

Oral History of Mark Tuohey
Ninth Interview
December 16, 2018

This interview is being conducted on behalf of the Oral History Project of the District of Columbia Circuit. This is the ninth session of the oral history of Mark Tuohey. Bill Marmon is the interviewer. The interview is taking place at Baker Hostetler, Mark's law firm.

Mr. Marmon: Mark's involvement with Fordham and family.

Mr. Tuohey: During my senior year of college, after deciding I wanted to attend law school, I applied to Fordham, Georgetown and Notre Dame – all good law schools, but with different cultures. I ultimately decided on Fordham, both because it was in New York City, and I received a full ride (tuition, room and board) as a resident advisor on the undergraduate campus during my first year, which began in September 1968. I had been in ROTC in college and was commissioned a Second Lieutenant in the Army upon graduation with a deferment for law school. This was during the heart and soul of the Vietnam conflict, but my active duty would begin after graduation. During my second year, I was informed by the Department of the Army that my deferment was conditional on the needs of the army (I found there were other students in New York at NYU and Columbia that had a similar situation), that the deferment was cancelled, and I had to report for duty at Fort Sill, Oklahoma at the completion of the spring, 1970 term.

Mr. Marmon: What was Marty's work?

Mr. Tuohey: During her first year in New York (after our wedding and during my second year of law school), she worked as a social worker in Westchester County. During our time at Ft. Sill, she did social work in Lawton, Oklahoma. When we returned to New York for my first year of law school, Marty worked in social services in Manhattan and Brooklyn dealing with families in difficult situations. When we moved to Washington, she received a Master's in Social Work at Catholic University School of Social Work, and then spent forty-five years as a psychotherapist in private practice.

May, 1970 was a very contentious time, especially on campuses across the nation, because of the invasion of Cambodia. There were massive protests during the spring of 1970. Columbia, NYU and Fordham postponed/cancelled exams until later in June. I did not have that luxury because I had to report to Ft. Sill in May. Therefore, I took my exams in May. After my exams, we packed up and moved to Oklahoma. I spent nearly two years in Oklahoma working as an MP Officer at the Ft. Sill Stockade. I received orders for Vietnam May, 1971, but those orders were cancelled at the last moment because the President issued an Executive Order as part of the phase-down, which required the two-year officers leave at 22 months, rather than 24, and one could not be sent overseas for a 10-month stint. In 1972, I returned to the law school for what was my most rewarding year. I was highly motivated having been away for two years, and importantly, I would be deciding on my immediate future after graduation. I had some very good courses and was selected as an editor of the *Urban Law Journal*. That year included a lot of new faces because the class I started with had graduated, and I made many new

and lifelong friendships that year. We lived in Inwood, an Irish bastion on the upper west side of Manhattan. The area has changed dramatically over the years. At the time, it was a thriving Irish neighborhood where many judges, law enforcement officials and longtime New York Irish families lived. In the fall of that year, I received the offer to join the United States Attorney's Office in Washington. We left New York and headed to Washington after graduation. My relationship with Fordham has grown closer over the years. During the fall of 1973, I was very active in the growth of the Washington chapter of Fordham Law School Alumni Association (FLAA). Today, the chapter has 400-500 members and continues to grow every year. I assisted several deans of the Fordham Law School over the years, beginning with Dean Joseph McLaughlin, who was recommended by the New York senators to become a federal judge in New York (Brooklyn). There was a hold up at the White House because of a conservative legislator's criticism over McLaughlin's views as Chair of the New York State Law Revision Commission. The criticism was wholly without merit. I spoke with the then White House Counsel and a few other friends in Washington and the nomination was finalized. Joe McLaughlin went to the federal bench in the Eastern District and then to Second Circuit Court of Appeals. John Feerick, who later became the Dean of the law school, served as the President of Fordham Law School Alumni Association (FLAA) during this time, and I helped him on many matters related to Washington.

I was later chosen to be the President of FLAA in 2006/2007, as the first non-New Yorker to hold that position. I have remained close to the law school ever since.

During the fall semester, 2018, I taught a course on state and local government law, and will alternate between teaching at Georgetown and Fordham over the next few years.

During the summer of 2005, the President of Fordham University, Father Joe McShane S.J., called and asked to meet in New York. At dinner, he stated that he and the University Trustees recommended that I join the Fordham Board of Trustees. I did, and served seven years.

I previously served in the 90s as a Trustee of Gonzaga College High School, where my three sons attended. In 1997, the Jesuit community in Washington (Gonzaga College High School, Georgetown Prep, Georgetown University) all joined forces to establish the Washington Jesuit Academy, a school for minority young men in the 6th, 7th and 8th grade who have academic prowess but lack economic resources to attend private school. The school has been a tremendous success since its formation in the late 90s. I was chosen as the first Chairman of the Board of Trustees of the Washington Jesuit Academy. The school creates an environment for young men from underprivileged families to have a high-quality education six days week, ten hours day, including three meals a day. Virtually, all the students to date have gone on to high quality high schools, colleges and universities over the last 20 years. It was a great privilege to serve on that Board. In 2000, I was asked to serve on the Board of Trustees of Catholic University, which I did for twelve years. It was an interesting experience. At my first meeting, there was a call from the lay members of the Board to ask the Chairman of the Board of Trustees, Cardinal Bernard Law of Boston, to resign due to his

handling of clergy sexual abuse - which he did within 2-3 months. That Board service was interesting because at least half of the Board were bishops and cardinals, with a certain amount of orthodoxy, and the lay trustees included several moderate to progressive thinkers. We had interesting debates on issues under several presidents of the university.

Finally, in 2015, a priest friend, now retired, and a very progressive Catholic thinker who spent much of his career at Archbishop Carroll High School, a co-ed institution in Northeast Washington serving the academic needs of minority students, asked me to join the Board of Trustees, and I agreed. I still serve on that Board today.

Mr. Marmon: Were there any big issues while you were on the Board at Fordham?

Mr. Tuohey: For most of my service, the Chairman of the Board, John Tognino, a well-regarded former senior executive at Merrill Lynch, brought a lot of good management thinking to the Board. At the time, the President of the University was quite clear in his thinking that a Board of Trustees should advise the administration, but not manage the institution. However, we had several issues where the Board had to become decision makers. One of which was the appointment of a provost, a position up until that time was not a part of the administration. Some of the duties were handled by an academic vice president. We felt strongly the President needed a provost to manage the day-to-day economic affairs of the institution, and we insisted on it. Dr. Steven Friedman, who recently died, became the Provost and did a terrific job.

Notwithstanding the fact that Fordham has done wonderful work, and is a highly regarded institution in the most important city in the world, from time to time the Board would inject itself in management issues - more to assist than to control. One example was when I was Chair of the Athletics Committee of the Board - we decided to improve Fordham's basketball program. The Committee recommended to the Board that Tom Pecora (who was head coach of Hofstra, but had worked with Jay Wright, the Villanova coach, and was highly regarded by multiple major college coaches around the country that we interviewed (Bobby Knight, Michael Krzyzewski, Jim Boeheim, Jay Wright)) would be good for the university. The Board approved our recommendation, but it did not sit well with the administration. Overall, Fordham has done a great job in its academic training and has produced wonderful graduates. I believe, however, that a Board of Trustees is more than a rubber stamp, and it has been helpful to the President in maintaining the stature and reputation of Fordham.

Mr. Marmon: Talk about the course you taught.

Mr. Tuohey: The state and local government law course is a standard elective at the law school and taught by a distinguished professor, Nestor Davidson. Davidson went on sabbatical in the fall of 2018 and Nestor asked me to teach the course. I had taught one of his sessions in the spring of 2018, so he asked me to teach again. I used his syllabus, but adapted it to New York City and its relationship to the state, and the District of Columbia and its relationship to the federal government, and how the state and local government of New York and DC operate under their respective constitutions. The course focused on state government and how it

differs from the federal government in operating. I enjoyed teaching the course and I will teach again at Fordham, but look forward to teaching at Georgetown Law Center in the fall of 2019 or 2020.

Over the years, I have frequently lectured, teaching trial advocacy, ethics and selected white-collar litigation subjects at law schools and ABA seminars, as well as at the National Institute for Trial Advocacy. When I was at the USAO and in private practice, I taught trial advocacy at Georgetown Law School. I have been active teaching at law firms, law schools and related institutions throughout my career.

Mr. Marmon: Family?

Mr. Tuohey: We will celebrate 50 years of marriage in June, 2019. Our eldest son, Brendan, was born in Washington in 1974, Sean in 1976, and Devin in 1979. Marty, after completing her Master's in Social Work at Catholic University and an internship at the Washington Hospital Counseling Center, had a 45-year career as a psychotherapist in Washington. During the formative years of our three sons, including up through grammar school, Marty completed graduate school and developed a private practice. On a yearly basis, we had young women from Washington and Rochester assist in child care. The three boys attended parochial grammar schools, and then all went to Gonzaga College High School. In my view, Gonzaga provides the most significant and formative educational experience that a young man can have, because it blends strong academic programs, good athletic programs and a commitment to service and others as a part of the philosophy "men and women for others". The Gonzaga experience

was very formative for the three boys. They were all very good athletes. They all played varsity basketball and went on to play varsity basketball in division one college programs. Brendan played for Colgate and played in two NCAA tournaments. Sean went to Lehigh, and in his second year, he decided to transfer to Catholic University. Sean finished his education at Catholic where he played basketball and took them to two Division III NCAA tournaments. Devin went to Colgate as well, played basketball and had a great education. He then graduated from Fordham Law School in 2007. Devin initially accepted a position with a major New York firm, but decided in his last semester to go into real-estate, where he is now a partner in a DC/Philadelphia development firm.

After graduation from Colgate, Brendan accepted an offer to play professional basketball and coach in Ireland. He coached at Dublin City University and played with a small professional team. Sean had a similar opportunity after his graduation and went to Northern Ireland where he played for a small professional team and coached at Queens. Before Devin went to law school, he spent a year in Derry, Northern Ireland playing for a team.

Brendan was accepted to Fordham Law School. Upon his return from Ireland, he spent a year working at Shearman & Sterling, a major New York law firm, but decided in the end that law school was not what he wanted to do. He returned to Washington and spent a couple of years at Gonzaga College High School working in the administration before joining the conflict resolution program envisioned by his brother in Belfast in 1999.

During Sean's first year in Belfast, Northern Ireland, he addressed an issue that both his brother Brendan and he had discussed - namely using the idea of sports to initiate the development of relationships between cultures and conflict. They focused on using basketball to bring together young Catholic and Protestant boys and girls in Belfast. The notion was that, if you could learn to play together, you could learn to live together. That program, Peace Players, is now in its twentieth year. It has been a huge success in Belfast, where it began, and has since spread to other communities around Northern Ireland. Thousands of kids have been a part of the program. They then decided to take the program to Durban, South Africa, where it has grown tremendously over the years - blacks, whites and Indian young men and women have come together. In Israel, the program brings together young Palestinian and Israeli men and women. Peace Players is also in Cyprus, bringing together Turks and Greeks. The program has also had an impact on the conflict in Yemen using Muslim coaches to work with kids. It will shortly open in Croatia. At the same time, due to its success around the world, Nike is underwriting a domestic Peace Players program which is now in five cities, Baltimore, Detroit, Brooklyn, Oakland and New Orleans. Next year, they will be in Chicago and Los Angeles - bringing kids together with police officers to create an environment of understanding and trust.

We are very proud of the boys over the years. They have wonderful supportive spouses, and we have eight special grandchildren.

Mr. Marmon: How does it work?

Mr. Tuohey: Brendan serves as the President of Peace Players. Sean is now in Buffalo with his family, and his wife is a lawyer. Sean is working with kids through the Wilson Foundation (Ralph Wilson of the Buffalo Bills). He also co-owns a new restaurant with his father in law. Devin is in Philadelphia working in real-estate with his Washington partner. All three have been involved, but Brendan now runs it. The management is based in Washington, DC with a Board of Directors from around the country, many of whom are from the financial industry and have contributed a lot of financial resources. In each country, there is a paid director for that country and a local advisory board. The U.S. staff consists of 15-20 people in Washington, DC. There is staff in Northern Ireland, South Africa, Israel and in Cyprus who work under directors who report to Brendan. There are directors of the domestic programs in various cities. The Board of Directors meet on a regular basis and assist in the overall management. It's a big operation now.

Mr. Marmon: How does the basketball game come about? How do they choose who plays?

Mr. Tuohey: In Northern Ireland, Protestant and Catholic kids play together on teams. In Northern Ireland, the program has added a relationship with rugby and Gaelic sports - hurling and football. The kids play together five days a week, as do the programs in South Africa, Israel and Cyprus.

Mr. Marmon: Where do they play? How do they get the courts?

Mr. Tuohey: They started out using school courts. Now they use facilities in Northern Ireland, Israel, Cyprus and South Africa that have been donated. In Jerusalem, the Jerusalem Y had a major renovation and permits Peace Players to use it every day for four to five hours. The source of support over the years has been a

combination of government funds through USAID, which has been very involved in Israel, South Africa and Cyprus, Foundation funds and private contributions.