyer and then never see him again and can't, if you have a problem with him, deal with him beyond the one case?

Magistrate Judge Attridge: Yes. Oh yes, you do see that. We see a lot of new faces coming in all the time. As a magistrate judge, we handle a lot of the discovery aspects of cases. Some times it's difficult dealing with discovery problems when you don't know who is taking advantage of a situation, or who really has a good faith objection to some discovery. It's hard to fathom it out. I recently had a discovery matter in a discrimination case in which the lawyer wanted to take the deposition of the president of the Federal Reserve, a high-level position, responsible for thousands of employees. I had some difficulty ascertaining whether it was a question of harassing him individually or whether they really needed his testimony for the discovery purposes. In the discrimination cases sometimes it's hard to determine whether someone is taking advantage of the discovery process for harassing or whether they really need the testimony.

Mr. Hitchcock: Judge Attridge, you began practicing here in the mid-1950s, and I am sure you saw quite a number of judges in the district court. Let's talk about some of the judges whom you practiced before. One of the judges who I imagine was fairly senior when I began practicing was Judge Bolitha Laws, do you have any recollections about him?

Magistrate Judge Attridge: No, I don't. I know that he was a chief judge and was largely responsible for the construction of this building. What I know about it is mostly what I
have read. He was here before I started practicing. Judge Laws is given credit for being the architect of this building. He brought the building in under budget and, I think, ahead of schedule, which was a tremendous feat at that time or any other time for that matter. His plans for this building have stood the test of time for over the last 45 or so years, it has served the community very well. The courtrooms are excellent, way ahead of their time. The hallways have stone floors, are polished, and withstand traffic. The walls have are marble and require little painting and maintenance. It really held up very well, was well designed and served the community very well.

Mr. Hitchcock: Did they ever put in major renovations that you can recall? The courtrooms all look as if they were built in the 1950s.

Magistrate Judge Attridge: Well, all of the courtrooms were built at that time. Some of them look dated because of the blond wood. The only real problem has been the acoustics. The courtrooms are large and have high ceilings which makes it very difficult to hear. More recently the Security, Space and Facilities Committee of the Federal Judicial Conference promulgated a design guide for use in the construction of new federal courthouses. The dimensions of the new courtrooms are almost the same as our present courtrooms.

Mr. Hitchcock: Let’s talk about some of the other judges. Is there a judge you remember from early on, Judge David Pine in the district court? What do you remember about him?

Magistrate Judge Attridge: I remember him. I believe he may have been the chief judge when I first began to practice. He is remembered for having ruled that President Truman’s seizure of the steel mills during the Korean War was unconstitutional. I believe Judge McGuire
was the next chief.

Mr. Hitchcock: Did Judge McGuire handle many of the criminal matters?

Magistrate Judge Attridge: Well, that was before the individual calendar system and Judge McGuire as the chief judge was the administrative judge.

Mr. Hitchcock: I suppose that raises another question, which is to what extent is the job of the chief judge different now from what it is then.

Magistrate Judge Attridge: I think it is primarily the same. The chief judge is an administrative judge. He takes care of all the administrative problems that arise in running a courthouse this size. In addition to that, the chief judge is responsible for the grand jury proceedings. Any matters that arise before the grand jury that requires the judge's attention always go to the chief judge. If a witness declines to testify, if a prosecutor wants contempt proceedings or something of that nature, it goes to the chief judge. So he handles all matters arising out of the grand jury proceedings, which keep him very busy.

Mr. Hitchcock: What kind of presence do you remember Judge McGuire having in court? Was he a large man?

Magistrate Judge Attridge: Yes, he was with a very commanding presence. He had a good sense of humor, witty, and he controlled his courtroom. He was a dominant figure and a good administrator.

Mr. Hitchcock: How about Judge Henry Schweinhaut?

Magistrate Judge Attridge: Judge Schweinhaut was a very quiet man. He was never the chief judge. I believe his sister was a long time member of the Maryland State Senate and very active in affairs relating to the aged. She died here recently.
Mr. Hitchcock. Did you ever try any cases before him?

Magistrate Judge Attridge: Yes. But nothing stands out as very memorable. He was a very quiet man, a modest type of man. One of his contemporaries was Judge Holtzoff. He prided himself on resolving matters very promptly. Most of his opinions were dictated from the bench. He would come to the bench with an armful of books and quote from each as he dictated his opinion. He would first state the law and then a summary of the facts and his conclusion and dictate the opinion right from the bench. He was very, very fastidious in the courtroom. He ran a very, very tight courtroom. It would upset him to see lawyers or any one else sitting in the courtroom with their legs crossed. They had to sit upright in the court room. If anybody dared to read a newspaper, he would go into a dither and send the bailiff or deputy marshal down to instruct that person to get out of the courtroom. They would be taken by the shoulder and escorted from the courtroom.

Mr. Hitchcock: What was it like trying a case in front of him?

Magistrate Judge Attridge: It was the same thing. He didn't tolerate any delay. He moved matters along and was rather involved in the trial of a case. "Move on, move on, you have already asked that, keep things going." He was an interventionist judge in that sense, procedurally.

Mr. Hitchcock: What was he like physically?

Magistrate Judge Attridge: He was a very short man. He had pinched nose glasses that sat on the end of his nose which he looked over and looked down through to read. He was a diminutive figure on the bench and sat in a big chair. He was almost swallowed up by the chair, but he was very alert as to what was going on in the courtroom. He watched the courtroom very,
very closely. My colleague, Judge Kay, served as his law clerk, so I guess he would have more stories about Judge Holtzoff, as would some of the other judges around. Judge Paul Mannes, the bankruptcy judge in Maryland, also served as Judge Holtzoff's law clerk.

Mr. Hitchcock: Another judge who I think was a chief judge at one point was Judge Raymond Keech.

Magistrate Judge Attridge: Yes, Judge Keech and Judge Holtzoff were very close. At lunch time you would frequently see them taking walks together. They would go out and walk around the neighborhood. Judge Keech was very much a gentleman. He had served as Corporation Counsel here in the District of Columbia, then went on to the White House as assistant counsel to the president before being appointed to the bench.

Mr. Hitchcock: Yes, that would have been under President Truman.

Magistrate Judge Attridge: President Truman, yes. And Judge Keech was a very hard worker. Very prompt. He would come on the bench at 10:00 if he had matters scheduled at that time, whether anybody was in the courtroom or not. At 10:00 you could set your watch by him, he would come out and sit on the bench, if the lawyers were late, he would be sitting there waiting for them, he didn't wait until everybody was ready. He was ready, it was time to go out there, and I can recall instances when he sat by himself out in the courtroom waiting for people to come.

Mr. Hitchcock: Did that ever change any lawyers behavior if they sort of walked in there and found the judge already on the bench?

Magistrate Judge Attridge: Oh yes. Yes, it was very embarrassing to come in and find the judge already on the bench. Judge Keech liked to try cases. As a senior judge, before the
individual calendar, he would go through that calendar very rapidly, and as soon as that was
finished, he would call down to the assignment officer, Jim Greaver, to send up the next case. He
frequently tried four and five cases a week.

Mr. Hitchcock: Are there any that you remember that stand out from your recollection that you had before him?

Magistrate Judge Attridge: Yes, I tried a number of cases before Judge Keech, but I cannot think of anything unusual or outstanding. I do recall him being very prompt. He would take a midmorning break at 11:00 in the morning, a luncheon break at about 12:15 or 12:30 and back at 1:45 with a mid-afternoon break at 3:00 and recess at about 4:30. At that time most of the cases were not as sophisticated as now. If you were in trial and you had a deposition scheduled at 4:00, you would let the judge know, ask if he would recess a little earlier because of the deposition at 4:00, and at a quarter to 4:00 the court would generally recess to accommodate you. Following the recess, you would go outside and jump in the cab and whip down to your office to take your deposition. The depositions usually lasted about a half-hour to 45 minutes and that was it. Generally, if you were in trial, you would try to arrive at your office earlier in the morning and go through the mail, dictate letters and pleadings to your secretary and then leave for court.

Mr. Hitchcock: Did that ever cause a problem for you when you moved out to Maryland?

Magistrate Judge Attridge: No, by that time the court had adopted the individual calendar system so you could plan your schedule more accurately. The master calendar required lawyers to wait in the assignment room for a trial which may or may not go forward. A lawyer had to schedule depositions and other matters with out regard to trials because you were not sure
what day you may be reached for trial if you were required to wait in the assignment office for several days.

Mr. Hitchcock: A little earlier in talking about judges, you mentioned Judge Edward Curran, who I think was chief judge for the court for a time. What are some of your memories about him?

Magistrate Judge Attridge: Judge Curran was a very tough administrator as well. He ran a tight courtroom. As chief judge he was very much interested in the criminal calendar. After he took senior status, he became more active in handling civil cases. Judge Curran loved to settle civil cases. He developed a technique of shuttling back and forth between lawyers. He would put one lawyer for one party in one room and put the lawyer for the other party in the other room and shuttle back and telling each party how strong the other party’s case was and how weak your case was. Judge Curran was a hard worker. Even when his health wasn’t good, he would still come down to the courthouse and make his contribution. He had a reputation for being very tough on criminal defendants if the offense involved violence or a weapon. If convicted you could be sure that the defendant was going to get jail time. On the other hand if the offense was for a gambling conviction or numbers conviction, the defendant usually got probation.

Mr. Hitchcock: Do you remember what his practice was before going on the bench?

Magistrate Judge Attridge: He was a judge on the old Police Court, the predecessor to the Municipal Court, and then the U. S. Attorney for the District of Columbia.

Mr. Hitchcock: Interesting. There is another judge around the time that was
appointed not long after that, Judge Edward Tamm, who served on the district court for a number of years before being elevated to the D. C. Circuit. Did you have any cases before Judge Tamm?

Magistrate Judge Attridge: I can only recall one matter. Judge Tamm came out of the FBI. There was a lot of opposition to his appointment. The lawyers and the bar association felt that he just did not have the background and the experience to be a trial judge. But he was a very, very diligent worker. He worked hard. Every file he received he would read cover to cover and study. He made himself into an excellent trial judge. And, when elevated to the court of appeals, he was an excellent appellate judge as well. He had the reputation of being well prepared concerning any matter he was handling and knowing that file. Even as an appellate judge he would read every word in the briefs, look through every page of the transcript and the record on appeal. He asked very, very pointed questions of counsel in the course of an argument. He really knew his file. He was an excellent trial judge and excellent appellate judge.

Mr. Hitchcock: I would imagine he was probably in command of his courtroom at all times.

Magistrate Judge Attridge: Oh, yes. Again, not an overbearing man, but a man who would command and had a commanding presence. He was a witty fellow, a witty judge. We were talking earlier about other matters, and I recall I had a case in the court of appeals, one argument before a panel on which Judge Tamm served. It was a will contest case, and for some reason or other the lawyers began discussing a "paper writing." Judge Tamm got a big kick out that. "What other kind of writing would there be? Why the redundancy? Why not just a writing or a paper?" Judge Tamm had a quick wit.

Mr. Hitchcock: Picking up on one point, were there many instances where the bar
association got active in terms of opposing a particular nomination?

Magistrate Judge Attridge: Yes, the bar association was active in testifying on behalf of a nominee but very reluctant to testify against a nominee. Principally out of fear of retaliation in the event that the nominee ended up being appointed to the bench. The views of the local bar association really didn't carry a lot of weight before the Congress or with the White House. However, there were some instances when the local bar was very vocal in its opposition, one instance being the nomination of Judge Tamm. The bar felt strongly that he did not have the background or experience to be a trial judge.

Mr. Hitchcock: A general question about some of the judges. You have mentioned that some judges came to this court from the presidency of the bar association. I think one or two of the people were U.S. Attorneys, but what were some of the other ways that you remember people got to be judges in the court?

Magistrate Judge Attridge: Well some of them were former congressmen. Judge McLaughlin was a former congressman. I believe that after he was defeated for office he was appointed to this court. Judge Youngdahl was a governor of Minnesota before he was appointed to this court and some had held positions with the Justice Department.

Mr. Hitchcock: Do you remember anything else about Judge McLaughlin?

Magistrate Judge Attridge: I had a number of cases before him, and he always struck me as a very compassionate man, a very sympathetic man. He always wanted to see what he could do for somebody. I recall chatting with him in chambers at one time or other, just socially, and he had learned of my injury in the war and wanted to know whether or not I was being treated well by the government. He inquired if there was anything he could do on the
Hill for me. He was very sympathetic that way.

Mr. Hitchcock: How about in cases that you had when you were representing insurance companies, insurance defense?

Magistrate Judge Attridge: Well, he was very sympathetic, as I recall, to a plaintiff, because he was hurt and injured but, nevertheless, fair. That is why he struck me as a very compassionate man. He was very concerned about people.

Mr. Hitchcock: But in criminal cases I imagine some defense lawyers would have been happy to get in front of him in sentencing.

Magistrate Judge Attridge: Yes, I don't recall much in the criminal field, I don't recall the criminal cases that I had before him. But I am sure that the lawyers at the time had a book on him and knew which cases to plead before him, what type of case to plead before him.

Mr. Hitchcock: You mentioned that Judge Youngdahl who had been governor of Minnesota and then got appointed to this court which was I imagine somewhat unusual career progression. What do you remember about him?

Magistrate Judge Attridge: Judge Youngdahl was very aggressive. Most of my experience with him was while the master calendar system was in effect. He was the senior judge at the time. He liked to settle cases. He spent a good bit of time settling cases and tried to get them resolved without the necessity of a trial. He worked very, very hard at settling a case. He was known as a settling judge.

Mr. Hitchcock: Did he use the same technique, with one lawyer in one room and one in another?

Magistrate Judge Attridge: No, that was primarily Judge Curran's technique; he
was the one who pushed that a lot. But Judge Youngdahl would spend a lot time as I recall trying to get a case settled.

Mr. Hitchcock: What was it like if you took a case to trial in front of him?

Magistrate Judge Attridge: He didn't like it. He would be fair about it and the like, but he could not understand why a case couldn't be settled and why it had to be resolved by a jury. Why the attorneys themselves couldn't resolve some of these matters. I recall a criminal case I had with him. He was always very, very fair in that regard and my client, no it wasn't a criminal case, it was a civil case. My client was in prison in an unrelated matter. I didn't want him to appear before a civil jury in prison garb so I had made arrangements to have a suit, shirt and tie available for him. Prior to trial, I asked Judge Youngdahl if he would allow the client to change in the cellblock so he would not have to appear in prison garb. Judge Youngdahl was very sympathetic and directed the deputy marshal to take the clothing down to the cellblock and have the prisoner change into the civilian clothes. I understood the necessity of a marshal's presence in the courtroom, and since he was not in prison for a violent crime, Judge Youngdahl directed the marshal not to stand next to him during the trial, only in the well.

Mr. Hitchcock: Judge Burnita Sheldon Matthews?

Magistrate Judge Attridge: I did not have many cases with her. I can recall really only one case and I do not remember what it was about or what happened

Mr. Hitchcock: Was it unusual having a woman as a judge in those days?

Magistrate Judge Attridge: No, there were Judges Mildred Reeves, Catherine Kelly and Judge Barlow in the old municipal court and a woman judge in Montgomery County. I believe her name was Judge Lawlor.
Mr. Hitchcock: Judge Joseph McGarraghy. Did you have many cases with him?

Magistrate Judge Attridge: Yes, Judge McGarraghy was a senior judge in the days of the master calendar. He would try cases day in and day out taking cases from the assignment office. He and Judges Keech and Youngdahl were the stalwarts. Judge McGarraghy was very much of a gentleman. A very quiet man. He sat, listened and ruled generally with one word: "sustained" or "overruled." He was very knowledgeable in the law. I had a lot of success trying cases before Judge McGarraghy as I recall.

Mr. Hitchcock: Do you remember what he did before becoming a judge?

Magistrate Judge Attridge: I believe he was in private practice with the firm of Wilks and Artis. He was also president of the Bar Association of the District of Columbia.

Mr. Hitchcock: Was he sort of a large man?

Magistrate Judge Attridge: No, he wasn't very tall and moderately heavy. He had a pleasant, handsome face with silver grey hair. He was very firm and fair in the courtroom. When he ruled you didn't argue with him in an attempt to get him to change his mind.

Mr. Hitchcock: One of the most famous judges, I guess, to the general public from this court is Judge John Sirica of Watergate fame. What do you remember about Judge Sirica? He had an active career before going on the bench.

Magistrate Judge Attridge: Judge Sirica, I can recall him very vividly. He ran a tight ship, particularly on criminal cases. I had a number of cases with Judge Sirica. He was an easy going man, but he was tough on continuance of cases set for trial. Some of the judges would continue rather readily. At that time there was about a 4-year backlog of cases. As chief judge, he tried to dent that backlog and was tough on continuances. I recall one occasion when I needed a
continuance because a witness I needed had left the country. I wanted to take a de bene
deposition. He denied my motion. We were off the record at the time, so I told him, I said,
"Judge, I want to go on the record and proffer my reasons for a continuance." He said, "Okay,"
and my opponent was there, we were in chambers. Judge Sirica summoned his court reporter into
chambers. He listened to me, changed his mind and granted my continuance.

Mr. Hitchcock: Was he a very active trial lawyer here in town before going on the
bench?

Magistrate Judge Attridge: Yes, I believe he was with the firm of Hogan &
Hartson. He had a very remarkable career. As a young man, he was an amateur boxer in the
Washington area and while practicing law he was very active in politics.

Mr. Hitchcock: His successor as chief judge was Judge George Hart, who had
been an active member of this court for a number of years, too. What are some of the things you
remember about him?

Magistrate Judge Attridge: Yes, Judge Hart had a military career in World War II.
There was no nonsense with Judge Hart. He ran a very tight courtroom. I don’t recall trying any
cases before Judge Hart.

Mr. Hitchcock: One of the things I think people had not realized is that he did
some of the art work in the judges dining room, the sailboat art.

Magistrate Judge Attridge: He was afflicted with arthritis in the joints of his
fingers and in his hands. As therapy for this disease, Judge Hart constructed model boats out of
colored glass and wire. They are beautiful works of art which he displayed in wall mounted
frames in the judges dining room.
Mr. Hitchcock: That is very impressive artwork upstairs in the judges dining room. How about Judge Leonard Walsh?

Magistrate Judge Attridge: Judge Walsh was the chief judge in the old municipal court. I tried my first case before him when he was on that court. As chief, he was a very good administrator. He worked very hard to try and reduce the backlog of cases in that court. I recall while trying a case before him in this court, he really upset me. I was cross-examining a witness and successfully impeaching her with her prior deposition which was inconsistent with her in-court testimony. Toward the end of the day, Judge Walsh interrupted and inquired, in front of the jury, whether the witness had read her deposition before testifying. When the witness responded that she had not, Judge Walsh exclaimed, "You mean the lawyer did not go over the deposition with you?" He then admonished her to go home and read the deposition overnight and return to testify the following day. He recessed for the day and called counsel to the bench to admonish that the case had to be settled right now. I felt that his comments before the jury had undermined my cross-examination I felt the jury would be sympathetic toward the witness because the lawyer failed in his job to adequately prepare her, so the case was settled then and there. In his later years, Judge Walsh developed vision problems. He required jury instructions to be printed on large cards so as to be able to read the instructions to the jury. He had played football in college and had a very athletic build. He had a strong, firm handshake.

Mr. Hitchcock: He was a judge for a number of years, I recall.

Magistrate Judge Attridge: Yes, Judge Walsh served on the district court bench a number of years. Judge William Jones served at about the same time as Judge Walsh. He also had been president of the bar association. I didn't appear before him very frequently. Judge Kay,
my colleague, served as law clerk to Judge Jones immediately after he completed his clerkship with Judge Holtzoff. As chief judge, Judge Jones was an excellent administrator.

Mr. Hitchcock: How about Judge Howard Corcoran?

Magistrate Judge Attridge: During my practice, Judge Corcoran served as a senior judge. He handled a lot of the civil caseload. Judge Corcoran was a very kindly man. His prejudgeship practice, I believe, was primarily lobbying. Although he did not have much trial experience, he turned out to be a very fine trial judge. He was a very considerate man without any flamboyancy. He wasn't dominating. He would quietly listen and then rule. He was very much of a gentleman on the bench. I had a number of cases before him. I can recall one involving a medical malpractice insurance policy. Several so-called doctors purchased a medical malpractice insurance policy to protect them while engaged in the practice of medicine. They had established a very large and successful practice dealing with weight reduction treatment. As it turned out none of these individuals were bona fide physicians. One had worked as a X-ray technician in Far Rockaway, New York. Another had worked in a physician's office. Ultimately, medical problems arose and they were sued for malpractice. Their practice was in Prince Georges County, Maryland. One wanted to obtain reciprocal privileges in the District of Columbia. A member of the staff of the D.C. Licensing Board noticed the application sitting on a desk. Attached to the application was a photo of the applicant. This staff member knew the applicant socially in New York as an X-ray technician. He reported this information to his supervisor and that is how they were found not to be bona fide doctors. My case was on behalf of the insurance company which sought to have the insurance policy declared void because of false and fraudulent information on the policy application form. Judge Corcoran entered a declaratory judgement in our favor.
Mr. Hitchcock: He should have stayed in Maryland.

Magistrate Judge Attridge: Yes, they were prosecuted and convicted of fraud by Seymore Glanzer, Assistant U.S. Attorney for the District of Columbia. I believe Earl Silbert was the U. S. Attorney at the time. Investigation disclosed that these individuals claimed that they graduated from the University of Guadalajara in Mexico. They had nicely framed diplomas from that university. During the course of his investigation Ted Glanzer went to the university and found out that they had never attended that university and that the diplomas were obtained from some mail order house. They were convicted and sentenced to a substantial jail time by Judge Corcoran.

Mr. Hitchcock: So you did the civil case and that was before the criminal case?

Magistrate Judge Attridge: Yes, but both cases were ongoing at the same time.

Mr. Hitchcock: Judge Attridge, at this point we start to get some judges with whom you served here on the district court. One appointee is Judge Oliver Gasch, who was appointed in the mid-'60s and he is still serving today. Did you practice much before Judge Gasch before you went on the bench?

Magistrate Judge Attridge: Yes. Judge Gasch is still with our court and has been serving for a long time. I had a number of case that I tried before Judge Gasch. My first recollection of Judge Gasch was back before he came to the bench, when he was a U.S. Attorney, and I was a young lawyer. I applied to him for a job. He didn't hire me, and I bring it up to him every now and then. I said, "You really know how to rub salt in a guy's wounds. First you wouldn't hire me and then 25 years later you hired my son as your law clerk. I wasn't good enough to work for the U.S. Attorney's Office." He laughed about it, and he had some reason or
excuse why he didn't hire me, which he continues to tell.

Mr. Hitchcock: Was it one of those $10,000 a year jobs you heard about before getting out of law school?

Magistrate Judge Attridge: Yes. Judge Gasch and Judge Bryant came on the bench at the same time. I think they started on the same date, one right after the other. Judge Gasch never made chief judge. Judge Bryant had seniority by a few hours, he became the chief judge. But yes, I tried a number of cases before Judge Gasch. He was a very fine – and still is a very fine – trial judge. Not too many years ago, he volunteered to help me when two of my colleagues were off and unable to work. Judge Robinson was on maternity leave, and Judge Dwyer was out on medical disability. I had made arrangements long before that and scheduled 125 teamster hearings in a discrimination case. We were going to do so many a day. I was committed to that. So there was no one to cover the day-in and day-out criminal responsibilities of a magistrate judge. Judge Gasch volunteered to serve as a magistrate judge. He asked me what he had to do. I gave him some notes to guide him. He did a wonderful job. He came down to my courtroom and went on the bench every day for the better part of a month. He did all preliminary hearings and detention hearings and signed warrants and everything else while I was able to proceed with the teamster hearings in another court. Judge Gasch was a wonderful fellow. I was very close to Judge Gasch in a lot of ways.

Mr. Hitchcock: He would have been in his 80s then?

Magistrate Judge Attridge: Yes. He volunteered. He said to the chief judge, "I'll go and work as a magistrate judge if they need help." He was always ready, able and willing to help out in any way the court needed help. He always did a wonderful job.
Mr. Hitchcock: I imagine the prosecutors and the criminal defense lawyers must have been a little surprised to see him sitting on the bench?

Magistrate Judge Attridge: Yes. On one occasion we sat here in chambers before he took the bench and he inquired, "How am I doing?" I said, "Very well from what I hear, you are doing very well." He was a very fine man and an excellent trial judge.

Mr. Hitchcock: Do you remember any cases you had before him as a trial judge?

Magistrate Judge Attridge: Yes. I distinctly remember one very tragic case. It was a death case that took place during the construction of a new building. A worker had fallen through an opening in the roof and was killed. His estate brought a lawsuit against the university for damages. Although we were held liable I prevailed on a third-party claim against the roofing contractor for indemnification. Judge Gasch tried that case. I also recall a case I tried before Judge Bryant. I reminded him of it recently at a dinner. The judges were telling war stories and I said "I have one for you." I represented the Pennsylvania Railroad system in a suit against it and the Western Electric Company. The plaintiff in the case had sustained a severe leg injury when a switchboard he was attempting to unload from a freight car fell on him. At the conclusion of the plaintiff's case I moved for a directed verdict and stated all the reasons why the plaintiff had not made out a case sufficient to go to the jury against the Pennsylvania Railroad. Judge Bryant sat quietly and at the conclusion of my argument reluctantly granted my motion. I immediately left the courtroom and returned to my office. I was surprised at his ruling because Judge Bryant did not usually grant directed verdicts. I had a gut feeling that he would change his mind over the lunch hour. I told my secretary that I was going to the park across the street - McPhearson Square where I would do some work and if anyone telephoned, I had left for the day. I had no sooner
said that when Judge Bryant’s law clerk telephoned to say that Judge Bryant wanted me to return after lunch. When he came on the bench he informed me that he had changed his mind and was denying my motion. Not only that, but he allowed the plaintiff to reopen his case and attempt to fill in all the deficiencies I had pointed out. I was furious but there was nothing I could do. In the long run the jury found in my favor so no harm was done. Judge Bryant said, "Did I do that?"

Mr. Hitchcock: That was a good story.

Magistrate Judge Attridge: We had a good laugh about that.

Mr. Hitchcock: Did he ever say later on what caused him to change his mind?

Magistrate Judge Attridge: No, and he never even recalled the incident.

Mr. Hitchcock: He was new on the bench then?

Magistrate Judge Attridge: No, he had been on the bench for some period of time. That’s why I was surprised because granting a directed verdict was contrary to his track record so I was very surprised. He was always a very hard worker; a very studious man who looked at issues from all angles. He was very concerned about administering justice and not just resolving matters expeditiously. He still comes to court every day and is making significant contributions.

Mr. Hitchcock: He is now in his mid-80s and still hearing cases?

Magistrate Judge Attridge: Yes. Judge Gasch just turned 91, so Judge Bryant must be in his mid-to-late-80s.

Mr. Hitchcock: Let me go back a second to something you said about Judge Gasch and when he was a U. S. Attorney when you were getting out of law school. How large was the U.S. Attorney’s Office then, do you recall? It’s like 200 lawyers nowadays.

Magistrate Judge Attridge: They serve both the old municipal court and this
court. I think there were less than 100 lawyers. I'd say probably between 60 and 75. I recently saw a picture of Judge Gasch and his assistants many of whom were later appointed to the bench. Judge Tom Flannery of this court and Judge Joe Ryan in the Superior Court were Judge Gasch's assistants, as were Judges Austin Fielding and Catherine Kelly who served on the D.C. Court of Appeals. Judge John Doyle, Judge Fred McIntire and Judge Al Burka served on the Superior Court. All were on Judge Gasch's staff at the time the picture was taken. The U.S. Attorney's Office was very much smaller than today's office. Positions were very tough to come by. Jobs were tough to get.

Mr. Hitchcock: You were talking about Judge - I'm sorry - you were going to say something?

Magistrate Judge Attridge: I was going to add that Judge Gasch's during remarks at my recent retirement dinner, said he wanted to hire me, but the assistant in charge of the municipal court branch at the time didn't want to - he said he really wanted to hire me, but the assistant, his principal assistant, in the municipal court at the time said, no, all of the assistants over there said I was too aggressive. Judge Gasch added that was because I was beating them in all of the criminal cases over there. The assistants said that if he hires me and I go to work over there, he's going to lose a lot of his staff. I said, "Well, I guess I was somewhat aggressive." I had just left the Army after being trained and served as an infantry combat platoon leader for several years. I guess they were right I probably still had a little aggression in me.

Mr. Hitchcock: You'd think that the U.S. Attorney's Office would want an aggressive prosecutor.

Magistrate Judge Attridge: Yeah. (laughter) You can never tell.
Mr. Hitchcock: Another judge who came on the bench about the same time as Judge Gasch and Judge Bryant was Judge John Smith.

Magistrate Judge Attridge: Yes. I knew Judge Smith. He started out in the old municipal court. He was appointed shortly after I started practicing, around 1957. Judge Smith was very, very much of a gentleman. He served on the municipal court bench and became chief judge. He was elevated to this court and served here for many years and became chief judge of this court. Judge Smith was a fine judge. He was very quiet, but decisive. He would sit and listen, and after he had listened and everyone had had his say, he would rule. He was very decisive and didn't allow anyone to continue to quibble with him. He ruled and that was it.

Mr. Hitchcock: He was chief judge over in superior court or general sessions before he moved over here?

Magistrate Judge Attridge: He was. He was appointed on the municipal court bench, I believe in 1957. Judge Walsh had been the chief, and then Judge Walsh moved over here, and I think Judge Smith took his place as chief over there. I don't recall how long he served before being appointed to this court. While he was serving on this court I had a number of cases with him. One particular instance I remember involved a probate matter – as I mentioned earlier, in return for doing appointed criminal defense cases lawyers from time to time were assigned probate matters. Lo and behold I was assigned as guardian to Judge Smith's minor children. His wife had passed away leaving her estate to him. His children, of course, had a statutory interest if they desired to assert it. I was appointed to advise them of their statutory rights. I arranged to meet with the children at Judge Smith's home one afternoon. Lew Smith, the judge's oldest son who also is a lawyer, was present.
Mr. Hitchcock: In his 20s or 30s?

Magistrate Judge Attridge: Yes. I had known Lew before that time. The judge had several young children who had not reached maturity. We chatted and I returned to my office and made my report to the auditor-master. I also spoke with Judge Smith.

Mr. Hitchcock: Was he still an active judge when you became a magistrate judge?

Magistrate Judge Attridge: He was the chief judge up until shortly before I came to the court. Several months before I arrived he stepped down and took senior status. Judge Aubrey Robinson was the chief when I came here. The transition took place shortly before I came here. One case I had with Judge Smith comes to mind. Back in the 1960s a criminal defendant became very renowned in this area. His name was Dallas O. Williams and he was known as the "Badman from Swampoodle."

Mr. Hitchcock: Swampoodle?

Magistrate Judge Attridge: Swampoodle is a section of the city in the area of North Capitol and K Streets. Dallas O. Williams was alleged to be a very violent man particularly when he was drinking. On one occasion he allegedly beat a couple of people with a car jack handle killing them. He was indicted and while his case was pending he was detained in D.C. jail. At that time the jail was undergoing renovation and Williams was put to work assisting some of the subcontractors. While carrying sheetmetal for the air conditioning ducts, he said he injured his back. He was transferred to the lock ward at the hospital and treated for his back injury. He contended that the doctors worsened his condition so he sued D.C. General Hospital as well as the contractor and some of the subs. My client was the air conditioning subcontractor. Dallas O.
Williams was no stranger to litigation. On more than one occasion, while acting pro se, he filed suit to address a grievance. He was literally a jail house lawyer. He was familiar with preparing a complaint and wrote them in long hand in pencil. The complaint he filed on this occasion went on for seven or eight pages and concluded with the ad damnum clause, "Wherefore the premises considered, the plaintiff demands judgement against all defendants in the sum of $100,000 cash, no checks." (Laughter)

Dallas didn't trust anyone. The criminal case went forward before Judge Walsh. He was found guilty and sentenced by Judge Walsh to two consecutive life terms. Because he was a high risk prisoner he was assigned to serve his sentence at the Ft. Leavenworth prison facility. In the meantime his civil case was still pending. This was in the days when the master calendar system was still in use and the "ready for trial" praecipe had to be filed before a case could be placed on the trial calendar. Status calls were held every 6 months, but no one wanted to bring him back to court because of security implications. Finally after 6 or 7 years, the clerk's office dismissed the case for want of prosecution. Lo and behold, Dallas got out of prison under some statutory provision notwithstanding a sentence of two consecutive life terms and found that his case had been dismissed. Undaunted, he filed a motion to reinstate which was assigned to Judge Smith. Judge Smith called me and asked if I remembered Dallas O. Williams. I said, "Indeed I do."

"Well," replied Judge Smith, "he is out of jail and has filed a motion to vacate the dismissal of his suit. I want you to handle it." The court file had been archived at the Federal Records Center. Several months prior to Williams' motion someone had the file retrieved from the records center. I told Judge Smith that I had been a lawyer for one of the defendants and therefore it would be inappropriate for me to handle it but that I would compare the file with my file, which I had in
storage in my attic, to see that nothing was missing from the court record. Everything was in tact.

Judge Smith denied the motion to vacate. I believe Williams appealed that ruling which was 
affirmed by the circuit court.

Mr. Hitchcock: I'm surprised that he never followed up on the case while at Ft. 
Leavenworth.

Magistrate Judge Attridge: As I recall he never made an inquiry before his release 
from prison. None of the court officials here would bring him in from Leavenworth because of 
security concerns.

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Mr. Hitchcock: This is July 24, 1997. We are in the Chambers of Magistrate Judge Patrick Attridge. Judge Attridge, when we broke off last time you were telling us something about the judges in the district court before where you practiced during your career as a trial lawyer. There are some other judges too that we didn't get a chance to talk about yet. I was wondering if you had any recollections about Judge Gerhard Gesell who was on the district court here from I guess the late '60s until the early '90s.

Magistrate Judge Attridge: I tried some cases before Judge Gesell and also handled some motions for him after I was appointed. Judge Gesell had the ability of being able to get to the heart of an issue quickly and resolve it promptly and decisively. I can recall a case involving a linotype machine in use at *The Washington Post*. The machines would spill off fragments of lead which fell to the floor. A linotype operator for the *Post* slipped on some of these chips, fell, and hurt his back. He brought a products liability case alleging that the machine was defectively designed. A so-called expert witness, a jack-of-all-trades testified that in his opinion the machine could have been better designed. He never had any experiences with these machines and really didn't know anything about them. We went to trial before Judge Gesell, and the expert witness for the other side testified how his better mousetrap would work. In preparation for the case, the manufacturer learned that the original designer of this machine was still alive and was ready, able and willing to testify. He came to the District of Columbia from some area in the midwest. He had long since retired, and he was a man, in his upper 80s at the time. He was very alert, very spry. I had this witness rebut all the design changes that the other side's expert had recommended, and testify why the proposed changes wouldn't work. The witness utilized a book, a history of linotype printing, and on one of the pages of that book there
appeared a picture of this elderly man with the machine. The book was very old and the picture was of a very young man. Judge Gesell looked at that and listened to his reasons in support of his opinion and concluded that he had made an error in allowing the other side's witness to testify as an expert. He found that the witness was really not an expert in the field, was not knowledgeable about the subject matter and was not otherwise qualified to testify. He struck all his testimony and directed a verdict for the manufacturer. Judge Gesell would go to the core of an issue and resolve it.

Mr. Hitchcock: Did you have many dealings with him in terms of matters that were referred to you once you went on the bench?

Magistrate Judge Attridge: Yes, I did. I had a number of matters that he referred. I do recall one story involving Judge Gesell and myself. He had made a training videotape for the Federal Judicial Center regarding case management. Judge Gesell was an excellent case manager. He had one of the lowest numbers of pending cases on his docket among all the judges. He was able to move his cases but still give the lawyers sufficient time to engage in discovery and prepare for trial. One Friday afternoon he called and said, "Come on up, I want to see what you think of this videotape." We sat in his chambers watching the video on case management. At the conclusion he said, "What do you think?"

Mr. Hitchcock: Another judge you talked about is Judge John Pratt, who served a number of years.

Magistrate Judge Attridge: Yes. Judge Pratt was on the bench for a long period of time. As I mentioned in one of our sessions, Judge Pratt was very instrumental in developing and putting into place the individual calendar assignment in this court. He was in the forefront of that
project. He felt strongly that an individual judge should be responsible for his own calendar which would enable him to better manage a case rather than have a single case handled piecemeal by any number of judges. I don't recall any matters that I tried before him. I remember one matter which I handled once I came to the court. It was a case that Judge Pratt had tried, a federal tort claim case, involving a reputed drug dealer who was approached by law enforcement officers at National Airport. The alleged drug dealer was in his car supposedly attempting to flee when shot in the course of a scuffle. He alleged that one of the officers had used excessive force while arresting him and that there was no need for him to have been shot. The officers had a different story. They contended that one of the agents attempted to reach in to turn off the ignition or something of that nature, and that the alleged drug dealer rolled up the window catching the agent's arm and, while trapped, sped off dragging the agent with him. The agent said he had no resource other than to shoot the driver. The plaintiff obtained a similar make and model car from a junk dealer; had it cut in half lengthwise and brought it into the courtroom before Judge Pratt in this non-jury case and was able to satisfy him that the incident could not have happened as the law enforcement officers contended. Therefore, he found in favor of this plaintiff who had been rendered paralyzed from the waist down by reason of his injury.

Mr. Hitchcock: It must have been interesting to watch them get half the car in the courthouse.

Magistrate Judge Attridge: Anyway, everyone was concerned about the damage award. They all believed that this plaintiff was involved in illegal drug sales and therefore didn't want to give him a lot of money that he would be able to use to acquire a larger inventory of drugs to distribute. Judge Pratt asked if I would meet with the lawyers to see if we could settle
the case. Counsel and I discussed it and were able to resolve matters by creating a trust fund that would buy him a house with ramps, provide for medical attention, and a hand-operated automobile. The agreement also provided that if he sold any of these goods, the proceeds would go back into the trust fund so he wouldn't realize any money from the sale. All the parties and lawyers agreed to these terms and we did get it resolved without the necessity of Judge Pratt dealing with the money damage aspect of the case.

Mr. Hitchcock: Did it take a while to work out that kind of a settlement?

Magistrate Judge Attridge: Yes, it took a number of sessions before we were able to come up with the concept and agree upon the details.

Mr. Hitchcock: Another judge with whom you have worked and knew a little bit of practice is Judge June Green who was appointed in the late '60s and is still an active member of the court.

Magistrate Judge Attridge: Judge June Green was in active practice before being appointed to the bench. At one time Judge June Green and Judge Joyce Green practiced together. I don't recall any cases with Judge June Green. I do recall having a case with her before she was appointed to the bench. We didn't get very far into the case, none of the discovery phase, before she was appointed to the court. I recall one embarrassing incident in a case I had before her for a scheduling conference. I had looked at my appointment calendar quickly and believed the conference was before Judge Joyce Green. Upon arrival at the court I went to Judge Joyce Green's courtroom. I sat in the courtroom for the better part of an hour while Judge Green attended to other matters on her calendar. At the conclusion of her scheduled matters, Judge Joyce Green inquired why I was there. I told her I was there for a scheduling conference. "You
don't have anything before me," she said and directed her court clerk to check the dockets to see what judge had my case. I was embarrassed to learn I was supposed to be before Judge June Green so I went running off to her courtroom to find her sitting in an empty courtroom with her staff waiting for me. I apologized profusely. She realized it was unintentional, although she didn't like to be confused with her name sake. She was very good about it.

Mr. Hitchcock: Let me ask you a general question. You mentioned that Judge June Green was counsel for another party in a case you had before she went on the bench. Were that many women trying cases when you were in practice? The reason I ask is that one of the changes in the profession over the last 20 or 30 years is a great growth in the number of women who are lawyers these days. Were there that many women who were trying cases as you were coming up?

Magistrate Judge Attridge: No. There weren't very many women. Judge June Green, Judge Joyce Green were some of the few women in this jurisdiction I remember, as well as my former colleague Judge Jean Dwyer. They were the only ones who were really active in litigation in this community that I can recall. They weren't thought of any differently than anybody else, as I recall. They were very, very competent and had the respect of other lawyers. You didn't think it unusual that there weren't any women lawyers. I don't know the general feeling, but my reaction at the time was that women weren't interested in the law, it didn't have an appeal to them. The wife of a college classmate of mine dropped out of law school because she didn't care for it. Law at that time was much different than it is now. In some respects very mundane, contract battles, tort cases and criminal cases were about the extent of the litigation matters unless you were with a so-called large firm, then you may get exposed to an antitrust case
which may last 10 or 15 years. It was perceived that women didn't like that type of practice. It wasn't until the 1960s with the passage of the numerous statutory claims and the creation of a much different litigation practice that women appeared to have developed an interest in the law.

Mr. Hitchcock: Before we turned on the tape you were telling me a story about Judge Barrington Parker who was one of the noted judges in this court, who had a number of high profile cases over the years. What do you remember about some of your appearances before him?

Magistrate Judge Attridge: I remember one case in particular that I had with Judge Parker. It was a very tragic case involving a young man who was killed in an auto accident. The accident happened at the corner of 16th and I Streets NW. The decedent, a 26-year-old Georgetown undergraduate student was working on Metro subway construction on the 4:00 to midnight shift. He was married with a couple of children. At about 6:00 p.m. one evening in the late spring, he was placing saw horses in the street around a hole which had been dug by Metro workers; at about the same time a large concrete truck, also engaged in Metro construction, proceeded eastbound on I Street intending to turn right on 16th Street. As the truck made its turn, the decedent was struck and dragged under the rear tandem wheels. I represented the owners of the concrete truck and the driver. It came on for trial before Judge Parker. At the conclusion of trial, the jury found in favor of the defendant. Judge Parker was very upset with that verdict. He granted a new trial on the grounds that he had committed a legal error in allowing certain testimony in evidence. During the time we were awaiting a new trial, Judge Parker was involved in a very unfortunate auto accident as a result of which he lost a leg. He filed a personal injury suit for money damages and was represented by one of the members of our bar. I was very
concerned about retrying my case before him knowing that he himself had a pending personal injury case for the catastrophic injuries that he sustained.

Mr. Hitchcock: He got around his courtroom with braces?

Magistrate Judge Attridge: With crutches. After he had made his recovery, he returned to the bench. However, he adopted a ritual for entering the courtroom. Everybody was assembled in the courtroom before he came on the bench. The jury was in the box; the lawyers were at counsel table and the spectators seated in the courtroom. As the marshal intoned, "All rise," Judge Parker entered on crutches walking on his one remaining leg. As he reached the bottom of the stairs going up to the bench, he looked straight ahead, took his two crutches, put them in one hand and held the crutches behind his back. It was the marshal's responsibility to take the crutches from him as he proceeded to grasp both handrails, hop up one step at a time until he reached the top. He would retrieve the crutches and proceed to his seat. All the while, the jury, counsel and the spectators remained standing mesmerized by the sight. You could not help but have tremendous sympathy for him and for the courage he displayed. But as defense counsel I was very concerned with the sympathy being generated because my case had overwhelming sympathetic appeal as well. I was fearful that the cash register would ring and ring. I could just see those dollar signs adding up as the jury watched the ritual. But, we tried our case the second time before him and a jury and when we reached the point where the evidentiary issue he relied on to grants a new trial arose, he ruled the same way he had originally. Again the jury returned a verdict for the defendants. We eventually went to the court of appeals on that issue and others. That court affirmed the judgement. Every time I saw Judge Parker thereafter he went out of his way to remind me how lucky I was to get a verdict the second time.
Mr. Hitchcock: He had been in an auto accident as well as I remember.

Magistrate Judge Attridge: That's how he lost his leg. He was a very courageous man and a fine judge. He ran a very tight courtroom. He was a stickler for decorum in his courtroom.

Mr. Hitchcock: Did you have very many cases with him when you became a magistrate judge? Did he refer much to you?

Magistrate Judge Attridge: He died not too long after I came to the court. I remember handling several cases for him and we had some discussions about some other matters. On more than one occasion he called me to come up to his chambers to talk with him informally about one thing or another.

Mr. Hitchcock: There is another judge who came on the court here around the same time who had a reputation for having good control over his docket as well, Judge Charles Richey. You knew Judge Richey back in private practice and again here on the bench.

Magistrate Judge Attridge: I knew Judge Richey before he went on the bench. Judge Richey's office was on the next block from my office. Back at that time, a number of lawyers in the area of our offices met in the morning at about 10:00 or 10:30 for coffee in the drugstore in the Investment Building at 15th and K Streets NW. We had a regular coffee club and would meet most mornings of the week. Of course, after Judge Richey was appointed to the bench I didn't see him with such frequency. But after I came to the court, I again saw him on a more frequent basis. Judge Richey was very concerned about moving cases along. He maintained one of the lowest, if not the lowest, pending caseload in the court. He was able to talk counsel into consenting to proceed before a magistrate judge. He was a tremendous source of referral of
cases that magistrate judges tried.

Mr. Hitchcock: Another judge who came on the court a little bit later was Judge Louis Oberdorfer, who joined the court in 1977. He is still active as a senior judge. Did you have any cases before Judge Oberdorfer?

Magistrate Judge Attridge: Yes, I had several cases before Judge Oberdorfer. I recall one which took place shortly after he came on the bench. My opponent, a very successful lawyer, had the habit of standing up, together with his client, every time the jury came in the courtroom. Judge Oberdorfer usually had the jury seated in the box and ready to go before he came on the bench. When the jury was being brought into the courtroom before the judge took the bench, my opponent would get up, stand and smile at the jury, etc. That had not been the practice in this jurisdiction before that time, although I have seen it utilized more and more now, lawyers are jumping up every time the jury comes in and goes out. But, as I say, at that time it wasn't the practice to do that, and after a morning of this I asked Judge Oberdorfer if it was his practice to have the lawyers and their clients stand when the jury comes in and leaves the courtroom. He said he had no preference. So this went on for a couple of days, my client and I remaining seated while my opponent and his client rose and smiled. Finally Judge Oberdorfer understood what I was trying to convey, so he ruled that thereafter counsel would remain seated when the jury comes and goes, only when the judge comes on the bench need the parties rise. I had another interesting case involving a prominent former member of the United States Senate who represented his daughter in a case of first impression, a claim for wrongful life.

Mr. Hitchcock: You were representing who in that case?

Magistrate Judge Attridge: An ob-gyn physician who had performed a birth
prevention procedure only to have the woman conceive and give birth to a little girl. The woman sued claiming the doctor should pay the costs of raising the child. Judge Oberdorfer found that there was such a claim as wrongful life and allowed the case to be heard by the jury which promptly found against my client for a substantial amount of money including the future costs of raising the child. In a post verdict opinion, Judge Oberdorfer disallowed the money damages for raising the child and limited the damage award to the expenses connected with the pregnancy and birth of the baby as well as for pain and suffering the mother incurred during pregnancy and birth. Our circuit, on appeal, affirmed.

Mr. Hitchcock: Didn't the D.C. Court of Appeals, as opposed to the circuit court, subsequently rule the opposite way?

Magistrate Judge Attridge: Yes, a number of years later the same issue arose in the local court and, since the court was dealing with a common law claim and therefore not bound by the circuit court of appeals opinion, found there was no such cause of action, but this didn't help my client.

Mr. Hitchcock: We were talking earlier about some judges who came to this court having served on the Superior Court. One of those was Judge Harold Greene who has been the chief judge in Superior Court, whom I understand you tried cases over there before, and worked with over here as well.

Magistrate Judge Attridge: Judge Harold Greene and a number of judges from the Superior Court came to this court at about the same time. Judge Harold Greene, Judge Jack Penn, Judge Joyce Green, Judge Norma Holloway Johnson all came from the Superior Court at about the same time. Judge Greene had been the chief judge over there following Judge Smith's
elevation to this court. I had several cases as a lawyer before Judge Greene, though I can't recall anything that stands out in my mind now. Since being appointed here he regularly referred civil cases to us for discovery and pretrial. I worked very closely with Judge Greene on those matters.

Mr. Hitchcock: Judge Greene is probably best remembered in the popular mind as the AT&T judge. Did you get any of those matters?

Magistrate Judge Attridge: Affectionately known as “Papa Bell.” (laughter) No, nothing to do with the antitrust case.

Mr. Hitchcock: You mentioned a moment ago, Judge Norma Holloway Johnson, who recently became the chief judge of the district court here and who was on Superior Court first, and I think before you were telling me a story about, a case you had before her in Superior Court.

Magistrate Judge Attridge: Yes. The case involved a very serious claim against American University. A young student had returned to the campus after a Friday night out and began playing frisbee with a friend on the mall in front of a dorm. The frisbee sailed behind some bushes located next to the staircase leading into the dorm. Behind those bushes were air handling units over a large concrete shaft. The shaft helped move air in and out of the dorm. Beneath the air handlers and covering the shaft were steel grates but unbeknownst to anyone, one of the grates was missing. The young man sought to retrieve the frisbee by climbing in the dark under the air handlers and fell down the open shaft. The family brought a wrongful death claim against the university. They were quite wealthy. The grandfather was the founder of the Checker Cab Motor Corporation and his father was the president of the corporation. The decedent was being trained to take over responsible positions with the corporation. The economist projected the loss of
future earnings to be very substantial. It was a very sympathetic case and one of high monetary exposure. The jury returned a verdict for the defendant university. After I arrived in this court Judge Johnson asked whatever happened to the case. She knew an appeal had been filed but never saw any reported decision. I told her the case had been settled for a nominal sum after the appeal had been filed.

Mr. Hitchcock: Judge Attridge, let me put you on the spot. You have been talking about several dozen judges that you appeared before. You tried probably dozens if not hundreds of cases in the Superior Court as well as this court. Among the judges whom you appeared or worked with, who would you say stands out as probably the two or three great judges you remember?

Magistrate Judge Attridge: That's a difficult question. I know I looked upon certain judges as role models whom you would attempt to imitate and among them I would rank Judge McGarraghy, Judge Keech, Judge Gasch and Judge Gesell as great trial judges whom I tried to emulate. All ran quiet, dignified courtrooms. All sat and listened and intervened only when required. Each let the lawyers try their own case.
Mr. Hitchcock: It is July 30, 1997. We are again in the chambers of Judge Patrick Attridge. Judge Attridge, the last time we talked a lot about the judges primarily of the district court before whom you practiced. I'd like to talk today a little bit about your experience in the 1980s and 1990s including your career on the bench. First of all I note in your biography that in 1980 you switched law firms and joined the firm of McCleay, Lynch, Bernhart, Gregg and Attridge. How did that come about?

Magistrate Judge Attridge: My firm was located in Rockville and we did a substantial amount of work in the District of Columbia. McCleay, Lynch was in the District of Columbia and Virginia. Some of our practices overlapped but McCleay, Lynch also practiced in other fields in which I had an interest. We believed our two firms could blend easily without too much disruption.

Mr. Hitchcock: What were some of the new fields in which you got involved?

Magistrate Judge Attridge: Engineering, architectural and attorney malpractice litigation, as well as some administrative law matters.

Mr. Hitchcock: And you continued there for several more years before going on the bench?

Magistrate Judge Attridge: Yes. In December 1982, Larry Margolis, my predecessor here at the court, was appointed to what was then known as the U.S. Claims Court and now known as the Court of Federal Claims. That created a vacancy here in this court. I applied, was interviewed by a Judicial Selection Committee composed of lawyers and District of Columbia residents, nominated and then appointed by the judges.

Mr. Hitchcock: Tell me, how did you become interested in becoming a magistrate
Magistrate Judge Attridge: I felt I wanted a career change. I had been in litigation for many years. I was spending time traveling about the country taking depositions and working on a very tight trial schedule. I felt that being with the court I would have better control of my time. My family was raised. My two sons had finished law school and were practicing law. My daughters had finished college and were pursuing their careers. Terry and I talked about the cut in income and weighed that against the benefit of not having to travel, work weekends and nights and decided that we would have more time to pursue other interest such as travel.

Mr. Hitchcock: How does one go about becoming a magistrate judge?

Magistrate Judge Attridge: When there is an opening – put your hat in the ring.

Mr. Hitchcock: Did you go for an interview with a panel?

Magistrate Judge Attridge: I did. I interviewed with the panel and sometime thereafter I was notified that I had been selected by the judges.

Mr. Hitchcock: What do you remember about the interview?

Magistrate Judge Attridge: I interviewed with the selection committee, not the judges. Some of the judges told me that since they all knew me an interview was not necessary after I had been nominated by the selection committee. The committee members asked a number of hypothetical questions of me to determine how I would respond.

Mr. Hitchcock: Was it like you were back in law school?

Magistrate Judge Attridge: No, not very much. The hypotheticals dealt more with ethical issues than with substantive issues of law.

Mr. Hitchcock: Do you remember who was on the interviewing panel?
Magistrate Judge Attridge: I think Jude O'Donnell was the chairman of the panel, and Frank Martell was on the panel. Ernie McIntosh was also a member of the panel, as I recall. There was a member from a labor union, I forget his name now, and then there was someone from the school board. I believe there were about seven or eight members.

Mr. Hitchcock: How long did it take from the time you had your interview until you got the call from the court?

Magistrate Judge Attridge: I don't recall. I think that the interview took place perhaps sometime in February, that is, the interview process. The panel interviewed any number of applicants, so many a week. I guess it was probably about a month or 6 weeks later that I was notified.

Mr. Hitchcock: How did you get word? Did you get a call at your office?

Magistrate Judge Attridge: No, I was away at the time. My wife and I were in Florida. I got a call from the court, the chief judge spoke to me and informed me that I had been selected for the position and that my name would be submitted to the FBI for a full field investigation which takes a few months.

Mr. Hitchcock: How much longer did it take from that point? This is Chief Judge Aubrey Robinson?

Magistrate Judge Attridge: Yes, he was the chief at the time. I received the call from the chief judge in mid-March and it was about the middle of May before the FBI clearance came through. I was sworn in on June 2, 1983.

Mr. Hitchcock: Did you go on the bench the next day?

Magistrate Judge Attridge: Yes, I started right away. During the wait I had
assembled my staff. My secretary had been with me in private practice. I interviewed and hired a law clerk. My stationery had been ordered. I used hand-me-down furniture until my own arrived and my colleagues sent me a portion of their civil cases so I was in business. In July I started on the criminal calendar. We handled the criminal calendar on a rotating monthly basis. Since there were three of us we each spent four months out of the year in criminal assignment which meant that during that month you weren't able to devote too much time to civil matters.

Mr. Hitchcock: Could you explain what the magistrate judge does in terms of criminal activities as opposed to the civil docket?

Magistrate Judge Attridge: The criminal duties include most pre-indictment matters. We review applications for and sign search and arrest warrants; we conduct initial appearance hearings and determine appropriate release conditions to impose before releasing a defendant; we hold preliminary hearings to determine if probable cause exists to criminally prosecute a defendant and hold detention hearings to determine if a defendant should be held without bond during the pendency of his criminal prosecution. We take grand jury indictment returns and conduct arraignments at the request of a district judge. On a few occasions, at the request of a district judge and with the consent of the defendant we have impaneled a criminal petit jury.

Mr. Hitchcock: You mentioned earlier search warrants, arrest warrants. How many times do you find yourself getting a call in the middle of the night to sign a warrant?

Magistrate Judge Attridge: Not very frequently, maybe once or twice a year. The U.S. Attorney's Office is very good about that – they only call when there is a real emergency.
Law enforcement officials have to screen all requests for warrants through the U.S. Attorney.

Mr. Hitchcock: How many cases do you get referred to you, criminal cases for handling through the trial stage. Do you get many of those?

Magistrate Judge Attridge: No, not very many. We have misdemeanor jurisdiction and are authorized to try misdemeanor cases with the consent of the parties, but there aren't very many misdemeanor cases filed in this court. We accept a lot of pleas to misdemeanors, but most of the time the misdemeanor is broken down from a felony. A defendant may have initially been arrested on felony counts, and thereafter the government and defense counsel work out a plea to a misdemeanor which comes before us. Following the entry of a formal plea we refer the matter to the probation office for a pre-sentence report. Upon receipt of the report, the defendant returns to court for sentencing.

Mr. Hitchcock: Tell me a little about what your civil docket consists.

Magistrate Judge Attridge: Well, the civil docket runs the whole gamut of everything that comes to this court. We handle everything from diversity matters, contracts and torts, to claims under FOIA, Title VII, the Americans with Disabilities Act, and more recently, the Rehabilitation Act, as well as tax matters and patent matters.

Mr. Hitchcock: How many cases do you get that go on to trial that are referred to you, you get to enter final judgment?

Magistrate Judge Attridge: Yes, we generally have a pending caseload of consent cases of about ten to twelve cases each. We are able to set them in for trial very promptly, almost as quickly as the lawyers want. Moreover, our trial dates are firm. Cases are not continued because an intervening criminal case has to be tried due to Speedy Trial Act considerations,
which at times require district judges to continue trials. We don't have that restriction. We are able to give firm trial dates and proceed to trial on the day assigned.

Mr. Hitchcock: Can you make a generalization as to how quickly one can get a civil case to trial before a magistrate judge rather than a district judge?

Magistrate Judge Attridge: I'll give you an example, although not typical. I had a matter, a personal injury claim, that arose in June of, I think, 1996. We tried the case in the early part of October of 1996. We had a jury verdict and judgment entered in the early part of October, 1996.

Mr. Hitchcock: That's impressive.

Magistrate Judge Attridge: The parties wanted a fast date. It wasn't something that we forced on them. They were ready to go and we were ready to try it. But most of the time, it take a little less than a year from the time the case is filed until judgement. We are able to give an opportunity for discovery, to conduct a pre-trial conference and try the case in less than a year.

Mr. Hitchcock: Let me ask you a little bit about the office of magistrate judge generally in this district. When you were chatting earlier on, you pointed out that there were three magistrate judges to compliment 15 district judges; a 5:1 ratio. In many other districts the ratio is two district judges per magistrate judge or something like that. Do you and your colleagues in this district have to work harder than your colleagues elsewhere?

Magistrate Judge Attridge: I don't think so. (laughter) We have a number of senior judges who are very active. Most of them carry a full caseload. This allows the court to operate with fewer magistrate judges than otherwise would be the case.

Mr. Hitchcock: Let me ask you this. In some respects it seems that the role of
magistrate judges in this district is a little different than in other districts. In other districts a party 
files a civil case, it is assigned right away to a district judge and a magistrate judge who 
sometimes work in tandem. That's not the practice in the District of Columbia.

Magistrate Judge Attridge: No, it's not. The magistrate judge system is designed 
to be flexible so as to meet the needs of a particular district. Some jurisdictions have a great 
number of a certain category of case. In some jurisdictions, for example, there might be a large 
number of Social Security appeals and, therefore, the magistrate judges devote a substantial 
amount of time writing reports and recommendations and don't work in tandem with district 
judges. In other jurisdictions that have only one or two district judges and a similar number of 
magistrate judges, the tandem concept may work better. We have urged the judges not to adopt 
the tandem concept in this jurisdiction because some of the judges rely on magistrate judges 
more than others do. We found that by using the wheel concept for assignments we are better 
able to keep our caseload even and diversified. We have urged the district judges not to use us as 
specialists in certain types of cases such as prisoner litigation or Social Security appeals but 
instead to continue to use us as generalists, so to speak, in which we participate in the variety of 
cases that come before this court.

Mr. Hitchcock: Can you talk a little bit about your role as a judge? You said a 
few moments ago that one of the reasons you were interested in this office was the chance to 
broaden and get into some different areas. You took the oath of office, you began this position, 
there was a pile of cases waiting for your decision. Did you feel overwhelmed at all or inundated 
your first few weeks on the bench?

Magistrate Judge Attridge: I wouldn't say overwhelmed. I think at that point it
was a question of getting some type of system in place in order to evaluate the caseload and
determine which cases could be resolved quickly and which involved more substantive issues
that take more time. For example, those involving discovery issues generally could be reached
more quickly. The Federal Rules of Civil Procedure have been in effect for over 60 years so there
aren't many new discovery issues. On the other hand, those involving substantive issues generally
require a written opinion so they take more time to resolve. The only way to determine which
category a given case may fall into is to look at each file one at a time.

Mr. Hitchcock: How long did it take to evolve your own case management style
that was comfortable for you in handling cases?

Magistrate Judge Attridge: I think it takes about 2 years.

Mr. Hitchcock: Two years?

Magistrate Judge Attridge: Yes. It takes about that long to really get a handle on
your initial caseload and develop a management style with which you are comfortable. By that
time most of the cases that you inherited have been resolved and for the most part you would
have started working on new referrals that you are handling from their inception.

Mr. Hitchcock: Are the skills that one has as a lawyer in terms of managing one's
docket in private practice usefully transferable in terms of managing the docket that a judge
has, where you get a number of matters coming before you on a very consistent basis?

Magistrate Judge Attridge: Yes, they are useful although all are not transferable. I
had a tickler system that I used during my private practice that I found very useful here in court
and continue to use.

Mr. Hitchcock: Let me ask you this question. Do you also file reports on the
number of matters that have been pending for more than 6 months as do district judges?

Magistrate Judge Attridge: Yes, we do.

Mr. Hitchcock: Does that help any?

Magistrate Judge Attridge: Well it brings to your attention any matters that have been pending for a while. It's an incentive to try and get them disposed of rather than have to report them as pending.

Mr. Hitchcock: Let me ask you a question about the judging process. First of all, what is it like making the switch from being in private practice to being on the bench and seeing people you've known for many years coming to practice before you?

Magistrate Judge Attridge: Well, it's rather difficult. You see a number of friends whom you practiced with over the years, and at the same time you see new lawyers whom you have never met, in some instances, pro se parties whom you have never seen before, and you don't like to give the appearance that you might be favoring somebody you already knew. So you have to treat everybody very formally and courteously, and avoid any appearance at all that the friendship you might have with one of the lawyers will in any way have any bearing on your decision because it doesn't. So it is very difficult. But most of the lawyers are very good in that regard. I haven't known any lawyers, whom I know or knew when I was practicing, who tried to take advantage of our friendship. Once you're on the bench and have taken the oath, I found they are all very respectful of the office and don't try to look to abuse a relationship.

Mr. Hitchcock: Let's talk a little about some of the cases and matters that you handled during your tenure here on the bench. You served here for 14 years and are still serving, 14 years until you announced your retirement. You mentioned a moment ago that a number of
the matters that you handle are preindictment, preliminary matters, arraignments, bail settings
and that sort of thing. I know that crime is always a concern here in the District of Columbia, and
there are concerns about whether a bail decision is set too low or too high. Tell me a little bit
about the process as you see it in determining whether someone should be let loose on bond or
confined. What are some of the factors that you as a magistrate judge has to consider, generally
how does the system work?

Magistrate Judge Attridge: There have been a lot of changes in criminal law since
I came on the bench. Because of the increase in use and distribution of illegal drugs and
associated crimes and criminal activity, the Congress changed the law to provide for pretrial
detention in certain cases. Therefore, in certain situations we do not have any discretion.
Presumptions are triggered that require a defendant be held without bond and put the burden on
the defendant to rebut those presumptions with evidence or proffers of evidence that would
permit his release without endangering the community or that would reasonably assure his
presence in court in the future if he is released from detention. We do a considerable number of
detention hearings. Nevertheless, many of the cases that we hear do not involve drugs or crimes
of violence and, in the absence of statutorily mandated detention, most defendants are released on
their own recognizance. Under those circumstance we are to impose the least restrictive
conditions that would mitigate any risk of flight. So we look to see if the defendant has ever
failed to appear in court on other occasions and whether he has ties to the community, such as a
family or job. We are fortunate to have the services of a very fine Pretrial Services Agency
available to help in that regard. A representative of that agency interviews every defendant held
in the cell block and tries to verify the information provided by the defendant regarding his
community ties and criminal record. They check their computer data bank, telephone family, friends and employers and provide us with a written report of their findings. They also screen defendants with respect to illegal drug use. On the basis of this information and any information that the Assistant U.S. Attorney provides, we formulate conditions of release geared toward reasonably assuring that the defendant will reappear in court when required. In some instances, if for example, community ties can not be verified, then release to a halfway house is an option. Under the Bail Reform Act there is a statutory presumption, in the absence of evidence of drug distribution or risk of flight, the defendant is entitled to release on his own recognizance and under no circumstances can you impose a financial requirement as a condition of release solely to hold him in pretrial detention.

Mr. Hitchcock: Let me ask you about some of the high profile cases that you have had coming in at the start of the criminal justice system. There is a case back around 1985 of Jonathan Pollard, who was arrested for passing defense secrets to Israel. It was an espionage case. There aren't too many of those that one sees. What was your reaction when that matter came before you?

Magistrate Judge Attridge: It was a high profile case and, of course, attracted much attention from the news media. As I recall, he attempted to flee after he observed that law enforcement officers were monitoring his activities. He tried to run back into the Israeli embassy but was not allowed back in. To me that was convincing evidence that, if released following his initial appearance before me, he was a substantial risk of flight. I was very much concerned that if he were released we would never see him again. We held a bail hearing and his lawyer
proffered a lot of options that he urged would assure his later presence in court if released. I didn't believe that any of those proposed conditions were adequate to reasonably assure his later presence so I wrote an opinion, as I recall, stating why he was being held without bond.

Mr. Hitchcock: As I recall, he was ultimately convicted on the espionage charge.

Magistrate Judge Attridge: He was convicted and is still in prison. His wife was also involved and some charges were brought against her. She, too, was convicted of some lesser charges and she was sentenced to a lesser term of imprisonment. She has since been released and, I believe, they are now divorced.

Mr. Hitchcock: A few years later, in January of 1990, I understand that you were the magistrate judge who was responsible for the arraignment of Mayor Barry when he was arrested on a drug charge at the Vista Hotel. Can you set the stage, and tell me a little bit about what happened that night?

Magistrate Judge Attridge: I had just a very preliminary aspect of that case. I was leaving the Court of Federal Claims after an Inns of Court meeting on my way to the garage when I was approached by an Assistant U.S. Attorney who informed me that they had a problem. I asked if I could help and he asked that I speak to his supervisor. I did so, and was told that the Mayor had just been arrested. I was shocked and inquired what the charges were. He told me it had to do with drug use and inquired if the Mayor could be released without the necessity of spending the night in the cellblock before being presented in court the next day.

Mr. Hitchcock: Where was he being held?

Magistrate Judge Attridge: I believe at the precinct. They generally do the booking process at the precinct and then bring the prisoner to the central cellblock at the
municipal building across from the Superior Court to be held until presented in court the following day. I suggested that if the government were amenable to release, I would look upon release favorably. However, it was necessary to have a hearing and if the Mayor's lawyer and the prosecutor would arrange for a conference call I could be reached later in the evening at my home. After I arrived home a conference call hearing was convened. The Mayor's lawyer, the prosecutor and the Mayor were on the line. I informed the Mayor of the charges against him and with the concurrence of the prosecutor released him on his personal promise to appear in court the following afternoon, which he did.

Mr. Hitchcock: Was the Mayor and his counsel and the Assistant U. S. Attorney – who was his counsel at the time?

Magistrate Judge Attridge: As I recall, at that stage of the proceedings, it was Herbert Reid, the Corporation Counsel, at the time.

Mr. Hitchcock: What sort of questions did you ask the Mayor in that proceeding?

Magistrate Judge Attridge: I knew he had strong community ties (laughter), so there wasn't any risk of flight. I had no concerns in that regard. The U.S. Attorney's Office wanted to preserve certain evidence such as hair, blood and urine samples to which the Mayor had no objection. So I ordered that he comply with those requirements before being released which he did. And he was ordered to appear in court the following afternoon for presentment, which he also did.

Mr. Hitchcock: What was going through your mind as you were presiding over this call, I mean, the Mayor of the nation's capital arrested on a drug charge?

Magistrate Judge Attridge: I was very conscious of the fact that a war on drugs
was going on in this city to combat the use and distribution of illegal drugs and it was very disconcerting to have the Mayor arrested on a drug charge. I was hoping there might be some sort of mistake and that later events would show that the government was mistaken. Nevertheless, the matter was handled like any other and he was not given any preferences except for the telephone release proceeding that the government suggested as a courtesy to the Mayor. But from my standpoint he was treated like any other criminal defendant. If the government had not made the request for immediate release, the Mayor would have had to spend the night in the cellblock the same as anyone else in the same situation.

Mr. Hitchcock: Just for the record, as the case progressed before Judge Jackson and as I remember the Mayor was convicted of one count of possession and then served a jail sentence before coming back and being elected to the Council and another term as Mayor in 1994.

Magistrate Judge Attridge: I think so.

Mr. Hitchcock: There is another case that stands out, that got some national attention last year, a case involving Charles "Hawkeye" Whitney. He was a high school basketball star, a college star at North Carolina and then played for the Kansas City Kings, the professional team. Can you tell us something about that case?

Magistrate Judge Attridge: As I recall, Mr. Whitney was arrested and charged with kidnapping and extortion. He had been involved with drugs. He got involved with a criminal element here in the city and claimed that he was forced to commit this offense because of threats to injure or kill his sister. He and another individual kidnapped the victim as he was leaving the Metro station at Alexandria, Virginia. As it happened the victim was an assistant
counsel to the president of the United States. One of them had a gun and forced this counsel to 
the president into a car and drove to an ATM machine and had him withdraw monies. They 
weren't very bright because the ATM machine camera took pictures of everything that took place. 
Mr. Whitney was readily identifiable. He was arrested and brought to court here. His counsel 
urged that he was acting under compulsion because of the threats to his sister and assured us that 
he would, indeed, be in court as required. I wasn't satisfied with that, because I attributed some of 
his activity to drug use. They urged that he be allowed to participate in a drug treatment program 
run by another former NBA star, John Lucas. Various friends and colleagues testified on behalf 
of Mr. Whitney regarding his reliability and his need for drug treatment. I wasn't satisfied that 
being released to a drug treatment program was in his best interest or that of the community. It 
was forced conduct, not really voluntary, so I decided not to allow him to participate in that 
program.

Mr. Hitchcock: Let me ask you a question on that because this proposal that 
Whitney go to a drug treatment center was fairly controversial and seemed difficult at the time. 
Let me read you portions of a column that was written by Tom Boswell who is a sports 
columnist for The Washington Post and who started his column back in 1986 by asking, "Should 
'Hawkeye' Whitney stay in D.C. jail without bond awaiting trial on charges of kidnapping and 
robbing Hillary Rodham Clinton's White House lawyer, or should Whitney, thanks to the 
intercession of his famous and good hearted friends, be let out of prison so that he can enter John 
Lucas' rehabilitation program for drug addicts? Should this ex-college basketball star stay in the 
slammer, or should he get the $20,000 worth of free medical care in the drug clinic preferred by 
the NBA stars? The food and company are a lot better in rehab. What's right for Whitney? What's
right period? And are they the same? Be glad you are not U. S. Magistrate Patrick Attridge. He's the guy who drew the Whitney case." Well, you are Magistrate Judge Attridge, what were some of the thoughts that you were weighing in considering these alternatives?

Magistrate Judge Attridge: Under the circumstances of this case, the statute mandated detention. A crime of violence had occurred. In addition I thought about the facts of the crime. It was a terrible activity that he engaged in. As a stranger exited the subway, he confronted him with a gun and demanded his money or his life. It's terrorizing when you think of it. Moreover, it was totally inconsistent with life history. For him, it was irrational behavior. He claimed he was acting out of concern for his sister. But, if he acted in the manner described because of concerns for his sister and since his sister was still vulnerable, I didn't know how he might act in the future. If he succumbed to threats by cooperating in this violent activity, how might he react to future threats if released pretrial? Moreover, he had a drug problem which further exacerbated his irrational behavior. I was very concerned with the display of violence and drug use. My experience here at court is that drug rehabilitation forced under the threat of incarceration is generally ineffective. An individual had to look himself in the eye and truly acknowledge that he has a drug problem, much like an alcoholic, that he wants to conquer. The impetus has to come from within, not because of some external consequence. I believed that he really didn't have the intestinal fortitude, at that time, to enter the program and successfully complete it. Moreover, if he did enter the program there was no requirement that he stay in it. Since it was voluntary he could have walked away anytime he felt like it. The only thing John Lucas promised was to notify the local police if Whitney left the program. That was insufficient in my mind so I decided the best thing to do for all was to detain him without bond.
Mr. Hitchcock: You mentioned there were several hearings before you reached that determination. Is that usual in these types of cases?

Magistrate Judge Attridge: No, it's not unusual but, on the other hand, it's not that rare. In some instances a defendant is not prepared to go forward with his evidence or proffer at the first hearing. I gave Mr. Whitney's attorneys every opportunity to present whatever evidence they desired on the various options that were available. I continued the hearing a couple of times at their request. After they exhausted their evidence and proffers, it was my responsibility to rule on what was before me. I felt that their evidence and proffers were insufficient and that the only reasonable conclusion was to hold him without bond.

Mr. Hitchcock: How often in drug cases do you get this type of proposal? Maybe not as elaborate as a drug treatment center for sports stars, but when someone comes in and asks for that option?

Magistrate Judge Attridge: In cases of someone with a drug addiction but no history of violent behavior or history of failure to return to court, we remand them to a halfway house where they can be monitored for continued drug use. If they test positive for continued drug use, they are returned to court for a further hearing at which time we have the option of holding them in detention without bond or sending them for drug treatment.

Mr. Hitchcock: This Whitney matter was back in March of 1996. Do you know what happened to the case since then?

Magistrate Judge Attridge: Yes, I believe he entered a plea to kidnapping and was sentenced to a substantial period of incarceration, and I believe he is still serving that term in the federal penitentiary.
Mr. Hitchcock: I saw in one of the newspaper clippings, maybe this is a footnote to the story, that the lawyer who was the victim in this attempt was, on the same day that it took place, involved in assisting Hillary Rodham Clinton who was that day appearing before a grand jury in this very building in the Whitewater investigation.

Magistrate Judge Attridge: Was it Mark Fabiani?

Mr. Hitchcock: Mark Fabiani.

Magistrate Judge Attridge: He didn't appear before me. He wasn't present in court in our hearings.

Mr. Hitchcock: Let's talk a little bit about another aspect of your job as a magistrate judge dealing with questions of flight. There is a case back in 1991 involving a lawyer here in town named Thomas J. Ward who was a subject of a extradition request to bring him back to the United Kingdom on account of his role in connection with the takeover of Distiller's Company by Guinness. As I understand it, the charge was that he had arranged some secret illegal securities transactions. This matter came before you on a request to send him back to England. Can you tell me a little bit about that case and what it involved?

Magistrate Judge Attridge: Yes, I recall that case. There had been a prior civil case that arose out of the same events in which I was involved. Thomas Ward had sued Guinness here in the United States for attorney fees for services rendered to Guinness. A great deal of discovery was engaged in by both sides before the case was settled before me. I was very much surprised, when shortly thereafter, Ward was arrested and brought before me on a request for extradition to the United Kingdom. Government counsel handling the matter was very adamant that Ward be held without bond during the pendency of our proceedings because he allegedly
represented a risk of flight.

Mr. Hitchcock: You said government counsel. You mean counsel for the State Department?

Magistrate Judge Attridge: No, the Assistant U.S. Attorney. The extradition process generally involves a request by a foreign country to our State Department for the extradition of an individual who is alleged to have committed a crime in the requesting country. The State Department contacts the U.S. Attorney's Office to initiate a request for an arrest warrant. The arrest warrant brings the individual before the court for an extradition hearing. Of course, the government is not prepared to go forward with the extradition hearing at the time of his arrest. It takes a little time for the government to gather witnesses and necessary evidence that may be needed at the hearing. And, generally, the government moves to hold the individual without bond pending that hearing. That was done in this particular case. However, I felt confident that if Mr. Ward was released on his personal recognizance, he would return to court for the hearing. He had a law practice here in the District of Columbia; a home in suburban Maryland as well as family including several children in college. I considered those factors as well as my own observations of him during the course of my civil proceedings with him, and concluded there was very little risk of flight. I released him on his personal recognizance. Ward appeared at all subsequent proceedings and, as it turned out, the mistrust and hostility that permeated the initial appearance evaporated. Counsel for both sides became very cooperative. Ward was permitted to voluntarily travel to England to respond to their indictment and return to the United States to prepare his defense to the British charges. It wasn't necessary, therefore, to have any formal extradition proceedings. Eventually Ward was tried in England and found not
guilty. He returned to the United States, and he's still practicing law here. I think he has a couple of his cases pending in our court.

Mr. Hitchcock: Do you get many extradition cases?

Magistrate Judge Attridge: No, no, not very many. In fact, no more than half a dozen in the 14 years I have been here. It's a very interesting process. We determine whether we have a criminal offense similar to that of the requesting country and, if so, is there probable cause to find that there was a violation of that criminal law. If so, we merely make a report to the Secretary of State that the individual is extraditable. It then becomes a political decision whether or not the United States government wants to grant the request of the foreign government for extradition. The decision on the issue of extradition is not appealable. There can be no appeal to the court of appeals or anyone else. Of course, if the government is not satisfied, theoretically, they can always have him rearrested and brought before a different court for another hearing.

Mr. Hitchcock: I imagine there may be some cases where the U.S. government or the Justice Department is really caught in the middle. They don't necessarily have any strong views one way or another, but the State Department says "please extradite this person."

Magistrate Judge Attridge: It may happen, but once the probable cause determination has been made, it becomes a State Department political decision whether to honor the request of the foreign government to extradite.

Mr. Hitchcock: Let me ask a general question about this. In terms of making these determinations about whether somebody is likely to flee or not show up for a hearing, did you find it difficult to get into the process of making these types of judgments, coming from primarily a civil background before and now dealing with making decisions of a criminal
context.

Magistrate Judge Attridge: No, I didn't. Such decisions are not necessarily based on experience, but rather on the law and good common sense. You evaluate all the evidence before you and make a determination, using good judgment, whether this individual is likely to return as required. Nothing prepares you for it. There is a presumption of innocence. You are not making the ultimate judgment of whether he is guilty, but rather does he present an unreasonable risk that he will not return to court.

Mr. Hitchcock: Let's shift gears a little bit and talk some about some of the civil matters that have come before you during your career on the bench. There was a case that got some attention back in 1991. I think it was Melle v. First Commercial Insurance Co. about the fact that insurance companies then under D.C. law could not do blood tests as a means of screening for people who had AIDS or were HIV-positive. There was a suit brought by someone who was HIV-positive against the insurance company. As I understand it the insurance company wanted to ask potential jurors about whether they were HIV-positive, or their family members, questions like that.

Magistrate Judge Attridge: That was a very, very interesting case; it had a number of issues in it. Back at about that time, shortly before the case was filed, the city council passed legislation precluding insurance carriers from testing individuals who applied for life insurance, testing for AIDS, and whether they are HIV-positive. Insurance companies were precluded from sending applicants for life insurance to physicians, laboratories etc. to undergo blood tests to screen for HIV viruses. Needless to say, the insurance companies were very upset about that requirement. They felt this was an unreasonable restriction on their underwriting
responsibilities and, therefore, went to Congress. Congress then forced the city council to repeal that legislation and the city council complied. The law was only in effect for a year. But when it was repealed, the repealing legislation failed to include a savings clause. The insurance company moved to dismiss on the grounds that the plaintiff failed to state a claim because the statute on which he relied was repealed thereby voiding, ab initio, any basis for a claim. The plaintiff argued that although the D.C. Code contained no savings provision, the savings clause found in the laws of the United States, the U.S. Code, was applicable to this situation and that clause preserved the cause of action. I agreed with the plaintiff, and, at the request of the insurance company, certified the case for interlocutory appeal. The court of appeals accepted it and decided that the cause of action was saved under the U.S. Code savings clause. We then proceeded to trial. Counsel for the insurance carrier was very concerned whether any members of the panel or members of the family had AIDS and, therefore, may be sympathetic to the plaintiff.

Mr. Hitchcock: This is the jury panel?

Magistrate Judge Attridge: Yes. So they requested that questions be put to the jury panel on voir dire concerning that issue I felt there might be some merit to that. I also felt that just because one is called for jury duty, he should not have to lay bare his soul on such intimate diseases. So I thought that the best way to handle this would be to ask the panel a number of questions some of which where innocuous, and some of which related to AIDS, HIV-positive, as well as jurors attitudes toward that illness. I asked that prospective jurors, who had a positive response to any one of my questions, come to the bench. At that point counsel could make further inquiry. In that manner, court spectators and fellow jury panel members wouldn't know to which question the prospective juror was responding thereby saving that
prospective juror embarrassment by having to respond in public to what may be very personal questions about his health and lifestyle.

Mr. Hitchcock: How did things work out?

Magistrate Judge Attridge: It worked out very well. Everyone seemed satisfied. Some very, very personal matters were disclosed. Some candidly admitted that they could not render a fair and impartial verdict. Some had some very strong feelings one way or another, and some had very close associations with the AIDS virus, so it worked out to everybody's satisfaction. No one complained to me about it.

Mr. Hitchcock: There were no problems when the jury deliberated or anything of that nature?

Magistrate Judge Attridge: No. We proceeded by way of special interrogatory directed to the statute. As I recall, we cast the interrogatory in terms of the statutory requirement and whether or not the jury found the statute had been violated. They came back, as I recall, that there had been no violation of the statute. Judgment for the defendant was entered in accordance with the answer to the special interrogatories.

Mr. Hitchcock: I imagine that the practice you used here is one that other judges had to use in other cases over the last 10 years or so.

Magistrate Judge Attridge: I don't know. I know the practice of submitting special interrogatories to a jury has been around for a long time.

Mr. Hitchcock: I would like to ask you about one or two other of your civil cases over the years. There was another highly visible trial that you did back in the spring of 1994. It involved a Channel 9 reporter, Nancy Norman, who brought a case about gender discrimination
and harassment against women there at the local TV station. Can you tell me a little bit about that one?

Magistrate Judge Attridge: Yes. That was an interesting and high-profile case. The press thought it newsworthy and devoted a considerable amount of newsprint to it, maybe because it involved the news media itself or at least a rival organization. We had some preliminary issue to resolve because the sexual discrimination, had been alleged to have been ongoing at that TV station for some period of time but the plaintiff did nothing about it. Some of those matters had to be dismissed because the statute of limitations had run. So, once we resolved those preliminary issues and got down to those that were viable, the case was presented to the jury, and they returned a substantial verdict, one that shocked my conscience in light of the evidence in the case. I granted a new trial, and thereafter the parties settled the case themselves. It was settled without the necessity of any further litigation.

Mr. Hitchcock: As I remember, Ms. Norman was not a reporter. She was a producer or assistant producer and the charges were that the station was discriminating against women who were in that position.

Magistrate Judge Attridge: She complained about her schedule as well as the nature of the duties she was being assigned. She contended she was required to work an excessive number of days in a row without overtime, and the assignments she was given did not allow her to get out on the street to do the different types of TV camera coverage she had wanted to do. She felt she was being restricted to the studio editing tapes rather than being permitted to go out on the street with a reporter to film news scenes and conduct interviews, all because she was female.
Mr. Hitchcock: You indicated a moment ago that the jury verdict, which was $500,000, shocked your conscience. What was the evidence?

Magistrate Judge Attridge: The evidence of a locker-room atmosphere about which she complained was ruled inadmissible because the statute of limitations had expired. There was no evidence that that type of activity was ongoing so that the past events could be drawn into current events. In other words, the sexual harassment that she complained of had ceased for some period of time before she brought her claim and there was no evidence linking up her present complaints of isolated sexual comments to the past sexual harassing activities. Her biggest and evidentially strongest claim was that because she was female she was not given the same opportunities to film on the street and thereafter compose and air documentaries that she had created, as male cameramen have. She also complained about the number of days that she was required to work before being eligible for overtime. But there was no evidence that that was gender related; therefore her remedy for that claim was for violation of the Fair Labor Standards Act. So although there was some evidence of sexual discrimination and some evidence of harassment, the evidence of sexual harassment and discrimination was not so strong, extensive and pervasive as to support an award of money damages in the amount that they found. In addition, my conclusion that the amount of the verdict shocked my conscience was premised on another matter which arose during the discovery aspects of the case. The defendants had requested that she produce all psychological and medical records for the years encompassing her claim. They wanted to review those records with respect to her claims for mental anguish, pain, suffering and matters of that nature. They wanted to determine if a lot or at least some of mental anguish, pain and suffering might be attributable to other reasons or causes. She declined to give
authorization or to turn over for review any medical records and any psychological or psychiatric records that she may have had, notwithstanding my order that she do so. Since she deliberately refused to comply with an order of the court, I was then troubled about how to deal with that conduct. Most of her damage claim was for mental anguish. If I struck that claim or barred evidence of mental anguish as a sanction, she would really have nothing left of her case. I would have deprived her of the essence of her damage claim. So I felt it wouldn't be fair to do that. Nonetheless, the defendants were deprived of a potential source of evidence that may have rebutted the principal part of her damage claim. I concluded that by way of sanction I would instruct the jury that during the pretrial preparation of the case the defendants properly requested that Ms. Norman provide them with her medical records and any records regarding psychiatric or psychological treatment she may have received which bears on the issue of mental anguish; that she declined to do so, and under those circumstances the jury could infer that she refused to produced those records because there production would be detrimental to her case, or words to that effect. The jury seemed to have not understood or simply chose to disregard that instruction. They just went, in my view, hog wild and awarded a half-million dollars for just a few incidents of sexual comments, sexual harassment comments. I just didn't feel that based upon my review of other cases throughout the country that this verdict should stand.

Mr. Hitchcock: Let me ask you about another aspect of that case. It got considerable attention in the local news media at the time it was going on. There was coverage from one day to the next. When you're presiding over a case that gets that kind of attention, do you follow what's going on in the newspapers or on television?

Magistrate Judge Attridge: I wouldn't say that I follow it, as such; I read the
newspapers the same as anyone else. There are articles there and I read them. I wasn't responsible for making the ultimate determination in the case; that was for the jury and they found in her favor. So I didn't feel it affected me one way or another what the press might have said about the case. But as to my curiosity, I did read the articles.

Mr. Hitchcock: Do you think that the media generally does a good, not so good, fair or whatever word you would use describing what goes on in your courtroom?

Magistrate Judge Attridge: Yes. They do a good job. I think in that particular case there may have been a little media competition. This was against one of the local TV channels and, of course, all of the other channels picked up on it. Some media competition might have contributed to the publicity that was given to the case.

Mr. Hitchcock: Maybe there was more of a curiosity or a feeling that "we better not have anything like this in our own shop."

Magistrate Judge Attridge: Could be, could be (laughter); they were giving their own people a bird's eye view of what can happen if one participates in that activity.

Mr. Hitchcock: Let me ask about one final case here. This is one that you mentioned from time to time in our earlier discussions. It's a case that was high in complexity with I thinks about 175 plaintiffs. The name of it is Berger v. Iron Workers Reinforced Rodmen Local 201, a discrimination case involving African-American plaintiffs that went on for I think somewhere like 17 years or 18 years at one point. You were responsible, I think, at one point in the case for making determinations about damages. Give me some background on that and how that case progressed.

Magistrate Judge Attridge: I disclaim any responsibility for it going on for 17 or
18 years; however, it did go on for a long time.

Mr. Hitchcock: Fair enough. You got involved in the case at a late point after it had been going on for a decade or so?

Magistrate Judge Attridge: It had been going on for some period of time. In any event, these multi-claimant discrimination cases require what has become known as teamster hearings. I was appointed by one of our judges as a special master to conduct teamster hearings with respect to damages to be awarded these 175 claimants. Because of the extensive discovery that might be involved, the delay that had already taken place, and the fear that there might be an inordinate delay in the future in ultimately resolving these matters, we put in place case management controls to expedite the discovery aspects of these cases. We imposed certain requirements that we thought would expedite discovery. At about the time that I was assigned this case, a number of other events took place in the court that were beyond anyone's control which impacted on my duties. One of my colleagues was required to go on extensive sick leave following surgery. As I was about to embark on the hearings aspect of the case, my other colleague was required to be out of the office for 4 months on maternity leave. So that left me here alone, solely responsible for the criminal calendar just at about the time I was to start these teamster hearings. In order not to interrupt the teamster hearings, Judge Gasch, one of our senior judges, volunteered to help me. He sat in as a magistrate judge and conducted the initial appearance hearings in the criminal cases. I think I made reference to that earlier in our discussions when we were talking about Judge Gasch and the tremendous help he provided me while I went ahead with 6 weeks of teamster hearings. But, notwithstanding his help, we were shorthanded for over a year and during part of that time two of us had to handle the whole load of
day-to-day criminal matters and the additional civil cases of my first disabled colleague, who ultimately found she was unable to return and retired. Then when my remaining colleague went on maternity leave, I was left as the sole magistrate judge handling the criminal calendar as well as my civil cases. These unanticipated events substantially impacted on the time that was available for deciding the issues that arose in the ironworkers case. And then I ran into some problems when I found that many of the claimants were unable to read or write. In order to get all the hearings in during the 6 weeks I had allocated, I decided that each claimant would submit his direct testimony in writing in affidavit form. The defendants were given a certain amount of time to cross exam. As it turns out the claimants were substantially impeaching their affidavits during cross exam. After several days I began to ask some questions of the claimants and found out that many were unable to read or write. Counsel had prepared the affidavits; each of the 175 claimants had separate counsel, based on Social Security employment, pension records and other sources. The claimants signed these affidavits although unable to read what was written. At that point we had to recess the hearings and change the format to provide for all oral testimony. I was very disturbed that counsel had not informed me that most of the claimants could not read and, therefore, the format that we had attempted to use could not work which further contributed to delay. At the completion of the hearings, counsel requested a year to submit proposed findings.

Mr. Hitchcock: It must have taken a lot of work trying to determine individual damages for 175 people over a number of years.

Magistrate Judge Attridge: Yes, it did. Fortunately many of the cases settled, probably half of them settled during the course of our proceeding and hearings. Nevertheless, a number of individual findings had to be made. But before we could get into individual claims, we
had some preliminary threshold issues that had to be resolved regarding the income that a
so-called typical Local 201 ironworker would have earned each year beginning in 1972 and
ending I believe in 1987 but for discrimination because iron workers in Local 201 did not work
solely for one employer. What typically occurs in the trade is that union members go to the union
hall and from there are assigned to a job. The job may last a week, it may last a month, it may last
a year, it may last a day. Following completion of that assignment a worker would return to the
hall for a new assignment. So first we had to determine, with the help of expert testimony, the
reasonable number of hours a Local 201 ironworker would have worked going back year by year
to 1972. The parties took over a week to present the testimony of three expert witnesses. Once I
decided the reasonable number of hours a Local 201 ironworker probably would have worked
each year, I used those figures as a matrix in comparing the number of hours each claimant
worked for each year. Then, we had to adjust for overtime and subtract other earnings disclosed
by the Social Security records. So it took a considerable amount of time in making those
mathematical calculations.

Mr. Hitchcock: You refer to these types of proceedings as teamster hearings? Do
you know the origin of that phrase?

Magistrate Judge Attridge: Yes. It came from a Supreme Court case. I forget the
full name of the case. It involved the teamsters union.

Mr. Hitchcock: One question on procedure. You indicated that you were
appointed as a special master to preside over this. You're an incumbent magistrate judge. Why
did you not decide this as a magistrate judge rather than as a special master?

Magistrate Judge Attridge: Well, I probably could if I obtained the consent of 175
Mr. Hitchcock: I see your point. Judge Attridge, we have been talking about a number of the high profile and controversial cases that you faced in your career on the bench. Is there any case or any decision that stands out as one of the most difficult, the most difficult that you've had to make as a judge?

Magistrate Judge Attridge: No, no one case stands out. Many of the issues are very, very difficult to resolve. The judgments that we have to make in a criminal cases are very difficult. It's difficult to – I don't know of any judge who relishes sentencing someone to a period of incarceration. And in the civil field we are called upon to render decisions that have an impact on people's lives. You have to examine the issues involved and resolve them according to the law as you believe it to be. That's the only way our system of justice will work.

Mr. Hitchcock: Let me ask one closing question. You announced your retirement as a full-time magistrate judge earlier this year. I think it took effect last month, in June of 1997. What are you doing with your time these days?

Magistrate Judge Attridge: Working. I did retire in the beginning of June of this year, but I told the court that I would continue working here on a full-time basis, and by that I meant I wouldn't necessarily be in every day, but I had a number of matters here that I'm working on that have to be resolved and to which I've devoted some period of time already, and I thought it would be better for me to continue on with those matters and get them resolved rather than turn over a number of cases that are half complete to my successor, someone else, who would then have to start from scratch and get into many of these cases and read them from the inception before deciding an issue. I intend to spend my time cleaning up the cases that I presently have,
and I'm also going to be taking some new cases at a reduced rate, so that I'll continue taking some of the new cases and resolving pending older cases. I've elected not to do any criminal matters because I found that being a duty judge for a month impacts on your ability to resolve a lot of civil matters. I would rather wrap up pending civil matters and some of the other matters that are coming before me than participate in the criminal calendar. I did tell my colleagues that I would help them out in the criminal calendar on an emergency basis. I didn't want to have a standing commitment to spend a substantial amount of time doing criminal cases.

Mr. Hitchcock: I guess I hadn't realized that being the duty judge on criminal cases can be so all consuming during the time you're doing it.

Magistrate Judge Attridge: It is. It's something that you can't control because you never know when a law enforcement officer will come in for a warrant, an arrest warrant or a search warrant, and if you're engaged in something, if you're reading some matter or if you're on the bench in a civil case, you have to stop that activity, read the application, and signs it. It's very disruptive to your thought process, so that you really don't get a whole lot of matters resolved - civil matters resolved - during the criminal month. I determined that rather than have that distraction, I wanted to spend my time resolving a number of these cases that have been pending that involved a number of issues, tax issues, patent issues, contract issues, interpretation of international laws between Canada and the United States, which I find very interesting and which I want to spend my time studying.

Mr. Hitchcock: Sounds like you got enough to keep you busy for a while.

Magistrate Judge Attridge: I certainly do.

Mr. Hitchcock: Is there anything else that you would like to add before we close?
Magistrate Judge Attridge: No. I think that you have managed to exhaust my ability to talk any further, and extracted all that information that I never knew I could recall. I hope that these oral history sessions with the judges and members of the bar help preserve some of the legal lore in this jurisdiction. I feel that you and your volunteer interrogators are doing a very, very worthwhile service to our community and to the legal community.

Mr. Hitchcock: Well, let me thank you, Judge, on behalf of the Historical Society for taking all the time to sit down for the interviews as well as your preparation ahead of time and for sharing quite a few interesting stories that do preserve some of the history of this court over the years. Thank you very much.

Magistrate Judge Attridge: Thank you.

Mr. Hitchcock: One final issue, Judge Attridge. As part of the oral history project, we ask those who are being interviewed to sign a donative instrument. Let me ask, first of all, is it your present intention to make these tapes of these discussions as well as a transcript available to the Historical Society?

Magistrate Judge Attridge: Yes, it is.

Mr. Hitchcock: And let me ask this, if, heaven forbid, something should happen to you prior to the time you have an opportunity to edit the transcript, is there someone you would like to be responsible for doing the editing before turning over to the Society?

Magistrate Judge Attridge: Yes. I'd like to designate my son, Dan, to review the transcript.

Mr. Hitchcock: Okay. What we will do then is have the tapes transcribed, and I'm not sure when that will be, and I will get a look at it, and you will get a look at it, and we will
make whatever changes and then it will go to the Society.

Magistrate Judge Attridge: All right. I would like to review it for the purposes of editing and correcting grammatical errors in response to your questions. You are a very good interviewer and you caught me off guard at times. I didn't have a chance to compose my thoughts so I'm not sure that some of my responses were coherent. I'd like to look at it.

Mr. Hitchcock: Well, your answers were all very good. In many instances they seemed to hang together better than my questions.