Carl Stern, Esq.

Oral History Project
The Historical Society of the District of Columbia Circuit

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The Historical Society of the District of Columbia Circuit

United States Courts
District of Columbia Circuit

Carl Stern, Esq.

Interviews conducted by:
Judith Feigin, Esquire
October 22, October 27, November 5, November 9, and November 13, 2020

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NOTE

The following pages record interviews conducted on the dates indicated. The interviews were recorded digitally or on cassette tape, and the interviewee and the interviewer have been afforded an opportunity to review and edit the transcript.

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PREFACE

The goal of the Oral History Project of the Historical Society of the District of Columbia Circuit is to preserve the recollections of the judges of the Courts of the District of Columbia Circuit and lawyers, court staff, and others who played important roles in the history of the Circuit. The Project began in 1991. Oral history interviews are conducted by volunteer attorneys who are trained by the Society. Before donating the oral history to the Society, both the subject of the history and the interviewer have had an opportunity to review and edit the transcripts.

Indexed transcripts of the oral histories and related documents are available in the Judges' Library in the E. Barrett Prettyman United States Courthouse, 333 Constitution Avenue, N.W., Washington, D.C., the Manuscript Division of the Library of Congress, and the library of the Historical Society of the District of Columbia

With the permission of the person being interviewed, oral histories are also available on the Internet through the Society's Web site, www.dcchs.org. Audio recordings of most interviews, as well as electronic versions of the transcripts, are in the custody of the Society.

INTERVIEWEE ORAL HISTORY AGREEMENT

Historical Society of the District of Columbia Circuit

Oral History Agreement of Carl L. Stern

1. In consideration of the recording and preservation of my oral history memoir by the Historical Society of the District of Columbia Circuit, Washington, D.C., and its employees and agents (hereinafter, "the Society"), I, Carl L. Stern, do hereby grant and convey to the Society and its successors and assigns all of my rights, title, and interest in the voice recordings (digital recordings, cassette tapes) and transcripts of my interviews as described in Schedule A hereto, including literary rights and copyrights. All copies of the voice recordings (digital recordings, cassette tapes) and transcripts are subject to the same restrictions herein provided.

2. I understand that the Society may duplicate, edit, or publish in any form or format, including publication on the Internet, and permit the use of said voice recordings (digital recordings, cassette tapes) and transcripts in any manner that the Society considers appropriate, and I waive any claims I may have or acquire to any royalties from such use.

3. I reserve for myself and to the executor of my estate only the non-exclusive right to use the voice recordings (digital recordings, cassette tapes) and transcripts and their content as a resource for any book, pamphlet, article or other writing of which I or my executor may be the author or co-author.

Carl L Stern 2/14/21

[Name of Interviewee] [Date]

SWORN TO AND SUBSCRIBED before me this
day of 201

Notary Public

My Commission expires: _____

ACCEPTED this 21 day of February, ~~201~~ 2021, by James E. Rocap, III, President of the Historical Society of the District of Columbia Circuit.

James E. Rocap, III

Schedule A

Tapes, recordings, digital recordings, transcripts, computer diskettes and electronic media resulting from five interviews of Carl Stern, conducted on the following dates:

Interview No. and Date	Number of Tapes or CDs	Pages of Final Transcript
No. 1, October 22, 2020	}	1-46
No. 2, October 27, 2020	}	47-77
No. 3, November 5, 2020	} All on one DVD	78-88
No. 4, November 9, 2020	}	89-133
No. 5, November 13, 2020	}	134-191

The transcripts of the five interviews are contained on one DVD.

Standard Form for Interviewer

The Historical Society of the District of Columbia Circuit

Oral History Agreement of _____

1. Having agreed to conduct an oral history interview with CARL STERN for the Historical Society of the District of Columbia Circuit, Washington, D.C., and its employees and agents (hereinafter "the Society"), I, Judith S. Feigin do hereby grant and convey to the Society and its successors and assigns all of my rights, title, and interest in the voice recordings (digital recordings, cassette tapes) and transcripts of the interviews as described in Schedule A hereto, including literary rights and copyrights.

2. I understand that the Society may duplicate, edit, or publish in any form or format, including publication on the Internet, and permit the use of said voice recordings (digital recordings, cassette tapes) and transcripts in any manner that the Society considers appropriate, and I waive any claims I may have or acquire to any royalties from such use.

3. I agree that I will make no use of the oral history or the information contained therein until it is concluded and edited, or until I receive permission from the Society.

Judith S Feigin 02/24/21
[Name of Interviewer] [Date]

SWORN TO AND SUBSCRIBED before me this
24 day of February, 2021.

Notary Public

My Commission expires: 10/14/2022

JESSICA MANZANO NOTARY PUBLIC DISTRICT OF COLUMBIA EXP 10/14/2022

ACCEPTED this 14th day of March, 2021, by James E. Rocap, III, President of the Historical Society of the District of Columbia Circuit.

James E. Rocap, III

Schedule A

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Oral History of Carl Stern

This interview is being conducted on behalf of the Oral History Project of The Historical Society of the District of Columbia Circuit. The interviewer is Judy Feigin, and the interviewee is Carl Stern. The interview took place at Carl's home in Washington, D.C., on Thursday, October 22, 2020 in the midst of the coronavirus pandemic. This is the first interview.

MS. FEIGIN: Good afternoon. You've had an amazing career, and I can't wait to get to it, but I want to put you in time and place, so let's have a little sense of the family.

MR. STERN: They start with the dinosaurs.

MS. FEIGIN: How far back do you know your family history?

MR. STERN: Quite a ways. Probably at least to the 1700s, but you don't want to go back that far.

MS. FEIGIN: It wouldn't be the first oral history that did but that's not usually the case.

MR. STERN: My wife has managed to acquire her family history back to the 12th century.

MS. FEIGIN: Amazing! But let's start with yours.

MR. STERN: I was born in Sunnyside, which is New York, in Queens. It's part of New York City. I grew up in Flushing and Jackson Heights, which are also in Queens.

MS. FEIGIN: You were born when?

MR. STERN: August 7, 1937. My mother was a teacher. She was a fashion illustration teacher in a New York City high school. In those days, oddly enough, newspapers and magazines did not use photographs to illustrate fashions. All the depictions of clothing for sale were sketched by artists. My mother did it, for example, for Lord & Taylor in the early 1930s. So my mother,

during the Depression, got a teaching license and taught fashion illustration. Her family came from somewhere along the German/Polish border in 1848, as did many people. Curiously enough, she searched in vain for a number of years trying to find records of their arrival, assuming it would have been in New York, Ellis Island or such. Ultimately, she found out by going to the Archives here that they had come in through Baltimore. She had never thought to check that.

My father came to this country in 1928 from Munich, Germany. That's Bavaria, the beer drinkers**.** He had a degree in mechanical engineering. When he arrived here, he studied civil engineering. He got a civil engineering degree at Cooper Union in New York. In those days, as I guess it is to some extent now, you have to have a sponsor to come to the United States, and he was sponsored by Karl Laemmle, whose name would be better known on the West Coast where Laemmle movie theaters still exist.

Karl Laemmle was the German immigrant who actually founded the motion picture business in Long Island City and subsequently, because he needed better weather, moved it to Hollywood. Karl Laemmle is responsible for the movie industry being in Hollywood. In any event, Karl Laemmle sponsored -- he was called Uncle Karl Laemmle -- he sponsored at least 150 Germans that he had known in Germany to come to the United States, including my father, and he would guarantee that they would have employment when they came. So my father always said he came here to

be in the movies [laughter]. In point of fact, while he was studying during the day, at night he earned his keep by going to the Laemmle facilities in Fort Lee, New Jersey, to soup the day's shooting through the chemical baths, processing the movie film that had been shot that day. So he was there at night cranking the film through the chemical bath. He said I came here to be in the movies [laughter].

I have a twin brother. In fact, I should mention, Karl Laemmle, that's Karl with a "K." I'm Carl with a C. I was not named for him. When my parents had twins -- in those days medicine was not as advanced as it is today -- having twins was a bit of a surprise. They had decided that if they had a boy, they would name him George after a previous family member, actually my mother's father, or Carolyn, or Carol, for my mother's mother, depending on if it was a boy or a girl. Well they got two. We're fraternal twins, so my brother got George. I, fortunately, did not get Carol [laughter].

MS. FEIGIN: Although there are men with that name.

MR. STERN: Yes, that's true. In any event, that's why I'm Carl with a "C."

MS. FEIGIN: You started in Queens and then what?

MR. STERN: Thinking back to my childhood, I remember there was an apple tree in the backyard in Jackson Heights which was good for climbing. I remember a neighbor would give my brother and me a penny apiece for collecting Japanese beetles off his roses and putting them in a can of kerosene. We used to play ball on Dukes field, which was next to P.S. 148 where I went to elementary school in Jackson Heights. In those days, there would be a

square block with no structures on it at all. This was a much more primitive time. In fact, when I first started broadcasting on television, I got a letter from a fellow in Baltimore saying if you were the worst right fielder who ever played with the Jackson Heights Robins, I know you.

MS. FEIGIN: And that was you? [laughter]

MR. STERN: That was me. He had the right man [laughter]. It's hard to explain, but in those days, Jackson Heights for example had these empty fields. There was no such thing as supermarkets and just down at the corner there were a couple of shops including a little market. There was a butcher, a guy named Gottesman. He had the first television set in the neighborhood, black and white of course. He would invite patrons like ourselves – he lived over the store of course -- to come watch the Friday night fights or *Can You Top This*, if you recall, a comedy show, on Friday nights. This was in New York City, but this was a very, I can't say rural, it wasn't rural, but it was sort of a low-key neighborhood. If we were going into Manhattan, which was seldom undertaken, we would say we were going into the city.

MS. FEIGIN: Jackson Heights now, and I'm sure you know this, I think it has the most languages for any area its size in the country. It has over a hundred languages. It's just a polyglot of communities. It's amazing now.

MR. STERN: In those days it was largely Italian and some German, Irish. I won't call it a low-income neighborhood; we would've called it middle class. There were a lot of civil servants, police and firemen and so on.

It's hard to explain what life was like back then. I can remember as a kid lying in bed at night listening to the roar of engines being tuned up at LaGuardia Airport, which was about five blocks away. These were engines of flying boats that flew during the Second World War between New York and Scotland. Flew over the Atlantic.

The building was a two-family structure. The fellow downstairs was employed by one of the airlines doing mechanical things with airplanes. My father had a place of business in College Point, which is a community on a little peninsula that juts out almost under the Whitestone Bridge. I can remember going to visit his office and passing the anti-aircraft batteries at Flushing airport that were there to help protect New York City. I could go on forever. It was a different life.

MS. FEIGIN: So you were in Queens during World War II?

MR. STERN: Yes.

MS. FEIGIN: And do you have memories specifically related to the war?

MR. STERN: Other than the air raid drills, which were periodic, you had to pull down the shades. In those days, you had to have black shades, black window shades, and you would pull those down, and we'd all gather under the dining room table until we got the all clear.

MS. FEIGIN: That's incredible. How long did you stay in Queens? Until when?

MR. STERN: Until I was age 13, and then we all moved to Manhattan, to the West Side, 99th and West End, which is near Columbia where I ended up going to college.

MS. FEIGIN: Given how your career developed, I'm curious. Growing up you didn't even have a TV when you were very young.

MR. STERN: Actually, we were lucky. An uncle gave us a TV set, an Emerson I recall, when we were 13, my brother and I, and we put it in our joint bedroom. When I say we were lucky, we were lucky thinking that we were privileged, we had a TV, but the lucky part was it didn't really work. So it didn't interfere with our studying [laughter]. We went to Stuyvesant High School, so I attribute whatever learning I have in life – and it's not as much as it should be -- I attribute it to the fact that we had a TV, but it didn't work.

MS. FEIGIN: Was it just the two of you or were there other siblings?

MR. STERN: Just the two of us.

MS. FEIGIN: Growing up, did you watch the news?

MR. STERN: Of course. My father would come home, probably around 6:00 or so. He would always honk when his car was approaching our building because that meant he was going to start looking for a parking space. That would inform my mother that she could put the kettle on or whatever. So he would come home with the *The World Telegram and Sun*, which was the afternoon paper. We also of course got *The Times* in the morning. We would flip on the TV at 6:00, and we'd watch the local news and then the national news.

MS. FEIGIN: I want to follow up on two things you just said. First of all, there were morning and afternoon papers.

MR. STERN: Indeed there were. *The Daily Mirror, The Daily News*. *The World Telegram and Sun* was a consolidation of two newspapers. And *The Herald Tribune*. *The Times* and *The Herald Tribune* were probably the highest regarded publications.

MS. FEIGIN: I think *The Post* was an afternoon paper.

MR. STERN: I don't remember *The Post* at all. It came and went through various mutations.

MS. FEIGIN: Right. I think it was owned by Dorothy Schiff who was very liberal.

MR. STERN: Yes. That may have been after I was a kid.

MS. FEIGIN: So there were maybe a half dozen newspapers in the city then?

MR. STERN: Yes. *The Post*, *The Saturday Evening Post*, *Colliers*, *Newsweek*, *Time*, *U.S. News & World Report*. In those days, we read them all.

MS. FEIGIN: Some of those are magazines.

MR. STERN: It was expected of us, and in fact to this day I shudder when I was teaching not too many years ago, none of my students read a daily newspaper. I was teaching at a university, and none of them were reading a newspaper.

MS. FEIGIN: Not even online?

MR. STERN: They may have. I wouldn't even put my money on that.

MS. FEIGIN: That's discouraging. In terms of the news on TV, correct me if I'm wrong, but I think it was fifteen minutes of news a night, right?

MR. STERN: That's right. Even when I was 21 years old and I went to work at a radio/TV station, and this was in Cleveland, and we can get to that later, to

give you some idea, at 2:20 every afternoon we did a book report. Those were not very exciting days in television [laughter].

MS. FEIGIN: C-SPAN's book show was considered highbrow [laughter].

MR. STERN: This was not C-SPAN [laughter].

MS. FEIGIN: So the news was fifteen minutes, and there were only basically three stations, correct, that everybody watched?

MR. STERN: Yes. The NBC station and the CBS station. In those days, ABC was really not much of a presence, but Channel 5 in New York, the Dumont station, was fairly well regarded, and, of course, there were some other less-viewed stations, WOR Channel 9, WPIX Channel 11. Public broadcasting had begun on Channel 13.

MS. FEIGIN: Back then?

MR. STERN: Roughly about 1950, early 1950s I would say. I'm guessing. I would have to look it up. There were a lot of stations, but of course by today's cable standards, it was just a tiny bunch.

MS. FEIGIN: I also believe that television ended at midnight.

MR. STERN: Yes. I'm trying to remember. Maybe even 1:00 in the morning, but you're right. Things were so different then. Your mention of midnight makes me think of the years in Cleveland when I was a broadcaster, again pardon me for skipping ahead. In the evening I did a two-hour show on radio in the beginning, and I was cautioned that if somebody said a curse word, a profanity such as "damn" or "hell," my instructions -- I was alone in the station at night, myself and an engineer -- I was to take the station

off the air. I was to play the *Star Spangled Banner*, take the station off the air, wait a few minutes, and then sign the station back on. That's how strict they were about broadcast standards. Today you could get away with just about anything [laughter].

MS. FEIGIN: Well, on some stations. I'm not sure on all stations. I think way back in the day when they went off the air at midnight or whenever, they played the *Star Spangled Banner*, right?

MR. STERN: Yes. And when we signed on early in the morning. But those were different days. My first producer when I started doing the radio show I just mentioned, his original job at the station, he was the wake-up man. He was to telephone at 5:30 in the morning members of the studio orchestra to make sure they would be down in the studio by, I don't know, 7:00 or whenever the station signed on. The large station that I worked for, one of twenty-four clear-channel stations, had maximum broadcast power so it was a big station, they all had music that they played which, to some extent, was coming from their own orchestra.

MS. FEIGIN: That's amazing.

MR. STERN: I remember Harold Arlen, the first announcer for KDKA. He worked for Westinghouse in Pittsburgh. At night he was to wear a tuxedo. This is radio [laughter] but he would have to wear a tuxedo. His instructions were when visitors came to visit the studios, he was to serve them ice cream. I don't mean to suggest I was back there with Marconi, but I'm trying to

illustrate that the great leap forward that broadcasting has undergone – this was quite a big leap.

MS. FEIGIN: That's important to understand. I think that's hugely important. People today have no sense of what it was like then.

I know you're anxious to get to Cleveland, so let's quickly get you there. But to finish up with New York, you went to Stuyvesant High School?

MR. STERN: I did. And I was a pre-med. I loved biology.

MS. FEIGIN: I should just say that Stuyvesant was a school you tested to get into, but it was all male in those days.

MR. STERN: Oh, of course.

MS. FEIGIN: Of course [laughter].

MR. STERN: My recollection is we all wore neckties. This was a different time. I was the editor of the literary magazine, something called *Caliper*. Little stuff like that, but we were down in the Lower East Side of Manhattan near Beth Israel [Hospital], which actually happens to be where I was born.

MS. FEIGIN: The Lower East Side of Manhattan, which is today sort of the center of the universe, then was what?

MR. STERN: It was still in the late tenement stage. Today we don't talk about tenements. We talk about lofts and things like that [laughter].

MS. FEIGIN: After four years at Stuyvesant, you went on to Columbia?

MR. STERN: Then I went on to college, yes. I was there as a pre-med for about less than a year [laughter]. I discovered that medicine was a science and not a philanthropy. My chemistry teacher was Linus Pauling, of some repute.

MS. FEIGIN: Quite!

MR. STERN: And I did not do well in chemistry. I don't mean to suggest that I failed, but it was enough to persuade me that that was not what I was going to be doing for a living, and I became basically a government and history major.

MS. FEIGIN: Were you a commuting student at Columbia or did you live there?

MR. STERN: The first year I commuted, but thereafter I lived on campus in a fraternity house. By the way, you seemed surprised about Linus Pauling. The faculty then, and now I am sure, was unbelievable. C. Wright Mills for sociology and Richard Neustadt for my government courses. These names are probably not known to your readers, but these were the academic all-stars of that era.

MS. FEIGIN: Absolutely. My only reason for being surprised at Linus Pauling is because when I paid more attention to Linus Pauling, he was out on the West Coast.

MR. STERN: Promoting Vitamin C as the safeguard against all illness [laughter].

MS. FEIGIN: Well, the common cold at least [laughter].

MR. STERN: It didn't do much for flat feet [laughter], but he was determined to get people to take Vitamin C to prevent colds. You're right.

MS. FEIGIN: Didn't he win two Nobel Prizes?

MR. STERN: Two Nobels solo, all by himself. You're right. I should tell you also during that time I had other activities. I ran the campus radio station,

something that intrigued me. I was on the University Student Council as a college representative. I was a Sachem, which was one of these secret societies supposedly where you meet in the chapel crypt at midnight and plot various things presumably to help the school. I would show you the secret handshake, but then I would have to call for your assassination [laughter].

MS. FEIGIN: Well it's COVID era so we can't do handshakes in any event [laughter].

MR. STERN: Those were very good years.

MS. FEIGIN: Did your brother go there also?

MR. STERN: He did. He was an undergraduate at the college as well and took a degree in civil engineering at the engineering school and then went on to Harvard Business School where I'm sure he was corrupted [laughter]. We have eight Columbia degrees in our immediate family, and I know you have one or more as well.

I then went on to journalism school, which was a graduate school only. Journalism is not taught at Ivy League schools as an academic subject. They regard it as a science, sort of like plumbing [laughter]. You get an M.S. for studying journalism at the graduate level, not an M.A. You might wonder how I found myself at the legal end of things. When I was a senior at Columbia College, I had to write a senior thesis. We all did, and I wrote mine at the law school on what the difference was between right and wrong.

MS. FEIGIN: That sounds like philosophy.

MR. STERN: Don't ask me to explain it today. And then I stayed at the Journalism School, and I had to write a master's thesis when I left there, and I wrote that also at the law school, a paper on group defamation. Today I guess we'd call it hate speech. That was a wonderful experience. I had some great classmates: Lou Boccardi who went on to become head of the Associated Press; Oleg Kalugin, a master spy. I don't know if that name rings a bell, but he lives here in Washington now. He was a KGB general. He came as a sort of Russian exchange student. We all thought he was a fighter pilot. I even had him in my home with my parents. He was KGB. He finally turned on his Russian masters, so much so that to this day there is a death warrant out for him should he return to Russia**.** But we all enjoyed his company.

I did intern for a couple of weeks with Edward R. Murrow down at CBS. I can tell you that in the two weeks I was there, Edward R. Murrow never said one word to me [laughter].

MS. FEIGIN: Did you have a sense of him?

MR. STERN: Yes. He was obviously a towering intellect and towering communicator but only in his writings and his broadcasts. He was not loquacious. He didn't talk much. I guess he considered that a waste of time. He was not warm and fuzzy, but obviously we all regard him as a patron saint in the broadcast journalism business.

MS. FEIGIN: What was he doing? Was he doing news? He also had his *Here and Now* show.

MR. STERN: They had him doing some really dreadful shows that were aimed for a more popular audience, but when I was there, he was principally doing radio broadcasts, which was his forte anyway. It was one of life's experiences.

MS. FEIGIN: Before we leave Columbia, a couple of questions. People now don't know this and don't believe it, but Columbia then was all male.

MR. STERN: Oh yes. Of course there was Barnard across the street, and that's where I met my wife.

MS. FEIGIN: Barnard is still across the street, but Columbia is now, and has been for many years, co-ed.

MR. STERN: We all understood that Barnard women looked forward to taking classes at Columbia, which they were permitted to do, and the men looked forward to being in those classes that accepted women. We had ridiculous panty raids and things like that which I ought not attempt to explain.

MS. FEIGIN: Actually I think that would be fascinating because that is something nobody could imagine.

MR. STERN: The men from Columbia would assault the dormitories of Barnard across the street. When I say "assault," I don't want you to take that too literally. We would attempt, by one male student climbing upon another, to reach through a window that you could get into in the Barnard dormitory. Then the idea was to steal a piece of ladies' undergarments which you could then display to the world which presumably was quite interested to know what you were getting from the Barnard dormitories [laughter]. Those

were panty raids. That was it. I could go on but it's embarrassing as well as humiliating.

MS. FEIGIN: You graduated from Columbia what year?

MR. STERN: I graduated in 1958 and then I stayed another year at the Journalism School which in those days had a one-year program because it was assumed that most of the students were being sent there by their publishers or by their newspapers and magazines to learn how to be better reporters, and so I managed to wiggle my way in straight from the college. I have to confess I was a lousy journalism student [laughter]. For example, we had to spend an internship at the Middletown, New York newspaper, but only for a couple of days. I was sent there and I was made a photographer and so I was assigned on a given day to take some pictures of a flower show outside of town. I dutifully got in the car and drove that way. As I was leaving town, I passed a barbershop. I noticed something strange, state policemen coming out the door of the barbershop carrying a cash register. I said that's odd. I'm going to have to check into that. But of course I went on to my assignment. I came back into town and lo' and behold, the officers are back, bringing the cash register back in. I said that's really odd. So when I got back to the office I told them what I had seen. It turned out that was the first bookie raid, a gambling raid**,** in Middletown in about twenty years and here I was with my camera, and I had missed it now not once but twice! [laughter] That launched my career in journalism.

MS. FEIGIN: One more thing about your Columbia years. It seems to me, or am I wrong, those were pretty halcyon years at Columbia. Pretty quiet?

MR. STERN: So quiet in fact, without getting into partisan politics or where I stand today, my brother and I both joined the Young Republican Club because it was the only political club on campus and we were interested in contemporary politics. Oddly enough, Columbia in those days was called The Little Red Schoolhouse, as though it was packed with anarchists and bomb throwers. I'm just trying to tell you that those were very quiet years. They were the post-Eisenhower years. Eisenhower had already left. He had been the president of Columbia

MS. FEIGIN: And he was president of the country of course by that time.

MR. STERN: Yes. Actually, my interest in politics started around 1948 when Tom Dewey ran against Harry Truman. Harry Truman, who today we regard as a wonderful, wonderful person. When I think of all the excesses in the White House, I always remember Harry Truman kept on his desk a roll of stamps so if he was going to send a personal letter to somebody, like a critic criticizing his daughter's music performances, he wouldn't think of the government paying for his personal correspondence. In any event, in those days my father was quite a rabid Republican, so we were all for Tom Dewey, but Tom Dewey, as history records, lost in a surprise to Harry Truman.

Actually when you think about it, it wasn't much of a surprise. I remember while the election was under way, *Life* magazine, which in

those days used to publish these spreads over two pages in the middle, in the fold, pictures from the annual Governors Conference of the governors meeting at White Sulphur Springs or The Greenbrier or someplace, and they would have the governors stand in a chalk version done in tennis court chalk of a map of the United States. They would each stand there with a sign bearing the name of their state for this group picture which *Life* would publish every year. I still remember in 1948 during the election campaign the cutline in there – the caption under the picture -- explained that each governor could be seen standing in the outline of his state holding the name of his state. (In those days it all would have been *his* state.) Except for Governor Thomas E. Dewey of New York. You could see the New York sign at his feet. When asked to hold the sign, he responded, "I'm no sandwich man." [laughter] Well maybe that's the sort of humility that cost him the election in 1948.

MS. FEIGIN: We should probably explain for people reading this down the road because they may not know what the reference to "sandwich man" is because there aren't many anymore.

MR. STERN: Those were fellas walking around doing advertising, carrying signboards on their presence advertising sandwich shops nearby where office workers on their lunch break should go to buy their sandwich. They were called sandwich men, walking around with these boards strapped in front and behind which they put on over their heads in a sort of inverted "V" as they walked around.

MS. FEIGIN: Okay, so you got your master's at Columbia and then what?

MR. STERN: I applied for a job at a number of radio and television stations, all of them in the northeast, about as far south as Richmond maybe if we make that the edge of the north and maybe as far west as Chicago. I had several offers, but the one that was paying *real* money, I mean Cadillac money, was Cleveland. Ninety-five dollars a week! Now probably to readers that sounds like a relatively small sum, but when I went to work there, I lived next door to the radio station in a hotel and I rented a room by the month. It was a tiny room in the rear of the hotel but they did change the linens every day, and I paid the princely sum of $75 a month for my room [laughter]. So $95 a week! I went there saying I wanted to be a writer. Then when I got there, I found out that if I actually aired one of the newscasts -- each day's on-the-hour newscast that local stations do -- they would give me an extra $5 a day. That brought me up to $120 a week.

MS. FEIGIN: This was on radio?

MR. STERN: This was KYW radio, which today is in Philadelphia but in those days it was in Cleveland. There's a long story there but I'm sure not of interest to readers, but yes, this was a big radio station.

MS. FEIGIN: Did you have a beat or what was your assignment?

MR. STERN: Initially I was assigned to work at night to go out in a news cruiser, a big station wagon festooned with all sorts of lightning bolts on the side that advertised the name of the radio station, and I was to do rounds checks. That is to say you go to the police stations and hospitals checking in to see

if there's something going on. My duty was to call in to the on the air program twice an hour with a report of something that was going on in town so that we could say we were covering the city at night. I did that for about two months.

MS. FEIGIN: So there was something every hour? You had to come up twice an hour with something new?

MR. STERN: Yes, but if you're fairly resourceful – I never fibbed -- it's not hard. Now some of those stories may be fairly uninteresting, but I did that for about two months and then the person who was doing the radio show was switched to another job, and because my voice was familiar to his show, he was doing a night-time show, they put me in as the host, and that's what I did for the next two years. In those days, Cleveland was the ninth largest market in the country. I don't want to insult anyone's hometown, but it is I suspect now probably around 35th in the nation.

MS. FEIGIN: So you spent two years in Cleveland?

MR. STERN: No. I went on into television. All in all I did seven full years in Cleveland, and my wife and I loved it and love it to this day.

MS. FEIGIN: Your wife is now part of the story, so when did you get married?

MR. STERN: I got married in 1960 when my wife graduated from Barnard. I always say that she married me only because she wanted to live in Cleveland [laughter]. She disputes that, but in those days Cleveland was a fabulous city. It had the Cleveland Orchestra. The Cleveland Orchestra is still fabulous. But the Cleveland Art Museum and theaters, the Cleveland

Playhouse where my wife, who is an actor, was an ingenue on staff for a year or so and was very active in theater life there. We just had an enormously good time and did lots of things that we hadn't done in New York. My radio show was at night, which meant in the morning Joy, my wife, and I had spare time so once in a while we'd even go bowling [laughter]. In my day, kids from New York didn't go bowling [laughter], but we went bowling.

We had a wonderful time and made friendships there that we have to this day. When you're starting out in life, of course you build a life and it becomes in a way much more like home to you than even the places you've come from.

MS. FEIGIN: Right. So you transitioned to TV. How did that come about?

MR. STERN: It came about because the radio station reformatted. It went from basically a night-time talk format to night-time rock and roll format. It may startle you, but I'm not a rock and roll disc jockey [laughter]. Actually, the TV station was situated around the corner on the same floor. I was out of work for about two hours. The news director came in and said, hey, do you want to come work for us? So I took my hat and coat off the stand and went around the corner and started working in TV.

MS. FEIGIN: Did you have a specific beat in TV?

MR. STERN: Yes. At that point I was basically a government reporter if you will, city hall, county building, county administration building, that sort of thing.

MS. FEIGIN: Somewhere along the line you did law school.

MR. STERN: While I was doing the night-time radio show, we did a half hour every Monday with lawyers from the Cleveland Bar Association so that people could call in with their legal questions, and in those days, we didn't put people on the air in their own voice, so to speak. We were concerned, even with a seven-second delay which is mechanically easy to do just by threading the broadcast through a recording machine, but we were so nervous, if you will, about letting people speak on our airways virtually live. In fact, for about a year my wife would come down at night and help me just by being in the control room to screen incoming calls to make sure they were on target.

In any event, that half hour once a week where we had the lawyers, I discovered that I had difficulty comprehending what questioners or the lawyers were talking about. For example, somebody asked about a quit-claim deed, real estate property law, and I would think they said quick claim deed. So I thought it would be a good idea, and to be honest, I'd always been interested in the law. I wrote my master's thesis and my senior thesis at the law school at Columbia.

I started going to a night law school there, Cleveland Marshall, and to some extent knowing that I was studying law, I suppose that contributed to the news director wanting me to cover legal things. In fact, after I had been doing that for a few years, the station had been reacquired by NBC, the network. It was not when I joined. It was a Westinghouse station when I joined it. I was asked to do, and I did do, a three times a week

commentary on the NBC radio network out of Cleveland, and occasionally I got to do some network reports into *The Huntley-Brinkley Report*. So I was the first to do a piece on Jay Rockefeller when he ran to be secretary of state in West Virginia, and I did the first piece on John Glenn when he became one of the Mercury astronauts from New Concord, Ohio. I did the first report on television on John Glenn.

We did a lot of stories but being in Cleveland is not the same thing as being in New York or Washington, D.C. I recall at one point the first Job Corps camp was open, if anybody remembers Job Corps. This is back in the Kennedy era, R. Sargent Shriver. I was assigned to go down there and do a story in extreme southern Ohio on the first Job Corps camp, and I remember my newsroom boss told me to fly down there. He asked me to arrange for a flight to take me and my crew to go down there because it was too far to drive. I called the local aviation company, and they gave me a quote of $250. I came back to my news director and told him, and he said that's way too much. He said talk to me tomorrow. So the next day I asked him, and he said yes, I have it all arranged. I said how much? He says $50. I said $50? He said, yeah. It's an airplane that belongs to Cleveland Freight Lines [laughter]. But we survived. Need I go on? I'm here.

MS. FEIGIN: So you did law school while you were still working?

MR. STERN: The answer is yes. What I ended up doing after the first year was I would go to Western Reserve University in the morning from about 9:00 to

11:00, two courses. Then I would go to work. I would do a broadcast about 6:15 on the television, and then I would go over to the night program at Cleveland-Marshall. I was able to do it. The two law schools had never really cooperated, but the dean of the night law school was the mayor of Shaker Heights where I lived and which I covered as a reporter, and the dean of the day law school at Western Reserve -- now Case Western Reserve -- was Oliver Schroeder, who was a University Heights councilman, who I also knew, so we worked it out. I actually have 50% of my credits from Western Reserve and 50% of my credits from Cleveland Marshall.

MS. FEIGIN: Where is your degree from?

MR. STERN: Cleveland-Marshall. I finally ran out of options to finish, which I did in four years rather than three. I had to take the final courses at Marshall which I did. Those were wonderful times, and obviously I learned a lot of things.

MS. FEIGIN: Interestingly, when I look at the reporters who cover the courts now, I'm surprised that a lot of them are not trained as lawyers but I think a lot of them take a course at Yale for a year, at the Yale Law School, even Linda Greenhouse [former *New York Times* reporter] and Pete Williams [NBC Justice correspondent]. I don't think either of them was trained as a lawyer.

MR. STERN: It's a wonderful program. Let me just say that it was fairly easy to get into Reserve in those days because -- and I don't mean to be unkind -- but

many of the students were young men who were seeking a draft deferment during the early days of the Vietnam War, and so they were not the most motivated students. At the night law school, they were motivated, and it's interesting. I did very well in law school. I was a magna cum laude. In those days, by the way, unlike how it is today, there was one summa cum laude at graduation and three magnas.

I just want to make a couple of observations. We had a study group, and I always advise young people going to law school to get into a good study group of people who are smarter than you are. Of course you don't want to study with people who are dumber than you are. In our study group we had five people and four out of the five of us ended up at the top of the class like birds on the telephone wire, all in a row, so we must have gotten something from each other by virtue of studying together and to end after those years at such a place.

MS. FEIGIN: The poor fifth person! [laughter]

MR. STERN: He owned a hardware store and he was busy at the store. I also learned, occasionally for example, I would go down to Columbus with one of my professors who I liked and I'd hear him argue cases at the Supreme Court down there. I can remember being with him, and I guess it wasn't at the Supreme Court, but he lost the case, and I couldn't understand how he had failed to win. His argument was overpowering I thought, and I remember him saying to me "If you're going to be a lawyer, you have to develop a tolerance for disappointment" and that has stuck with me to this day.

MS. FEIGIN: I assume, by the way, a lot of the people were trying to avoid the draft, but I assume that your class was almost entirely, or maybe entirely, male?

MR. STERN: Yes. Probably 90%.

MS. FEIGIN: So you think as many as 10% might have been women?

MR. STERN: Yes. But very few. I had some good stories during my time in Cleveland I was able to feed into the network. I had one story about the Pepper Pike police chief who had his patrol crews in the morning out distributing *The Cleveland Plain Dealer* newspaper, and he of course was getting the income from it. He explained that he was putting them on patrol but they were actually delivering newspapers for him [laughter]. And I covered the Sam Sheppard trial really from top to bottom**.**

MS. FEIGIN: You should say for people who won't know who Sheppard was and what that incredible trial was.

MR. STERN: There was, if you remember**,** the television show and movie *The Fugitive*. They were fictional dramas, using as their springboard the real-life conviction of Dr. Sam Sheppard, an osteopath, for the brutal murder of his wife Marilyn at their home in Bay Village, Ohio. He was convicted in 1954, but F. Lee Bailey, with whom I became fairly close in the years that followed, took Sam Sheppard's case. He got the Supreme Court of the United States to overturn the conviction about ten years after Sheppard had been convicted, on the basis of excessive adverse pre-trial publicity, and that was quite an experience. I spent a lot of time on that case.

MS. FEIGIN: F. Lee Bailey was quite a character.

MR. STERN: That he was. I remember when Sheppard's prior conviction was first overturned and Bailey managed to get him out on bond. I remember he had Sheppard come into the courtroom with his toiletries kit and plop it right on the table in front of the judges, saying "My client is ready to go back to prison tonight if you don't grant bond" [laughter]. F. Lee Bailey was a heck of a showman.

I still remember here in Washington in Duke Zeibert's restaurant, he used to have a cartoon at the front door. It showed these two inmates in their prison stripes talking in the cell and one prisoner says to the other "Your lawyer was Edward Bennett Williams? No kidding, my lawyer was F. Lee Bailey." So I have very vivid memories. Bailey was a superb lawyer, at least in those days. He later fell into some misdeeds, I guess.

I can still remember he had the county coroner, Doctor Sam Gerber, on the witness stand. This is in the second trial, and Gerber is explaining how one of the things that led him to believe that Dr. Sheppard was guilty was because there was a blood stain imprint from what appeared to be a surgical instrument on a pillow in Marilyn's bed where she laid beaten to death. And Bailey said "What kind of surgical instrument was it?", and Gerber said "I'm not sure." Bailey said "Did you look for one like it?" Gerber said "I searched all over and I never found one like it" and Bailey said, "Exactly." That was the end of his cross examination. Bailey was a marvelous lawyer.

I also kind of have this spooky memory still in my mind when Sheppard was acquitted at his second trial. He was leaving the courthouse with Bailey and as he left the courthouse -- the courthouse was in a building that was about 23 stories tall and also accommodated the county jail -- and in the half-light, this was at night, I have this memory of Sheppard walking down the steps of the courthouse a free man for the first time in many years. The prisoners up there, you could hear them applauding as Sheppard was walking down the steps.

The only time I really recall anything like that, and we'll get to this later, was during Watergate when Leon Jaworski went to argue the Nixon tapes case in the Supreme Court. He's walking up the steps and the passersby and the audience that had assembled, congregated on the Supreme Court steps, were applauding and somebody from the crowd yelled out "Go get 'em Leon" [laughter].

Those were fantastic days. In the beginning, I should tell you, I thought Sheppard had been wrongly convicted in 1954. But as I got to know him and his character better along the way, I don't want to suggest that I'm convinced he was guilty, but I wasn't convinced as years went on that he was innocent. For what it's worth, but I'm not going to convict him postmortem or however you want to describe that.

MS. FEIGIN: Are there any other major cases that you want to talk about during your Cleveland era?

MR. STERN: Of course I did moot court, law review, all that sort of stuff when I was in law school. Moot coot, Blackacre and Whiteacre and all of that, and I argued in Detroit. I think we lost, my partner and me. While I was at Western Reserve, I wrote a paper on, believe it or not**,** ulcers -- whether ulcers should be a compensable injury under the workman's comp laws. There was a point where I had a little medical condition, it was not an ulcer, but it was like an ulcer, and that got me interested. It was a point at which the courts were just beginning to think about compensating non-traumatic injuries. For example, there was a famous case involving a D.C. transit owner, Roy Chalk, and his Trans Caribbean Airlines. His chief engineer had been driven nuts by Chalk to get a plane back in service that had a rusted wing or something and it got to a point where the engineer back in his room had a heart attack. The question was whether that was an on-the-job injury, and the court concluded that it was. It was really quite a pioneering ruling.

There was a similar case in New Jersey, I believe called *Carter*, which involved an assembly line worker who just couldn't keep up. There was a case out of the Eighth Circuit involving a railroad track switcher up in a tower. There was no sudden, traumatic injury in each case, but the stress of the job was so great they were predisposed to illness as a result. Employers looked to hire this type of responsible, eager people. Those are the workers who are more likely to get these kinds of injuries. So I wrote this paper at the Allen Memorial Library, the medical library, at Western

Reserve with the lyrical title "The Compensability of Non-traumatic Ulcers," which was then published in the Cleveland Marshall Law Review. I can tell you that to this day no court in any jurisdiction has ever cited that article for any proposition [laughter]. It was among the articles I managed to do when I was doing law review.

MS. FEIGIN: To be able to do law review and have a full-time job, I can't imagine.

MR. STERN: I should tell you, I did have one case for myself. It was not in court. It was before the Internal Revenue Service, in their appellate division or whatever they call themselves. When I was going to law school, I deducted the cost of my education. My total law school education for four years came to about $5,000. In any event, they challenged the deductibility. The question was whether I was looking to enter another plateau by going to law school. Did I want to become a lawyer, or was I just trying to improve myself in the occupation that I had. And I successfully argued that case. Fortunately I turned out not to be a liar. They didn't come after me [laughter].

I guess I am best remembered in Cleveland for the fact that when I first went on the air there, I was very young. I was probably maybe 22 or 23 and I looked it and the boss saw me in the newsroom reading with my glasses. I did not wear them on the air. He said you know you really look older and smarter with your glasses. I tried it, but the glare from the studio lights was too much. So I went across the street to an optician and I bought a pair of frames and for years in Cleveland when I was on the air I

wore frames with no glass in them at all. My vision was still good enough. The point of this story is no one ever caught it! I would reach through and scratch the corner of my eye. I'd have an itch; I'd reach right through the frames, and nobody ever caught it [laughter].

MS. FEIGIN: That's a great story. I thought it was only women who had to go through appearance adjustments [laughter].

MR. STERN: I had wonderful training in how government works. Let me give you an example or two. I learned that politicians exaggerate. I know you won't believe that, but it's true. Governor James Rhodes was running for reelection on an issue that if voters would pass a highway bond issue he was advocating they would put a lot of people to work in Ohio. I went to work one day and the headline in the paper says Rhodes says passage of highway bond issue means 140,000 new jobs in Ohio. I thought, gee, that's an awfully large number. I looked at the U.S. Statistical Abstract that said there were 135,000 construction workers of all types in the state of Ohio. So I called the governor's office, and I said where does this figure come from? They said they didn't know, ask the highway department. I called the highway department and they said ask the governor. That night the governor was in Cleveland. I went up to him and I asked where does the 140,000 come from? He said that's simple. When you put a man to work – in those days it was men – we've got maybe 7,000 men in the entire state working on these highways. He says when you put a man to work, he supports his family, his wife, his kids, so

it's like putting four people to work. Four times 7,000, that's 28,000. But this is a five-year program. Five times 28,000 is 140,000. So I learned political math. That's one thing I learned [laughter].

I also learned that politics is a business of getting along with other people, even adversaries. I was with Mike DiSalle, the governor, the night he lost to Rhodes, the two of us and a radio reporter from Cleveland. I was sitting on his porch waiting. DiSalle knew he had lost, but we were waiting for the final results to come in from Cleveland, Cuyahoga County, the largest county. And Ray Miller, the clerk there, was sitting on the results because he didn't want to acknowledge that his Democratic colleague DiSalle had lost. It was getting later and later. We're saying Mike, please, we want to pack it up and go to bed. And DiSalle said "Look, it's sort of like Timothy on his deathbed. The priest comes in to give him the last rites and the priest says 'Timothy being as you're on your deathbed, it's time to renounce Satan.' Timothy looks up at him and says 'Father, being as I'm on my deathbed and not knowing where I'm headed, I'm in no position to make enemies' [laughter]. So that's me and Ray Miller." I learned the business of politics and political math by being a reporter in Ohio. And what I learned, of course, was that it's no different in the big time.

MS. FEIGIN: How did you get to the big time?

MR. STERN: Toward the middle of 1966, I was asked to cover a . . .

MS. FEIGIN: Excuse me. Let me pause you one minute. Before we get to that question, it occurs to me you were in Cleveland during some really tumultuous times. The Kennedy assassination, for example. Tell me about that.

MR. STERN: It pains me to do that. As a journalist, I always managed to be in the wrong place at the wrong time. When President Kennedy was assassinated, Joy and I had been in Washington. I was covering an urban renewal hearing that concerned Cleveland. Joy was actually in the Cabinet Room at the White House, a visit that had been arranged by our congressman, seeing Jack and Jackie take off from the South Lawn to go to Dallas. To make the story short, I got food poisoning, and I had to rush home to Cleveland, and I was in bed when President Kennedy was shot in Dallas.

The only thing like it was when I was with Martin Luther King in Charleston in 1968 covering his various crusades and campaigns. And there came a point where I called the office and said look I've done about all I could do. I'd better go home. And I went home, and the next day, Reverend King was shot and killed. And I was there the day before. So timing is everything in life, and it's amazing that I wasn't canned by every employer I ever had.

MS. FEIGIN: Wow. Okay, so we're about to get to the big time.

MR. STERN: In 1966, I was asked to come to Washington to cover The World Peace Through Law Conference, which was held in Washington, D.C. I did a piece on the air about that, and the bureau chief in Washington sounded

me out about doing more things in Washington, and the next thing I knew, I was reassigned by New York, where NBC's headquarters is, and the deal was that if I stayed in Cleveland through the end of the Sam Sheppard trial and the Congressional elections of 1966, then I was to move to D.C., which I did. I think my wife would tell you she's still upset. In those days, Washington, D.C. – I mean this is before White Flint, before Watergate, before the Kennedy Center, before Bloomingdales – was not a very exciting place to be. But obviously, for a reporter, it was a great place to be.

MS. FEIGIN: What was your assignment to be in Washington?

MR. STERN: It also took an odd turn. I covered the Supreme Court and the Justice Department, essentially the legal beat, and some other agencies. I had a desk actually in the Justice Department press room, and I covered the ICC, the FCC, the FTC, which were also there in the Federal Triangle.

MS. FEIGIN: Is there still a Justice Department press room?

MR. STERN: Yes. There is. In fact, my will is witnessed by the three pressroom reporters from 1967. I hope they're still alive. In any event, I primarily covered the Supreme Court for radio, but I was not being used on TV because in those days, this goes back to *Huntley-Brinkley*, if your readers remember *Huntley-Brinkley*. Huntley did the national and international news in his part of the show and he was on first. Brinkley did the Washington stuff, but there wasn't a lot for Brinkley, who was a wonderful reporter and broadcaster. There wasn't a lot for him to do because we had

a marvelous reporter at the Pentagon and a marvelous reporter on the Hill and such, so Brinkley liked to do the Supreme Court stuff himself, as what we call "readers." So the bureau chief assigned me, and this was really from the get-go, to be the number two person, the back-up man, to our White House correspondent, Ray Scherer. So for the first year-and-a-half I was in Washington, I fed Justice Department and Supreme Court stories to radio and I otherwise worked as Ray Scherer's backup at the White House.

MS. FEIGIN: What did that involve?

MR. STERN: A lot of radio pieces and occasional TV pieces.

MS. FEIGIN: Did you interact with the president? These were tumultuous times.

MR. STERN: Every time is tumultuous. I can't really point to one that wasn't. Of course, when we get to that, and I know we'll probably do that at our next session, when we get to Watergate and things like that, then we're really going to talk about tumult. But it was tumultuous in another sense. The Vietnam War era produced a lot of demonstrations in Washington and that produced a lot of chaos and incidents of one kind or another.

I can remember standing with Attorney General Mitchell and his press guy Jack Landau on the balcony just outside his office during one of these anti-Vietnam demonstrations. It was swirling around the building and the police were throwing tear gas at the demonstrators, some of whom were throwing red paint or eggs at the building and so on, and I remember Mitchell said to me "Looks like the Russian Revolution down there,

doesn't it?" [laughter] Troops from the 101st Airborne were stationed in the hallways on the first floor in case demonstrators tried to enter the building, and piles of -- I think it was calcium chloride -- stacked like sandbags on the first floor, which were to be used to dispel clouds of teargas if they reached the building.

MS. FEIGIN: What year was it that you moved to Washington?

MR. STERN: I actually began working at the bureau the first of the year of 1967, and of course I had to get accustomed to Washington. For a new reporter who had never covered Washington, anything in Washington, it was a little daunting. I recall the very first assignment I got I was sent by the deskman, George Cheely, down to the State Department to cover Dean Rusk's weekly briefing. I forget what day of the week it was, but he would hold forth up on the seventh floor, sort of an on background press briefing.

MS. FEIGIN: We should say Dean Rusk was Secretary of State.

MR. STERN: Right. Secretary of State Dean Rusk. And so I went there. Of course, I had never been in the State Department before. I had never seen Dean Rusk before. He holds forth, and I'm diligently taking notes, and when he's finished, I called in to Cheely on the desk. The first thing George asked me is "Okay, Carl, what did he say that's new?" Well that's what you would expect he would ask. I said "New? How would I know?" [laughter] Which illustrates I think the importance of having veteran

reporters on these beats. So that was sort of my introduction to covering Washington.

MS. FEIGIN: Were you covering when President Johnson announced he wasn't going to run again?

MR. STERN: Yes. I lost a lot of money. I was betting he would.

MS. FEIGIN: Did you cover that story?

MR. STERN: I'm sure I did. But I want to back up just a step. In the Vietnam War era, particularly when the Nixon administration came in, actually in 1969 and 1970, 1971, et cetera, for the Justice Department, that was quite a frenetic era. It was an era of Guy Goodwin. His name is probably not even known to you, but he was the prosecutor in I think the Criminal Division. I don't remember if they had a National Security sort of section then. In any event, Guy Goodwin was the guy going after all the anti-war -- what he might have regarded as anarchists -- bomb throwers, et cetera, Leslie Bacon and the crowd that was over there around 18th and Lanier Place who planted a bomb in the restroom at the Capitol building. The era of the Berrigans who supposedly wanted to blow up the steam tunnels all over Washington. All the madness of the anti-war era was being played out in Washington. Almost all those matters ended up sooner or later in front of the magistrate or judge in the District courthouse here. They even hauled in Jack Anderson's colleague, Les Whitten – Jack Anderson**,** the columnist – because of the things Anderson was learning and writing about. It was a

very, very busy time period. So the idea that things were ever quiet, that's not so.

MS. FEIGIN: Guy Goodwin worked at the Justice Department or the U.S. Attorney's Office?

MR. STERN: He was Main Justice. Of course, he was not alone. There were others with him, but he was sort of the head person. They were trying to prosecute as many people as they could who they felt were endangering the peace of the United States. The FBI, which I also covered then – obviously it's a component of the Justice Department – was also extremely active. That was the era of going after the Weathermen Underground and all of the fugitive hunts, the black bag jobs.

MS. FEIGIN: In those days, I believe, the FBI was housed in the Department of Justice?

MR. STERN: The Director was. The Director was also just around the corner [from the press room] on the fifth floor, and from time to time, I would see the Director. I remember when Martin Luther King came to visit and then Hoover came outside afterwards and called him a goddamn liar and all sorts of things. I managed to make Hoover's no-contact list.

MS. FEIGIN: Explain what that means, a no-contact list.

MR. STERN: The instruction to the press office, what they called external affairs, was not to be nice because of some stuff I had done, some stories I had done about the FBI.

MS. FEIGIN: What do you think it was that angered him?

MR. STERN: It's a little bit too complicated to explain, but basically something had occurred. I forget what, and the FBI person with whom I was communicating said the Bureau was not involved and then the press chief of Main Justice told me they were involved. Hoover thought that I had violated an off-the-record. His guy had told me they weren't involved. I said look, you guys are working for the same outfit. I'm just trying to get the story straight. But that resulted in my making the no-contact list.

I had encounters with Hoover. I can recall one in particular. I got wind that Hoover was going to appear before Congressman John Rooney's subcommittee, which handled his appropriation every year. It was time for his annual meeting with Rooney's subcommittee behind closed doors and that he was going to reveal this so-called plot by the anti-war Catholic group, the Berrigans, to kidnap Henry Kissinger and to blow up the Washington steam tunnels under the Capitol and so on. We can talk about the Berrigan trial in the next episode. I waited outside the room when Hoover came out. I was the only reporter there, although there were a couple of photographers, and as he came out, I accosted him with my tape recorder and microphone trying to get him to talk to me. He said not a word, just stoic, looking straight ahead to his car. Well, a photographer took a picture of the two of us walking along and sent it to me. So I went into the FBI press office, to the number two guy, Bud Leinbaugh, and I said "Bud, I'm not so jaded that I wouldn't like Hoover's autograph. Can you get me it?" "Yeah, sure, don't worry about it." So six months later, I

still don't have a picture. I go in to see Bud and asked what happened to my picture. "Oh, don't worry." Finally, Hoover dies. I go in to see Bud, and I said, "Bud what happened to my picture?" He says, "Don't you know as long as Hoover knew you wanted something, you were never going to get it?" He was holding out that picture to try to keep me in line [laughter].

MS. FEIGIN: Oh man. Well that's better than what he did to a lot of other people.

MR. STERN: Well that's another story. That's Cointelpro, which we also may talk about in the next chapter.

MS. FEIGIN: Absolutely.

MR. STERN: What else can I tell you?

MS. FEIGIN: We have you still on radio and TV. Didn't you segue to just TV?

MR. STERN: I did both. One of the secrets is that in those days, radio actually paid better than being on TV [laughter]. It's because in those days we were paid by the piece. We had a base salary, which was the same for all of the correspondents, $45,000 a year. They also had to keep track of how many spots you were doing if the accumulated pieces exceeded your base pay. A radio piece paid the same as a television spot. I could do twenty or more radio pieces a week without difficulty. I might do one television spot a week. I was making out like a bandit on my radio fees, so I continued. I also did a radio newscast. They gave me one hourly. I think it was 6:00 or 7:00 at night on the radio network from the bureau. I would

go in to do one newscast that I would write, a five-minute newscast, but that didn't always work out too well.

I remember, for some reason it would always happen about a half hour before my newscast, there would be some catastrophic landslide in some South American city where thousands of people had perished. I can't speak Spanish to save myself, and I could never pronounce the names of the places where these catastrophes occurred. All I can tell you is the catastrophes occurred, but that wasn't noted until the newscast following mine [laughter].

Once I had to substitute for Russ Ward on *World News Tonight*, which was a ten-minute co-op radio newscast, co-op meaning the local stations could drop in their commercials. The timing was very important for the local stations to know when the network feed ended and where the commercials would be, so timing was very important. You had to hit certain times on the clock. The first time I did it, I thought it went very well. In fact, I could see a bit of a commotion outside the glass-windowed booth from which we did our radio broadcasts, and people seemed to be waving at me. I really felt great. It turns out that I had run one minute short [laughter] for which I compensated the next night by running one minute long [laughter]. So you really wonder why anybody kept me on the payroll.

MS. FEIGIN: [laughter] You ultimately left radio completely for TV?

MR. STERN: Well radio left us. NBC sold NBC Radio. If you ask me what year, I would need some time to think about that. But eventually the NBC bureau here did no radio broadcasts, or they may have done a few feature-type things, but the daily coverage actually came out of a different floor and ultimately a different building. I continued to file every day, two or three maybe more reports, typed reports – on paper – which went to radio as well as to TV, but generally I stopped doing radio when they split off NBC radio network from TV.

MS. FEIGIN: Do you have any personal stories about the attorneys general you covered? You covered some interesting people out of the Justice Department. Do you have a sense of Mitchell, since we have been talking about that era?

MR. STERN: I can tell you a little about each of them; I covered fourteen attorneys general. I don't know how much tape you have here. Katzenbach was my first attorney general, but he left shortly after I came, although I don't think that was the reason [laughter]. And then Ramsey Clark, and Ramsey Clark was a very idealistic, very decent guy, really a privilege to work with.

I have one story that I don't know that I've ever told. The main actors are probably pretty well gone by now. During the search for Eric Starvo Galt – do you remember Eric Starvo Galt? That was the name. The FBI was looking for James Earl Ray, the assassin of Martin Luther King. He had used the name Eric Starvo Galt. Lyndon Johnson ordered Ramsey Clark to fly down to Memphis immediately with Deke DeLoach,

the FBI number three guy maybe – I don't know if he was number three but he was sort of the liaison with the White House – to try to calm things down in Memphis. Apparently as they were approaching Memphis – this is all second-hand – Ramsey asked DeLoach, "What can I tell the press?" DeLoach said "Tell them we'll catch the criminal within a week." Clark says "I can't tell them that. What if you don't?" They made a wager. The bet was that Ramsey Clark was to get a case of sherry if the killer wasn't found within a week. He was – after three weeks. The result? On Friday afternoons, we would go in to sit with Ramsey Clark in his office and have sherry. It wasn't contraband. It came from the FBI [laughter].

MS. FEIGIN: That's a great story.

MR. STERN: So these things happen.

MS. FEIGIN: Okay. I think that's probably a good place to stop. You covered some amazing trials in D.C., so next session I hope we can get to some of them unless there's anything you want to add before we sign off.

MR. STERN: I was just about to tell you something about the search for James Earl Ray, which was in those days the FBI didn't have an automated system to whatever extent they have one now, and I recall the circumstances under which they finally did identify James Earl Ray who was not arrested until three weeks later, as I mentioned, in London. That's another long story. But in those days, FBI fingerprint records were kept literally in shoe boxes in a building just beyond the Capitol building in Washington, in that area where HHS is. They had millions of fingerprints and they had to start

somewhere. Somebody said, “Why don’t we start in the fugitive file?”, and lucky for them, the fugitive file had only 40,000 entries. Literally going through them one by one by hand, they found James Earl Ray. But if the supervisor hadn’t had that thought to start with the fugitives, they might still be looking.

MS. FEIGIN: Where was the fingerprint that they got?

MR. STERN: It was left on the windowsill of a bathroom from which James Earl Ray had fired the shot. I think it was a thumb print.

I wanted to mention something about the perils of covering news for audiences that were unlike the ones I knew in New York or Cleveland. One moment was a real awakening for me – made me realize that I wasn't in Kansas anymore, to use the words from *The Wizard of Oz*.

I was invited from time to time by organizations to give a speech. For a while I accepted money, but after a while I stopped accepting money because I came to believe it was wrong. In any event, in 1969 I was invited – this was my first speech invitation – to give a talk to the Medical Association in New Orleans, Louisiana. At that point I had been covering the Supreme Court for two years, and I gave what I thought would be a valuable speech in which I was trying to explain that even some of the most controversial decisions of the Supreme Court had really been justified and even made sense if you really knew the facts of the case. This was an era of “Impeach Earl Warren” posters and billboards and so on, but I didn't fully realize that. In any event, I went and I gave this

speech to the Association. It had a practice then of publishing the talk it had received in its bi-monthly news publication. It would publish the text of what the speaker had said. And they did. They published without alteration the speech that I had given. But an editor's note had been inserted on the top of this article, and it read: "The views of the author are held in disrepute by responsible conservative authorities, but we believe even the views of our enemies should be heard." That was my introduction to another part of America.

MS. FEIGIN: That makes me ask one follow-up because ethics is something that's fascinating to me. You mentioned that you began by accepting remuneration and then you decided it was wrong. Do you want to explain that? What made you come to think it was wrong?

MR. STERN: There came a time when I was invited by telephone executives of AT&T to address a regional meeting they were having in Cambridge, Massachusetts. I went and I gave a talk, but I realized when I was there – this was at a time of the AT&T breakup litigation – that in a sense they invited me more because they wanted to color my impression of the litigation for my reporting than that they really wanted to hear me talk about the personalities in Washington. That was the first reason I decided no more.

There was a second incident that occurred. I'm slightly loathe to explain it because the person involved is still very active today in the news business, but there was a case that involved a small college, Grove City

College in Pennsylvania, that raised a Title IX question. The question was whether they were failing to do enough to give women students an equal opportunity to engage in athletics. The legal question presented to the Supreme Court was whether the federal government could cut off all federal programming money to the school or just to that program. I went up to Grove City College to do a story on that because it obviously had ramifications for other schools as well. I brought with me several clippings from the newspaper, wonderful articles in *The Washington Post* by a columnist lauding this brave little school that was fighting this thing. I brought those articles with me because they contained factual information that was valuable to me in putting the story together. The president of the college, when I was interviewing him for television, said do you ever give speeches? I said yes. He said we just had so and so, and he mentioned this fellow's name. It was the guy who had written these columns. The president said we just had him here a month or so ago and paid him $15,000. I said – well, I didn't say anything. That's what finally drove me out of this idea of accepting money.

I had first encountered it actually with the FBI, believe it or not. When I was first in Washington in 1967, I was invited down to Quantico to give a talk to new agents, to participate in a session about how to deal with the media. Okay. I came back. A few days later, I get a phone call from the FBI, from some administrative office, asking for my Social Security number. I said "Why?"

MS. FEIGIN: You'd think the FBI would know it [laughter].

MR. STERN: But this is the administrative office. They said we're sending you a check. I said, "A check?" "Yeah, for $1,000." This was when a thousand dollars was money. I said "I can't take money from you. I cover you." They said, "We do this all the time with news people who come down here and talk." Clearly, the Bureau should not have been doing that, and of course reporters should not have been taking money if the FBI is anywhere within the ambit of their journalistic activities.

MS. FEIGIN: Right, but for all we know it could still go on.

MR. STERN: I don't know. I don't want to say that because I don't know it.

MS. FEIGIN: This was a personal determination by you as opposed to someone outside?

MR. STERN: Absolutely. I don't want to be sanctimonious, but it's improper. And I was being properly paid by my employer. I have a wife to support me. What do I care? [laughter]

MS. FEIGIN: [laughter] Okay. Thank you.

Oral History of Carl Stern

This interview is being conducted on behalf of the Oral History Project of The Historical Society of the District of Columbia Circuit. The interviewer is Judy Feigin, and the interviewee is Carl Stern. The interview took place at Carl's home in Washington, D.C., on October 27, 2020. This is the second interview.

MS. FEIGIN: Shortly before we left off, we were talking about Ramsey Clark, who was LBJ's attorney general. I know you spent some time covering the White House under LBJ, so that would be a good place to start.

MR. STERN: I should mention my personal interactions and not his domestic and foreign policy agenda. My wife Joy and I used to go down to Texas when Lyndon Johnson went down there. Remember I was sort of the back-up person at the White House for the last year-and-a half of the Johnson Administration, and I certainly have wonderful memories of it. We used to go to church, for example, with Lyndon Johnson on Sunday mornings. He had this ritual where he would start off taking his daughter Lucy to a Catholic service. Then he would go back, drop her off, and pick up Mrs. Johnson, Lady Bird, and they would go in to Fredericksburg for the Episcopalian service. And then he would drop her off, and he would go back to the service he really wanted to go to in Stonewall, which was nearby the ranch. That was a Baptist service, more fire and brimstone. Sometimes it got a little excessive. I recall at one point, the minister, in an effort to emphasize a point, pulled out a pistol, which the Secret Service did not enjoy [laughter].

In any event, on one of these occasions, the President suggested that Joy and I should accompany him back to the house. We actually sat

for about an hour on the lawn outside his house, just the three of us, and I recall that he talked a lot about his starting professional life. He was a teacher in Harlingen, in the Rio Grande Valley, and he spoke so meaningfully about his interaction with Mexican-American youngsters and how he felt the need to do something to improve their lives. I mean this could have just been political puffing, but given the length and the intensity of our conversation, I think he was genuine in saying the things that he said.

MS. FEIGIN: This happened after church. This suggests to me that the family was somewhat religious. Often I think politicians are maybe just putting it on for show, but I guess he really was.

MR. STERN: I always had a feeling that Johnson enjoyed being at the church services. It gave him an opportunity to pursue friendships with neighbors and others, and it's very much in a politician's blood.

I want to point out to you that it wasn't all profound discussions of the socioeconomic status of Mexican-American children. I remember he asked us, he wanted to know what kinds of souvenirs they were selling down in Fredericksburg, Texas. That was a semi-big town nearby, where Admiral Nimitz was born. They were selling souvenirs down there, dishes, plates with his likeness on them and Lady Bird's. He wanted to know what kinds of things they were selling and whether they were sufficiently flattering [laughter].

We had been attending something called, I think it was Hemisphere in San Antonio, which was sort of a state world's fair, and we had spent some time in the museum there which featured German heritage in Texas. After we told him about it, he sent in to the house. He wanted to show us his scrapbook clipping announcing his birth in the Fredericksburg paper. It was in German. The announcement of his birth was in German.

MS. FEIGIN: Why?

MR. STERN: Because in that part of Texas, they had a large German population. New Braunfels nearby had a daily radio station which broadcast in German. So he was very much interested in those sorts of things

But I also have to tell you that one of the things that sort of endeared him to me -- he wasn't always an endearing personality -- one of the things that got to me was that he understood the limitations of his own power as president of the United States. I recall on one occasion, and I was not present, but I was told about it, some Texans came to visit him in his office, and they were oohing and aahing about all the power of the presidency, the most powerful man in the world. More powerful than Caesar or Napoleon, Charlemagne, all these people that they were naming, and he kind of took it all in, and when they were finished, he said "Folks, you see this red phone on my desk? That's a direct line to Robert McNamara, the Secretary of Defense at the Pentagon. You know what would happen if I picked up the phone right now and said Bob, drop the H

bomb on Red China. Do you know what he would say to me? He would say" (I have to delete the profanity) 'Go jump in the lake, Mr. President'" [laughter]. So he understood the limits, or at least he claimed that he did, of presidential power. He had still a bit of humility.

Also, it was interesting to see for journalists that there is a difference between the power that public figures have when they are fulfilling their responsibilities and the press which is sort of a bystander. Journalists live these events vicariously, but they don't have any of the responsibilities. They can criticize freely because they don't take the rap. But I very well remember, again, it's something I was told by a reliable source. There came a time when John Chancellor, my colleague at NBC, the network anchorman at that point, was pressured, I can say that, by Johnson to become head of the U.S. Information Agency. If you remember Edward R. Murrow, he had had that job for a while. It was not unknown for a journalist to be put in that post. In any event, Chancellor finds himself at his first meeting. He's invited to a meeting of the Cabinet at the White House, and finds himself sitting there with Dean Rusk, the Secretary of State, to his right, and Robert McNamara to his left, the Secretary of Defense. And the president says, "All right, the first item on the agenda today is do we mine Haiphong Harbor" [laughter]? He turns to Chancellor and says, "Jack, being as this is your first Cabinet meeting, we'll let you go first. What do we do?" Chancellor sat there for a moment, a second passed, another second, and his position was in essence

being asked to pull the trigger, and he said, "I pass" [laughter]. He couldn't or wouldn't do it. I just tell you that story to remind you that the press can criticize and so on, but they are, after all, bystanders.

MS. FEIGIN: Did John Chancellor take the position?

MR. STERN: Yes, he did. You didn't say no to Lyndon Johnson. Just ask Arthur Goldberg. He was talked out of a Supreme Court seat he already had to become U.N. Ambassador and regretted it all the years thereafter.

I should also tell you another day that I remember vividly, and I'll make this my last story on President Johnson, but I was at the White House when Martin Luther King was assassinated. You may recall I had come back to D.C. from Memphis in an instance of bad timing for a journalist, and that was a moment where a lot of things changed. I remember President Johnson wandering around the press lobby, what we used to call the Lyndon Hilton, in his shirt sleeves. As the evening progressed, he ordered out the National Guard because rioting had broken out. Perhaps it was the next night after the assassination, now that I think about it. Destruction had begun in downtown D.C. as the response of some people.

Many things at the White House changed that night. I recall when Lyndon Johnson called out the Guard, those of us in the press corps went rushing out of the West Wing to do bulletins, and in doing so, one of the news people smashed out the glass in the front door of the West Wing, so for the rest of the evening while we were trying to do our reporting, there

was a glazier putting new glass in the door. That was the night for the first time they made White House reporters such as myself carry press passes around our necks. Up until that point, we just carried them in our wallets in case anybody asked to see them. That was the beginning in Washington of people having to wear their IDs. And of course that's ubiquitous today.

That was also the night that they turned the lights around in front of the White House along the fence. There were lights which illuminated the White House. And of course, it is still, at least partially, illuminated at night as a tourist attraction if nothing else. But that was the night they took the lights and they turned them around. They turned them to shine out past the fence into the street as a means of seeing what was going on out there, if some of these rioters – which they were – would seek to invade the White House. So that was a night that changed a lot for reporters covering the White House and for others. It's sort of a turning point in life in Washington for those who were living here and working here then.

MS. FEIGIN: Before we leave Johnson, it occurs to me that Lady Bird Johnson owned, and maybe even during the White House years, radio stations, correct?

MR. STERN: Yes.

MS. FEIGIN: So did that, you think, affect how they treated you or did you have any relationship with her? Is there anything about her that's part of your memory?

MR. STERN: She was a perfectly fine hostess, but we didn't have much interaction. She was off doing a beautification campaign, if you recall.

MS. FEIGIN: We should say for people reading this that it was road beautification, right?

MR. STERN: Parks and roads, yes. And certainly no extra benefit was derived from her radio station ownership for those of us who were in the broadcast business. That never happened.

MS. FEIGIN: I thought they just might be kinder to you.

MR. STERN: Where do you want to go next?

MS. FEIGIN: We went from Ramsey Clark to the president. Let's go back to attorneys general.

MR. STERN: Okay. So, now let's talk about the legal beat. After a year-and-a-half, Brinkley relented and let me start doing more Justice Department and Supreme Court coverage on the TV, something which he had kept for himself.

MS. FEIGIN: Was that a unique slot? Did other stations have a legal reporter like you?

MR. STERN: No. At that time, I was the first reporter brought in to cover the law beat full time. That was the start of 1967. Others came along later. Fred Graham, for example, at CBS. I remember going to lunch with him. He wanted to discuss with me getting into broadcasting, and he did join CBS in 1972. And then later Tim O'Brien at ABC, and there were others.

In any event, you want to talk about attorneys general. My first after Ramsey Clark would've been John Mitchell. John Mitchell was

Richard Nixon 's first attorney general. He was a municipal bond lawyer from New York, and a close friend in New York of Mr. Nixon. He was very dour in demeanor but pleasant enough in person. He was like a big teddy bear actually. He puffed on his pipe. He was a very modulated sort of person. I always had the sense that he was sort of, I don't want to say amused, I'd say bemused, by what was going on in Washington. He was sort of detached. He let things happen. And in fact one could say that's how he got in trouble in Washington in the Watergate thing.

MS. FEIGIN: Do you think it just sort of happened without his being really aware of what was happening?

MR. STERN: No. He knew. You may remember during some of the hearings, I remember Mitchell was asked about a meeting that had been held in the spring of 1972, a meeting held in his office. It's a story I actually reported, Mitchell's meeting with G. Gordon Liddy and Liddy's plan to wiretap and otherwise compromise the Democratic convention which was in Miami that year. Liddy had these grand plans for prostitutes and others he was going to engage in the service of the Committee to Reelect the President. Years later, Mitchell was asked "Did you think to throw him out of your office?" and he responded, "I should have thrown him out the window" [laughter]. So I don't want to say that Mitchell was not informed. I just want to make the point that he let things happen that he shouldn't have. Maybe he was distracted by his wife Martha, if you recall Martha Mitchell. I guess I could say that Mitchell was sort of a henpecked

husband [laughter]. Martha was a large personality, as some of us remember.

I do have to tell you that I only really interacted personally one-on-one with her once. For some reason, she was assigned to redecorate the Justice Department in part, and she was up on the fifth floor.

MS. FEIGIN: The Attorney General's wife was redecorating?

MR. STERN: Yes. She was up there on the fifth floor with samples of paint, and she came into the press room, which was across the hall from the Attorney General's Office, and she grabbed me, and she said, "What's your favorite color?" I said, "Blue," and that's how come the fifth floor of the Justice Department came to have this horrible washed-out blue on its walls [laughter], which I'm happy to report was replaced ultimately by a more respectable beige, but you can blame me for that terrible blue.

MS. FEIGIN: The press room isn't still there, is it?

MR. STERN: It's basically on the first floor. That occurred years later after there was irritation over the fact that we could sit in the press room with our door open and see who was going in and out of the Attorney General's Office. I remember John Bricker, a senator from Ohio, went in there for some confidential meeting, and we became aware of that just by looking out the door. It was that sort of incident which inspired the Department, before I became an employee there, to move the press office, first around the corner, and then ultimately to the first floor.

MS. FEIGIN: I think in the early years, and I don't know when this ended, but I think Hoover had an office on the fifth floor.

MR. STERN: He certainly did.

MS. FEIGIN: Was that when you were there?

MR. STERN: I would wander down that way very often, but before we go down that road, let me just tell you one other thing about Mitchell. In the Watergate conspiracy trial, he was among those who was convicted, and he ultimately spent nineteen months as a guest of the federal prison system. He was down in Montgomery, Alabama, and I remember we exchanged correspondence.

MS. FEIGIN: From prison?

MR. STERN: From prison. Yeah, he sent me a note which I still have around the house somewhere, in which he lauded Southern hospitality to which he had been treated in the federal prison camp in Montgomery, Alabama [laughter]. So he was a man of serenity and wit, after a fashion, despite his somewhat off-putting personality at times. I enjoyed his company.

MS. FEIGIN: Okay. So he gets replaced by somebody who seems pretty bland, Richard Kleindienst.

MR. STERN: He was a lawyer from Arizona. Actually, a good lawyer, but I think all I need to say is he got caught too in the Washingtonitis. He got caught lying to Congress about orders he'd received from the Nixon White House to end, or curtail, a Department of Justice antitrust suit against a Republican party benefactor, the ITT corporation, and I think it's fair to say that although it was only a misdemeanor conviction, that he never fully recovered from that.

MS. FEIGIN: Did you have any relationship with him? He wasn't there very long I think. A year?

MR. STERN: I probably spent more time with him when he was deputy attorney general under Mitchell but there's nothing special that remains in my memory.

MS. FEIGIN: The person who follows him certainly will trigger big memories I suspect, because it's Elliot Richardson.

MR. STERN: Elliot Richardson, right. Well of course we remember him because of Watergate and his resignation from the attorney general's position when President Nixon instructed him to fire the Watergate special prosecutor and to close the special prosecutor's office. The second in command of the Department was Bill Ruckelshaus, William Ruckelshaus, and he also resigned rather than accept that order. But staying on Richardson for a moment, he was a man of, I think it's fair to say, towering dedication and integrity. However, if you were asking for a lot of personal stories, I have to say that he was a man of much higher social standing then we mere reporters, and we didn't really mingle in his circle.

MS. FEIGIN: You didn't have any rapport with him independent of . . .

MR. STERN: Relatively little. That was true of a lot of attorneys general. I don't mean to suggest that we sat in their living rooms for long chats.

MS. FEIGIN: Let me ask you something about Richardson and the special prosecutor. I wonder if you have thoughts about this because over the years, there have been several others – Walsh for Iran Contra, Mueller for Trump, and others in between. I just wonder if you have any thoughts about the whole idea of an independent counsel or special prosecutor. You've watched a

lot of them come and go. Do you have a sense of whether they are a good alternative?

MR. STERN: The objections that were raised to them is that they sort of had unlimited budgets and unlimited time, that there was an impetus, if you will, to try to nail whoever it was that they were asked to investigate. I never encountered a special prosecutor – or later independent prosecutor, under a law that Congress enacted – I never came across one who I felt was overdoing it. One could argue about Ken Starr. I was subpoenaed twice by Ken Starr's people. I knew Ken from the William French Smith days of the Justice Department and was personally very friendly with him. He and Alice have been guests in my home. And Ken may well have gone overboard in expanding his inquiry into the activities of Bill Clinton which led to the Monica Lewinsky matter and so on. I don't have to describe all of that. But by and large, I think it was a useful apparatus, and I regret that all we have now is a statutory special prosecutor provision in the rules that govern the Justice Department, and that as of late led, for example, the current Attorney General William Barr to appoint people to look into things, calling them special prosecutors, but they are very much part of the existing apparatus that the special prosecutors were intended to supplant. So bottom line, I am generally a supporter of independent counsel, independent prosecutors.

MS. FEIGIN: In some instances – Ken Starr was one of them – reports had to be issued, and they became public. Do you think that is an appropriate part of the special prosecutor's role?

MR. STERN: Well, as a practical matter, Congress, for example, could probably get them anyway. A problem we recently have had is that the special prosecutor's report was, shall we say, delayed and put out by political operatives in a way that misstated what the special prosecutor had found. It's possible with anything to distort them, and make them less valuable, and that's what has happened lately.

MS. FEIGIN: I think we should just say, because people may read this many, many years down the road and not know the reference, I think you are referencing the Mueller report.

MR. STERN: Yes. The Mueller report. We're doing this interview in the year 2020, so that'll be a reference point. So who's next?

MS. FEIGIN: Before we get to the next, if I could just pick up on one other thing you said because it's just too intriguing to let it go. You were subpoenaed twice by Ken Starr? Why would he have subpoenaed you?

MR. STERN: Oh, that is a tangent, I don't know if we want to really go into. The associate attorney general under Janet Reno was Web Hubbell, and he got into some trouble about overbilling and so on when he was in private practice in Arkansas and some other things. I think it's fair to say that there was a certain amount of congressional gunning for Web Hubbell as a friend of Bill Clinton, and I had worked closely with Web Hubbell when I

was a press officer at the Justice Department. We'll talk more about that later. They wanted to hear from me about Web Hubbell. If I recall correctly, I think my inquisitor was a fellow named Kavanaugh who's currently employed up at the top of the Hill at the Supreme Court [laughter]. I think it was it was Kavanaugh or a member of his staff. He was working at that time for Ken Starr.

MS. FEIGIN: Okay, so Richardson gets replaced after he quits by William Saxbe.

MR. STERN: Bill Saxbe I knew. He had been the attorney general of Ohio when I was a reporter in Ohio. He was very much bound with the Teamsters union in Ohio. I won't go into all that.

MS. FEIGIN: He represented them?

MR. STERN: Oh no. They did him favors and he did them favors. He was sort of a rough-hewn guy. I remember when the Sam Sheppard case, I think we've discussed that case earlier, was in the Supreme Court in 1966. As the state's top legal officer, Bill Saxbe decided to represent Ohio in the Supreme Court case in which Sheppard was attempting to overturn his conviction, which had occurred ten years earlier; he had been in jail all that time. He attempted to overturn his conviction on the basis that he had not had a fair trial, that there had been excessive pretrial publicity. In any event, what I want to tell you about my memory of Bill Saxbe as Ohio attorney general, was he appeared before the Supreme Court of the United States with his coat open, a pencil tucked behind his ear, hands on his hips, and he addresses the Justices as "you folks" [laughter]. I think you

understand that that is not the usual protocol in the Supreme Court. And one of the things that he was arguing, the claim that Sheppard didn't get a fair trial, among the elements of that claim was that the judge, Edwin Blythin, had told Dorothy Kilgallen, a newspaper columnist, while the trial was in progress, that Sheppard was guilty as hell, and Dorothy Kilgallen had so represented in an affidavit that was filed by those seeking to overturn Sheppard's conviction on the basis that even the judge was prejudiced. Saxbe was trying to tell the Supreme Court that they shouldn't pay any attention to that because Ms. Kilgallen's affidavit had not been taken under oath, had not been sworn to. Saxbe was not prepared. I think it was Justice Douglas asked him whether he knew a certain name, and Saxbe said yes, that's my first assistant. And then Douglas said well are you aware that attached to her affidavit was a statement by your Mr. So and So, that because of Ms. Kilgallen's prominence as a well-known and respected journalist, they would not be putting her under oath. Well, that's the sort of calamity which lawyers should avoid [laughter].

MS. FEIGIN: We should say, given your description of how he appeared before the Supreme Court, that at least to this day, the federal government appears in morning coats.

MR. STERN: Oh yes. There's always been the question about women appearing. For some time they were really not permitted to appear in slacks. They were to appear in dresses. But somewhere along the line, probably when Ruth

Bader Ginsburg joined the Court, I think that disappeared as a requirement for appropriate dress in front of the Court.

MS. FEIGIN: So Saxbe is Attorney General.

MR. STERN: Attorney General, and it didn't last long. In fact, it was quite a prominent law school dean who followed him.

MS. FEIGIN: Edward Levi.

MR. STERN: Edward Levi. He was also president of the University of Chicago at one point. A brilliant academic, a quiet person, and a modest person, but he was responsible for, shall we say, bolstering the Department of Justice after Watergate by instituting the Levi Guidelines, limitations on the kinds of activities that could be used in domestic security investigations and so on. I should tell you, and we'll get to it a little bit later, the Levi Guidelines were partly the result of a lawsuit I brought, but let's save that for now.

Levi was very much a law school dean. I remember he started one meeting with some lawyers by saying, "I think I shall be brief." And then he said, "The reason I say I think I will be brief is because I have not yet considered what I'm going to talk about" [laughter]. Only a dean could come up with something like that. In fact, I was somewhat burned by a law school dean myself. I was on a project for the 20th Century Fund having to do with prejudicial pretrial publicity, and I had to make an appearance before Abe Goldstein, who at that time was the dean at Yale Law School. I argued a proposition in front of him, somewhat exhaustively I'll concede, but I thought I really had him in the palm of my

hand when I concluded, and I waited for him to drop at my feet [laughter]. He looked up at me and he said, "Mr. Stern, I want you to know you have finally succeeded in reaching my zone of indifference" [laughter]. Only a law school dean could come up with something like that.

MS. FEIGIN: I think Levi was appointed by Ford, right?

MR. STERN: Yes.

MS. FEIGIN: And I think it's fair to say the idea was he was to restore integrity? The Department had been somewhat sullied?

MR. STERN: Yes. He wore a bowtie, and he was sort of a bowtie kind of guy. I don't mean flamboyant. I mean quite the contrary. I mean intensely into his work, and he was a tribute to the Department and to the president who appointed him.

MS. FEIGIN: I guess he was there the entire time Ford was there because the next attorney general is Griffin Bell, appointed by Carter.

MR. STERN: That's right. He had been Jimmy Carter's lawyer. I don't know what Griffin Bell knew about peanut law [laughter], but he was a friend of Carter. He was from Savannah, and the reason that's important to this is that he had this deep drawl, what you could call the patois of Savannah. It was so extreme that when I would interview him on television reports, I, on at least one occasion that I recall, had to chyron – super his words – on the screen. I had to spell out on the screen literally what he was saying as though he was unfamiliar with English. From my years of being in the broadcast business, I don't recall ever having to do that with anybody else.

MS. FEIGIN: He had been an appellate judge, correct?

MR. STERN: On the Fifth Circuit.

MS. FEIGIN: So he stayed Carter's whole term? Or no, he didn't, because Civiletti came.

MR. STERN: Yes, Civiletti. Actually, the next two attorneys general went by rapidly. Ben Civiletti and then William French Smith. One a Democrat and one a Republican. Both good lawyers. I don't remember anything very exciting about the Department in their tenure. Smith, I remember, was an ex-Navy man. He used a lot of Navy lingo and told a lot of Navy stories, which I could tell you, but it's a little off-topic here. He was self-effacing.

MS. FEIGIN: Let me ask you one thing. I know that Civiletti argued a case before the Supreme Court, and I think that was not unusual in those days that an attorney general would try to do one case during his tenure.

MR. STERN: It wasn't unusual. It was the practice of the Department of Justice that the attorney general would argue one case. We were just talking about Griffin Bell. It seems to me he argued a case that had to do with some endangered little fish, the snail darter, threatened by federal construction of a dam in Tennessee. But yes, that's very much a tradition. And, in fact, each assistant attorney general also has the opportunity to do that by the traditions of the Department.

MS. FEIGIN: I don't know that it's still the case that this happens.

MR. STERN: I've been gone a very long time.

MS. FEIGIN: But in those days, yes.

MR. STERN: Right. Who's next?

MS. FEIGIN: After Smith came Meese. He's colorful.

MR. STERN: Edwin Meese. He had been President Reagan's chief of staff in California when Mr. Reagan was governor, and then Mr. Reagan brought him to Washington to be White House counsel. Mr. Meese was sort of in a category by himself. He was deeply embedded in Republican politics and in his own philosophy of the law. He was always selling something, which is unlike most of the attorneys general. What he was selling was his belief in limited government, originalism, and benign neglect. He was pleasant, but he was always a little bit on edge in defending his somewhat conservative philosophy about the limited role of government. His darkest moment came in what was called the Wedtech scandal where he was accused of helping a friend and well-known lobbyist to obtain government contracts for a firm called Wedtech. There was an independent prosecutor in that case that was appointed who was highly critical of Mr. Meese in his final report, but Meese was not charged with doing anything unlawful.

MS. FEIGIN: I think there were other scandals floating around during that era. Bechtel?

MR. STERN: Yes. There were several cases. There was another one involving a pharmaceutical company. That rings a bell. I think you're right. I'm sorry. It was so many years ago. Where do we go next?

MS. FEIGIN: I think he's followed by Dick Thornburgh.

MR. STERN: Richard Thornburgh. Let's see. A former Pennsylvania governor.

MS. FEIGIN: He's again a Reagan appointee, just to put this in place.

MR. STERN: Yes. What can I tell you? He had been head of the Criminal Division earlier at the Justice Department during the Gerald Ford years. Very able,

very well-liked. My strongest memory of Thornburgh is the day that he came back as Attorney General to the Justice Department, where, as I say, he had served under President Ford as head of the Criminal Division. There was a welcoming ceremony in the Great Hall, the large structure on the first floor of the Justice Department, and I recall vividly, I can see it in my mind's eye, the crowd of Justice Department employees who assembled in the Great Hall and in the balconies and the floors above that opened out on the Great Hall, and when Thornburgh came out, this thunderous applause. I don't recall ever seeing anything quite like it at the Department, and that was clearly the way that the Department's personnel – most of them, of course, are career people – wanted to welcome him after the somewhat blighted years of the Meese administration.

I also remember Archibald Cox speaking, but not in the Great Hall. I remember Robert Bork, the Solicitor General, appearing there. We had sessions in various places, but I think Bork did meet with us in the Great Hall.

MS. FEIGIN: Why?

MR. STERN: After Richardson and Ruckelshaus declined to fire Archibald Cox, who was demanding that the White House produce certain documents and so on that it didn't want to produce, it fell to the Solicitor General, Robert Bork, who would have been the third in command. In those days, we didn't have an associate attorney general, as I recall.

MS. FEIGIN: Did Bork speak to the reporters or was that to the assembled attorneys?

MR. STERN: He spoke to reporters to explain why he had done what he did in accepting the order to fire Cox. His point being that somebody was going to do it. The White House was going to just go down the list of succession until they found somebody, so there was no point in turning the whole process into chaos. He did what he was told to do. Later on I'll tell you something else about Robert Bork, but let's hold that for later.

MS. FEIGIN: Okay. In what context, just so I'm sure we cover it.

MR. STERN: In the context of a lawsuit I filed called Cointelpro.

MS. FEIGIN: Oh yes. We will definitely be discussing that. So there's one more left I think, at least in your time as a reporter covering the Justice Department, and that's William Barr, who ironically – or maybe not ironically – is back in position as attorney general as we speak.

MR. STERN: All I can tell you is that he was very tight-lipped. He operated the Department of Justice like a private law office. We got so little useful information from him that that's when I stopped going to the Justice Department on a daily basis. We just didn't get useful information from him or his staff. I should tell you also I had problems with that occasionally from other attorneys general, as well. When Richard Thornburgh was attorney general, he was surrounded by what we called the Harrisburg mafia [laughter] who protected him. They didn't need to. He was a perfectly admirable attorney general but also just very tight-lipped about what was going on inside the Department.

MS. FEIGIN: When Barr was Attorney General the first time, that was during Iran Contra and a lot was going on, including the pardon of Defense Secretary Weinberger. Was Barr involved in any of that do you know?

MR. STERN: I have no recollection, but that wouldn't be hard to explain because, as I said, things were very closed up during the Barr administration of the Justice Department. So much so that I just quit going.

MS. FEIGIN: Well your office was there.

MR. STERN: Yes. In the pressroom I had a desk. I also had a desk at the Supreme Court because I needed places to leave my coat and hat.

MS. FEIGIN: I look forward to hearing about the Supreme Court stuff. I guess we'll get to that at a later point. Let's go up the roster of courts, starting with the district court. You covered trials everywhere, but since we're doing this for the D.C. Court Historical Society, let's start with the big cases you did in D.C.

MR. STERN: They weren't all big. Most cases were heard in the old Court of General Sessions, which preceded the Superior Court of D.C. – that was a municipal court. I seldom was concerned about local matters, but I do remember going to an early proceeding there and being very impressed by Superior Court Judge Harold Greene, who later became an iconic federal judge on the district court. I was very impressed, but I don't recall what the case was. I should say that my most keen memory of the Superior Court was being in a temporary makeshift courtroom on the first floor of what is today the Building Museum. It was then called the Pension

Building. It was used after the Civil War. The Quartermaster of the Army, General Meigs, constructed the Pension Building. They gave out pensions to Civil War veterans. In any event, Judge James Belson was sitting there temporarily while the court building was being refurbished. This was in June of 1972 when four Miami men had been arrested in the Watergate building in the offices of the Democratic National Committee and they were brought into Judge Belson's court for an initial appearance minus their neckties and belts.

It was the practice then, and maybe still today, that when criminal suspects are brought in, they are deprived of what they might use to kill themselves, to hang themselves in a cell. I see that vividly thinking back to them coming to the courtroom. I remember I was sitting right next to a new reporter who had just arrived from Boston, a very young woman named Leslie Stahl [laughter]. I tried to explain to her how initial appearances work and that there was not going to be a formal charge that night.

MS. FEIGIN: At the time this probably didn't look like it was any big deal, or did it even at that early point?

MR. STERN: All I can say is we didn't know. It was all obviously bizarre. So simply its oddity was sufficient to draw our attention. It wasn't that we foresaw everything. It was quite unusual. As I recall, I think it was a weekend. On the weekends there's not much news. That was my point.

MS. FEIGIN: Is this before the courts were consolidated? Those cases now would be done in district court by the U.S. Attorney.

MR. STERN: Yes. Today felony cases would go to the U.S. Attorney's Office.

MS. FEIGIN: So you were there, and you reported it?

MR. STERN: Of course. Yes. Sure. I should tell you that at that time I did become familiar with the district courthouse, as we know it today, the Prettyman Courthouse, largely because, as we discussed in our first episode, this was the time of the anti-war demonstrations, Vietnam War, and lots and lots of things were going on. The New Mobe, as it was called, New Mobilization Committee Against the War, was operating out of an office building at the corner of Vermont Avenue and L. I remember spending a lot of time in that building.

At that point, the Department of Justice was really taking over the local cases that they perceived as involving violent or threatening conduct. In essence bringing a more serious federal charge, and some of those things were serious. I remember many days and nights on the first floor of the Prettyman building, at the magistrate's courtroom just inside the west entrance. I think Lawrence Margolis handled many of those cases. Later, I believe, he became a full-time judge. This was where the defendants were brought in.

Perhaps the most noteworthy episode at the time involved Leslie Bacon, a 19-year-old woman from Seattle, who along with other friends who were living in sort of a group house, were supposedly, and maybe

they were, making bombs up on Lanier Place in Adams Morgan. They were accused in connection with the bombing of a restroom in the Capitol building. There was such an incident. The explosive didn't destroy much, but it created a lot of noise and led to a lot of roundups.

I also recall the magistrate's office, and the magistrate's courtroom, if you can call it that, was the size of a large closet [laughter]. It was very small. We would crowd in. I remember when the columnist Drew Pearson's leg man, Les Whitten, was brought in before the magistrate. At that point at the Justice Department the prosecutors were battling with Drew Pearson in connection with documents that the columnist had allegedly stolen in some fashion from the government, and they staked out Les Whitten, his assistant, and caught him loading stolen documents into his car in, I won't say darkness of night, but I'd say darkness of late afternoon. Eventually a grand jury declined to indict Whitten, but I should tell you I have a strong memory of a wonderful lawyer, Betty Murphy, who many old-timers will recall, who came storming in the magistrate's office vigorously protesting on the basis of the First Amendment what these bootjack fascists had done to her client [laughter].

There was one incident which challenged my abilities to properly use the English language, which was an incident involving Larry Flynt. Larry Flynt, the pornographer, journalist, whatever. Publisher of *Hustler* magazine. This was some years later. There was a case in the Supreme

Court in which televangelist Jerry Falwell had sued *Hustler* magazine claiming that he had been libeled in sort of a satirical piece that the magazine had published. The case was being heard in the U.S. Supreme Court and Flynt was in the audience. He stood up and shouted a profanity.

MS. FEIGIN: In the Supreme Court?!

MR. STERN: In the Supreme Court. And he was immediately arrested by the Supreme Court police and hauled off to federal court. The judge, if I recall correctly, I think it was Joyce Green, presided over this appearance by Mr. Flynt. I could have described her in my report as matronly, but that seemed unkind [laughter]. But she sort of in a motherly fashion scolded Flynt and Flynt took it. He just meekly stood there and took it. I had to file a report about this, and I was struggling to find the right words to describe the judge's demeanor. I was trying to find the right adjectives, and all I could think of was avuncular [laughter], which I believe I used. Avuncular means uncle-like. So the question is can a woman be uncle-like, and in this case, she was [laughter].

MS. FEIGIN: We can't talk about the D.C. court without discussing Watergate because you covered that case from start to finish, right?

MR. STERN: Yes. But first there were a couple other cases I think might be worth mentioning. The *Pentagon Papers* case in 1971. That was a biggie. The reason I remember it is that's the time my back went out. I spent several days waiting for the Court of Appeals to consider the government's appeal of Judge Gerhard Gesell's refusal to block *The Washington Post* from

publishing the Pentagon's secret assessment of its Vietnam War effort. There was no place to sit. No seating up there in the hallways, so we reporters had to sit on the marble floor waiting for several days for the Court of Appeals to announce its decision. Obviously with the papers facing delays in publishing, this was a matter of hours and minutes; we were following this thing moment to moment. But that marble floor did it for me. It was too much for my back. I ended up at the Washington Hospital Center with some large woman pounding on my back.

MS. FEIGIN: Really! It was different then in the sense that the news cycle was different.

MR. STERN: Absolutely.

MS. FEIGIN: If a story came out, you might have a few hours because you weren't going to be on air maybe until 6:00 p.m. or whenever.

MR. STERN: We did file to radio on the hour. I'll tell you a story later when we're talking more about the Supreme Court illustrating the kind of problems we faced having to file on short deadlines. I do want to mention just one other thing I covered in the District Court and the Circuit Court here and that is one case which has lingered in my regrets for many years. This story illustrates the working problems that journalists have, and that was the John Connolly trial in 1974, the former Texas governor who became Treasury Secretary who is remembered of course for being in the car with John Kennedy when the president was shot in Dallas. Without getting into the intricacies of it, there came a time when Connolly went on trial. He

went on trial on charges of when he was Treasury Secretary back in 1971 that he had pocketed a bribe from milk producers to influence a milk pricing decision. He was acquitted. He was represented by Edward Williams who was quite a courtroom presence. In any event, the reason for my regret was the way that I characterized the acquittal on the air. What I said was that essentially the prosecutors didn't prove their case. It was a failure of proof, and in fact, that's what the jury foreman said in an interview given to *Newsweek* the following week, describing the result of the case. So what I said was not wrong in that sense. But I realized afterward that I unintentionally, the way I put it, I was implying that Connolly may have been guilty but the government just didn't get the job done. I injured Connolly by implying it was just a bad job by the prosecutors. I should have been more careful, and to this day that troubles me. Reporters do worry, even years later, about stories that they filed where they may have inadvertently injured someone.

MS. FEIGIN: So his lawyer was Edward Bennett Williams. Edward Bennett Williams was pretty flamboyant, or no?

MR. STERN: No, I wouldn't say flamboyant. I would say organized and well prepared. He was assisted by Michael Tigar, who I believe today is at the American University Law School. He gained some national prominence years ago when he led the student free speech rallies at Berkeley where he was a student, and Justice Brennan had selected him to be his clerk, and there

was such a hullabaloo about hiring Tigar that Justice Brennan was obliged to cancel the clerkship.

MS. FEIGIN: Oh my goodness.

MR. STERN: There are lots of things we could talk about, but we'd be here forever.

MS. FEIGIN: I'm happy to be here forever. They are fascinating stories. So, you just mentioned sort of in passing the Pentagon Papers case.

MR. STERN: I think that's all I really need to say about it.

MS. FEIGIN: Let me ask you one other thing about it because it makes me think of Ellsberg, who did not get prosecuted.

MR. STERN: Again, you're getting ahead of the story. Let me tell you a story about that case if you give me another minute or two, or hour or two [laughter]. I just want to add before we leave this subject and go to the Watergate trials, which I know you want to get to, that I was very often asked by the clerk's office or by a judge to be the liaison between the court and the press corps. I would help in the seat allocation and the daily housekeeping functions that need to be handled, information that needed to be passed between the judge and the press on things like scheduling or whether certain documents that had been admitted into evidence were available for us to see or copy, things like that.

I mentioned Judge Gesell a moment ago. I was his press liaison and I would go into his chambers in the morning and perhaps ask some questions on behalf of the press corps, and he might give me some scheduling information or whatnot on behalf of the court. He had an

office in the back of the court building looking out on C Street and the driveway where defendants and others were brought in when they were on bond and were coming into the courthouse, and he would stand by that window. He would look down and he would see Oliver North coming into the courthouse in a van, supplied by Brendan Sullivan [his lawyer]. And the guards, the protective service guards at the garage doors, would salute Oliver North as the van pulled in, and that would drive Judge Gesell crazy. He would just seethe that the guards would do that [laughter].

MS. FEIGIN: We should say Judge Gesell was the judge in the Oliver North trial.

MR. STERN: That's right, that was his trial. In any event, okay, Watergate. You want to talk about Watergate.

MS. FEIGIN: We can talk about Watergate; we can talk about the Pentagon Papers; we can talk about Ollie North. You pick the one you want to focus on right now.

MR. STERN: I think readers can look up what they want to know about the Pentagon Papers case.

MS. FEIGIN: There's one thing I want to ask about the Pentagon Papers if you don't want to discuss the trial because I think there's something that's fascinating to know about the break-in of the psychiatrist's office.

MR. STERN: That's the story I was going to tell you later. I'll jump to that just as a favor to you [laughter]. As some readers may recall, there was a point during the Watergate saga when it became known that John Ehrlichman at the White House tasked Howard Hunt and G. Gordon Liddy to go out to

the office of Dr. Lewis Fielding in Beverley Hills in Los Angeles, to search for records in his files, records about Daniel Ellsberg, the person who had been responsible for delivering the Pentagon Papers file to *The New York Times* reporters that resulted in the publication of the Pentagon Papers. Ehrlichman hoped that Hunt and Liddy would find evidence to suggest that Ellsberg had psychiatric problems. Ellsberg and a colleague of his, Anthony Russo, at that point were on trial in Los Angeles in connection with having divulged these secret papers to the world. In any event, Hunt told me this story in Miami some years after Watergate, but I don't think I've ever seen it published. Hunt and Liddy had to go to Los Angeles, to Dr. Fielding's office, but being the super sleuths that they were, they didn't just go to Los Angeles. They flew to Chicago, and then they went down to The Loop to buy walkie talkies which they would need in connection with the break-in. They didn't just get in a cab and say take us to The Loop. They took a cab, bus, cab, bus downtown in case anybody was following them, then they purchased these walkie talkies and went back to the airport, cab, bus, whatever, and they get back on a plane and fly to Los Angeles. They get a car and they go to Burbank. They're outside Dr. Fielding's office, and they flip on their walkie talkies, and what do they discover? The walkie talkies they bought in Chicago have the same frequency as the Los Angeles Yellow Cab Company [laughter]. If there was ever a gang that couldn't shoot straight, this was it [laughter].

MS. FEIGIN: The fact that you got this amazing story from Howard Hunt years later suggests to me that you kept up a relationship with him.

MR. STERN: No. It's normal in the journalism business that a little while after people are released from prison, there are sort of "Where are they now?" stories. It's sort of a staple of the news business. I went down to see how he was doing.

MS. FEIGIN: So Watergate.

MR. STERN: The first thing you've got to know is there was more than one Watergate trial. There was a whole series of trials. I tried to be helpful. I was also the liaison to Judge Sirica and the courthouse and the court's clerk. A wonderful fella. I think his name was Jim Davey. I appreciated his help, and I tried to be helpful. In any event, we worked out the accommodations for where the press would sit during the trial. Basically an allocation because there were many more reporters who wanted to cover the case than we had available press seating. In fact, I remember that we set up a large press room on the first floor of the courthouse. But even at that, several press organizations placed trailers, mobile offices if you will, on the grass outside the courthouse to accommodate their staff and also their photographers who operated outside the building when defendants and others came and went.

Judge Sirica had a phobia about elevators, and that's why his office and courtroom were on the second floor so he could take the escalator which operated only to the second floor without having to use an elevator.

I think Judge Sirica would allow me to say we became good friends during the course of our couple of years working on Watergate matters. In any event, big moments.

A big moment came actually before the first trial, late in the summer, maybe in August. The Watergate burglars were already appearing in Judge Sirica's court in connection with pre-trial matters, and there came a point when the James McCord letter, I think that following February, revealed to the judge the White House cover-up. Actually I had that story the previous August but to my disappointment . . . well, let me tell you what happened. The Watergate burglars and their handlers, Hunt and Liddy, and James McCord working for the Committee to Reelect the President, were represented by a number of lawyers including William Bittman and a New York lawyer, Henry Rothblatt. I knew Henry Rothblatt from ALI, the American Law Institute, and he and Bittman were leaving the courthouse after a hearing and getting into a cab, and I jumped into the cab [laughter] as they were going back to Bittman's office, which, as I recall, was at 815 Connecticut Avenue, what we would call lower Connecticut Avenue. In the course of talking, Rothblatt acknowledged to me that he was being paid by funds from the White House, as were the burglars. In other words, hush money. If I recall correctly, it turned out later – it came out during the Senate hearings – Bittman was being paid with $100 bills taped under a shelf of a telephone booth at the National

Airport by Tony Ulasewicz who was always the money man. He would carry a coin changer on his belt [laughter]. These were really wild times.

In any event, they get out of the cab. In those days, we didn't have cell phones. I raced back to the courthouse in a cab, and I go to a phone booth I know exists on the first floor near the Office of Attorney Discipline. I remember it as though it were yesterday. I get on the phone, and I call my New York office, and I talked to John Chancellor, our news anchor at the time, and Christie Basham who was the Nightly News producer in charge of the big program and tell them what I had learned, and he and Christie said no, we can't run that. It was too unbelievable. They didn't use that word; that's my word. I don't recall the word they used, but it was "who are we" to be saying just because Henry Rothblatt, who they'd never heard of, said something to me in a taxi cab, "who are we" to be putting that on a national television network? I did manage to get a short spot on radio, but that story didn't get on television. Not then. It did later. So that was a bit of a disappointment, but if anybody doubts my version, David Halberstam put that story in a book that he wrote a few years later, so at least I have one place you can look it up.

MS. FEIGIN: Just related to hush money, I have a vague memory that there was a plane crash with Hunt's wife. Is that correct?

MR. STERN: Yes. In Chicago.

MS. FEIGIN: And there was a question of whether there was a lot of money on that plane.

MR. STERN: Yes, I can't help you on that. I don't know.

MS. FEIGIN: Still unresolved. She died in that plane crash?

MR. STERN: Yes she did. Very sad. In any event, the major Watergate trial was the one that was a conspiracy and cover-up case that went to trial in the fall of 1974. I have a strong personal memory of when the verdict came, which was on January 1, 1975, from in front of the courthouse I broke into the Rose Bowl game on television reporting on the conviction of John Mitchell and H. R. Haldeman and John Ehrlichman and so on. I recall throwing it back to [sportscaster] Kirk Gowdy [laughter].

MS. FEIGIN: Are you saying that the jury was sitting on New Year's Day?

MR. STERN: Yes. Once that jury was in deliberations, they voted to keep going.

MS. FEIGIN: Were they sequestered?

MR. STERN: Oh, were they ever. I could tell you some stories about that, but again, we'd be here all day.

MS. FEIGIN: Well, if it's a good story, I'm happy to hear it.

MR. STERN: We don't have time for all that. I mentioned Gordon Liddy several times and I should tell you the Watergate defendants of course were sentenced to prison time. I had known Liddy earlier. He had been an official at the Treasury Department when I first knew him. I went with him to a forensics laboratory in Bel Air, Maryland. He was working on a project. Senator Muskie had introduced a bill to ban Saturday night specials on the basis of safety, that they were inherently dangerous, and that's how you could get them off the streets, these cheap handguns. Poorly made,

supposedly. So Liddy, and I went with him, went up to this laboratory in Bel Air where they were conducting experiments, tests, with Saturday night specials to see if in fact they were more dangerous than well-made expensive weapons. By the way, the answer was the Saturday night specials were just as good. So the premise they were going to use to ban Saturday night specials didn't prove useful. That's how I got to know Liddy.

So Liddy comes out of prison. He's in Danbury, Connecticut, in the federal correctional institution there, and he served forty-nine months, and we go up to meet him when he comes out. We want to interview him. I remember he came out, and he wouldn't say a word except he said something that I remember, "Wer immer streband sich bemüht, Den können wir erlösen." We all kind of look at each other. He jumps into his car, his wife's in the car, and off he goes. Well, we start chasing him. While we're chasing him, we're frantically on the car phone trying to reach some German professor at Columbia to find out what it meant [laughter]. It turns out it's a quote from Goethe, and apparently it means "Who strives always to the utmost, for him there is salvation." So we pursue him down the Connecticut Turnpike. He's returning to his home in D.C. We pursue him, and we're speeding and at one point we're on the New York Thruway. He's speeding. We're speeding. At one point – he doesn't want to be interviewed, obviously – he jumps over the median strip and does a U-turn. We, of course, do the same. Then later he does

another jump, and finally we're beginning to run out of gas and he's running out of gas. This has been going on now for more than an hour where he's trying to shake us. Both cars pull into a gas station. We're both throwing money at the attendant. In those days there was no self-service. We're both throwing money at the attendant to gas up our cars because we know whoever gets filled up first is going to get out of there. We chased him all the way into New Jersey, and finally he reached a hometown he grew up in in New Jersey, and he probably knew all the back alleys, and he escaped us.

MS. FEIGIN: Who is the "we?"

MR. STERN: Me and the camera crew. Fortunately they were driving. If it had been me, I wouldn't have done it on a bet.

MS. FEIGIN: Just to back up a bit, to get back to the trial. I want to get back to Judge Sirica for a minute because I think the trial itself was extraordinary, and he was unusual in lots of ways, I think, and maybe you can enlighten me on this. He was a very involved judge during the trial.

MR. STERN: He was the chief judge, but you're right. Even if he had not been, people forget that John Sirica was old school. He was tough and canny, and he had a very fixed sense of right and wrong, and people may forget how he used long prison sentences as a means within his power to get the break-in Watergate defendants to reveal the truth about what had happened and who they were working for and so on. Judge Sirica used his power to give tough sentences, but it was also within his power to reduce those sentences

later. I believe there was a statutory period of 120 days or so. I may be wrong about the timing, but it was within his power to reduce those sentences if the defendants he had sentenced cooperated with the government, with the prosecutors, thereafter, and he used that power, that instrument, to expose much of the evidence that came out in Watergate. Not to diminish what the prosecutors, Earl Silbert and Sy Glanzer and Don Campbell, not to diminish what they were doing, and I'm confident they would have gotten to the bottom of it even had there been no assistance from the defendants, but Sirica's familiarity with using the techniques available to judges to induce defendants to talk was very much in evidence in the Watergate trials.

MS. FEIGIN: Was he also a judge who threw questions to witnesses while they were on the stand?

MR. STERN: Occasionally. Sure. He would pop in with a question. Normally, it was to display incredulity at what the defendants had just said. However, my most unforgettable moment didn't occur in court. I was also covering the Ervin Committee hearings in the Senate and filled in at the White House occasionally.

In those days, on Saturday nights, which was a slow evening, NBC broadcast *Saturday Night at the Movies*. Correspondents were assigned to go down to the White House to sit there because we covered the White House in those days very extensively, all the more reason because this was the Watergate period. In any event, initially, unbeknownst to us, the

President was at loggerheads with Attorney General Richardson, who he had ordered to fire Archibald Cox, the special prosecutor, and to close down the entire special prosecutor's office over on K Street. Richardson refused to do so, and then Ruckelshaus refused to do it, as I said earlier. Solicitor General Bork issued the order. We became aware of it as the prosecutors and staff were reported piling out of the K Street office carrying files they didn't want to leave there. They came thundering down the stairs of the office building. I didn't see it personally, but I was told about it, carrying under their coats various documents that they had obtained during the course of their investigation. So it became known in minutes what had happened. This probably was around 9:30 at night, so I did a quick TV bulletin from the White House lawn. Then I had to do what was called the 11th hour feed. That's a minute-long piece at the 11:00 hour that's fed into our owned and affiliated stations on the network all across the country. So I had to try to describe in a minute what had happened. Now I could have begun it like a wire service story. "President Richard M. Nixon tonight asked for the resignation . . ." but that would not capture the enormity of what had happened, which was very much apparent to any reporter. So the lede on my story was – and sometimes I'm proud of it, and sometimes I think it went too far – the lede on my story that night was "President Nixon tonight jumped from the frying pan into the fire." Well fortunately it turned out it was a valid lede because in

the days that followed all hell broke loose. It's also interesting to me how little the White House personnel understood what they had done.

MS. FEIGIN: You mean the consequences of what they had done?

MR. STERN: What the consequences would be, yes. As I was leaving the White House that night, going back to my car parked on the Ellipse, I went down West Executive Drive, which is that space between the Old Executive Office Building, sometimes called the Eisenhower building and the West Wing side door. Here it is around 12:30 in the morning, and I'm going back to my car. We're in the half light of this alleyway and out of the West Wing come two people that I know, Richard Moore, who I had known at the Justice Department as a counsel to John Mitchell, and Bud Leinbaugh my old friend from the FBI who was on a detail to work in the White House press office. And as I'm going by, Moore grabs my arm and he says to me, "Masterful, wasn't it?" I looked at him, and he says, "The President has finally cut off the hemorrhage of Watergate." I looked at him and I said, "You guys are crazy" and I walked off [laughter]. They didn't comprehend what they were setting in motion.

MS. FEIGIN: White Houses are always bubbles I suppose, more or less. Before we end today, one more thing about Watergate, although there may be more to discuss about it, but let me get this in because you did so much reporting for Watergate. I know you were nominated for an Emmy for this. I want that to be on the record.

MR. STERN: Yeah, but I didn't win [laughter].

MS. FEIGIN: I know, but you had very interesting people up with you for the award.

MR. STERN: The award was for news broadcaster of the year or something like that. I lost to Bill Moyers. The others were John Chancellor, Mike Wallace, and Walter Cronkite. I think there was also another. Harry Reasoner. But that's a wonderful bunch to be thought of with.

MS. FEIGIN: It is. Let me close with this question because it's something I've thought about a lot. When people look back to the Cronkite era and they talk about it in golden terms, and that whole era when you were reporting is the golden era in many ways of news, one of the things people always say in contrast is how today news is one side or the other. It's not impartial as it was then, but I do remember vividly, certainly on the CBS news – I don't remember this on NBC – but you would have Eric Sevareid on Friday in a segment where you would hear his opinion. You knew what he thought. It was separate from the news. It was his private analysis, but it was out there. You knew where he stood personally, but you didn't attribute that to his reporting. When people talk about now versus then, I always wonder how it was able to be done then in a way it isn't now.

MR. STERN: It's just a different business today. John Chancellor did some of the same things on NBC, but surely your admiration for Sevareid is justified. I think of him every time I go past his house, what was his house, on Bradley Lane. He certainly contributed to the public understanding of what was happening. He had the ability to think more profoundly about what was occurring, and that was a real service. But television news

today, in which pieces have to run a minute or less and sound bites three or four seconds, it's a different business today. Perhaps we'll get into that later in our discussions.

MS. FEIGIN: I hope we will. I hope there will be an opportunity to do that. Thank you so much.

Oral History of Carl Stern

This interview is being conducted on behalf of the Oral History Project of The Historical Society of the District of Columbia Circuit. The interviewer is Judy Feigin, and the interviewee is Carl Stern. The interview took place on the patio at Carl's home in Washington, D.C., on Thursday, November 5, 2020. This is the third interview.

MS. FEIGIN: Good afternoon. You've covered so many amazing cases, but we were talking about the ones in D.C. for starters. One group that we talked a bit about was the Iran Contra cases and what you thought about the coverage of them, if you could just give us some more insight.

MR. STERN: I have to tell you, I've always been a little bit irritated, if that's the word, or disappointed perhaps is a better word, that it received so little attention – then and in our history books. Oh sure, it was Ollie North and Fawn Hall – who smuggled documents out of the White House in her undergarments (laughter) – that attracted public attention, but as to the larger issues involved in that case, to my mind the conduct involved inflicted a bigger injury on our constitutional form of government than Watergate. Watergate dealt primarily with personal misconduct, albeit by a president and high officials, and included the resignation of a president, but Iran Contra, here you had the Reagan Administration secretly violating an explicit act of Congress, actually two acts, the two Boland amendments, which prohibited the Administration from providing arms and other support to the Nicaraguan Contras. Here the Administration, despite that absolutely explicit prohibition, went its own way selling arms to the Iranians and using those funds to secretly supply materials

to the Contras, undoing the very structural foundation of our government. If the government won't obey the law, who will?

MS. FEIGIN: Do you think the problem was that the public just didn't understand it? They really didn't know who the Contras were and so they couldn't fully grasp it? Why didn't this get traction?

MR. STERN: Well for one thing, President Reagan was enormously popular. They couldn't imagine him doing anything that was really subversive, if you will, and I think to some extent that made the public less alarmed about what had happened. And in some respects it was more abstract, involving Iranians and Nicaraguans and so on. Watergate, on the other hand, was right down at 1600 Pennsylvania Avenue. So that may have had something to do with it.

MS. FEIGIN: When we talk about Reagan and his role, he comes up a little bit in one of the Iran Contra trials.

MR. STERN: In the Poindexter trial.

MS. FEIGIN: And you covered that.

MR. STERN: I remember it most because it led to an unusual situation. Admiral John Poindexter was one of the four defendants in that case, Oliver North being another and two others. Richard Secord was another one. Then there was a businessman, Albert Hakim, if I recall correctly. So four defendants. But because it was likely that each one after being convicted would be called upon to testify on the other fellow's behalf, their fellow defendants, it was necessary to break that up into different trials. So Poindexter was tried separately, and his attorneys were attempting to make the argument that all of

this had been authorized by President Reagan. But by that time, President Reagan was living in California in retirement, and so the judge, Harold Greene, had to adjourn the proceeding here in Washington, D.C. and take everybody, kit and kaboodle, out to California to take the testimony of Ronald Reagan in a court in Los Angeles.

MS. FEIGIN: Did he have to do that? Couldn't Reagan have come here?

MR. STERN: No, because President Reagan was regarded as physically unable to undertake such an arduous journey. As it turned out, the trip really yielded nothing. President Reagan was questioned repeatedly about what he had authorized, and he responded that he didn't remember 124 times in the course of his testimony.

MS. FEIGIN: Or lack of testimony.

MR. STERN: Let's say it was not productive.

MS. FEIGIN: That was a special prosecutor case, right? Lawrence Walsh?

MR. STERN: Judge Walsh, Ed Walsh.

MS. FEIGIN: I think it was Lawrence Walsh?

MR. STERN: Well, yes, Lawrence, but he's known as Ed. I can never forget him. He was a marvelous person. He also chaired the ABA committee that evaluates candidates for the federal bench, and I remember in 1969 when Justices Black and Harlan both left the Supreme Court, that the White House asked the committee to evaluate the potential nominations to the Supreme Court of Mildred Lillie and Herschel Friday. Each received a negative rating. In any event, I called Judge Walsh and said I know you're having a meeting to

decide what you want to do about these two candidates. Can I come up and hang around your office, and perhaps you'll be kind enough to tell me a few things that happened? He agreed. So he gave me his address, which was One Chase Manhattan Plaza in New York, and I remember asking "What suite?" and he said, "What suite?" He said "like the 42nd, the 43rd, and the 44th floors" [laughter]. I was thinking of law offices on a more modest scale [laughter]. Judge Walsh had been a judge as well as a former deputy attorney general; he had a somewhat larger office than I anticipated. The firm was Davis Polk. A very large firm. It's the sort of firm whose wood-paneled hallways have portraits of members of the firm who went on to become president of the United States. It's one of those firms.

MS. FEIGIN: They called them white shoe firms in those days.

MR. STERN: Right.

MS. FEIGIN: I think because in the early days, that's how they dressed, right? White shoes?

MR. STERN: I had loafers [laughter].

MS. FEIGIN: No, I mean way back.

MR. STERN: I know what you mean [laughter].

MS. FEIGIN: Is there anything else you want to add about Iran Contra?

MR. STERN: No.

MS. FEIGIN: Okay. We talked a little bit about Watergate but not much, so give us any further thoughts you have about that huge event.

MR. STERN: I already told you some of my memories of Watergate but we really didn't talk much about Judge Sirica as a person. He was sort of old-school tough. He had been a neighborhood prize fighter as a young man growing up. His hero was Jack Dempsey.

MS. FEIGIN: The prize fighter.

MR. STERN: Yes. Judge Sirica never went to college, but he was street smart. The one mistake you could make in appearing before him was to try to hide something from him. Both the White House supporters and the prosecutors wanted to move along quickly to resolve the matter at the beginning. This was the trial for the four Miami men and the three others, Gordon Liddy, Howard Hunt, and James McCord.

MS. FEIGIN: Just to make clear, they had broken into the DNC headquarters at the Watergate complex.

MR. STERN: They had a role in doing so. Yes. Their lawyers and the prosecutors were trying to explain the whole thing as sort of a rogue operation initiated by Gordon Liddy, but Sirica wouldn't buy it and constantly and publicly expressed his doubts. He put a lot of pressure on both the prosecutors and the defense attorneys. There were probably three critical moments, as it turned out. One, and I'll get to it in a moment, was the James McCord letter in March of 1973. The second would have been John Dean's testimony before the Senate Watergate Committee. And the third, of course, was when the Supreme Court ordered the president to turn over the White House tape recordings.

In any event, that first critical moment which led clearly, unmistakably, to the unraveling of Watergate was the McCord letter. He was a former CIA officer, the security chief at the Committee to Reelect the President, who was charged with operating the break in. Howard Hunt had pleaded guilty, but the others were convicted early in 1973, and Judge Sirica set sentencing for March 23rd. In the case of McCord, the sentence "Maximum John," as he was called, made clear he was contemplating was 25 years. Three days before the sentencing date, into the judge's office comes James McCord. Now what is he doing? He's not supposed to be walking into the judge's chambers.

MS. FEIGIN: Without a lawyer?

MR. STERN: Without a lawyer. All by himself. As I got the story from Richard Azarro, who was one of Sirica's two clerks, in walks McCord and says he wants to see the judge. Azarro thinks fast and says, "The judge is out to lunch." Unfortunately, at that moment, because he hears some commotion, Judge Sirica opens the door from his inner office and says, "What the hell is going on here?" McCord has this white envelope in his hand, which he gives to Judge Sirica. As Dick Azarro related it to me, the judge tried to maintain what he called his poker face, but inside, Judge Sirica later acknowledged, he was anything but calm. In the letter McCord revealed that he and the other defendants had been receiving help from the White House and that higher ups were involved. Judge Sirica remembers thinking "This is it. This is the break I've been hoping for." The judge notified the various counsel involved

in the case of the existence of the letter, but he didn't reveal anything publicly. Comes the hearing on the 23rd, three days later, the sentencing hearing, and Judge Sirica starts off by saying "I have a preliminary matter to take up" and proceeds to read the letter. Well, he gets perhaps three quarters of the way through, and gradually there's been this pain building up in his chest, an excruciating pain, and he just manages to get to the end of the letter and he has to call a recess. He goes back into his chambers, and he stretches out on a couch trying to rest, and in fact, after about twenty minutes, the pain did subside, and Judge Sirica came back out to the courtroom, went back into session, and imposed the sentences. These were provisional sentences, being the canny judge that he was. He really threw the book at them. But with the understanding that they had a chance to be re-sentenced. In those days, I think the rule was if a judge imposed a provisional sentence he had 120 days to reduce it if the defendants provided valuable information to the prosecutors. So obviously Judge Sirica was dangling this as a carrot to get the defendants to speak up.

MS. FEIGIN: But it's pretty extraordinary because it's usually the prosecutor's office that does this.

MR. STERN: Yes. But the judge was running the show. Let's understand that. And the plain fact is it worked. Subsequently, the judge did reduce McCord's sentence. I interviewed Judge Sirica several times thereafter and I recall him saying that was the point in which "the dam had broken." Those were his

words. He came to believe that his action was the most important in revealing the story of Watergate.

MS. FEIGIN: Do you share that view?

MR. STERN: Well, there were other events. The cover-up could still have succeeded, were it not for the John Dean testimony or the Oval Office tape recordings.

I have some souvenirs of Watergate. One of them was a trial exhibit. It was a piece of White House stationery – a letter, note, memo, whatever you want to call it – that John Dean sent to Charles Colson, one of the President's advisors, while John Dean was still hanging on, in the fold. It's this large piece of paper, and at the top it says "The White House, Washington, D.C.", and it says, "To Charles Colson from John Dean", and on this entire sheet of white paper, there is only one sentence which reads, "What the hell do we do now?" [laughter]

MS. FEIGIN: [Gasp!] How did this come into your possession?

MR. STERN: It was an exhibit at trial. We all got copies. But I guess that's one I've retained. I have some other things. I have these various buttons. One of them says -- these buttons that you put on your coat or your dress -- one says "Sam Ervin for President."

MS. FEIGIN: We should say who Sam Ervin is for people who are reading this.

MR. STERN: Senator Ervin who chaired the Watergate Committee in the Senate. I've got another one that says "I believe my President, Mr. Nixon." That was a button being distributed by Rabbi Korff, if you remember that name, who was one of the fervent supporters of the President. In any event, those were the days of Watergate.

MS. FEIGIN: Did you cover the hearings as well?

MR. STERN: Oh yes. Of course. NBC had this relatively small staff, and I was a jack of all trades and operated out of, as I think I've told you earlier, out of a desk at the Justice Department, covering everything in the Federal Triangle. Those were interesting venues too. Part of my beat was the Subversive Activities Control Board. They were nice people, but they didn't have a great deal to do because the Supreme Court had pretty much eviscerated the Board's role.

In the early 1970s, in the early days of the Nixon administration, the Federal Trade Commission, next door to the Justice Department, had become the hot agency and was doing a lot of consumer protection work. It became the agency that young law school graduates would want to go to. However, there's no doubt that the White House was very displeased by some of the high profile steps the Federal Trade Commission was taking to constrain certain business practices. Miles Kirkpatrick was the chairman, a lawyer from Philadelphia. I remember I walked into the office of Joe Ball, the general counsel of the Federal Trade Commission. I wanted to find out whether in fact the White House was attempting to get the FTC to tone it down a little, and I asked Joe Ball if that was so, and he said "No, no, no." I said "You don't hear from them?" He said, "Oh yeah, maybe once in a while they'll call with a question." I said, "Oh? And what's the question?" He said, "Well, it's usually what the hell are you guys doing down there?" [laughter] So I had a lot of ground to cover.

MS. FEIGIN: Okay, but to get back to Watergate for a moment, any other memories to share?

MR. STERN: I do have one other memory come to think of it. We mentioned the Senate Watergate hearings. Herman Talmadge was a senator from Georgia, and you may remember during the hearings he was questioning John Ehrlichman about his approval of break ins by the White House so-called "plumbers unit" to get dirt on political opponents. And Talmadge said to Ehrlichman, "Do you remember when we were in law school we learned about a principle from England about a man's home – that although the storm may enter, the rain may enter, the wind may blow through it, still the King of England cannot enter without the man's consent?" Ehrlichman replied "Well that's been pretty much eroded over the years has it not?" Talmadge replied, "Down in my part of the country, we still think it's pretty good law." And the audience in the Senate hearing room applauded.

MS. FEIGIN: Were you at the Supreme Court when the Watergate tapes decision came down?

MR. STERN: Oh sure. At that point, we were there every day just waiting. The case was heard on July 12th and decided on the 24th. On the day before the ruling, the 23rd of July, I received a phone call from a friend who worked in the clerk's office. I can say that now because the individual involved is long gone.

MS. FEIGIN: The Supreme Court's Clerk's office?

MR. STERN: Yes. And he said "Nixon loses eight-nothing." So what do I do with that? That was the biggest story of the year, right?

MS. FEIGIN: Absolutely.

MR. STERN: Well, except for the President's resignation. But what do I do with the tip? In those days, we had a two-source rule for information coming from someone who himself or herself had not been a participant. So what am I supposed to do at that

point? This is second-hand information. Can I pick up the phone and call the Chief Justice and say "Hey Chief, I understand it's eight-nothing"? No. I was on friendly terms with a few of the Justices, but would I be so unthinking, would I be so thoughtless, would I think so little of their character that I would expect them to violate the Court's code of secrecy and confirm that story for me? No. I couldn't do that, and so I didn't use the story. And on the 24th, the next day, it came down, eight-nothing. Nixon lost. But I hadn't used my beat on the story the day before, no matter how monumental. I don't mean to do a lot of handwringing here, but I don't know if today's journalists would follow that rule in this sort of hyper-frenetic journalism world in which we live today.

I remember I had one producer, a head producer, at NBC Nightly News who used to say "It ain't the priesthood." Well, I suppose that's true, but we have certain rules, or did in those days, that were not waivable, if there's such a word. Pilots don't land their planes until the control tower says the runway is clear. There are just certain rules you have to follow.

MS. FEIGIN: Let me go off a bit on a tangent. When you say you had a friendship with some of the Justices, are you comfortable saying which Justices?

MR. STERN: Yes. Probably Justice Brennan. He was everybody's favorite. He was a sweetheart. I went to see him at a nursing home in Virginia two days before he died, and he was as cheerful and full of life as ever.

MS. FEIGIN: For judges, there's sort of a bubble that they're in. Is there any problem with having a friendship with Justices? Is it hard? Is it appropriate? Is it awkward? How does it work?

MR. STERN: Reporters differ on that issue. I thought it was important to give them distance with respect to anything involving the Court itself. But it was almost impossible not to trade jokes with Justice Brennan [laughter]. Justices used to be wary of reporters. I remember when David Souter arrived in 1990, an appointee of George H. W. Bush, I sent him a nice note thinking he might be my guest at the Congressional Correspondents Dinner as part of his introduction to the rituals of Washington. I got back a Hamlet-like reply that ran a page and a half in which he pondered the propriety of Supreme Court justices socializing with reporters.

MS. FEIGIN: Did he accept?

MR. STERN: No. He didn't exactly say no, but we never corresponded again. I think I took the Clerk of the Court. In any event, it illustrates that the relationship can be awkward for the justices, too. I remember Justice Potter Stewart taking a bunch of us who covered the Court to lunch on 20th Street, but that was before the days when justices wrote books and did TV interviews and became public personalities. A lot of things have changed.

MS. FEIGIN: What were some of the other changes?

MR. STERN: When I started covering the Court the bench was straight. One of the innovations that Warren Burger introduced was to make it so that it curved in on either end so that the justices on the ends wouldn't have to strain to hear.

In those early days there were pneumatic tubes. As the justices would begin reading their assigned decisions, the Clerk would distribute them to members of the press corps, principally the wire services and afternoon

papers, who had small desks near the front of the bench equipped with pneumatic tubes that led to booths in the basement where colleagues were waiting. As soon as a justice began reading a decision, the reporter in the courtroom would send it speeding to the basement – down the pneumatic tube, swish – and the colleague below would begin filing the story by teletype while the justice was still reading the opinion. It was all part of the competition to report fast and first.

MS. FEIGIN: So you weren't in the courtroom when the justice was reading the opinion?

MR. STERN: No, I was, because I was too junior to have a pneumatic tube and a colleague down below. AP, UPI, Reuters, a few others were, and the afternoon *Washington Star* had their own person. The pneumatic tubes were sealed and the booths in the basement were abandoned years ago when the "Burger bench" was installed.

In any event, I can recall there came a point a few years later when they were refurbishing the pressroom and reporters like myself were reassigned to those empty basement cubicles. The pneumatic tubes were still there. I opened the desk in this cubicle which hadn't been used for many years. Blowing the dust off the desk, I reached into the drawer and pulled out a decision. It was a decision written by Justice Douglas in the 1942 Term, and it was four pages, and it was typed on onionskin, as we called carbon copies. Those were different times. When I came to the Court in 1967, each Justice had one clerk; today I believe it's four.

MS. FEIGIN: And the Chief has five.

MR. STERN: The Chief then had two. I happen to know that because one of his clerks was Charles Wilson, who sat behind me in journalism school and went on to law school thereafter. But you're right. Today the Chief has five. And in a sense, it's too bad. Justice Brandeis was asked once, this was back in the 1930s, "What makes the Supreme Court great?" He said "Because we do our own work here." Think about that. I've thought about it a lot over the years and I always try to do my own work. I never had a research assistant. When I was a professor, I never used an assistant for classes, et cetera. There's no substitute for doing your own work.

MS. FEIGIN: So when you talk about the Supreme Court, where now each justice, except for the Chief, has four, you feel they do a little less on their own? They're taking fewer cases and they have more clerks.

MR. STERN: Yes. There's a justice who supposedly paid so little attention that when his clerks provided him with two options for a decision, sort of an "A" version and a "B" version, he sent both to the printer [laughter]. At least that's the story. I wasn't there, so I won't vouch for that.

The Court in those days was covered differently. I did the conference list every week, the forty or fifty cases, perhaps several hundred at the beginning of the Term, that had accumulated during the summer, that the Court might dispose of the following Monday in its Order List. The list contained only names of cases, no descriptions. You wouldn't know which were important unless you had looked up the cases and knew what they were about. These days, I'm sorry to say, because of the economics of the news business, news

agencies depend on the wire services to know what's newsworthy. News operations, especially the TV networks, are more likely to rely on affiliates to supply information and interviews about a case, rather than having their own reporters spend two or three days in some town where the case arose. That can make a difference.

One case sticks in my mind as an example. There was a case from Grand Rapids, Michigan, a parochial aid case. It's a school district where only about half of the students were enrolled in public schools. It's got a very heavy parochial school population, and as a result, even though the school board attempted year after year to get new and increased funding, its efforts at the polls would fail because so many parents had no stake, so to speak, in the public schools and were reluctant to pay more taxes if they weren't going to get any benefit from it. So increasingly the school board became desperate. It made a deal. The deal was that if the parochial schools would support these ballot issues to provide more funding for the schools, that the school board would cut them in on it, would give them a piece of the pie. The school board agreed to send public school teachers into the parochial schools to teach enrichment courses such as languages and advanced math. These teachers would come in, they'd put a sign on the wall that said "This is a public school class." The students were identified for purpose of those classes, as "part-time public school students." The school board agreed to pay rent, to lease the classrooms during those hours that they were being used by the publicly paid schoolteachers. They were paying $6 a classroom a

week. I could go on, but you get the idea. Was this an Establishment Clause violation? Ultimately the Supreme Court did strike this down seven to two, I believe. But the point of my story is that I went out to Grand Rapids. I spent several days trying to learn more about what had happened. However, the Supreme Court never documented any of this. The justices simply took it as a straight on-the-record parochial aid case. There was no testimony about a "deal" in the record. There was nothing in the argument in the Supreme Court, and not a word in its decision about a deal being made. Now these are highly sophisticated justices. What they may have known and kept to themselves, I can't tell you. All I know is by virtue of going to the scene of the case, where it originated, a reporter can get an entirely different, and, shall we say, somewhat richer, view of what transpired than you would get by looking at the record or by simply reading the Supreme Court decision. There is value in giving a reporter time and resources to work the story.

MS. FEIGIN: You began by saying, and it is indeed the case, that news organizations don't do it this way now. Why is that? Is that because it has become corporate?

MR. STERN: It's the economics of the business. I remember a point when NBC had 108 correspondents, and within about a year, having been sold by the Sarnoff family to a corporation, it was reduced to 33. At one point we were trying to cover major events in South Africa out of Rome. But let's not get into handwringing here. The situation is that network news still comes in the familiar one pound loaf, but much of it has only six ounces of journalism in it.

MS. FEIGIN: Okay. Well getting back to the Supreme Court, you were going to tell us about covering the Watergate tapes case when it came down. You got the early word. What is it like to be there when a case comes down and you've got to ruffle through the opinion and figure it out. Maybe it was different then because it wasn't 24/7 news, so maybe you had a few hours until you went on air.

MR. STERN: Well not exactly. There were a couple of incidents that involved Warren Burger that I should tell you about. Warren Burger became Chief Justice in 1969. He always thought of himself as a sort of ex-journalist because when he went to school in Minnesota, he'd been a stringer calling in sports scores for the local paper. So he was not inherently hostile to the press. Okay, in 1967, before Burger was Chief Justice, the last day of Term, twelve decisions came down, announced from the bench. About half of them landmarks, read aloud, at least summarized, starting with the junior justices. So by the time they got to the good stuff, we're already now at about 10:30. I had to file to radio on the hour about anything that happened at the Court by 11:00. But in those days the federal courts strictly enforced the rule against broadcasting from a federal courthouse. The Supreme Court wouldn't let us file by telephone from the Supreme Court building or have a microphone. I had to file from the Senate Press Gallery which, as you know, is a considerable distance from the Supreme Court building, and up three floors. So here now come these major decisions. I've got about 30 minutes to file. I haven't even written anything yet, and I've got to get over to the Senate Press Gallery.

MS. FEIGIN: Are you saying that they read all the decisions?

MR. STERN: The result was announced for each one; the more important ones were described in detail. On this particular day in 1967, among the dozen rulings was a case called *U.S. v. Wade*. It was a police lineup case. It was a question as to whether or not criminal defendants had a right to the presence of a lawyer when they were being placed in a police lineup. It raised both a Fifth Amendment question and a Sixth Amendment question. That particular decision was not read aloud. It was simply thrust into our hot little hands. It ran, I could only guess, maybe fifty pages. All I could do was flip to the last page and see how the justices disposed of the case. Remember, in those days there were no head notes or syllabus when the case was announced. They were added only months later when the Reporter of Decisions would write up the official version for U.S. Reports. I did all I could do. I flipped to the last page where it showed that on the Fifth Amendment issue, defendant Wade lost. What I didn't know until after I broadcast my story was that thirty pages back, on the Sixth Amendment issue, he won. I got it dead wrong. That is not encouraged in the news business.

MS. FEIGIN: Were there repercussions?

MR. STEIN: No. Fortunately there were other decisions that day that eclipsed *Wade*. However, in 1969, Warren Burger, as the new Chief Justice, met with some of us for a little coffee and cookies down in the basement of the Supreme Court. I still remember. December 19, 1969. It sticks vividly in my mind. I told him the sad story of what had happened to me with the *Wade* case. I

also told him that I was from Ohio where the Supreme Court puts headnotes, puts the syllabus, on top of the decisions when they are issued. In fact, in Ohio the syllabus is black letter law. If I had had the benefit of that, I wouldn't have gotten it wrong. He was sympathetic, and he changed the system for issuing opinions. To this day, when a Supreme Court decision is announced from the bench and the copies of it are distributed, it comes with the headnotes, the syllabus, and of course the lineup and so on, right there on the very first page, and that has certainly been a major benefit.

It was also during Burger's regime, by the way, and I don't know if I've told you this. Did I ever tell you that I won the only case I ever argued in the Supreme Court?

MS. FEIGIN: You told me you had a case about the tax deduction for law school but that didn't get to the Supreme Court.

MR. STERN: No. Let me tell you about this one. Before Burger, the Supreme Court cafeteria was a dungeon.

MS. FEIGIN: Still is [laughter].

MR. STERN: Well he did have it remodeled. It's a place that some people even use as a hideaway. Senator Jeff Bingaman from New Mexico, I used to run into him in the cafeteria. He would try to get away from the Senate [laughter] so he could have some time to think to himself, and I would see him sitting there. I owned property once in New Mexico so I know him. I would see him in the Supreme Court cafeteria. In any event, to get to the point, Burger had the cafeteria redone. It was my custom in the morning when I came into the

Court to get a cup of hot tea for which I paid the princely sum of 51 cents for a styrofoam cup, some hot water, and a tea bag. And then it was my practice that after I went upstairs to hear decisions or whatever, I'd come back down and I would take my teacup, which is now empty, and the tea bag, and I'd go back into the cafeteria and get some more hot water and have another cup of tea. Well the first time I went through the line in this newly redecorated cafeteria, the cashier said "That'll be a nickel." I said "A nickel?" She says "Yeah for the water refill." I said "That's outrageous. Who's in charge here?" She says her supervisor is across the hall by the telephone operators. So I walk in there and said "This is an injustice to gouge the working man for a nickel for a water refill" [laughter]. He said "Alright, alright. From now on, the water refills are free." And so it is to this day. I maintain that I won the only case I argued in the Supreme Court. Are you impressed? [laughter]

MS. FEIGIN: I'm very impressed [laughter].

MR. STERN: Warren Burger, he and I also had some conflicts. I remember one at an ABA meeting. The ABA had a rule that speaking events were open to the press without constraints. The Chief Justice was going to give a speech. I came in there with my camera crew. He came in from the back of the room, and he took one look at me and he said to me, "You go or I'll go." Puzzled at first, I cited the ABA open-door policy. The chairman of the meeting, a federal judge from Boston, said to me "We can't have this. Please would you be a gentleman and leave?" So I left. I never did find out why he objected to having the press there.

He was sometimes difficult. But there's another side to every human being. I can see in my mind's eye today when William O. Douglas was dying at his home in the Palisades here in Washington. In those days we did stakeouts. They were part of the job too. We would spend time just sitting in a car outside somebody's home or office waiting to see if anything would happen. Here comes Warren Burger up the walkway carrying with him some jams and jellies he had made at home to bring to his adversary on the Court, Justice Douglas. The bottom line? We have to be hesitant in judging human beings. People are complicated.

MS. FEIGIN: One thing I think has changed also with the Court, and I wonder if this is correct, but transcripts of Court arguments, I believe in the old days didn't identify which justice was asking a question. Did you ever deal with the transcripts?

MR. STERN: No. I never did, so I'm not your best witness on that point.

MS. FEIGIN: Okay, anything else about the Court?

MR. STERN: How did we get on the Supreme Court? We could talk more about it, but we haven't yet discussed the cases, the trials, I covered out of town. We've talked about the ones in Washington but my work was probably evenly divided between D.C. and out of town cases.

MS. FEIGIN: And we will discuss that, but there's actually another question I have about Washington. What about the Hinckley trial?

MR. STERN: John Hinckley. Yes. You remember, of course, he was prosecuted for the attempted assassination of President Reagan in 1981. At his trial, my

strongest memory is the film “Taxi Driver,” and that's because it is the iconic 1976 film starring Robert De Niro and Jodie Foster. John Hinckley’s motivation for shooting Reagan was to impress Jodie Foster, of whom he had become enamored. He had developed an obsessive fixation with Jodie Foster. In the movie “Taxi Driver,” the character Travis Bickle has a scene in front of the mirror where he keeps saying “You talking to me? You talking to me?” [laughter] To this day, when I’m in front of a mirror, I say, “You talking to me?”

As you’re aware, Hinckley was found not guilty by reason of insanity. I think I would qualify as an expert by now all the times I sat through testimony about the DSM-4, the Diagnostic and Statistical Manual of Mental Disorders that psychiatrists use to categorize what the subject’s disorder might be. There’s now a DSM-5.

Hinckley was diagnosed as suffering from schizotypal personality disorder. It was really a battle of psychiatrists, those who claimed he was ill, and those not. Perhaps the most important thing which we could say is that the trial led to significant changes in the insanity defense, both in federal trials and in several states. In fact, there are three states that outlawed the insanity defense altogether as a result of the Hinckley trial. Essentially, as a result of the trial, the so-called volitional prong was removed, and federal courts reverted to a form of the old *McNaughton* rule, whether the defendant could comprehend that he was doing something wrong. Congress changed

federal trials in other ways, too. It shifted the burden of proving a severe mental disease or defect from the prosecution to the defense.

So the *Hinckley* case had a significant bearing on making it more difficult to use the insanity defense, even though it was seldom used anyway, probably in about 2% – I think that was the figure – of all cases. I'm also recalling, by the way, that Jodie Foster testified on videotape from California. Also, there was a wonderful judge in the case, Barrington Parker.

MS. FEIGIN: Were you there when Hinckley saw the taped testimony from Jodie Foster?

MR. STERN: Yes. I would have been. He had what they call flattened affect. I don't recall any emotion at any point showing from Hinckley. He ended up spending 35 years at St. Elizabeth's, the hospital in Washington for those who have mental diseases. But it's a case we should not have left out. You're right.

MS. FEIGIN: I'm glad we got to it. So now do you want to move on to some others? You've done so many all over the country.

MR. STERN: I don't know really where to begin. We mentioned the Sam Sheppard case before I came to D.C. That was in Cleveland in 1966. I suppose my biggest, my longest assignment, would have been the Patricia Hearst trial in San Francisco in 1976. That's the case that involved the heiress turned bank robber. In fact, the case took so long that after I had been in my hotel in San Francisco for a month, I was called to the front desk and told that they would no longer be charging me California taxes on my room because I had become a citizen of California! [laughter] I should also say that I was the press

representative for that trial as well, the liaison between the judge and the press corps.

The Patty Hearst case taught me, among other things, that it's better to be lucky than good. F. Lee Bailey was the attorney for Patricia Hearst, and he did his usually sharp, incisive job of defending his client. The prosecutor, Jim Browning, later a federal judge, however, got something better. He got lucky. Here's how that happened. During the course of the trial, it seemed everything that Browning was trying to do got snake bit. There came a point where he wanted to introduce into evidence a very damning tape recording that had been made surreptitiously, but legally, of Patricia Hearst the night she was arrested. She's in her jail cell and she calls her best friend, Trish Tobin, a girlfriend, and she's talking about her parents in the most bitchy terms and saying very incriminating things. Browning was ready to play the tape, and the tape machine wouldn't work. Like I said, snake bit. Poor Jim Browning. However, at the close of the trial, the very last thing before the summation and the jury getting the case, the judge said to counsel "Is there anything that you wanted to get in that we didn't do?" and Browning, or one of his assistants, suddenly remembered the time the machine hadn't worked. So as it turned out, the last thing that the jury heard before the summation, the last evidence it heard before going to its deliberations, was that tape. I've always felt that that was the piece of evidence that nailed Patty Hearst who was convicted by the jury.

Patty Hearst herself attributed it to something else. Both sides were to make their closing arguments the next day. But Bailey had made a commitment to be in Las Vegas the night before to give a talk at an American Law Institute meeting about what he called his five rules of summation, his five rules of closing argument. Bailey had his own airplane. Bailey said to me "I'm going to Las Vegas. Do you want to come along?" I said "Sure." So I flew with Lee Bailey to Las Vegas. He had a nice big steak at Caesars Palace and then he gave a brilliant lecture, without a note, on the five rules of closing argument. And then we flew back to San Francisco. We probably got in about 1:00 in the morning. He's supposed to be giving his summation that morning. Well, he was terrible. He was obviously tired out of his gourd. In fact, Patricia Hearst herself, in a book which she later wrote, said that he was hungover. He was so disordered. At one point he even spilled water on himself. He was just stumbling. As to the five principles, he didn't mention one. Lee Bailey was one of the greats. I have no hesitation in saying that, but he was not well advised to be flying his own airplane to Las Vegas the night before summation.

MS. FEIGIN: He piloted the airplane?

MR. STERN: Oh yes. Of course he flew; he was a pilot too. He was a renaissance man, an ubermensch, whatever you want to call it. A brilliant fellow. I have nothing but respect for that part of his life. Later on he got in trouble with the bar and the criminal law and other things, but quite apart from that, his abilities – with a decent night's sleep -- were astonishing.

MS. FEIGIN: Did you ever talk to him about that summation afterwards?

MR. STERN: No I did not. In fact, I'm not even sure I ever saw him again. Okay, enough about Patty Hearst.

I wanted to mention another trial. It actually lasted almost as long, that is to say, three months. That was the Berrigan trial, which I may have mentioned earlier in our discussions, in Harrisburg, Pennsylvania, where members of the Catholic clergy, Father Berrigan, Philip Berrigan, Daniel Berrigan, Sister Elizabeth McAlister and others, antiwar activists from the Baltimore area, were put on trial for supposedly plotting to kidnap Henry Kissinger and blow up the heating tunnels under the Capitol as a means of protesting the Vietnam War. The case essentially ended in a mistrial once it became clear that a provocateur working for the FBI was the principal plotter who had organized this thing. He was an inmate at the Lewisburg Federal Penitentiary who had befriended -- well, it's too long of a story -- but he used his contact with some of these antiwar activists to put this supposed plot together. What he was really intending was to get the FBI to take steps to have his sentence modified. In any event, what I remember best from that case was that J. Edgar Hoover was so concerned that the case end with a conviction that he actually had FBI supervisors shuttling in and out of that courtroom every half hour to report to him as to what was going on in the trial. I am sure he was disappointed by the outcome.

In those days, I should also tell you, our technology was much more primitive. We had to feed from our closest station, in Hershey, Pennsylvania,

by microwave to our studios in Washington, D.C. and then to the network. ABC would feed from Hershey too, ahead of us. What had to happen was that a technician had to climb a microwave tower on a mountain in central Pennsylvania to turn the dish, which was aimed at the ABC receiving site in Washington, turn it in another direction toward the NBC receiving location, at a precise moment in the schedule. We were always petrified that ABC would run over and the dish wouldn't get turned in time for us to feed our signal. Of course today you probably do it out of a little gadget in your pocket [laughter].

MS. FEIGIN: Is there a real sense of camaraderie among the reporters from different stations?

MR. STERN: Yes, there is. One other thing I should mention. When the Berrigan trial was over and I was feeding night after night doing network stories on it – there was much interest in it on the network – I remember when I was leaving Harrisburg I said to myself I'll never get another story like this. And then about three months later came Watergate [laughter].

MS. FEIGIN: You just went from amazing story to amazing story.

MR. STERN: I had the Cassius Clay trial – today you would say Mohammed Ali – for refusing induction into the Army during the Vietnam War. This would have been in Houston in 1967. By the way, he never formally changed his name to Mohammed Ali. Legally, he was always Cassius Clay. In any event, it took the jury all of 21 minutes to convict him.

MS. FEIGIN: Were you surprised by that?

MR. STERN: No, because he conceded everything. But what has remained with me was that in the middle of this trial, with national attention – Cassius Clay, Vietnam War, all these important things going on -- the judge takes a recess and invited the lawyers from both sides to come with him to join him in going next door to a courtroom where Percy Foreman was arguing a case. This is the famous Texas lawyer, for those who don't recall. Here we have this big case going, and the judge takes a recess in the middle of it so all the lawyers can go next door and watch Percy Foreman argue [laughter].

MS. FEIGIN: That seemed like a bigger case than Cassius Clay.

MR. STERN: Right.

MS. FEIGIN: Just to put the Cassius Clay case in context, because over time the perception of him changed, but at the time, was there public support for him?

MR. STERN: Well, it was divided. The Supreme Court ultimately held in his favor. Cassius Clay wasn't arguing a religious belief. It wasn't that some religious principle compelled him to do this. This was a matter of his own beliefs, which muddied the waters a bit. In any event, bottom line, what happened in the Cassius Clay case was the Supreme Court decided unanimously that the draft board's policies contained too many uncertainties and inconsistencies to support a conviction.

Every time I think of Clay, I think of another out-of-town case, Clay Shaw. I'll give it to you in short form. He was a businessman in New Orleans who was accused of having a role in the assassination of President Kennedy. The District Attorney in New Orleans, Jim Garrison, had

embraced rumors that were floating around that certain characters in New Orleans had gotten involved in the Kennedy assassination. In any event, the whole case ultimately fell apart.

MS. FEIGIN: When was it?

MR. STERN: You're pushing me on this one. I'm going to guess around 1969. It was a surreal case in more than one way. The judge, who looked remarkably like Mickey Rooney, was sitting on the bench, and in front of the seal of the State of Louisiana, which had, as I recall – at least then – a huge pelican, and the judge would be situated in such a way that he appeared to be coming right out of the pelican's mouth [laughter]. And the judge had a practice of reserving at least part of the courtroom between the defendant and the bench for his lady friends who would come into court each day vying with each other to wear the most spectacular fashionable attire. Each day, as our interest in the defendant faded, most of our attention was devoted to what these women would be wearing [laughter].

MS. FEIGIN: When you say "lady friends," is that a loaded term? You're not meaning wife and daughters.

MR. STERN: Well not being an investigative reporter, I didn't go too far with that [laughter]. But he clearly had a regard for these women, for whom he had reserved these seats.

Before this goes on too long, let me quickly mention some other cases, maybe just by name. Just to give you some idea of the geographic diversity, I covered the Chattanooga jury tampering trial of Jimmy Hoffa, the IBM

antitrust case in New York, which lasted more than a decade. You can ask me about that if you want. The 1984 Pinto case in Winamac, Indiana. That was the case of the exploding gas tanks, and importantly, was the first time a corporation was prosecuted criminally by a state for reckless homicide, so an important case. I covered the John Walker spy trial involving Walker and his son and his brother in Norfolk, Virginia. That would have been around 1985. I covered the landmark Alabama prison conditions case in Montgomery, Alabama, in 1982. The reason I remember that is because I got to meet Frank Johnson, the legendary civil rights judge. It was the first case in which a judge took control of an entire state prison system because of the failure of the legislature to do anything about horrendous conditions of the prisons. I covered legal proceedings in Milwaukee, North Platte, Nebraska, Port Gibson, Mississippi.

MS. FEIGIN: Let's dig into it before we end, maybe pick one and dig into it a little deeper?

MR. STERN: Okay.

MS. FEIGIN: Is there any one that you particularly want to talk about? Maybe the Hoffa case?

MR. STERN: Well, the Hoffa case, there's not much to say. It had a colorful cast of characters. Some of Hoffa's lawyers I knew from other places.

MS. FEIGIN: This was jury tampering, right?

MR. STERN: Yes, in a previous trial. Hoffa was convicted. His lawyer, his name was Moses Krislov, was from Cleveland, so I knew him. I had really just come to NBC at that time, and they told me to get what film we had – and in those

days, of course, it was film – to our feed point in Chicago the fastest way possible. So I chartered a Lear jet. Later they said "Hey, we didn't mean that" [laughter].

MS. FEIGIN: Hoffa seems quite a striking personality. Do you have any sense of that?

MR. STERN: No. He was a very stoic sort of person. I have no funny or even dramatic stories to tell you. He just came and went.

MS. FEIGIN: You mentioned a case in Milwaukee.

MR. STERN: That was the H-Bomb secrets case. That's a case where a young fellow, Howard Morland, had written an article in *The Progressive* magazine, which was published in Madison, called "The H-Bomb Secret." This would have been around 1979. Morland had been a chemistry major in college. He was an anti-nuclear activist who wanted to show that knowledge of the technology had become so widespread that almost anyone could build one, imperiling all of us.

MS. FEIGIN: He was working from public sourced information?

MR. STERN: Pretty much so. The government filed an emergency suit to block the publication of what appeared to be nuclear secrets. The case was before Judge Robert Warren in Milwaukee who entered the order, at least temporarily. By the very next day, it was discovered that almost everybody, including the Encyclopedia Britannica, had published essentially the same information, and so the whole case fell apart. However, what I remember best is what Morland told me in an interview afterwards. He told me that when he was working on his research, there came a point where he was

trying to figure out where the center of gravity had to be in putting together a nuclear weapon. He decided to go to the Atomic Museum in Los Alamos, New Mexico, and see where the grappling hook was on the top of Big Baby. That would tell him where the center of gravity was. So he went to the Atomic Museum, and he's in a room, nobody's there, and there's this atomic bomb. He didn't want to take out a tape measure, so he has this idea. He takes off his tattered sneaker and he puts it on top of the bomb. He realizes if he takes a picture, that from that photograph, knowing the dimensions – the length of his sneaker – he can then figure out where the grappling hook goes and other components. So he steps back to take a picture, and just as he's about to snap the picture, there's a voice from behind him saying "Oh no, no. You can't do that." He looks around and a figure, one of the directors of the museum, says "No, no, no. You don't have enough light" [laughter]. He turns up the rheostat on the wall. So much for our vaunted precautions.

MS. FEIGIN: Oh, no [laughter].

MR. STERN: These are the events that stick in my mind. I did want to mention Port Gibson before our time runs out.

MS. FEIGIN: Okay. Why don't we end with that one.

MR. STERN: Okay. Because in a way, that is my most dramatic story because my life was in danger. Is that sufficiently dramatic? [laughter]

MS. FEIGIN: Absolutely [laughter].

MR. STERN: The Port Gibson case involved a boycott by Black residents of this town on the river in Mississippi in Port Gibson. With the encouragement and support

of the NAACP, the local residents had undertaken a boycott of white merchants to protest the conditions under which they were treated in that community. The boycott lasted several years. The white merchants sued for malicious interference with their businesses. A local jury took little time to convict the NAACP and its leadership, and of course the NAACP wanted to appeal. For the NAACP to appeal, Mississippi required a bond in the amount of $2 million to be posted.

MS. FEIGIN: Is that figure based on something?

MR. STERN: It was a state law provision.

MS. FEIGIN: I assume it was a law, but the amount $2 million, is that based on the amount of damages that were imposed?

MR. STERN: Yes. They wanted the bond computed on seven years of business losses, and that was very much disputed. This case is called *Claiborne Hardware* because that was one of the plaintiffs. These merchants came in showing how much money they claimed to have lost by virtue of the Black residents not doing business with them.

In any event, the deadline arrived for posting the $2 million bond. I was there in Port Gibson with somebody I knew, Nathaniel Jones, who was the general counsel of the NAACP. I knew him from Cleveland. He was from Youngstown. He had been First Assistant to Merle McCurdy, the U.S. Attorney in Cleveland. Nat was a wonderful person, subsequently a judge on the Sixth Circuit Court of Appeals in Cincinnati. In any event, Nat finds a federal judge in Oxford who's willing to enter an order blocking that required

posting, enjoining it, at least temporarily. One slight problem. This is about 1:30 in the afternoon. The judge says you've got to be here before the clerk's office closes at 4:30. Oxford is 220 miles from Port Gibson, about a four-hour ride [laughter]. Well, you can do the math. So I jump into Nat's car, and we go racing up the highway. I'm not sure the tires ever touched the pavement. And I'm thinking to myself as I'm going, here I am a northern TV network reporter, Jewish too if that counts for anything, riding in this car doing 95 miles an hour with the Black general counsel of the NAACP. If they pull us over, you will never hear from us again [laughter].

MS. FEIGIN: And?

MR. STERN: Well it worked out.

MS. FEIGIN: No trooper stopped you the entire 220 miles?

MR. STERN: No. I told you, it's better to be lucky than good, right?

MS. FEIGIN: That's amazing. So you blocked the posting. That's great.

MR. STERN: They may have held open the clerk's office a few extra minutes. I don't remember.

MS. FEIGIN: We should say, because people reading this may not realize – it's so different now – but it's not as if you had cell phones and could call and say "we're on our way." It was a whole different world, right? You were on the road unless you stopped and found a place to put money in a phone and called the court and said you'd be a few minutes late; it wasn't like now where communication is instant.

MR. STERN: Right.

MS. FEIGIN: What year was this?

MR. STERN: The Port Gibson case was in 1982.

MS. FEIGIN: Before we end today's session, do you have any more you'd like to tell us about the Supreme Court?

MR. STERN: I could point out that covering the Court has unique difficulties, other than getting water refills for free [laughter]. For example, in the news business, editors and commentators for some reason try to convert every case into a test of the Constitution. As you know, a little bit more than half the Supreme Court cases are simply matters of statutory interpretation where the Court is trying to figure out what a statute means. In other words, how to apply it. But for some reason, Tom Brokaw – a great journalist who I worked with for many years – every time I would call with something the Supreme Court had done, he tried to convert it into some sort of constitutional question, when much of the time it was not a constitutional question.

I felt so strongly that journalists should know the difference that when I was teaching a course on the Supreme Court some years later at George Washington University, the first case on my syllabus was *Holly Farms v. NLRB*, hardly a landmark akin to *Marbury v. Madison*. It was a case about chickens and live-haul crews, employees who work for poultry processors who send out crews of people to catch the chickens that farmers raise. They stuff the chickens into cages on trucks and drive the trucks to the processing plants. Under the National Labor Relations Act of 1935, agricultural workers are not authorized to organize and join labor unions for collective bargaining.

So the question in this case was, were these live-haul crews agricultural workers? Holly Farms said they go to a farm. They do something on a farm. That makes them agricultural workers. The live-haul crews said, "well, yeah, we start off on a farm, but basically we do work that farmers don't do. We have to catch these rascals and stuff them into cages and then deliver them to the processing plants." They asserted the right to have a union. What did the Court decide? Interpreting the labor law in light of its origins and application, it ruled that the live-haul crews weren't doing farming and could organize. The point of my starting off with this "chicken case" was to make my students distinguish between statutory construction and a constitutional case.

MS. FEIGIN: In talking about the Court earlier, you mentioned Warren Burger. Can you tell us about some of the other justices?

MR. STERN: Yes, I recalled Justice Burger bringing jams and jellies to Justice Douglas. That reminds me of my misadventures with Justice Douglas over the years. In 1967, about a year after *Miranda* -- the Miranda warnings that have to be given to criminal suspects -- I decided to do a program on "Miranda One Year Later." Had in fact policemen been handcuffed by having to apply that rule? Just starting to cover the Court and not knowing any better, I sent a note to Justice Douglas who was the principal Fourth Amendment person on the Court in those days. I asked whether I could interview him about *Miranda*, and, much to my delight, he said yes. I was doing this for NBC Radio. He wrote that he had four requirements. First, he wanted to get the

questions in advance. I had to agree not to cut his answers. I forget what numbers three and four were. In any event, comes the day, my engineer and I go to the East Conference Room in the Supreme Court to set up. In comes Justice Douglas. I start with my very first question about the impact of *Miranda*, and he begins talking about some poor devil in the Philippines having pepper rubbed in his eyes. He's going on and on. I think he's talking about a case from about 1921. In any event, he's about four minutes in now, and I realize, among other things, I've agreed not to cut his responses. I am in trouble. What am I going to do? So finally he stops to take a breath, and I say "Mr. Justice" – and I'm groveling – "I appreciate your giving us this time, and I agreed not to cut your answers. Is it possible I could ask the question again and you could respond more succinctly?" And he looks up at me and he says, "Well if you're not interested in what I've got to say . . ." and he walks out. I was a dead duck either way [laughter].

MS. FEIGIN: This was him on the decline, obviously.

MR. STERN: Yes. He had begun. All I'm trying to explain to you is life as a Supreme Court journalist sounds kind of cushy [laughter] and easy. It isn't always.

MS. FEIGIN: Just to focus on that interview, you at least might have thought, maybe you didn't, that -- this was at the end of his career, I assume, right?

MR. STERN: At that point I was too rattled to think. Of course, I couldn't use anything.

MS. FEIGIN: Did you think he might have been showing early signs of, or some signs of some form of dementia or decline? Is this something that you reported or did anything with, or did you just let the whole thing drop?

MR. STERN: I just had to write it off as a miscommunication. As it turned out, it wasn't the last time I sat on a William Douglas story.

MS. FEIGIN: When else did that occur?

MR. STERN: In the early 1970s, I don't recall the year, the American Bar Association was meeting in San Francisco at the Jack Tar Hotel, and the Young Lawyers Section announced that Justice Douglas was going to be present to give a talk about the Fourth Amendment, and of course I arranged with my crew to cover that, and we did. We filmed his presentation. Well, by that point he had pretty much gone round the bend, and he talked just nonsense, and obviously it wasn't useable. I took the film back to our affiliate KRON across the street to see if there was anything that made sense. There was not. So what did I do with that film – the film that showed beyond question that a sitting justice of the U.S. Supreme Court had dementia? What did I do with the film? I threw it away. In those days, it simply would not have been part of our way of doing business to humiliate, to so embarrass the Court and Justice Douglas, as to put that on the air showing that this justice was no longer functioning. Now can you imagine? I'm not trying to defend what I did. By today's standards, I failed to report a matter that was important for the public to know. I didn't do my job. But we lived differently then. It

was a different time. We tried to avoid hurting people or demeaning the Court.

MS. FEIGIN: It was a different time. But having the advantage of hindsight now, if you could make the rule, would the rule be that you would report that or you wouldn't? What do you think is the better way?

MR. STERN: That is a tough question. I think today our responsibilities would require us to report the story, but you could report it in a way that's sensitive and not sensational. It was not a trivial matter. It would be different if the situation had been less newsworthy.

I remember a colleague of mine who worked for another network during the Watergate trial. As John Ehrlichman was entering the federal courthouse, he tripped. He fell right on his face. We all had film of that. Although Ehrlichman wasn't injured, my colleague started off his piece that night by saying that John Ehrlichman had a bad day and showing the embarrassing moment. I didn't. That wasn't part of the story. I wouldn't include it today.

MS. FEIGIN: Any other justices you want to mention?

MR. STERN: Lewis Powell was another favorite of mine. I had known him for years. He was on President Johnson's Crime Commission back in 1967. I had known Powell when he was president of the American Bar Association, with which I was active. Around 1970, Lewis Powell wrote an article which appeared in *The Richmond Times Dispatch* and then was published in the ABA Journal defending the Nixon Administration's use of wireless wiretaps without a warrant in domestic security investigations. He believed that the attorney

general had the inherent power to do that. Less than two years later, the Supreme Court, in a case called *Keith*, a case that came out of Michigan, ruled unanimously that the attorney general had no such power. The author of that decision was Lewis Powell. You see the point. He had a different role once he became a Supreme Court justice.

I should tell you another story about Lewis Powell. When he retired from the Court, his very last day was a rainy day and I saw that he had come out the Maryland Avenue entrance to the courthouse, standing back to get shelter from the rain. He was waiting for Mrs. Powell to bring the car around. Of course I walked up to him and exchanged pleasantries, and said something about how sad I was that he was leaving the Court and expressed my concern that the Court might lose something in his absence, that it might become less caring. And he said to me "The Court doesn't go backwards." That was in 1987. Of course, he was talking about fundamental rights and liberties, but I have always remembered what he said to me.

Occasionally my interaction with justices left me with a red face. I remember in 1969 when Justices Harlan and Black left the Court, the question was who would be taking their place? In the rumor mill around the Justice Department, we were hearing Powell would be nominated for one seat and somebody raised William Rehnquist's name for the other seat. Well, that didn't make any sense at all. Rehnquist was an unremarkable assistant AG in the legal counsel's office. You'll recall from the White House tapes, President Nixon called him Renchburg [laughter]. Nixon didn't even know

his name. So we're talking about a relatively obscure public official, right? I remember this was about maybe 5:30 in the afternoon. I picked up the phone and I called Rehnquist at home. He was in the kitchen, and I sort of laughingly said "Hey, I just wanted you to know that now we're hearing *your* name in connection with the Supreme Court. I thought you'd get a kick out of it." [laughter] I'm laughing, and he says "I can't talk about it." Oh no! By about 7:30 that night, there he was at the White House being introduced by the President along with Powell for the Supreme Court vacancies. So mine is a very hazardous profession. We have embarrassing moments [laughter].

The justices used to prize their anonymity, by the way. I think of that with Rehnquist. He had a bad back, as you may know. Almost every morning when the weather was decent, he would come out the back exit of the Supreme Court building with a clerk, and they'd go for a walk around the building. There'd be all these tourists on the front steps with their cameras, taking pictures of each other, and the Chief Justice of the United States would walk right past them and never once to my knowledge did anybody say "Hey, there's the Chief Justice. Hey Chief, can I have a picture with you?" [laughter]

Much the same thing happened a few years later when Harry Blackmun was on the Court. This was in 1981, sometime after the *Roe v. Wade* decision which Blackmun wrote and which made him the principal target of abortion opponents. There were anti-abortion demonstrators marching in front of the Dirksen Senate Office Building where Sandra Day O'Connor

was undergoing confirmation proceedings. When Mrs. O'Connor was in the Arizona legislature, she had been a moderate on abortion, enough to turn the pro-lifers against her. It suddenly dawned on me. At noon Harry Blackmun exits the Supreme Court and takes a walk. I've seen this a dozen times. He comes down First Street, and he goes to the corner, Independence Avenue, right past the Dirksen building, where the demonstrators were parading. I said to myself he's going to go right past those people with their anti-abortion signs and fetus photos and anti-Supreme Court placards. I called the office, and I said "Quick, get me a camera crew." And sure enough, I get a camera crew, and sure enough, noon, here he comes, the author of *Roe v Wade*, walking right past the demonstrators. And they didn't recognize him! As he went further down the street, I caught up with him and tried to ask him about it. He kept walking without responding.

MS. FEIGIN: Any memories of Thurgood Marshall?

MR. STERN: Thurgood Marshall. Much as Thurgood Marshall was a wonderful human being, he could at times be exasperating. There came a time during the summer when there was a New York City election dispute and the parties came to see Marshall in chambers sitting as a circuit justice with an application to delay the election. I called Justice Marshall's chambers. He came on the phone, and I asked "Are you going to let a member of the press attend?" He said, "No." I gave him my best spiel as to the role of the press in a democracy and the need for an informed public – subjects he appeared to

treasure in his opinions – and I remember he said to me "You guys are a pain in the ass" and that was the end of that [laughter].

Justice Scalia and I were on very good terms. I had known him. We exchanged a lot of correspondence when I was doing Freedom of Information Act requests and he was head of the Justice Department's Office of Legal Counsel. He was brilliant. I mean he was charming. He was an Italian ubermensch if there is such a thing as an Italian ubermensch [laughter]. But in some respects, I have to say this originalism, textualism thing was a schtick in my judgment. Just as an example, in *Bush v. Gore* in 2000 when the Supreme Court ordered Florida to stop the recount in three counties in south Florida, I recall having a conversation with him, just the two of us, and he was absolutely irate, livid, about what had happened and why the justices had to intervene, in his view. His point to me was that all the justices on the Florida Supreme Court were Democrats and that they clearly had been trying to steal the election from Bush. He didn't say a thing about originalism, textualism, due process. All that was on his mind was that Democrats on the Florida Supreme Court were using extraordinary tactics in his judgment to try to make it possible for Gore to win and had to be stopped. His judicial philosophy was window dressing.

MS. FEIGIN: I should just say, because people may be reading this dozens of years from now, that we are having this discussion right at a point in time when the 2020 election is still undecided, and court challenges are being filed, so it's a timely memory.

MR. STERN: I have one, maybe two, last comments and then I think you may want to call a halt to this session. Clarence Thomas. I just wanted to point out I tried to talk to him when he was first confirmed and he was like coiled steel. He just wouldn't open up to me. He just wouldn't talk. Thomas joined the Court in 1991. Now fast forward. Fifteen years later, I'm teaching at GW and I bring my class to visit Clarence Thomas. He agreed to see us and he could not have been more charming, more chatty, more fun. He would've spent the whole day with us. Just a different person. So again, you can't judge people too quickly. Human beings are complicated.

The last person I want to mention here is one who didn't reach the Supreme Court – Robert Bork. One thing that has been stuck in my craw all these years has to do with his rejection by the Senate for a Supreme Court seat in 1987. People seem to remember it simply as highly partisan politics. That isn't what sunk his nomination. As someone who covered the hearings, I have to tell you that I have long remembered the moment when I realized that he was swimming against the tide. He was in the wrong time. The moment came when he was asked about a case in which women seeking employment or promotions to better-paying jobs in a lead battery factory, I think it was, had to agree to be sterilized if they were still in their child-bearing years. The company was concerned that exposure to lead might affect a fetus and result in a deformed child or worse. But weren't there other ways to deal with the situation? When he was asked about this, Bork's reply was "Well maybe they didn't want to have children." Watching this at

a desk I had in a corner of the hearing room, I picked up the phone and I called my wife at home, and I said, "Did you hear that?" And she said to me "Did you hear that?" Bork's towering insensitivity, at least about the plight of these women, was staggering. That's why Bork's nomination was rejected. It wasn't just because of politics or his rejection of privacy rights. To be "Borked" has a more honorable meaning than history has recorded.

MS. FEIGIN: Well that's a dramatic note to end on and I thank you for a lot of wonderful reminiscences.

Oral History of Carl Stern

This interview is being conducted on behalf of the Oral History Project of The Historical Society of the District of Columbia Circuit. The interviewer is Judy Feigin, and the interviewee is Carl Stern. The interview took place on the terrace at Carl's home in Washington, D.C., on Monday, November 9, 2020. This is the fourth interview.

MS. FEIGIN: When we left off, we were talking about the Supreme Court, and you were sharing some thoughts about some of the justices you had interactions with. One of the points you were making was how they could walk down the street and no one would know who they were; you gave some vivid examples of that. It hasn't been that way for some of them recently, most particularly, it seems to me, Justice Ginsburg and also Justice Scalia. The justices give speeches. They've been out and about more, and I wonder if you have any thoughts about that. Is that a good thing? Is it not?

MR. STERN: Well, I'm a bit old fashioned. I think Justice Ginsburg was probably over-exposed. Occasionally she got into trouble for being too candid. I don't have to recite what those incidents were. Also, as a practical matter, courts have to speak from their written opinions. And I do worry. I mean, I encourage public officials, including justices, public figures, to go out and speak, but for judges there is a difference. I remember one case where Justice Stewart was quoted, giving his interpretation of a case the Supreme Court had just decided. I'm struggling to remember what it was about. It was at an ABA meeting in Montreal. In any event, he was quoted widely in the papers expressing his view as to what the Court's ruling meant. I started to think to myself, when the next case comes up that involves that precedent, are we now going to have this sort of thing where a lawyer says to the court,

"Well, your Honor, Justice So-and-So at a bar meeting in Philadelphia said it meant this." And the other lawyer leaps to his feet and says, "Now wait a minute. Justice So-and-So was quoted in *Time* magazine as saying it meant that." Courts really should not and cannot work that way. They can only define the law in their written opinions. Lawyers and judges have to know with certainty where to find the law. The justices can comment about their work in general, but they have to be discreet. When it comes to personal things, Marty's cooking, whether she liked his beef stroganoff, well fine. Go to it.

MS. FEIGIN: We should say Marty was Justice Ginsburg's husband.

MR. STERN: Right. We have to use a little judgment. That's all I'm saying.

I do have to tell you that we once got in a terrible dust-up with Justice Scalia. I say "we" because my wife was with me. We were at a dinner seated next to him, and there had just been an instance in which a federal judge in Wichita had gone on a local television station to explain a ruling that he had made in a case that involved busing or school integration, something of that nature. There had been a community uproar, or at least a small uproar, about the judge's decree, and the judge felt it appropriate to explain his reasoning and what the law requires, and did so. Well, what I remember is Justice Scalia thought that it was horrible for the judge to go on a local television station to explain what he or she had just done. I thought the judge had acted courageously and inventively in trying to calm the waters. It's like

anything else. We have to do what we think is right, but do it in moderation and under the right circumstances and for the right reasons.

MS. FEIGIN: One other question I have about the Supreme Court before we leave that topic. You were a member of the Supreme Court bar, I believe.

MR. STERN: Yes.

MS. FEIGIN: Did that make any difference in your work?

MR. STERN: Well, I should tell you, I was never a practitioner, although I am licensed. I always felt it was appropriate to do that, to remain within the discipline of the bar. Once you have been admitted to the bar, it seems to me you have certain obligations, and I think it's appropriate for you to understand what those obligations are and that in fact they can be enforced against you. Bar membership does not give reporters who cover the Court extra privileges. Perhaps it did at one time.

Those of us journalists who were members of the bar could go upstairs and use the Supreme Court library on the third floor. That got cut off under somewhat embarrassing circumstances. One of my colleagues, who was actually a good guy but a little overly ambitious, was caught in the library rummaging through a trash basket looking for notes that the clerks had discarded, thinking that might give him a clue as to what the Court was going to do in particular cases. Needless to say, the Chief Justice was not amused and, even for those of us who were members of the bar, our library privileges were revoked.

MS. FEIGIN: Since you bring up the fact that you felt you should keep up your bar memberships, maybe this would be a good time to discuss what you did as a member. You were a member of which bars and which legal organizations?

MR. STERN: I started as a member of the Ohio bar, and that's a wonderful bar to join because it's relatively easier to become a member. At the time that I took the bar exam, we had to do three full days, all essays; there was no multi-state. We were confronted with fifty scenarios. We had to respond to forty. In any event, the point I wanted to make was it was possible to take the Ohio bar and to answer every question wrong and still pass [laughter].

MS. FEIGIN: How?

MR. STERN: Am I giving away a secret here [laughter]? I presume it's changed. That's because, for each answer you gave, you could get a total of ten points. Up to 7.5 points were awarded for each one for correctly identifying the issue, and 2.5 for resolving it correctly under Ohio law. A passing grade on the Ohio bar was 75, so it was theoretically possible to answer every question wrong under Ohio law and still pass if you correctly identified the issues. And actually, when you think about it, it may make sense, because as you well know as a lawyer yourself, nine-tenths of the battle is to identify the issue – presumably from your point of view the winning issue – then you can always find someone who will dig up the relevant cases.

MS. FEIGIN: Were you also a member of the American Bar Association?

MR. STERN: Oh, of course. I was extremely active in the ABA. I went to bar meetings, the annual and mid-years, for at least twenty years, very often dragging my

wife and kids along with me. I was a founding governor of the ABA Forum Committee on Communications Law. That was back in the late 1960s. I was vice chair of the Criminal Law and Media Committee of the Criminal Law Section. I was a member of the Standing Committee on Strategic Communications. It's a relatively small group within the ABA that advises the ABA president on policy matters. And I was a member of the Working Group on Intelligence Requirements and Criminal Law Reform. So I was very active in the ABA.

I should tell you one meeting stands out over all those years, and that was one in 1973, during the height of Watergate. In the midst of the tumult, the ABA president was Chesterfield Smith from Florida, a wonderful lawyer, a one-time Nixon partisan. But he gave an electrifying, "no man is above the law" speech, impelling the ABA to call for Congress to appoint an independent special prosecutor to investigate the President's conduct. It made headlines and resulted – to some degree gave it impetus – in the establishment of the special prosecutor's office, which, by the way, was headed later by a former ABA president, Leon Jaworski, after Archibald Cox was fired at the order of the White House.

MS. FEIGIN: In addition to your ABA activities, weren't you involved in helping to develop ethical standards for PBS? How did that come to be?

MR. STERN: I was asked to be a member of the committee that revised the ethical standards for the Public Broadcasting Service. I had plenty of extra-

curricular activities. I also was a member of a Department of Transportation task force.

MS. FEIGIN: What did that involve?

MR. STERN: We were asked to develop standards, if you will, protocols, mechanisms for dealing with notification of families and the public in the event of a mass transportation disaster, an accident of some kind. In fact, even to this day, many of the things you're asked to do when you buy an airplane ticket is to provide information about notifying next of kin and that sort of thing, and that was developed by our task force as an advisory body to the Secretary of Transportation.

MS. FEIGIN: How broad-based was this committee?

MR. STERN: Some of the members had a background in aviation disasters, obviously, but it was a broad spectrum, such as people from the travel industry. But they were looking for people with a background in communications as well, and that's why they invited me.

MS. FEIGIN: When was this?

MR. STERN: In the 1990s.

MS. FEIGIN: They didn't have protocols before then?

MR. STERN: Oh sure, they had their own procedures that they had worked out, but they were looking for an outside reviewing body to determine if those standards were adequate and appropriate.

If we are talking about outside activities, I should also tell you I was very active in the labor union that represents the broadcasters. I was a shop

steward at NBC News in Washington for twenty-one years. I was on the local board for I think sixteen years. I served one term on the national board. That's AFTRA, the American Federation of Television and Radio Artists.

MS. FEIGIN: Were there any strikes?

MR. STERN: I was on strike twice, once in Cleveland and once shortly after I got to Washington. I don't think I was here more than six months when I was walking the picket line.

MS. FEIGIN: What was the issue?

MR. STERN: That's too long ago. We were just mad about something [laughter]. But we tried to help maintain standards. I will say it was a lot easier to go on strike in Cleveland than it was in Washington. The first time I went on strike was in Cleveland. I was working in those days for Westinghouse Broadcasting, and there was a labor dispute, and we went out on strike, and we didn't know how long we would be walking the picket line. Well, what we didn't know was, the next morning, after we walked out, your friendly Teamsters Union local sent about 25 guys who looked like fullbacks to demonstrate in front of the station. Of course they couldn't interfere with the people who worked in the building going in and out, but they completely cut off the delivery of things like coffee and bathroom tissue. By that night, the strike was over [laughter].

MS. FEIGIN: That's fascinating. If I could go back for a minute. You said you helped develop ethical standards for PBS. I'm wondering what kind of standards are we talking about? What got changed?

MR. STERN: Our task was to reconsider and clarify standards. Things like what is the level of verification required before you put something out on the air. Ethics and conflicts of interests – the innumerable questions about what to report and how. In fact, I taught a course on ethics at George Washington University where we spent a whole semester considering what was the right thing to do in various situations.

MS. FEIGIN: Was it at all different if you were dealing with this for PBS? Was PBS different from other stations in this respect?

MR. STERN: A little bit, because it was governed by a parent organization, the Public Broadcasting Service. There was a board of governors that had a role. I suppose it's also true that since we were not worried about turning a profit, a profit motive didn't come into it. We were trying not only to define standards but to elevate them. And there were some wonderful people. I sat next to Marvin Kalb from NBC and CBS, whose name I'm sure is familiar to you.

MS. FEIGIN: Indeed.

MR. STERN: So ask me some stuff about covering the law and the legal community. You asked me about bar membership. I was for a while on the *District Lawyer* board, the bar publication in D.C. But other than that, I was not active in the D.C. bar because in D.C. I was classified as an inactive member since I was not in the active practice of law. More fun to preach than to practice.

MS. FEIGIN: [Laughter.] So, back to the law, as you ask. Let's go to some of the big cases you covered because I think there were at least some we should

mention that we didn't. You mentioned the Ford Pinto case last time, just to say it was the first time there had been a criminal prosecution for murder.

MR. STERN: That was the case in which I almost froze to death. There was only one pay phone in the courthouse, and this was long before cell phones. They had the phone company bring in a trailer with phones mounted on an open rack. It was out in front of the courthouse on the lawn. Now it was about six degrees [laughter]. This is Winamac, Indiana, in the depth of winter. I don't know how any of us survived the winter in Winamac having to file on the phones in the middle of the arctic lawn of the courthouse. But quite apart from that, there were other problems, too. For one thing, Indiana -- I think it has changed, but I'm not certain -- Indiana in those days had different time zones county by county. And as fate would have it, our motel was in one time zone but the courthouse was in the next time zone, ten miles away, and we never knew what time it was [laughter]. That makes it harder to get to court on time. I do remember that. Who said it was easy being a reporter?

MS. FEIGIN: Any other special memories of this trial?

MR. STERN: We've been talking about ethics, and there was one ethical issue that troubled me, which was that the prosecutor had at the prosecutor's table a uniformed Indiana state highway patrolman, a big handsome guy, in the most gorgeous state trooper's outfit you've ever seen. I suppose he was there to be a technical advisor to the prosecutor, but it was a jury case and it seemed to me to have a member of the law enforcement community there in uniform would unduly influence the jury. If I were the judge, I don't think I would have

permitted that. To this day that has bothered me. As it turned out, it didn't matter much. The jury found Ford not guilty.

MS. FEIGIN: What were the facts of the case?

MR. STERN: Three teenagers in a 1973 Ford Pinto were killed when the driver stopped on the highway to retrieve a gas cap and a car came up from behind and rammed the back of the Pinto and the gas tank exploded. After a lot of expert testimony about the design of the car and the placement of the gas tank, the jury concluded that the Pinto was no more or no less safe than any other car in its class. I should mention that there were more than one hundred civil suits brought by Ford Pinto owners or their estates, which resulted in substantial civil judgments. But you haven't seen a lot of attempts at using the criminal law against corporations for negligence since. I wonder if that influenced it.

MS. FEIGIN: Another big case you covered, which I would welcome your reminiscences of, is the IBM antitrust case.

MR. STERN: Well, at the time, a professor at Yale by the name of Robert Bork described the IBM case as the Justice Department Antitrust Division's Vietnam, meaning it went on and on to the point of exhaustion. It was filed in 1969 before an iconic judge, David Edelstein, in the Southern District of New York. I decided I would go for the opening of the trial, and we did a piece on the opening day, and I said this is going to take a while. I'll come back for closing arguments. Well, I didn't know what lay ahead. In the first place, the lawyers skirmished pre-trial until 1975. Six years. Discovery primarily. The trial finally began in 1975. When I say "began," it was 30 million pages of documents. One government witness was

on the stand for 78 days. Are you getting the picture? This case ran the tenure of six attorneys general and four presidents. This was an antitrust monopoly case. This was when general use digital computers were becoming very much a driving element in the business machine marketplace, and there was concern that IBM was attempting through various stratagems to monopolize the business. In any event, this trial kept going and going, and it finally reached the point of exhaustion. In 1982, the Antitrust Division took a look at how the landscape of the computer industry had changed in the intervening thirteen years and decided it was time to throw in the towel. And so I never got to go back to New York for the closing argument [laughter]. That was it. I covered a case for thirteen years and I went once, and that was for the opening day [laughter].

MS. FEIGIN: Was this before courtroom use of computers? If you had millions of pages of documents, they probably weren't computerized. Or were they?

MR. STERN: By then it had begun. We certainly had word processing by then. But in any event, I am glad I was not present in court when they tried to have 30 million documents admitted into evidence.

MS. FEIGIN: Any other major cases you want to discuss that were here?

MR. STERN: I forgot entirely to bring to your attention that I actually can claim to be an *international* legal journalist.

MS. FEIGIN: Before we get to that, are there other stateside cases you would like to discuss?

MR. STERN: I think we've done enough.

MS. FEIGIN: Okay, but before we leave these shores, I want to ask you something about stateside courtrooms that is still an issue. I'd like to get your viewpoint on cameras in the courtrooms which began at some point while you were a court reporter.

MR. STERN: With respect to cameras, I'd have to say, again, I'm somewhat in the middle. Initially, in the late 1960s, I was very active in working with others to try to get the courts to consider opening their doors to cameras. I worked very closely with Sandy D'Alemberte, who was the president of the American Bar Association, a lawyer from Tallahassee, a law school dean. For a number of years, he was the president of Florida State University. An absolutely wonderful, marvelous human being, and I think he was largely responsible for the *Chandler* case, which would have been around 1981. Two Miami Beach police officers had been arrested for burglarizing a restaurant. And when it went to trial, the state court agreed to have it open to cameras, thanks to the efforts of Sandy and others, although under certain constraints. The cameras had to be unobtrusive. They were not to cover conferences at the judge's bench and so on. They had to avoid showing the jury. The constraints were numerous but this was the first time that a trial was open to cameras since prohibitions were initiated in the wake of the Lindbergh case in the 1930s. In any event, on appeal Chandler and the other officer contested their convictions on the basis that they didn't get a fair trial. They contended that the cameras might have influenced the lawyers, the judge and the jury. That case went to the Supreme Court. The Supreme Court ruled

unanimously that the defendants had failed to substantiate their claim of a due process violation. That opened the door, and today there are only one or two states that don't allow cameras under any circumstances in the courtroom.

The federal courts did try it as an experiment for a while in some of the Circuits, but they are still mostly closed to cameras. Advances have occurred in hearings in civil cases. The Supreme Court itself now routinely makes audio recordings available after the fact, but no video. To some extent I can understand it. It's the Court's playpen, and I think they like their privacy. I can recall going to the Safeway on Arlington Road and seeing Sandra Day O'Connor pushing her cart and nobody was bothering her because I guess most people didn't recognize her because they hadn't seen her much on television.

MS. FEIGIN: The Court only began to release audio of their arguments I think in the early 1990s, because of efforts by Peter Irons, a University of California San Diego professor.

MR. STERN: When I was there, arguments were being recorded, but you had to go over to the Library of Congress to hear them, and that's as far as the justices would go. Bottom line, like all the things we've discussed, it has to be done with appropriate procedures. I can't think of a single instance in the United States in which a trial has been derailed because of the presence of cameras. It seems to me until and unless it becomes clear that it is affecting the quality of what occurs in our courtrooms, the burden of keeping the cameras out is on

the resisters. That's my middle-of-the-road, average person, reasonable position.

MS. FEIGIN: Okay. So now moving on to international cases.

MR. STERN: I only covered one. In 1979, as you well know, Iranian mobs seized the U.S. embassy in Tehran and held 53 Americans as hostages, and of course the buildings as well. Shortly thereafter, the United States went to the World Court, the International Court of Justice in The Hague, in the Netherlands, to seek the Court's assistance in getting the hostages released and the embassy returned to U.S. custody. I went and actually spent nine days in The Hague. I went for the opening argument and then remained to await the decision. That wasn't necessarily a good thing. I remember when I was checking out of the hotel, my telephone bill was $800 [laughter]. Of course, some of that was calling home at night to reassure my wife I was being well fed.

MS. FEIGIN: What about the decision?

MR. STERN: The World Court did issue an order to the Iranians to release the hostages and turn over the embassy. But the Iranians did not appear. They did not surrender to the court's jurisdiction. The Americans ended up being held for 444 days. But when President Reagan came into office, as sort of an inaugural gift, the Iranians, as you recall, released the hostages and returned the embassy to U.S. control.

I did have one dramatic incident, which will not go down in the annals of the law, but when I was finally departing The Hague, after having been there nine days, I stopped at the gift shop in the airport and I acquired a 60-pound

chunk of cheese. It was heavy. Maybe it was 40 pounds. It was not just a wedge; it was a whole wheel. I thought my wife would enjoy having some cheese. I received assurances at the duty-free shop that the cheese would not ripen so quickly while I was en route home that it would start to smell. Unfortunately, my flight was cancelled. And I'm sitting there with 60 or 40 pounds of this quickly ripening cheese [laughter], and I don't have a flight. Well fortunately a fellow journalist, Bernard Shaw, who used to be with CNN, was also going home on the next flight. He had privileges in the airline lounge where we could at least refrigerate the cheese [laughter]. So the story ends happily. It had a Hollywood ending [laughter] because I managed to get the cheese home in time before it exploded in unpleasant aromas.

MS. FEIGIN: We should say, because you did television journalism, and we're talking about the hostages, that that was such a huge story that it led to the creation of the TV show *Nightline*.

MR. STERN: Absolutely. Every night they ticked off how many days the hostages had been held.

MS. FEIGIN: I think that show was intended to just cover the hostage situation, but it became such a television staple that it runs still.

MR. STERN: Yes. So that's about the end of all my war stories. There's one chapter left in my journalism career, I suppose, which is FOIA.

MS. FEIGIN: I don't think we're done with your war stories, so let me ask a little more. Speaking of war, did you ever get to Vietnam?

MR. STERN: When I was the backup reporter for NBC at the White House, in 1967 and 1968, I traveled there with Lyndon Johnson.

MS. FEIGIN: Was this on Air Force One?

MR. STERN: No. Usually there are three aircraft. There's the president's plane; there's a plane with all the secret service agents and communications people and so on; and then there's a press plane. There is a press pool aboard Air Force One for a few of the senior journalists, but I was a private in this army. They didn't put me on Air Force One. In any event, I remember going with President Johnson to Cam Ranh Bay in Vietnam. I hope this won't disappoint you, but while spending time at Cam Ranh Bay in Vietnam, I never saw a Vietnamese. They had cleared the entire peninsula of Vietnamese for security reasons. We could just as well have been at an Air Force base in Texas.

MS. FEIGIN: What was the occasion for this trip?

MR. STERN: This was part of an around-the-world trip that I went on with Johnson, which was an experience in itself. It had all started off because Harold Holt, the Prime Minister of Australia, disappeared while swimming a week before Christmas in 1967, and we took off to go to the funeral.

MS. FEIGIN: They found his body?

MR. STERN: I'm not sure they ever recovered his body, not that I am aware of. In any event, Lyndon Johnson decided to go, and I remember it was a difficult trip for a variety of reasons. For one, when we took off to head westward across the Pacific, we all had to line up. A Navy corpsman in the back was giving

us shots, and I don't mean in the arm [laughter]. Furthermore, my wife and I had just returned from a marvelous vacation in southern Spain. We were coming home to Washington at Christmastime and asked the hotel concierge to ship our warm-weather clothing to D.C. to lighten our bags which were stuffed with souvenirs. So we arrived back in Washington and – surprise – I have to go to Canberra. I don't have any summer clothing; it's on a ship somewhere. It's like 106 degrees in Canberra. Off I go to Australia in my heavy woolen suits [laughter].

MS. FEIGIN: Why was the President going around the world?

MR. STERN: He had an idea that, as long as he was out as far as halfway around the world, he might as well keep on going. That led to some strange circumstances. Operating on short notice, the President's staff had to line up places to land to refuel. They thought first of England and France and Germany, but they were all having huge anti-Viet Nam war demonstrations against the U.S., so that was out. The Italian government was having political problems. Portugal might have welcomed Johnson, but there was Salazar, a dictator. Perhaps Spain? But there was Franco. The White House was running out of countries. And here we are, flying at 35,000 feet, ever westward, and we don't have a place to come down. I remember one of the Bundy brothers came to the back of the plane to try to explain the dilemma. Finally they got the Pope to offer to meet with the President, and that obligated the Italian government to let Johnson set down in Rome. The papal invite was the hook for getting permission to land in Rome.

I should also tell you that trip taught me to admire the veteran skills of *The New York Times*. At one point we landed in Karachi and everybody, of course, wanted to get to a phone to file a story. Only *The New York Times* reporter had been given an envelope by his office containing the coins of every country we possibly might pass through. We were not in the terminal where there might be a currency exchange. Only *The New York Times* reporter had coins to make the telephone work [laughter].

MS. FEIGIN: Wow. Well, we should explain for people reading this, now or in the future, that in those days you had to drop coins into the phone to dial it; that won't resonate for people using the modern phone system.

MR. STERN: Absolutely. We're talking about the 1960s.

MS. FEIGIN: Did you ever go on other foreign trips with the President?

MR. STERN: Yes, when Johnson went to El Salvador in 1968 to promote the Central American Common Market. In fact, that trip illustrates another situation journalists confront.

MS. FEIGIN: How so?

MR. STERN: The office decided on the spur of the moment that it wanted an advance piece, a scene-setter, to air on July 6th, the night before the President's arrival. I flew to Miami on the 2nd, stayed over, and arrived in San Salvador on the 3rd. I met NBC's Mexico City camera crew and phoned the American Embassy which the State Department had assured me would give me a briefing, interview subjects, and other help. No answer. It turns out the Embassy was closed, and the next day too, to celebrate the U.S.

Independence Day. I'm not an economist. I don't speak Spanish. I've been about as far south as Tijuana. I knew zilch about the Central American Common Market. This was all in the days pre-Google. My filmed story was supposed to be put on a plane to our feed point in Miami on the afternoon of July 5th.

MS. FEIGIN: So what do you do?

MR. STERN: Well, my cameraman Tony Halik and I go into the hotel bar to commiserate, and as luck would have it, sitting on the next bar stool is a professor from Michigan State University who happens to be the world's leading expert on the Central American Common Market [laughter]. The rest, as they say, is history.

I survived what we call in the news business parachuting into a story. And in those days, as I said, pre-Google, it was a lot harder. I guess the moral of the story is don't try to do a story involving U.S. officials around the date of a national holiday. Or, better yet, be prepared.

MS. FEIGIN: Definitely [laughter]. Okay, you wanted to talk about your FOIA career.

MR. STERN: FOIA made a big difference. The Freedom of Information Act was enacted by Congress in 1966 and became effective in 1967. It wasn't used much in the beginning because it applies only to records of executive branch agencies, not Congress or the President, and there are nine exemptions – exemptions for documents affecting national security, or open investigations, or people's privacy or candid exchanges between government officials. At times there

seems to be a tenth exemption, which is not in the law but is the "We don't want to give it to you" exemption [laughter].

The primary users in the beginning were people FOIA-ing the Commerce Department, commercial users of FOIA seeking information about what their competitors were up to. That information might have been filed with the government. In any event, I used FOIA as a wedge, a shoehorn, whatever you want to call it, to learn what the government was doing. Not only did I use the spirit of the Act to buttress my daily news quest, I was the litigant in four lawsuits as a reporter and was largely successful. The most far-reaching of those was the Cointelpro case, but I'll also be happy to tell you, at least in short form, about the others if you want to go into that.

MS. FEIGIN: Absolutely. But let's start with Cointelpro, and for people who don't know what Cointelpro stands for, we should begin with that.

MR. STERN: That's bureaucratic lingo for counter-intelligence program. Counter-intelligence is taking active steps to alter a situation. It's not just gathering information. It's using information that you have to try to bring about a result that you would prefer in a given situation. Okay, so that's what we mean by counter-intelligence. Let's see if I can give you a short version of this. In March of 1971, a group of antiwar activists in the Philadelphia area broke into an FBI field office, in the suburb of Media, Pennsylvania and stole documents they hoped would be embarrassing to the FBI and force the FBI to stop surveilling them.

MS. FEIGIN: It must be embarrassing to the FBI that their office could be broken into, just for starters.

MR. STERN: Oh, you can bet on that. In any event, the activists then took the documents that they had seized and sent them around to news organizations and to members of Congress. Interestingly enough, because these were documents which had been stolen, no question about it, members of Congress and the news agencies were loath to use them. For example, Senator Kennedy was given a set. He returned it to the FBI unread. *The New York Times*, *The Los Angeles Times* did the same. They turned them over to the Bureau. Maybe the recipients thought it was the appropriate thing to do and perhaps that's what their lawyers told them to do. In any event, one paper did not ignore the documents. *The Washington Post* ran an article by reporter Betty Medsger, who I sat next to at the Berrigan trial in Harrisburg, and who had befriended the anti-war activists. Using the stolen documents, Betty described how the Bureau attempted to unnerve the activists by making them believe there was "an FBI agent behind every mailbox." However, the *Post* didn't dig into what other activities might be revealed by a closer reading of the files.

Fast forward a year. While waiting for an unrelated document at the Senate Judiciary Committee, which I also covered, a staffer asked me if I had ever seen the FBI files from Media? No, I had not. Thumbing through them like reading a magazine in a dentist's waiting room, I saw a caption on a document that read "Cointelpro New Left." Cointelpro? What is that?, I

thought to myself. I looked at the document. It directed agents in the Media field office to send anonymous letters to campus educators at colleges in the vicinity – Swarthmore, Haverford, Villanova – articles and letters telling them there were unpatriotic and un-American extremists on their campuses, such as SDS, Students for a Democratic Society. Some of the letters pretended to be from alarmed parents, urging the schools to kick these organizations and members off their campuses.

MS. FEIGIN: Their own students.

MR. STERN: Yes. The "concerned" letter writers asked why these colleges were recognizing SDS as a campus organization. Well, the word that caught my attention, other than Cointelpro, was "anonymously." Is that what FBI agents do? I thought they were supposed to be the investigative arm of the Justice Department. Agents are writing anonymous letters to urge action against political organizations whose purposes they disagree with? Is that what FBI agents do? By what authority? *Quo warranto*? One of the old English writs, *quo warranto*. By what authority? And so I rushed off to the Justice Department and started asking questions about it. I won't tell you all the times I asked in the months that followed, but I was not getting answers. Nobody would tell me what Cointelpro New Left was.

At one point I went to lunch with Pat Gray, the acting FBI director after J. Edgar Hoover died. I asked and Gray said he would look into it. He sent me a letter, this note that I still have, that told me that it would be harmful to the

Bureau's operations and to national security if I persisted in asking about Cointelpro New Left.

Shortly thereafter I saw in the local paper that the National Press Club had joined hands with a Ralph Nader organization, the Center for the Study of Responsive Law, to help reporters use the Freedom of Information Act. To make a long story short, a neighbor of mine, Ron Plesser, now deceased, was a lawyer with the Center. Alan Morrison was the boss. It was around January 3, 1973 that I read this thing in the paper. I had Ron come over and sit in my den and urged him to file a suit by the end of the month. He did – January 31st. It went through all the denials, all the processes. But I'm happy to say that by September, the judge, Barrington Parker, Sr., ruled in my favor.

MS. FEIGIN: What was the case name?

MR. STERN: *Stern v. Richardson*. The FBI was absolutely beside itself at the thought that this was all going to become public – an unauthorized, secret operation like this. It urged Justice Department higher-ups to file an appeal. But someone came riding to the rescue. You may be surprised to learn who it was. It was the Acting Attorney General Robert Bork. Bork said, "No. We're going to lose this one," he predicted. He did not approve taking an appeal.

MS. FEIGIN: Is that because he was the solicitor general and so determined whether the government would appeal?

MR. STERN: No. When Elliot Richardson and Bill Ruckelshaus resigned in the Saturday Night Massacre, Bork had become Acting Attorney General. He rejected the

FBI's plea as AG. In any event, on December 7th, a day that shall live in infamy, I got four pages from the FBI, along with an affidavit that that's all there is. Well, those pages themselves reference other communications. Again, just to jump ahead, I went back to Judge Parker the next day, and in the long run we got 50,000 pages. It showed not only that there was a Cointelpro New Left which was operating against the antiwar movement, but also the civil rights movement, the labor movement, et cetera. The FBI acknowledged that there had been seven Cointelpro operations, including one against Black extremists, and another aimed at disrupting the SWP, the Socialist Workers Party.

The SWP had sued the Justice Department and the FBI, claiming they were harassing and interfering with its activities, but the SWP couldn't prove it. They went in front of Thomas Griesa, a judge in the Southern District of New York, but their evidence was thin. And guess what? In the middle of the case, along comes the papers we obtained showing, among other things, that one of the seven Cointelpros the FBI was operating was the "SWP Disruption Program." Needless to say, the SWP prevailed before Judge Griesa.

I don't know that we have to go much further except to say that those disclosures led ultimately to the Senate Church Committee hearings into the excesses of the FBI and the CIA, and the Pike Committee, Otis Pike, in the House, which was a parallel to Frank Church's hearings in the Senate. It led to the Levi Guidelines, which placed important limits on domestic security

investigations, and even resulted in such things as the ten-year term for an FBI director. That came out of those hearings. So our Cointelpro suit turned out to be a very productive use of FOIA and one that is frequently cited for that.

MS. FEIGIN: And you won an award for that, did you not?

MR. STERN: Well, they give you a lot of awards.

MS. FEIGIN: No, no, no. What award did you win?

MR. STERN: A Peabody I guess was the top one. That's sort of broadcasting's Pulitzer, awarded by the University of Georgia.

Before we leave Cointelpro, I should tell you at least one other story, just to show how weird things are. While Judge Parker had before him the issue of these Cointelpro documents, he asked, as would be appropriate, to see some. He insisted upon having a stack of them, which he then took home and gave to his clerk to read over the weekend. It was a nice, warm weekend. His clerk, who shall remain nameless for the moment, took the documents with him when he went to the swimming pool [laughter] to read by the pool – documents which were under seal, highly secret FBI documents. Sometime later he returned to his apartment. The doorbell rang. At the door was this pretty young woman saying, "Sir, you left these under your seat at the pool" [laughter]. On top of that, there's another twist to the story. That young woman, that pretty young thing that brought the papers back to the judge's clerk, later became the clerk's wife [laughter]. How's that for a back story?

MS. FEIGIN: That's a great back story.

MR. STERN: Okay, so Cointelpro was the biggie, but that wasn't the only FOIA case. I could mention a couple of others, but just in a sentence or two. I did win a case, which is still much cited as a precedent, a case in the Court of Appeals. I should tell you all four cases were heard in the District.

MS. FEIGIN: Let's also mention the judges.

MR. STERN: Okay, in that case Pat Wald, Abner Mikva and Oscar Davis were the judges. Davis was a judge on the Federal Circuit, sitting by designation. This was a case in which some high-level FBI supervisors had been disciplined internally for lying to Congress about black bag jobs. Black bag jobs are cases where FBI agents would burgle a home, frequently the home of a relative of a Weather Underground member. In other words, in trying to find members of the Weather Underground, all of whom were in hiding, the FBI might send agents into the home of a relative of theirs to see if there were letters that had been received, or other evidence that might disclose where these members of the Weather Underground were hiding. The Weather Underground had, as we talked about in an earlier episode, engaged in violent acts, and even experienced deaths of its own members at a bomb factory that they had in Greenwich Village which blew up. In any event, the FBI did engage in unlawful conduct, and these FBI supervisors had lied in a congressional hearing about that fact. They were disciplined internally, but I thought that the public had a right to know who they were. These were high-level people who were likely to rise even higher within the Bureau hierarchy.

To make a long story short, I won most of the case. One of the individuals was very high in the FBI and, as to him, the court said I had a right to know who it was. As to two lesser officials who had been found in an FBI disciplinary proceeding to be guilty only of negligence in their handling of the information, the court said I was not entitled to their names. The court's reasoning was that the right of privacy of the lower-ranking officials outweighed the public's need to know who they were. We can argue about that. But as to the larger principle, I did win and the case is frequently cited in the literature of FOIA and its companion law, the Privacy Act.

MS. FEIGIN: What's the name of that case?

MR. STERN: *Stern v. FBI*.

MS. FEIGIN: And who was the main person who was outed by the lawsuit?

MR. STERN: My recollection is that he was the agent in charge of the Chicago office. The Chicago office was one of the biggest in the Bureau, I think the third largest.

MS FEIGIN: And what were your other two FOIA lawsuits?

MR. STERN: I won a suit involving the Small Business Administration, a case which, again, was important in setting a precedent for FOIA. Some employees of the SBA in the Philadelphia office had been disciplined within the organization for using improper racial criteria for small business loans, and I wanted to know who these people were. The Administrator didn't want to reveal this embarrassing story to the world and simply took the position that as long as he didn't sign off on the discipline, this was a matter in an inter-agency process which was still cooking, and that I wasn't entitled to

information about it until it was over. Obviously, this just gave them license to postpone the reckoning indefinitely – forever -- and Judge Norma Holloway Johnson said, no, no, you can't simply label it pre-decisional and avoid forever having to meet your obligations under the Freedom of Information Act. That case too has been cited many times.

MS. FEIGIN: Do you remember the name of that case?

MR. STERN: *Stern v. Small Business Administration*. That was in 1980.

MS. FEIGIN: And your fourth FOIA case?

MR. STERN: You remember in 1986 there was a horrible booster failure of a Challenger rocket and seven astronauts were killed?

MS. FEIGIN: Yes.

MR. STERN: There came a time when the Justice Department had to approve financial settlements with the families. We were trying to get a handle on how much the tragedy had cost the government and how well the families had been treated. The government wouldn't talk about it, citing the privacy rights of the survivors. The case was before Judge Richey. He ruled that we were entitled to know the figures in the aggregate, which was good enough for our purposes. We didn't need to know exactly what each family received.

MS. FEIGIN: What was that case name?

MR. STERN: *NBC Inc., et al. v. DOJ*.

MS. FEIGIN: You did quite well using the Freedom of Information Act.

MR. STERN: Not every time. I feel an obligation to tell you we didn't always win [laughter]. Sometimes it was very aggravating, and often infuriatingly slow

for those of us in the daily news business. In fact, when I worked later at the Justice Department, one of the most satisfying things I did, along with Dick Huff and Dan Metcalfe in the office that deals with FOIA, was to get expedited FOIA review put into the DOJ regulations so that cases that seem to have some public urgency, or raise questions about the integrity of Department officials, could be moved to the head of the line.

MS. FEIGIN: What length delays might one face?

MR. STERN: Do you remember that President Carter had a brother named Billy? Billy went to visit Colonel Gaddafi in Libya, and rumor had it that Colonel Gaddafi had given him a silver saddle as a gift. So I filed a FOIA with the Treasury Department which handled the Customs stuff, wanting to know whether he declared a silver saddle on his Customs form when he returned. I did not get an immediate answer. In fact, I finally got an answer from the Treasury Department twelve years after my request [laughter) by which time Billy Carter was dead, Jimmy was building houses in Georgia, and who cared anymore [laughter]? I recall the answer was that Billy did not declare a saddle. But who knows if the rumor was true? It wasn't worth pursuing twelve years later.

That wasn't my worst teeth-gnashing experience. In 1982, there was an accident involving the Air Force aerial acrobatics team, The Thunderbirds, which is used by the military as a recruiting tool. At an air show in Nevada, four of the planes crashed and their pilots died. The Air Force customarily records – in those days on film – the performances. I asked for the film. We

had no intention of airing the moments of impact, but wanted to show what preceded the accident. After I submitted an FOIA request for the film, the Air Force officially responded that it didn't exist. Then we learned that in a civil suit in California that had been brought against a manufacturer of the aircraft – specifically the manufacturer of the ejection devices – an Air Force film had been submitted in court. So the Air Force could no longer claim it didn't exist. Well, to get to the end of the story, we were on the verge of getting the film, literally the night before, when the general of the Tactical Air Command, which existed in those days at Langley, the general himself, in the presence of a sergeant, took the film and destroyed it. Now technically, that's a violation of law. Anything documenting a military accident has to go to the Archives and to other agencies, but the federal prosecutor in Norfolk, that's where his office was, was not about to prosecute this general. The Air Force and the Justice Department then moved immediately to close the matter because the subject matter of our request – the film – no longer existed. That's what happened.

MS. FEIGIN: So how would you assess the effectiveness of the Freedom of Information Act overall?

MR. STERN: Much of the time it works. The Freedom of Information Act is still a valuable tool for knowing what the government is doing. Every state, and many cities, have adopted their own FOIAs, sometimes called "open records laws" or "government in the sunshine laws." Overall, on a report card I'd give our efforts at government transparency at least a B-plus.

MS. FEIGIN: That's pretty high and probably a good place to break, because next we're going to move to your DOJ career, and that's a whole different area.

Oral History of Carl Stern

This interview is being conducted on behalf of the Oral History Project of The Historical Society of the District of Columbia Circuit. The interviewer is Judy Feigin, and the interviewee is Carl Stern. The interview took place on the patio at Carl's home in Washington, D.C., on Friday, November 13, 2020. This is the fifth interview.

MS. FEIGIN: When we left off, I think we were closing out the reporter era of your career. I know you went to DOJ next, so could you tell us how that came to be.

MR. STERN: That would have been in 1993 when I hit retirement age at NBC. I was offered – out of the blue, I had not sought it – a position working for Janet Reno at the Justice Department as head of the Office of Public Affairs. I was asked to come and visit with her and with Web Hubbell, who had become the Associate Attorney General, and I told them I'm not a Democrat. I have no political affiliation. And they offered me a position as an SES-6. That's the Senior Executive Service. In other words, I was not going to be a Schedule C political appointee. Many agencies have a few members of the SES, people who are hired for their experience and expertise who are not necessarily aligned one way or the other with the political agenda of the administration.

MS. FEIGIN: Let me ask you something before we talk about what you did at DOJ. I know some reporters are of the view that they shouldn't vote. Are you one of those?

MR. STERN: I always voted, but I was always an Independent until a few years ago. A neighbor of mine ran for City Council as a Democrat, so I did change my registration to Democrat so that I could vote for her. Beyond my own non affiliation, I discouraged my wife from joining political movements because I

was concerned that we remain as independent, at least perceived independent, as we could be. As a reporter, I felt more comfortable taking that position.

There is no general rule. It is a matter that reporters struggle with. I remember Linda Greenhouse, a renowned reporter for *The New York Times*, its Supreme Court correspondent, she got into a bit of a dust up with her employer over her attendance on her own time with her daughter at a pro-choice march. Obviously abortion is an issue that comes before the Court. We can argue about that, but I elected to stay out of partisan matters.

MS. FEIGIN: It always was interesting to me that some reporters felt that that went so far as to mean they shouldn't vote. Not only not to appear to be partisan, but not even to vote.

MR. STERN: Reporters are notorious for trying to keep an arm's length from a political affiliation if they cover things that involve politics. The gardening editor, I suppose it doesn't matter much. One could as easily argue that it lends itself to bending over backwards the other way in an effort to be fair and impartial. I am sure I have done that, to make sure that the other side was being adequately presented. It works both ways.

MS. FEIGIN: So you get to DOJ. It's 1993. How is this job defined?

MR. STERN: Well it's not defined. In fact, fifteen minutes after I became a federal employee, I was summoned to Janet Reno's office, the Attorney General, and she and Web Hubbell were there. So was Mark Richard from the Criminal Division, and the Attorney General asked us to take sides on the issue as to

whether some kind of irritant gas should be employed at Waco to make the Branch Davidian compound less habitable.

MS. FEIGIN: We should say for people reading this in the future what Waco was.

MR. STERN: The Branch Davidian compound near Waco, Texas. I think most of your readers will recall what Waco was all about. But to finish my point, I argued against gas. I can remember clearly saying "Saddam Hussein gases his civilian population. We don't do that." And then Mark was asked to argue the other proposition, which was that it had been 51 days now that the siege at Waco had lasted. The situation inside the compound was deteriorating very quickly. In any event, what I want you to see is that here we were, four or five days before the operation against the compound in Waco, and the Attorney General is still unsure about going ahead with it.

MS. FEIGIN: When you say Mark Richard was "asked" to argue the other side, is that the way it works; it wasn't necessarily his personal view?

MR. STERN: Yes. She said Mark you argue this; Carl, you argue that.

MS. FEIGIN: So there was no plan to storm the compound?

MR. STERN: I can tell you that two days earlier – before I came on board, so this is what I was told – she had rejected the FBI's proposal to use gas to totally end the stalemate. But she left open the idea of a more limited effort, and I was present for what was the critical meeting which was in the Attorney General's conference room on the following Saturday, late in the afternoon. This is now two days before the assault occurred.

William Sessions, the FBI director, was there, along with his principal lieutenants, Larry Potts and Danny Colson. Director Sessions was on his feet stomping around the front of the room saying, "They're making monkeys out of us." I recall that phrase. His point was that the longest standoff situations the FBI had ever endured were an incident in Puerto Rico which I believe lasted four days, and a year before the Ruby Ridge incident which lasted for eleven days. I don't want to say Director Sessions was angry; I want to say he was perturbed. He was frustrated that nothing much had been accomplished in the way of dislodging the Davidians from the compound or persuading its leader, David Koresh, to send more of the inhabitants out of the compound. Thus, about 6:00 p.m., the Attorney General okayed a plan to use gas but to insert it into a second-floor dormitory at one end of the building in an effort to induce Koresh, if he had less space, to send more people out. None of the children had been sent out at that point since March. So the Attorney General's idea was to shrink their usable space. There were audio pickups from inside the compound, and witness accounts of Davidians who had come out earlier, that conditions inside were becoming deplorable, and that women and children were being abused. I remember the Attorney General said, "You mean slapped around?" Those are the words she used, "slapped around." They said yeah.

MS. FEIGIN: The answer was yes or was it more than that?

MR. STERN: It was "yes," but I need to say there was equal concern about the deteriorating sanitary conditions inside, a situation so unpleasant I don't even

want to describe it, but that was an important component of the Attorney General's concern.

In any event, okay, so she approved the use of gas into that second-floor dormitory space. She specifically vetoed a dynamic entry, as it is called. In other words, there was to be no direct assault on the compound. She vetoed the use of pyrotechnic devices, lest they cause a fire.

It is true the Attorney General agreed that the FBI hostage rescue team could return fire if fired upon, to suppress being fired upon, and that later became the undoing of the Attorney General's approval of a limited operation.

One other memory from that Saturday meeting. Much significance was given to the fact that the day before, Koresh had become furious, I mean white hot angry, that one of the Army tanks that the FBI had borrowed brushed against his beloved Chevy. It was concluded that someone who worried that much about his car was not suicidal.

So what else do you want to know? When it comes to the morning of the attack, I can tell you about that.

MS. FEIGIN: Please do.

MR. STERN: Well I got to the SIOC, that's the command center for the FBI headquarters in Washington. Technically, the term means Strategic Information and Operations Center. That’s where the top people of the Bureau were able to gather and watch with the TV and audio everything that was going on in the compound, which was about thirteen miles outside Waco. So I was there in

the SIOC at 7:00 in the morning when the FBI in Waco first announced through loudspeakers and through a telephone that they had managed to connect with the Davidians, that they were beginning to undertake tank movements against the compound. They said specifically that the Davidians should take cover. Their expectation was that as part of the compound became unusable, Koresh would send people out, particularly children, something he hadn't done in nearly a month. That was the idea. Well what was the response? A Davidian picked up the phone and threw it out the front door, and within five minutes – I have a notebook, I was keeping notes minute-by-minute – by 7:05, the Davidians began shooting from a tower in the middle of the compound, and the rest of what happened you know.

MS. FEIGIN: I do know, in part because I was around then, but not everybody reading this will know so we should explain. First let me just ask one quick question. When you say you went to SIOC, I assume Janet Reno was there too?

MR. STERN: Oh absolutely. Absolutely. And other top leaders of the Justice Department and the FBI. I need to tell you there's a lot of mythology that has persisted about the events of that day. I don't know if you want to get into it.

MS. FEIGIN: I do, because if its mythology and you could disabuse us of it, that would be good.

MR. STERN: Three or four things might be worth mentioning. First, this was not a happy little village. There had been violence in the compound in the past. There was a fight in 1987 that resulted in Koresh being tried for attempted murder.

The jury deadlocked; it was a hung jury. In 1989, one Branch Davidian was killed with an axe.

MS. FEIGIN: By another Branch Davidian?

MR. STERN: As far as I know, there was nobody else in there. The local sheriff on several occasions had expressed his concern to the ATF, that's the Alcohol, Tobacco and Firearms unit which was then under the Treasury Department, about what was going on in the compound. His principal concern was the repeated delivery of heavy weaponry and ammunition to the Davidian compound. He was not alone in that. A postman, a UPS driver, and others reported the delivery of heavy weapons to the Davidians. So I say again, this was not just people dancing around the maypole. Of course these reports were what prompted the ATF into obtaining a search warrant which led to the raid in February of 1993, in which four ATF agents were killed and more than a dozen wounded. Six Davidians were killed. The ATF had good reason to check the amassing of weaponry inside the compound, so let's get that's straight.

Secondly, as for the day on which it all ended, it was always a Justice Department priority to get people out. In fact, that is a primary reason why the armored vehicles were used to punch holes in the side of the building after the gas had been inserted because the Davidians blockaded the doors. They had pushed a piano up against the front door, and that was also where they had a 50-caliber machine gun. I'm not sure I know the technical term for it, but something that supposedly can kill at five miles range, which is one

of the reasons, by the way, why the fire engines were left at some distance when the fire first broke out, because of the range of the weaponry that the Davidians had.

In any event, I need to say to you that there was bewilderment in the SIOC as to why the Davidians weren't trying to come out, especially when the fire started. No one I heard voiced a belief that Koresh would set the place on fire once the engagement began. In fact, at 11:15, Janet Reno left the command center to go to a previous engagement. It was some sort of luncheon that had been agreed to, if I recall, with judges and lawyers from the Third Circuit. Now why would she have left if she thought that something terrible was about to happen?

When the fire did break out, this was about ten after 1:00, it broke out in three different parts of the compound. There was complete surprise, horror, in the SIOC. I witnessed it. I will never forget the FBI personnel, watching on the TV monitors, calling out, "Oh my gosh, are they moving out? Come out baby." One woman came out and then went back in, and I wrote in my notes an FBI supervisor calling out, "Oh my God, she's going back in." Finally someone said 'There's nothing left. It's gone." That's from my notes.

How did it come to that? The more I thought about it I came to believe that once the Davidians opened fire, as I think the FBI expected them to do, the FBI intended to end the 51-day siege, the standoff, right there. Remembering that Saturday session and Director Sessions' frustration, I believe that was always their intention. And in fact, the tanks began rolling

right from the first moment on the 19th, Bradley fighting vehicles and CEVs – combat engineering vehicles borrowed from the Army. In any event, all I'm trying to say to you is that the FBI had obtained from Janet Reno an agreement that they could suppress gunfire if fired upon, and that, in my judgment, was the tripwire, to put it in a clear way, that opened the pathway to ending the whole thing that day. And in fact the next morning I came into Janet Reno's office, and I sat on this loveseat by the window, this is in her private office, and I said "Janet, the Bureau diddled you." That's the word I used, diddled. And she said, "We're never going to talk about it." And she never did. I suppose her admonition to me has expired by now. That's the story.

MS. FEIGIN: That is dramatic!

MR. STERN: That's my belief. Because of its own imperatives – frustration and the appearance of impotence – the FBI maneuvered to get Ms. Reno to approve a plan that would allow it, arguably, to end the standoff right then and there. But it didn't think it would end in mass suicide.

MS. FEIGIN: A tragic ending. And an extraordinary beginning to your time at the Department.

MR. STERN: I should start by telling you generally that working at DOJ gave me the most responsibility I ever had in life because I became one of those who had to push the buttons, and that's a responsibility. I loved it, but I think that's largely because the Attorney General let me do whatever I thought was right.

MS. FEIGIN: Push the buttons to make things happen or to get the news out?

MR. STERN: Both. Ms. Reno only told me to do what I thought was right, and she never bawled me out.

MS. FEIGIN: Was she a very hands-on AG?

MR. STERN: Hands on? The very first day I was there, when I was leaving, I was driving out the Tenth Street driveway, and I look, and there in the guard booth waving the cars through is Janet Reno [laughter]. I called out, "Janet, you don't have to do it all yourself" [laughter]. She was following a tradition at the Department that started with Bobby Kennedy, who made a point of introducing himself to everyone in the building. She was a workhorse.

If it wasn't the first day, it was the second or third day that I was there, I was in the bathroom at home shaving at 7:30 in the morning. I'm not an early riser, and the phone rings, and it's Donna Templeton, the Attorney General's private secretary, saying "Carl, could you come upstairs for a minute? Miss Reno would like to see you." I'm not even in my underwear yet [laughter]. She's just assumed that by 7:30 in the morning I would be in the office. She would start out of 5:00 in the morning from her apartment near the Department. She would have the detail – the FBI security agents – drive her up to the Washington Cathedral, and then she would walk to work. It must have been four miles. She walked down in her big white sneakers [laughter].

MS. FEIGIN: That was her daily exercise?

MR. STERN: Well I don't know that she did it every day, but I certainly remember it. She could drive the detail nuts. They went kayaking with her one weekend on the

C&O Canal, and she cut left at some little island, and they cut right, and when they came out at the other end they couldn't find her [laughter], which is not a small matter. So she was always, in that respect – I'm sure they loved her – a bit of a challenge because of her activity.

MS. FEIGIN: Just a tiny point. It's interesting to me that she was referred to in the Department as "Miss Reno"; her predecessors, I think, always were called "General." Is that correct?

MR. STERN: Yes. I suppose so. I haven't given that much thought. She had no pretense. In fact, one of the banes of my existence was whenever I was with her at some social event, she would be drinking beer. And not only was she drinking beer, she would drink it right out of the bottle [laughter], and I never figured out a polite way to tell her to stop doing that. Of course, she was best known to us in the press office for her persistent admonitions – I'm sure you already know some – "Do the right thing," and "We are not selling anything." She probably said that to me a million times. And "We don't do spin."

We tried to set up maximum access to her. We established a weekly press availability. If she was out of town or otherwise unable to attend, we would have the next in command, such as the deputy or the associate, take her place.

MS. FEIGIN: Was part of your job to be liaison between her and the press?

MR. STERN: My job was to answer their questions, and if I didn't know the answer, to find out what the answer was. At one point, the munchkins at the White

House sent me a message. They wanted me to describe what our communications strategy was. I responded, "We answer the phone." And that's it. It was important that we keep a certain distance from the White House.

In fact, I was there about two weeks, and I received a somewhat disturbed message from the President's Chief of Staff asking why I wasn't on the morning round robin. I don't know if it still exists, but in those days each department of the executive branch participated in a phone call with the White House Press Office and others at the White House, to give them a heads up on what we were doing, especially that day, so that the White House wouldn't get blindsided by one of our announcements or activities. Well, the participants signed on: Treasury Department, Commerce Department, Interior Department, Labor Department. Toward the end, a voice said "DNC." I said to myself, DNC? That's the Democratic National Committee. What are they doing on this call? I went right upstairs and walked into Miss Reno's office, and I started to tell her the story, and I didn't get to my second sentence, and she said, "You're off that call."

MS. FEIGIN: Wow.

MR. STERN: Now thereafter, in an effort to be cooperative, we did have a member of our office – we had about twenty-two in our immediate office -- read the daily public schedule to those who were listening to the round robin. But clearly there were activities of the Department that we did not want to share with a

political entity. That's the sort of awkward situation we sometimes faced in our office.

One Sunday morning I received a phone call from George Stephanopoulos, then the Communications Director at the White House. An administration official, I forget which one, was about to go on "Face the Nation," and George wanted to check the status of an investigation in case the official was asked about it. What did I do? I said "George, I can't talk to you. If the White House has a question, go to the Attorney General's office or the Deputy Attorney General's office, but we do not directly talk about investigative activities with the White House. Period."

Perhaps the most extreme example I can give you is in 1993, there was that truck bombing that demolished part of the World Trade Center in New York. Do you recall that?

MS. FEIGIN: Yes.

MR. STERN: There were six people killed and many injured. Within a day, the FBI largely solved the case using the serial number on a remnant of the truck that was found in the ruins, if you recall. In any event, President Clinton decided that he'd like to do a briefing on the arrests that had occurred, and I was sent over to the White House to brief the President and others on what they could say. I sat in the Cabinet Room with Bill Clinton across the table from me, Al Gore sitting to my right, and nobody else. Bill Clinton sent for a Diet Coke. That will authenticate my story [laughter]. The President described what he intended to say about the "perpetrators" who had been arrested and I said,

"Well you can't call them that." Al Gore, I remember, kind of poked at me and said, "The President is the chief law enforcement officer of the country and you mean he can't say the arrested men did it?" And I said, "No, he can't", and he didn't. He went on to the press briefing room.

It was one of the really bizarre moments of my life because as I was following the President -- this is a little bit off-topic here -- but as I followed the President into the briefing room, I had to go to the restroom. There's a tiny restroom about halfway between where we were and the briefing room, and knowing where it was was a great relief to me. As we approached it, I'm steps behind the President. The President steps into the restroom. Well what do I do [laughter]? Is it allowed for me to go into the restroom with the President? I mean this is just a little powder room sort of thing. No. I waited. Discretion is the better part of valor, is it not?

MS. FEIGIN: Did Janet Reno have someone separately denominated as a press secretary?

MR. STERN: No. I was it. Chief spokesman and bottle washer.

MS. FEIGIN: I see. It sounds beyond the traditional press secretary role.

MR. STERN: No. There was nothing novel in what I did. I might mention that I came up with a few new ways to give the press at least some evidence that we were trying to be helpful. I told my people that in response to queries, "I want you to amaze at least one person every day. I want you to take at least one query that comes in every day and drop everything. Imagine it's the Attorney General on the phone. You get the information, and you call the reporter right back."

That yielded results beyond my imagination. From that small measure, we got all sorts of wonderful letters from the working press lauding the Department's conscientious processing of press inquiries. So if any press officer reads this, amaze at least one person every day.

MS. FEIGIN: Beyond just in the Justice Department, that's good life advice.

MR. STERN: The bane of my existence, frankly, were phony stories on the Internet.

MS. FEIGIN: Even back then?

MR. STERN: These things would find their way into the papers. Reno wants to ban all guns. She wants churches defined as cults. There was one story that circulated all over the country and was reprinted in local newspapers, that she wanted to require couples to obtain a government license before they could have children. It was supposed to be something she said on *60 Minutes* when she hadn't been on *60 Minutes*. We were forever chasing around after these things.

I suppose my worst experience in that regard was when there was a Calvin Klein ad in the newspapers for undergarments in which young people were seen in their scanty underwear, and we received all sorts of complaints, many from members of Congress, demanding that we investigate Calvin Klein's use of minors in these racy ads in newspapers. Well, unfortunately, it was my assignment to get to the bottom of it [laughter]. And I can recall vividly sitting in the Criminal Division conference room, I think it was on the second floor, seated next to George Burgasser, the head of the Child Exploitation and Obscenity Section of the Criminal Division. He was the section chief,

and I'm sitting across from two FBI supervisors who have been ordered to come over and talk to me, and I'm telling them to investigate Calvin Klein underwear ads, and they look at me and they were not buying it [laughter]. I remember I put my arm around George, and I pointed to him, and I said "This is not chicken liver. This is the head of the Child Exploitation Section." They had no sense of humor. They said, "Chicken liver? What's it got to do with chicken liver" [laughter]? End of story. We finally somehow persuaded the FBI to at least check it out, and none of the young people seen in the ads were underage. But that's how I served a grateful nation, I'm sure.

Nothing brings out your latent homicidal tendencies faster than working with the FBI [laughter], which is sometimes, how should I put it, concerned about its image and prerogatives.

MS. FEIGIN: Do you want to give any further examples?

MR. STERN: No [laughter].

MS. FEIGIN: Okay. I think you were there during the Vince Foster event. We should tell people who he was and how you had to handle that within the Justice Department.

MR. STERN: He was the White House legal counsel. He was the brother of Sheila Foster who was the Assistant Attorney General for Legislative Affairs. There came a time when Vincent Foster's body was discovered in a park across the river in Virginia, and he had apparently shot himself, and there was much concern about what had occurred, needless to say, on both a personal and security

level. Ultimately, a note was found in Vince Foster's belongings, which explained how he had been simply overcome by the job. There was nothing suspicious or untoward about it. He was just overwhelmed by it all and took his own life. We had to fight all those rumors about his death. I remember Phil Heymann, who was at that point the Deputy Attorney General, spending a lot of time over the White House on that. And on several occasions, the FBI ignored our office by cooking up press statements with the White House press office, something they should not have been doing without even telling us. They are supposed to work through Main Justice. But these were the daily trials and tribulations of a government agency. It can be a terribly frustrating job.

MS. FEIGIN: Can you share some examples?

MR. STERN: I'll give you one example. I get a phone call from Mike Wallace at *60 Minutes* and they're looking at a story about corruption inside the Drug Enforcement Administration, that certain employees of DEA are protecting drug shipments from Mexico that are coming in by truck. Well I don't know anything about it, but I checked with my people, and I discovered that the source of the CBS information is a DEA employee who is facing grand jury indictment in California for criminal misconduct and is clearly coming up with stories in an effort to dissuade the Justice Department from prosecuting him, to discourage them – that there will be a price to pay if it seeks an indictment. Well, of course I can't tell Mike Wallace that a grand jury is

looking into this matter. It's grand jury secrecy. So I called Mike back, and I say, "Mike, you don't want to do this story." That's all I could tell him.

MS. FEIGIN: I assume you knew Mike Wallace from your days as a reporter.

MR. STERN: Oh sure, I knew him from way back, and I hoped that that would be enough to get him to back off. Well he ended up doing the story anyway, and years later the truth came out and the man was prosecuted, but *60 Minutes* never corrected the story. There are restraints that the law imposes. And you're stuck, knowing you can't reveal the true story.

I can give you another example, although it's a trifle longer. Lani Guinier, a law professor nominated in 1993 by Bill Clinton to be Assistant Attorney General for the Civil Rights Division. She had been head of the Voting Rights Project of the NAACP Legal Defense Fund. She had served in the Civil Rights Division of the Department of Justice in the Carter Administration. Bill and Hillary Clinton were close friends of hers. They'd been friends and classmates at Yale Law School, Class of 1973. But she had one problem. She was a nationally known promoter of shaping the electoral process to ensure the creation of more Black majority districts, and for that she was dubbed the Quota Queen. She was savaged by conservative journalists and senators. Ron Klain, then Ms. Reno's Chief of Staff, and I were asked by her to read Lani's writings, which we did. We concluded that she was never going to make it. Nonetheless, we did send her out for off-the-record interviews with press organizations, background interviews, in the hope of turning things around. In those days – I don't know if it's still true –

we worked on the basis that the Senate Judiciary Committee was entitled to have the first interviews with nominees from the Department, which is why the interviews had to be off –the-record. In any event, I'm in my office. A reporter comes in to see me, Beverly Lumpkin from ABC, and she says, "Do you know that Lani Guinier is going to be on *Nightline*" – an ABC program – "tonight with Ted Koppel?" "Not possible," I said. "She's not doing on-the-record interviews."

Well it turned out that in fact a *Nightline* producer had met her at the airport as she was returning from background interviews with the *Daily News* editorial board and *The New York Times* and he persuaded her to come on the show that night. And I'm saying "No, she can't do it." Well, what are we going to do? In fact, it gets worse.

What I quickly learned, but can't tell ABC, is that the White House is pulling the nomination the next day. Howard Paster, the White House legislative chief and Ricki Seidman, another person from the White House, are coming over at 5:30 to meet with Lani and tell her that her nomination is being pulled tomorrow. Okay. Now what do I do [laughter]? Obviously by the time the show goes on the air that night, she will have been told her nomination is being withdrawn. If she goes on the show, what does she say?

I call Ted Koppel and tell him Lani can't do it. He demands to know why. All I can say is that we don't do on-the record interviews before the Senate hearings. But he says it's up to Lani.

At 5:30 Lani comes over with her manager, Eddie Correa, and we sit in the Attorney General's office, and Howard and Ricky explain what's going to happen the next day, and Lani says “Look, you’ve got to at least give me a chance to talk to the President. I deserve to have him tell me this face-to-face.” And so it is arranged to have her meet with the President at 11:00 the following morning – although the decision is final. It’s not going to change. After the meeting with the President, an announcement will be put out. That’s it. News of what Lani is being told is not to leave this room today. I turn to Lani. “You can’t go on *Nightline*” I say. “If you pretend you are still the nominee, you're lying to the world, and the show is lying to the world. You just can't do it.” She said “It’s my last chance to defend my reputation and set the record straight. I'm doing it.” So that night she went on Koppel’s show.

I made one last effort to get Ted to drop the interview because we’ve been telling every other journalist who met with her that their interviews are background-only. But he refused, saying that was our problem. I couldn’t reveal the true problem. And thereafter Ted wrote a book, and it has a passage in which he recounts the efforts by some malevolent fascist in the Justice Department press office to keep him from having Lani Guinier on *Nightline*. That terrible person, whoever he was – he doesn't name that person – that was me [laughter]. What was I to do? You get into impossible situations in life, and you just have to roll with the punch.

MS. FEIGIN: As I recall, and correct me if I'm wrong, at the time a statement was made that the President had not been aware of these views of hers. Is that correct?

MR. STERN: No. I think he was aware of her proposals for increasing minority representation which, unfortunately, could be – and were – grossly distorted by the President's opponents. But it became clear her confirmation wasn't going to happen.

MS. FEIGIN: I don't mean whether he in fact was aware. But I think that was the official reason given for withdrawing the nomination.

MR. STERN: Oh, no. She was a preeminent legal scholar and civil rights fighter from way back. No. It was almost a perfect nomination but for the fact that she had a paper trail, these articles in which she was arguing in favor of a little extra representation for minorities to assure that they would have voting representation in the Congress and other elected offices, and for that she was dubbed the Quota Queen, and she never recovered from that.

MS. FEIGIN: Any other frustrations of the job that you can share?

MR. STERN: Can I say "disappointment"? Yes, at least once. Responding to press queries in a high-profile banking case, a high-ranking member of the Criminal Division had our office put out information about the cooperation of one of the subjects which was not true. It was intended to induce others to come forward. Of course, we didn't know it was untrue or we never would have gone along with it. This person – I won't say who – saw the press office as an instrument, a tool in furthering the investigation. You can't do that. The press office is no better than its credibility.

MS. FEIGIN: Did you have greater credibility because you had been a reporter, and they knew that you came from that background?

MR. STERN: I suppose so. But it didn't help me with Mike Wallace. [laughter]

MS. FEIGIN: Were there any incidents you would regard as blunders?

MR. STERN: Not really. But there were minor incidents, which provided me with another Golden Rule. Never tell them more than you know. I had one employee who sometimes answered press questions without really taking the time and effort to confirm the facts. He was a problem. It's natural to want to be seen as in-the-loop. It's tempting to fill in the cracks. But harmful, unless you always guess right. You get in trouble. The reporter gets in trouble. All you have is your track record for getting it right when you ask reporters to kill an incorrect story or a wayward fact – but can't tell them why.

MS. FEIGIN: What made you leave the Justice Department?

MR. STERN: Well I just recounted a number of incidents in which I emerged black and blue. That should add up to something. It's not that I reached the point of exhaustion, but a friend of mine, Stephen Trachtenberg, was the president of George Washington University. I had actually gone to college with Steve, and he approached me with an offer of a chair at GW in its Media and Public Affairs program. It seemed like a wonderful sinecure [laughter], so I didn't say no.

I enjoyed my tenure at GW. The students were wonderful. I wish they had read newspapers every day, but we live in an electronic age I'm afraid. I originally intended only to stay there for perhaps three to six years; I ended

up staying for twelve. I was able to initiate some programs there, including the advanced ethics program. My courses were open to students other than journalism students, political science students, history students, and so on. I also taught media law. That was a basic course of mine for many years. I had to be on my toes. I remember on at least one occasion, one of my students was a Harvard Law School graduate who had been a practitioner for 35 years but had come back to GW to acquire another degree and thought media law sounded like something interesting.

MS. FEIGIN: It does.

MR. STERN: Well it is, and I think I learned more than my students. Every time I had to prepare a lecture, I had to steep myself in the law of that topic, and it made me learn more about the cases and principles involved. There were times when I was not always in agreement with the textbooks, but I did learn something along the way. And I remained active in other ventures such as the ABA and the D.C. Court Historical Society and several FOIA organizations.

MS. FEIGIN: Did you encourage your students to become lawyers?

MR. STERN: I suppose I did. Several who became lawyers later wrote and blamed it on me [laughter]. I used to start each class by saying, "Good morning law fans." The fact is many of us love the law. What makes it loveable? To this day I keep near my desk a button that the ABA Section on Individual Rights and Responsibilities used to distribute, which reads, "Remember why you wanted to be a lawyer?" Not drafting contracts. Not shepardizing cases. What

makes it lovable is what it can accomplish, and that is something we felt very strongly working with Janet Reno. At the risk of going way, way overboard here, people sometimes ask me what it was like working for Janet Reno, and I say it was like working for Abraham Lincoln.

MS. FEIGIN: In what way?

MR. STERN: Her modesty and humility, but also her desire to do the right thing.

MS. FEIGIN: Would you have any advice for someone who wanted a career like yours today, to be a legal reporter?

MR. STERN: Well, legal reporting is a little bit different. You have to understand that law is an authority-based system. It's not just the desire to do good. What rules, what reasoning, lead to a conclusion? It's the kind of reporting where "why" is more important than the "who, what, where, when." It is an occupation where history counts more than most, so I suppose a grounding in history is useful. Developing a reputation for persistence and precision is vital in both journalism and law.

MS. FEIGIN: Should you have a law degree?

MR. STERN: No, although it helps. The towering figures on the law beat in my lifetime were Lyle Denniston of the *Baltimore Sun* and Anthony Lewis and Linda Greenhouse of *The New York Times.* They didn't have law degrees. But they were brilliant, with voracious work habits. I might add that it always struck me how much good lawyers and good journalists are alike. They are both highly verbal and take pleasure in abstractions. The law is about concepts, ideas, principles. Writing about the law requires that too.

MS. FEIGIN: Any advice for would-be journalists in general?

MR. STERN: Read. Read science as well as history. Monkeys are smart too, but the only reason we're riding around in electric cars and they're still swinging from trees is that we are able to write things down, and we can build on what generations before us have come to know. But beyond that, I don't have sage advice to give.

You're making me think of Conrad Hilton, the great hotelier, a man who had been a friend and advisor to presidents and kings. On his 80th birthday, the story goes, he was being feted at this banquet and finally after speaker after speaker got up and spoke about this man who had been a beacon to the world's leaders, they turned to him and said "Mr. Hilton, surely there must be something you learned in all those years, something you want to impart to future generations, something you want to say," and he said, "Yes. Yes there is. I have a bit of advice. Always put the curtain inside the tub before taking a shower." [laughter]

MS. FEIGIN: [Laughter] What do you consider the greatest honor you received?

MR. STERN: Wow. That's a tough one. It may seem like a small thing. It was two phone calls. During the same week in 1998, I got a phone call from White House Counsel Charles Ruff, and the principal assistant of the Independent Prosecutor Ken Starr. These were two individuals working either side of the same thing, which was the Monica Lewinsky matter, which involved President Clinton and his relations with a White House intern. Both Chuck Ruff and this person who was calling on behalf of Ken Starr were asking the

same thing, which was would I come on board as spokesman for their office in connection with the Monica Lewinsky case? I declined both. But I cite this story only to tell you that it's wonderful to know that you are regarded as fair and honest by people on either side of a hot button issue like that.

MS. FEIGIN: You have mentioned in earlier sessions your wife Joy and a bit about her involvement with theater in Cleveland. Could you tell us more about Joy and your children as well.

MR. STERN: Yes, we have a son who is a screen writer in Hollywood and another – they are twins – who practices law in D.C., corporate law, lots of techie things that I don't understand. I wanted both of them to be lawyers but my Hollywood son caught the show-biz bug.

MS. FEIGIN: Did he get that from you or Joy?

MR. STERN: I'd say from Joy. She was a child actor in New York doing radio dramas and live TV commercials, and later part of the resident company at the Cleveland Playhouse. More recently she had leading roles in two full-length feature films and was nominated as Best Supporting Actress nationwide by the independent film industry.

MS. FEIGIN: That's phenomenal! But I understand that now she spends almost as much time with lawyers as you do.

MR. STERN: That's true [laughter]. She is a veteran actor in law firm training programs in Washington and New York, especially those run by NITA, the National Institute of Trial Advocacy. She has also done witness prep, in one case helping a firm win a $400 million judgment.

MS. FEIGIN: So the law has played a role in both your lives. Our oral histories usually have been with participants in the legal process. You worked as an observer, watching the law at work. Yet you probably spent more time in courtrooms than most lawyers. From that vantage point, what do you think about the legal system overall?

MR. STERN: I can't remember a single trial that I attended – criminal or civil – in which I disagreed with the jury's conclusion. It's remarkable. I can't recall a trial judge's ruling or decision that I considered unreasonable. I don't mean I always agreed with it, but I always thought there was at least a perceptible reason for it. Many times I thought it was astonishing that we consistently produce judges and lawyers of such high quality, especially at the federal level. As a whole, in all courts that I observed, the quality moved higher over the years. In short, the endeavor has blemishes, but it works.

MS. FEIGIN: Thank you so much. This has been a fascinating review of a wonderful career.

Oral History of Carl Stern

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Cases and Statutes

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Berrigan See *Sigler v. Berrigan*
Bobby Williams v. Larry Bennett, et al., 689 F.2d 1370 (11th Cir. 1982), 118
Bush v. Gore, 531 U.S. 98 (2000), 131-32

Clay v. United States, 403 U.S. 698, 115-16

Grand Rapids School District v. Ball, 473 U.S. 373 (1985), 103-04
Grimshaw v. Ford Motor Company,119 Cal.App.3d 757, 174 Cal.Rptr. 348,

Holly Farms v. NLRB, 517 U.S. 392 (1996), 123-24

Keith See *United States v. U.S. District Court*

Miller v. Union Pacific Railroad Co., No. 19-2536 (8th Cir. 2020), 28
Miranda v. Arizona, 384 U.S. 436, 124-25
Mtr. of Klimas v. Trans Caribbean Airways, 10 N.Y.2d 209 (1961), 28

NAACP v. Claiborne Hardware Co., 458 U.S. 886 (1982), 121-23
NBC, Inc. et al. v. DOJ, No. 87-CV-01134 (D.D.C.), 161-62

Pinto See *State of Indiana v. Ford Motor Company*

Roe v. Wade, 410 U.S. 113 (1973), 129-30

Sigler v. Berrigan, 410 U.S. 902 (1973), 114-15

State of Indiana v. Ford Motor Company, (N.D. Ind. 1980), 118
State of Louisiana v. Clay L. Shaw, 467 F.2d 113 (5th Cir. 1972), 116-117
Stern v. Richardson, 367 F. Supp. 1316 (D.D.C. 1973), 156-57
Stern v. F.B.I., 737 F.2d 84 (D.C. Cir. 1984), 160-61
Stern v. S.B.A., 526 F. Supp. 145 (D.D.C. 1980), 160-61

United States v. Arthur James Walker, 796 F.2d 43, (4th Cir.1986), 118
United States v. James R. Hoffa, 349 F.2d 20 (6th Cir. 1965), 117
United States v. Hinckley, 525 Supp. 1342 (D.D.C. 1981), 109-11
United States v. International Business Machines Corp., 517 U.S. 843 (1996), 117, 143
United States v. Patricia Hearst, 563 F.2d 1331, (9th Cir. 1977), 111-14
United States v. Progressive, Inc., 467 F. Supp. 990 (W.D. Wis. 1979), 119-20

Statutes

Freedom of Information Act, Freedom of Information Act (FOIA), 5 U.S.C. § 552, 131, 152, 156, 161, 163

National Labor Relations Act of 1935, 29a U.S.C. §§ 203.1-203.77 (1946), 123

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The Rule of Law at the Margin: *Reinventing Prosecution Policy in the Southern District of California*, 12 Geo. Immigr. L.J. 285 (1998) (co-authored with Alan D. Bersin, U.S. Attorney, Southern District of California

Comment, *Right to Counsel*: *Alleged Incompetent Held Entitled to Counsel at Civil Commitment Hearing*, 43 N.Y.U.L. REV. 1004 (1968)

The New Rules, San Diego Daily Transcript, Oct. 3, 1994 (co-authored with U.S. Attorney Alan D. Bersin)

Judge Challenges Popular Beliefs on Reducing Crime, San Diego Daily Transcript, Dec. 29, 1988 (book review)

Solicitor General Story is Far from Dry, San Diego Daily Transcript, Jan. 20, 1988 (book review)

A Mother's Dilemma: *What to Do About Possible Case of Political Discrimination*, Los Angeles Times (San Diego County edition), Oct. 18, 1987

How Infrequent Injustice in Courts?, San Diego Daily Transcript, Mar. 10, 1987 (written under pseudonym)

Separation of Church and State at Issue in Child's Refusal to Read Poem, L. A. Times (San Diego County edition), Dec. 29, 1985

Family Holiday Concert Was Child's Secret Hour of Dread, Los Angeles Times (San Diego County edition), Nov. 28, 1985

A Prosecutor's Awesome Power, San Diego Daily Transcript, Aug. 20, 1985 (written under pseudonym)

Complexities My Sabbatical Taught Me, San Diego Daily Transcript, May 21, 1985

Sting of Sexism is Soothed by Innocent Motives, Los Angeles Times (San Diego County edition), May 6, 1985

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