

**ORAL HISTORY OF  
JUDGE STANLEY SPORKIN  
MARCH 23, 2004**

This is the second interview of the Oral History of Judge Stanley Sporkin as part of the Oral History Project of the D.C. Circuit Historical Society. It is being held by Alexander Bennett on March 23, 2004. The tape and any transcripts made from the tape are confidential and governed by the wishes of Judge Sporkin which have been made in the form of a written donative instrument.

Mr. Bennett: As discussed a little bit ago, we are basically going to defer on further discussion of your years at the SEC because we understand that there has been an SEC oral history underway just about the same time covering many of the same subjects. So we'll pass that and go on to some other things. But one thing that we did just want to ask you to start, Judge Sporkin, is why did you leave the SEC?

Judge Sporkin: I left the SEC in 1981. I had been with the SEC at that point almost 20 years. The last seven years I was the Director of Enforcement. They were very difficult years. They had taken somewhat of a toll on me. These were long days and nights – there were a lot of problems in the financial community – we had tremendous number of innovative programs. Matters seemed to be under control. I guess, let's see, in 1981 – I was about 48-49 years old – and I became restless. I was looking for a challenge. An election had just been concluded. There would be a new Chairman coming in. This would mean that I would have to go through a period of building trust between me and the Chairman. This would happen every time a new Chairman came in. And so I gave a lot of thought to what I wanted to do with the rest of my life. I thought that maybe this would be a good time to even consider private practice.

There was also an interesting report that was prepared by the Reagan transition team. The conclusion of the report was that the SEC had the finest enforcement program in all of government but that they thought that it might be time to change the leadership. It is my surmise that was based upon the fact that we had taken a number of cases against major corporations. Some of the cases were against political people. So it looked like that it may be payback time for these folks.

Now, nobody ever discussed with me that maybe this was a time that I should be leaving. John Shad, the new Chairman, and I had some discussions but none about my career. I had weathered other changes in administration, and I'm sure I would have weathered this one. Nevertheless, I thought this was a time that I should be doing some thinking.

But before I could even start that thinking, I received a call from the former Chairman of the SEC, Bill Casey. Bill Casey and I had hit it off when he was Chairman of the SEC. He had two favorite high-ranking staff people – myself and Alan Levenson. When Chairman Casey left the SEC, he became President of the Export/Import Bank. At that time he called upon both Alan Levenson and myself to go with him. He offered me the position of General Counsel. Alan Levenson I believe was offered the position of Executive Vice President, or the number two person at the Bank. I didn't know that Casey had talked to Levenson, and Levenson didn't know that Casey had talked to me. Nevertheless, both of us, without having discussed it with each other,

decided that we were not going to accept that offer. I told Casey that I didn't know anything about banking and I didn't care to be a banker.

Fast forward now to 1981 and Casey had just been President Reagan's campaign manager. He was the President's nominee to be the Director of the Central Intelligence Agency. Early in 1981, it might have been February or March, he called me and said that he wanted to see me at his apartment at the Jefferson Hotel. On my visit, Casey, as he always did, came right to the point. He said, Stan, you once turned me down when I asked you to be General Counsel of the Export/Import Bank. I'm going to give you one last chance to come to work for me. I want you to be General Counsel of the CIA.

I said, Bill, after deep consideration of your offer, I accept. That was the way Casey and I operated. We made quick decisions. I believe that was one of the reasons that endeared me to him.

To say that it was impulsive would be understating what that word is. I had not discussed it with my wife or anybody else. I just did it. Of course we had agreed that we would not tell anybody because there would have to be a lengthy investigation of myself to make sure that I would be able to take the job. It was interesting that, about a month before, I had been in New York and I had met with an old friend of mine, Dean Robert Mundheim, who had been the Dean at Penn Law School. We were having a drink in his hotel room when we discussed my future. He said with some authority, without telling me the basis of it, that I was going to be Casey's choice to be the General Counsel of the CIA. Bob Mundheim has never told me the basis of that

statement. Even to this day when I talk to him, he still won't tell me why he said that.

When I went home and told my wife, she was I guess a little bit put out because she wanted to know at what point in my life would I be discussing matters of this kind with her. She was sort of bipolar on this situation. On the one hand, she was looking forward to my going out and getting a position with a law firm and making some money. On the other hand, she was a devotee of spy novels, and she sort of had a vicarious thrill by my going to the CIA. Indeed, at one point she said to me that this would have been a better job for her, since she knows more about spying than I know, and that I knew nothing about spying.

So after I had accepted the job. I didn't hear anything. Months went by, and I didn't know where I was. I of course didn't say anything to the people at the SEC. Then one day I was at a funeral of a friend, who was also a friend of Bill Casey's. After the funeral, a strange looking person tapped me on the shoulder and told me to come with him. He led me to a limousine and inside was Bill Casey. Bill asked me to get into the car with him and we took off. I had gone to the funeral with a friend, a co-worker named Richard Wessell. He didn't know what was happening. He thought I had been kidnapped and later he told me he was very worried for my safety because he saw this fellow approach me and put me in this big black limousine.

We travelled to the CIA, at which point Bill sent me to the Human Resources office. Harry Fitzwater, its Director, asked, "Do you know what

position you've been offered?" I said I believe it was General Counsel. His instructions were to push me through the vetting process as quickly as possible. I then went back to the SEC, and I believed it was understood that we were going to run this like a covert operation, the CIA not making it public and I not telling anybody at the SEC. Within a couple of days I heard the receptionist at my office, saying "What, you're from the CIA?" And there were these two folks from the CIA starting to talk to people – or wanting to see me, I guess – at which point I hurried them into my office and told them I didn't expect that's the way they operated. But that began the vetting process, which shortly ended in my going over to the CIA.

One other interesting thing happened. During this transition period, when it was not known publicly that I was going to the CIA, all of the senior officials of the SEC and the commissioners were over at the White House at a ceremony at which, I think, one of the new commissioners was being sworn in by the Vice President at that time, George Bush. After the ceremony there was a receiving line and the Vice President was walking down the receiving line, and shaking hands. This is the first time I met the Vice President. He came over to me and pulled me aside. I did not know how he knew my name. He said, "Stan, I'm pleased that you're going to be working with us." This always impressed me about the senior Bush. He has a tremendous memory for faces and names because in subsequent meetings with him, he would always pick me out of a crowd and say to me: Hey, Stan, how are you? And it was tremendously impressive that a person who meets as many people as he

meets during any period of time could remember their names and also attach them to their faces.

So, that began my tenure at the CIA. The first day I went there, they put me in an office and there I was with nothing to do. Nobody came to see me and I didn't go out to see anybody. This happened for about two or three days when I was trying to figure out what was going on. During my tenure at the SEC my office was like a train station. People were moving in and out all the time, and I didn't appreciate this silent treatment. I guess it was because the lawyers in the office were trying to size me up and I guess they sort of were a little bit squeamish about coming in and being the first to say hello. But that shortly broke down. And I started to read about national security. I knew nothing about it. I had to learn a lot. But that never stopped me in the past taking on new challenges.

It was interesting that during the vetting process. I was asked: Why do I want to work for the CIA? What was the compelling reason? And my answer was: I didn't have this great desire to work for the CIA but it was only because I enjoyed my prior relationship with Bill Casey and I would like to work with him again. The inquiring office CIA staff psychiatrist seemed a little taken back by that response. People come to the CIA because they really believe in its mission and want to serve the country in that position. I certainly believed in its mission but I was never a person who had a great desire to work for a spy agency. This was especially so since I knew that, unlike the SEC, where if you left the SEC you became very employable,

working for a spy agency there's really not very much you can do once you leave the agency. So this is not a move I made to enhance my career in the sense of some day trying to earn money based upon having worked for the CIA.

Because I didn't know anything about national security law, I felt at the beginning like a fish out of water. Then one evening within the first three or four weeks I had been there I received this call at home from a fellow who said, "Hello, this is Max." This is maybe 9:30 in the evening. And I said, "Max, Max who?" He said, "Max, from the place." I said, "Max, from the place?" "What can I do for you, Max?" In the meantime, my wife is listening to my end of the conversation. He said, "I've got to see you right away." And I said, "Why?" He says, "The boss told me to get in touch with you and discuss this matter with you right away." I said, "Well, where will we meet?" He said, "At my place." I said, "Where is your place?" He says, "Near the other place." As I'm having this conversation, I can only think of a Bob Newhart monologue. I finally got an address and instructions how to meet this fellow, at which point my wife said to me, "Don't go, it's a set up." I said, "How could it be a set up when I don't even know what this is all about?"

In any event, as we long-standing husbands often do, we don't listen to our wives, and I went. And I met this fellow, Max Hugel, who was the newly appointed Director of Operations, which is the position that oversees the CIA spy network. He related to me a story about an article that was going to be

coming out in the *Washington Post* in a day or two concerning him and two brothers who had had certain relationships with him. The subject matter of the article was a stock transaction, and the article would be critical of his role in the transaction.

I went home that evening and said to my wife, “Would you believe it, here I got my first assignment working for the CIA – what is it but a stock transaction. Something I know something about. How in the devil could I get so lucky.” The next day of course I went to the agency and called Bob Woodward who was the reporter on the story and whom I knew from my SEC days. I told him that I wanted to come by and see him to talk about the Hugel matter. He said he would see me on one condition. I said: what was that? He said I would have to bring Hugel with me. I told Woodward that I did not represent Hugel but I would see if he wanted to come and that I would get back to him. At that point, I spoke to Max and I told Max he'd have to get his own lawyer. I could not represent him. He wanted to go to the *Post* to be able to see what happened. I called Judah Best, who was an old friend of mine, and asked him would he represent Hugel. He said yes. Hugel liked him and retained him.

We went to the *Post*, at which point we entered a dark room. There must have been seven or eight people there. They started to question Max and the questioning went on for some time. I saw that there was a problem. While these two brothers were fugitives, I could see that this could cause a problem. In the middle of the session, who walks in but Ben Bradley, and he

was beside himself. He wanted to know who had turned the *Washington Post* into a court of law. He said he had never seen anything like this: with a transcript, with people being questioned, where lawyers were involved, objecting to questions. He wanted to know who was responsible for that. And he put an end to it.

In any event, I had the information that I needed to make a recommendation to the Director. I came back and, as I was coming back from the testimony, I prepared a draft of a letter of resignation. I went to see the Director and the Deputy Director. I talked to Max, and I told Max that: Look, I knew how Washington worked. If this continued, I was sure that this would have congressional repercussions. Since Casey was already under fire for allegations that he was involved in the so-called October Surprise, this could topple the whole Casey administration at the CIA. I also mentioned to Max that I thought what would happen to him is that they would call him before the Committee. If he denied the allegations, which he was probably right in doing so, that denial nevertheless could cause the Congress to refer the matter to the Department of Justice for prosecution for obstruction of justice and perjury.

Even at that early date, I had it figured out that the great joy in the prosecutorial community was to prosecute people for easy to prove crimes such as perjury and obstruction of justice. If you look at the history, you'll see that some of the biggest cases are those cases. I said, however, that, if he did resign, what would happen would be that the day after the resignation there would be a piece in the paper, and the day after that there would be

follow-up stories and that following that, you would probably never hear of Max Hugel again. And that would be the end of it.

What happened was that the Director and Max followed that advice. Max resigned, the Director accepted his resignation with regret. There were two stories, and I don't know if many people heard of Max Hugel again.

For a lawyer, when the strategy works as well as this one, obviously the lawyer gets great pleasure out of that. The problem is that nobody knows about it because it worked so well. This probably was one of my most memorable victories – if I can use that word as a lawyer – because it worked exactly the way it was supposed to work. Max was not pursued by either Congress or the Department of Justice. It almost reminds me of when a kid gets bar mitzvahed, the temple never hears from him again. Well, Max was never heard from again. Casey saved his job. The Administration didn't have to go through a bloodletting period. What happened to those two brothers we don't know. Max should have prevailed on the merits, but that's problematic in Washington.

Mr. Bennett: Apart from this, were there other important issues at the CIA that you feel you would like to talk about today?

Judge Sporkin: Oh, yes. But before I address them, I should add that the point of the story is I couldn't have asked for a better issue to come up early in my tenure at the CIA. It allowed me a victory very early on, because I knew the area. It gave the Director and the people at the Agency more confidence in me.

There were many other issues when I got there. We had an Executive Order which had just been rewritten. Casey had told me: don't worry about it, it's going to be signed and that I would have nothing further to do with it. Well, when the draft went over to the White House, the staff was very displeased with it. It was sent back with a notation that it's warmed over Carter, and that Reagan should have his own Executive Order. They were concerned because the Carter Administration had put so many restraints on the Agency preventing it from doing its job. So my next task was working on a new order. We were able to accomplish that. We got it accepted and that's why we have a new Executive Order. It's still operative.

Mr. Bennett: The Executive Order in that case dealt with what subjects?

Judge Sporkin: It dealt with a whole variety of subjects – domestic spying, all the things that the CIA could and could not do. It was designed to lift some of the restraints that were in the predecessor order.

Mr. Bennett: And this is basically the Executive Order that's in place today?

Judge Sporkin: I think it is. I'll have to check that out. Yes, that should be the one that's in now in effect.

Then we had the Nicaraguan situation. Here's where the Reagan doctrine developed. Casey and I had a discussion one day when we thought it might be appropriate for Reagan to enunciate a so-called Reagan doctrine. Casey understood that, at that point in time, wherever Communism overthrew

another form of government, there had never been an instance where Communism was later overturned. That was of concern to Casey and the Reagan White House. So therefore the Reagan doctrine was developed, which in effect said that we must do everything we can to prevent Communism from taking hold, because of the fear that it could never be turned back. And here we had this threat in our own hemisphere. There was a very serious chance that Communism could come up through Central America.

To meet that threat, the Reagan Administration wanted to send support to the Contras. The Congress did not want the CIA to be overthrowing the Nicaraguan Government. When I said the Congress didn't want the CIA to overthrow, I mean that they didn't want the public to think they were authorizing the overthrow. They thought that would be impermissible to do that. At the same time, most members of Congress wanted to give the aid. They were concerned about the encroachment of Communism. And so what was put on the budget was a rider that was called the Boland Amendment. As I recall, the Boland Amendment said that they would give funds for aid to the Central American governments but that the money could not be spent for overthrowing the leftist Nicaraguan government.

Now, when that amendment passed, everybody at the CIA thought that they had a big victory, because they had the authorization to spend money in that area, so long as it was not for the overthrow of the government. They could use it for other kinds of things – supplying food to the people and other

things so long as it didn't involve the overthrow of the government. When that came back to the Agency, everybody was happy and pleased.

I saw that this was a potential area for future problems. I could imagine a situation where money was spent for impermissible activity. I therefore convened a small group of my lawyers to tell them that we had to act as counselors to our client. It was interesting that the office – the lawyers – seemed not to understand the role of a lawyer as a counselor. In virtually all of their dealings, the General Counsel's Office was a reactive office, reacting to the present danger. I had to explain to the office what counseling was all about and that in this case we had to counsel our client in a proactive way. We had to tell them how to take steps they would have to take to comply with the Boland Amendment or to make sure that the Boland Amendment was not violated. And so we prepared a document which would tell our operatives in the Central American area what they could and what they could not do, so that we could be able to protect our people and make sure that was happening. Also, we made it clear to our operatives that this would be policed.

When this went to Casey, my colleagues said that he would be against it. And I, of course, knew Bill and I took it to him and I said: we have got to do this and we have got to comply with it because, I said to the Director, the Agency's going to be in hot water if it doesn't and this thing blows up. Because I could envision these hearings on the Hill where they're going to say how come we violated the Boland Amendment.

And Casey's reaction was typical Casey. He looked at it. He took his pen – remember he was a very literate person, a very good lawyer, the most brilliant person I've ever met in my life. And he took the paper, and he took his pen and he went through that document that we had drafted and instead of loosening it, he tightened it. And he says now we can't do this, we can't do that, and he made it into a much better document. And the beauty of it was to watch how Casey reacted, and he never would say you did a good job. You knew when you did a good job for him. But in this case what he said was "And I'm gonna have to teach you how to do these things and to write these things correctly." But that document – he was very pleased obviously – and that document I believed saved the Agency from a great deal of criticism because when some of the mischief makers on the Hill were going to try to prove that we violated the Boland Amendment, when they came up to it, when they saw that the Agency had been planning and had done what it should have done, of course they were unable to prove anything. And that became the end of the concept of the gotcha aspect of the Boland Amendment.

Now, of course, later on we had the Iran-Contra problem. And that problem arose when I was just getting ready to leave the Agency to go on the bench. I'd been confirmed. I had to clean up. I think I'd been confirmed. In any event I was very close to confirmation, and I had to stay about a month to clean up certain matters. And then I got a call one day from the Deputy Director, John McMahon, who told me that two briefers would be coming over to talk to me about a recent operation.

These two briefers came over to me. I talked to them. They told me about an operation that had taken place that weekend – this was on a Monday – in which a plane of the CIA's had been used to transfer certain arms all for the purpose of getting our hostages back. The hostages had been taken by Iran. After the briefers left, I heard them and I think Mr. Dietel, who was my deputy, was with me. We later convened a group of four when Mr. Clark and Mr. Makowka joined us.

As I was listening to the briefers, I saw what had to be done and I told these people at the meeting as we discussed it. I said what we need in this case is a Presidential finding to permit the Agency to do what it had been doing. We had a long discussion, as lawyers usually do, half the time being spent on discussion to the effect that this was not a covert operation and the finding was not necessary.

I said: we can't go that route. We've got to protect the Agency. The only way I know to protect the Agency is to do a finding. And at which point I called my secretary in, and I actually dictated the famous finding in which I had to cover several points. First, it had to protect the Agency, the people who performed this operation, and had in effect to acknowledge that the President was behind it, which would happen if he signed it. Secondly, I had to deal with the issue that these were arms being swapped for hostages. Therefore, the document had to spell out the arms-for-hostages aspect of it. Third, it had to deal with the fact that the activities had started to occur over the weekend. While there is a right way and a wrong way to deal with this

type of problem, I obviously chose to do it the right way, which was to have the President ratify all of the actions that had been taken up to that point in conjunction with that operation. This issue involved when Congress would be notified. Because of the sensitivity of the project, a provision to defer notification was included in the finding.

We prepared the document and sent it up to the front office. Casey wasn't around then – he was away – but McMahon handled it and apparently the strategy was approved and I was told it was taken to the White House. Now that document, even though it was maybe one or two paragraphs, should have really limited the flare-up that occurred about it. The problem was that I was out of the Agency at that time and that nobody brought the finding to the attention of the investigators. Therefore, during the investigation, as usual, a number of people told stories that were not consistent and got themselves into trouble. But the finding should have protected everybody who acted under it. The only person that would have been exposed would have been the President, but he should have been able to handle it, since Presidents do approve certain covert operations.

That really should have been the beginning and the end of the Iran-Contra problem. But of course it spun out of control and that's why it became a very big problem for the Administration. After the first finding, there came two additional findings, because the President and his people decided that they liked the idea and they wanted to expand it. But if the findings had turned up earlier, I don't think you would have the problems that

the Administration faced concerning it. I remember, when I was questioned in my chambers, the questioning really revolved around whether I was truthful in telling them that there was a finding. These investigators thought that this operation was done very carelessly and that there was no paperwork that supported it. I remember their saying: where is the finding? How come they don't have it? Is this something that I invented? The way we found it was that my former secretary, who had taken my dictation and had put the document in her machine, was able to retrieve it. And, of course, once that happened, all the findings were later recovered, and the investigators realized they had to go another route.

Why don't we end that today and we'll have to come back. I'm getting a little tired.

Mr. Bennett: OK. Fine. Let's end for today.