

Oral History of Honorable Richard Roberts

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 Michelle Jones Coles, and the interviewee is Honorable Richard Roberts. The majority of this interview took place on Friday, June 1, 2018 and was the fifth interview. For the sake of efficiency and to avoid duplication, it was combined with portions of an interview that took place on Friday, December 13, 2019, as the ninth and final interview.

MS. COLES: Good morning, Judge Roberts. What jobs were you thinking about as you were wrapping up your time in law school?

JUDGE ROBERTS: I had a pretty clear inclination toward public service, both when I went into law school and chose law school as something I wanted to pursue and when I finished my three years of study at Columbia. I had chosen after my second year, however, to at least get exposure to what the vast majority of the law students in my class at Columbia were headed toward doing, and perhaps the vast majority of Columbia law students were there to do, which is corporate law firm practice. So I chose for my second summer to work in a corporate law firm, Steptoe and Johnson here in Washington, D.C., so that I could get exposure to what I would be missing if I continued to pursue my public service interest.

Working at Steptoe was quite a good experience. It was a good firm, smart lawyers, good work that they gave me. I was fortunate in that regard. They invited me to come back to be a full-time associate. At that time, you had plenty of time to be able to figure out what you really wanted to do while you were looking elsewhere at other possibilities.

But true to my public service interest back then, I had also applied for what to me would have been my dream job with the Public Defender Service in Washington, D.C. At that time, and I think still, they had the reputation for being the premier public defender service office in the country. So I applied there.

I also looked at the Department of Justice because it was also public service. It's interesting that we are talking about this since, the United States House of Representatives Judiciary Committee just voted two articles of impeachment to impeach President Trump that they plan to take to the House floor sometime soon and will probably vote that over to the Senate. So talking about my first jump out of law school into the Department of Justice, now headed by Attorney General Barr, comes at an interesting time when Attorney General Barr is under some attack.

Anyhow, I applied to the Civil Rights Division. Some of the other students at Columbia Law School had already sort of paved a path from New York to Washington to the Department of Justice before I got there, so it was fairly natural to watch them, see what they did, and take an interest in what they had done.

There was a gentleman in the Class of 1976, John Moore, who later became Senior Deputy in the Education Section in the Civil Rights Division, who was two years ahead of me at Columbia. We had a gentleman whose name you might have heard of, Eric Holder, also in the Class of 1976, who went down to Washington from Columbia to join the

Public Integrity Section in the Criminal Division at the Justice Department. He ended up during that twelve-year time he was there prosecuting some of the ABSCAM political scandals and many other things. And so it was easy to talk with them, get some information from them, find out what it was like, if I should apply, and so on. So I also applied to the Civil Rights Division.

When I got word that I was accepted to the Public Defender Service in D.C., well that just made my day. It made my week, made my month, made my year, because that's what I intended to do, become a criminal defense lawyer.

I think I mentioned to you that my reason for choosing law school was the uprising at the Attica prison in New York convinced me that there were so many men and women who needed a strong voice at the table representing their interests, both before being sent to prison and also while being in prison, and I thought I could be helpful in that regard being a criminal defense attorney. So I wanted to go to PDS. So I got the letter from Pat Hickey, who was the director of PDS, after I had gone down and applied and interviewed with them. I got the letter that I was offered the job. Well, as fate would have it, the Assistant Attorney General for the Civil Rights Division, where I had also applied, was Drew Days. Drew Days was, I think, the first African American Civil Rights Division Assistant Attorney General. He had been on faculty at Yale. He had done many other things that built up his civil rights credentials. He had been at

the Inc Fund, and so many other things. So then I get this possibility of working with Drew Days in the Civil Rights Division of the United States Department of Justice where I could work in the Criminal Section, and I, in theory, could combine my twin interests in criminal practice and civil rights law. So that was a real problem for me to try to figure out. Do I go ahead and pursue what my dream has always been since I decided to become a criminal defense lawyer, or should I go over to the Department of Justice and work in an environment where I can combine my interest in criminal law and civil rights law. It was not an easy choice. It was quite a dilemma, but I ended up choosing the path I had not thought I would end up in when I first chose to go to law school, and I went to the Criminal Section of the Civil Rights Division.

The naivete I displayed came out pretty quickly because when you work for the government in criminal practice, you are not a defense attorney. You are a prosecutor. So the idea that I would become a prosecutor was a little difficult for me to wrap my mind around, but when I saw what the portfolio was of the Criminal Section and what work they actually did and what they actually did to enforce and pursue the rights of people who were victims of civil rights violations, that hesitation I had about becoming a prosecutor melted away fairly quickly.

When I realized that I was going to be standing up in court and representing the United States as a prosecutor, but in cases where we were prosecuting police brutality matters, slavery matters, involuntary servitude

matters, abortion clinic violence cases, church burnings, and other matters like that, I really said to myself I can do this. This I can do, even though I'm a prosecutor.

MS. COLES: I want to ask you a question about the application process. You applied for the honors program at DOJ? Were you able to identify which divisions within DOJ you were interested in working in and even more, which section within the Division? How did that work? What were your interviews like?

JUDGE ROBERTS: Good questions, and I'd have to think back hard to remember exactly how parceled off it was. I know I applied to the honors program. I think that was the only program that hired straight out of law school. I got accepted in the honors program. I know I had an opportunity to express preferences for divisions. I'm pretty certain I expressed a preference for the Civil Rights Division. It may be that we had to list three. If that's the case, I probably listed also the Criminal Division, where my former schoolmate Eric was and could tell me a lot about it. I'm not entirely certain what my third expressed division might have been. I don't know whether I could have expressed a preference for a section within the Division at that point in the application process. There did come a point when I could express a section preference, but that might have come only after the program had decided that it was interested in me and wanted to perhaps put me through

I don't know a second round of interviews, or it might be that happened only after I got an offer from one of the divisions. So I know I got an offer from the Civil Rights Division. I don't know that I would have heard from the other two divisions. At some point, I'm sure the Division would have asked for any preferences I had, and I'm positive I listed the Criminal Section as at least one preference. There may have been other preferences they asked you to list, but that was certainly I think tops on my list.

At some point I learned that that's where I'd be assigned. Your question is good as to at what point I learned that, and I don't quite remember, but I knew that I was going to be assigned to the Criminal Section, probably at the point at which I had to decide to pick between PDS or between the Civil Rights Division.

MS. COLES: So you decided the Criminal Section of the Civil Rights Division. What was your experience like when you first started there?

JUDGE ROBERTS: Well, it was interesting. At that time, there were 18 line lawyers and three supervisors, two deputy chiefs and one chief. That was also a time when the geographic distribution was the same as it is today. We still had to cover all 50 states, the District of Columbia, Puerto Rico, Guam, Virgin Islands, and I've probably left off one or two territories, and apologies for doing that. So the geographic distribution was the same back when we had only 18 line lawyers as it was when I left the Division

later on during my second tour of duty, when we had a far more expanded number of lawyers.

When I got there and I started on September 25, 1978, my official title was General Attorney. It was not Trial Attorney. I think the reason for that is because I had not yet been sworn into the New York Bar. While I had taken the bar that summer after law school and before starting work, and I passed that bar, New York, had a practice of being fairly slow in completing the background investigations. You actually had to have investigators looking into your background. I think I had to go up to New York for a background investigation conducted by a member of the background committee. As I recall, it was fairly perfunctory. I'm not even sure that the lawyer who interviewed me had read my file before I got there.

In any event, New York had not scheduled me for being sworn in until February, the very end of February, of 1979, so I was assigned as a General Attorney from September of 1978 through the end of February of 1979.

I did many of the things that Trial Attorneys had to do, but I could not appear in court. I could not sign pleadings. I could not appear in a grand jury, and so on. But what I did do, is I received initial reports. Some of them were FBI reports about potential violations. I would read through them and assess them for merit, assess them for what, if any, further investigative activities would be appropriate, which of any of the reports

showed that there was no basis for continuing and what should be closed out. Those generally required me to write up, particularly as a new lawyer, some long form that reflected my reasoning as to why we should do more investigation, why we should send this forward for prosecution, or why we should close this investigation out. Those always were reviewed by a deputy chief or supervisor, and then it would be handled beyond me from that point if it were to be something to go forward to a grand jury investigation. I was able as a General Attorney to make recommendations about further investigative steps to be taken by the FBI agents and the field offices, about whether to go forward with prosecution or initiating FBI investigation.

Well, the end of February of 1979, I went up to New York to the Second Department, Appellate Division of the New York State Supreme Court and appeared in their Brooklyn courtroom chambers and got sworn in as a member of the Bar of the State of New York. So as soon as I got back to Washington, my title changed from General Attorney in the Criminal Section to Trial Attorney. That means I could go full bore and do what all the prosecutors were there to do.

As it happens, however, the Criminal Section, as with perhaps some other sections in the Department of Justice, like the Criminal Division sections, as soon as I was back in Washington with my bar license and with the title of Trial Attorney, I got shipped off immediately to the U.S. Attorney's Office in D.C. to be what they call a Special Assistant U.S.

Attorney. The program often was a program that lasted 90 days then. The idea from the Department of Justice's point of view was they send me off to get some trial training under my belt before I came back to have to actually try Civil Rights Division cases, and it was sort of a freebie, and it was a win/win situation. The Department of Justice could send me to the U.S. Attorney's Office without having to pay anything extra. I would get this trial experience, investigative and trial experience, at the U.S. Attorney's Office at no expense to the Department of Justice Civil Rights Division. It was a win/win for the U.S. Attorney's Office. We were going to the Misdemeanor Trial Section, which was always understaffed. The largest volume of cases that the U.S. Attorney's Office had in the Superior Court division was in the Misdemeanor Trial Section, so they were delighted to have yet more people that they didn't have to hire and pay to come and handle some of these misdemeanor cases.

So I got shipped off to the U.S. Attorney's Office first thing of March 1979 where I stayed through June of 1979, and I experienced trial by fire. We first got there and we were sent in the Misdemeanor Trial Section to the papering office. That means it was the intake office. That was the place where police officers or other federal investigative and law enforcement agencies would come to see an assistant U.S. attorney with a referral about an arrest that had been just made. Usually the night before they had made some arrest for some purpose that resulted in the likely misdemeanor charge. They would present us with their written report. They

would sit down and tell us what actually happened. We would have a chance to ask them any additional questions for details that may not appear in their report. We would make some initial prosecutive merit decision. Sometimes right on the spot we could tell them yes, we want to so-call “paper” this. “Paper this” means we’d write up a complaint or write up an information which contained a misdemeanor charge and would then send the case forward in the system and it either resulted in an arraignment on the information or resulted in the issuance of an application for an arrest warrant to have that person brought back to court. Or we’d decline it right then and there and say well for whatever reason, this lacks prosecutive merit. Thank you for coming in, but we’re not going to charge this. If your arrestee is still in custody, discharge the person, or if the person is wondering if anything else is going to happen, he or she should be informed that it has been no-papered. So after some initial orientation sessions in the U.S. Attorney’s Office as to which were the most common offenses that we would see in the intake office in papering, we would actually be assigned to be those papering assistants.

Most of the cases that we saw involved unlawful entry cases, trespassing, drug offenses, misdemeanor possession of certain kinds of drugs, like “bam” and “Ds” or preludin and dilauidids. Those were some of the common arrests that would be made on the street or purported sales that the officers would see often in the 14th Street corridor running maybe P up to U Street, 14th Street Northwest.

I will tell you that it looked very, very different then that it looks today. You could go up 14th Street, T Street, S Street and 14th Street, and you would see dozens and dozens of young men sort of congregating there, not looking like they were doing too much, but you knew exactly what was going on. There were hand-to-hand sales going on. You had certain locations where a certain kind of drug would be sold, and clients knew where to go to get what drug. So we'd get a lot of drug arrests like that. Sometimes they were undercover purchases. Sometimes they were hand-to-hand sales that were just witnessed by the officers, and they would go up and make the arrest of not only the buyer but the seller, and the prosecution would be based upon eye-witness testimony of the officers, followed up by later searches of the buyers and the sellers. So there were drug arrests, there were unlawful entry arrests, there were possession of handgun arrests, there were prostitution arrests. I learned quickly that that practice really was one that generated acronyms. UE was unlawful entry. CPWL is possession of a weapon without a license. I forgot what the "C" stands for.

MS. COLES: Criminal?

JUDGE ROBERTS: Maybe criminal. Criminal possession of a weapon without a license.

PPWA and PPWB. There were two different kinds of arrests. There was possession of prohibited weapon A, possession of prohibited weapon B. I frankly don't remember what the distinction was between A and B. One had to do with the type of weapon that it was, and the other one was a different category. So there were CPWL and PPWA, PPWB gun arrests. UE was unlawful entry. I'm trying to remember the

acronym for the various drug arrests, and that will come to me when I'm not trying to think about it.

MS. COLES: You said you came into the field of law wanting to be a public defender and on the defense side, and you reconciled going to the Criminal Section because you would get to prosecute the type of cases that you felt comfortable prosecuting, but at the onset, you had to have this experience. How did that make you feel? How did you handle that?

JUDGE ROBERTS: I had to swallow hard and swallow deeply and take deep breaths and say well, I guess if I'm going to end up doing the kinds of prosecutions that I feel comfortable with and really want to do, there are going to be steps you have to go through in order to get there, and they're telling me this is one of the steps I'm going to have to go through to get there.

How did I feel? I did not feel comfortable. I did not enjoy this steady stream, usually of young African American defendants, being prosecuted in cases where I could have seen myself easily defending them, but you have to do what you have to do sometimes, and that was one of the, I guess, prerequisites to becoming a federal prosecutor who can effectively and knowledgeably know what it takes to put together a good case, to be able to investigate a good case, and to be able to prosecute a good case that happens to have criminal civil rights charges in it. So it was a bit uncomfortable.

MS. COLES: I was going to ask at the same time as a prosecutor, you got to make those initial calls of papering. Did you feel like you were able to add some integrity that you may have questioned existed in the system in your role?

JUDGE ROBERTS: That was one of the saving graces. Sitting there as a papering assistant with a heart of a criminal defense lawyer, I was still able to sift through in my own mind a couple of basic questions. Is this the right thing to do? If it is, are we doing it fairly? Because there were times when you would sit in that office, and there were times when you would see a law enforcement officer come in, sit down in front of you, recite to you what you thought was simply parroted, memorized words when describing how an arrest or a search when not pursuant to a warrant occurred, and it kind of made you think this sounds too rote. And what could you do? Well, you could question the officer more. Sometimes you would come up with more information. Sometimes you wouldn't. When you did not feel that you had gotten enough to satisfy you, you could go to your supervisor, get guidance from your supervisor if you thought that would be useful. I don't remember if they had a process where the papering assistant, particularly a junior one in my situation, could simply say we're not going to paper this and file a decision, but I did feel that there was usually some process through which I could question more whether this was right and whether this was fair.

I recall when I did that one time it was as a result of an officer sitting right in my face in front of my desk, and I was asking him a question. It might have been either in papering or in witness prep when I knew that we were going to take a case to trial and I had to do the direct examination of the officer. In any event, in doing more witness prep to dig for more information, I asked a question, and at some point he said well, what do you want me to say? I mean that blew off all kinds of alarms. That was not acceptable. I can't remember if what I did was take that to a supervisor in the papering process or whether it was right before trial, and I had to make the decision that I've got to question this guy more because if what he's saying to me is well, I don't know what happened, so just tell me what you want me to say, which I was not going to do, put him on the stand and have him just put up any old answer that would satisfy legal examination if it was a warrantless arrest or search. That just wasn't going to happen on my watch. I can't remember the outcome of that. I remember much more the feeling that struck me when I had a sworn law enforcement officer say to me, well what do you want me to say. That just wasn't going to work.

MS. COLES: Do you remember your first trial?

JUDGE ROBERTS: Interestingly, no. I don't. It may be because what I walked away with was I think I had eleven trials in that Misdemeanor Trial Section, so I

guess when I left, I left with what I thought I remembered to be my win/loss record and my jury/non-jury record. So when we were going to trial, we would either be going in front of juries or we were going to try the case just in front of judges. But candidly, I don't remember. I can remember the kinds of cases we had to take to trial. I can't remember actually what happened in the middle.

I told you that we started out doing paperwork. That was sort of the first clump of activities. The middle clump of activities involved discovery. We would be the discovery assistant on duty. These cases were not handled in a vertical fashion. In other words, when the case came in and the papering assistant made the decision to keep it, that papering assistant didn't keep the case. The next thing that happened was it would be forwarded to the discovery group, so whichever assistant was on duty the next week or the next two weeks in the discovery pool would get the file, sight unseen and look at it. The defense attorney usually, from PDS, would come in and say I want to do discovery in case number 1502, please give me the discovery to which I'm entitled. And the rules entitled that lawyer to certain prescribed documents and information in discovery, police reports, any exculpatory information, Brady material, and so on.

So I, in my role as a discovery assistant, would have to look at the file knowing nothing about it, never having talked to the assistant who did the papering and figure out well what's going on, what is it that's relevant, what is not relevant, what is Brady, what's not Brady, which ones are the

reports that they're entitled to. That usually wasn't hard. Which ones are attorney work product, because the papering assistant wrote his or her own notes that are not entitled to be seen by the other side, and so on. So after you go through that, that's when we started going to trial. So we realized what the papering judgments had been, we realized when discovery had been provided, but then you got the file as a trial assistant. But it, as I say, was not a vertical process.

When you were on trial duty, you get a call from the deputy chief of the section saying you've got a trial in front of Judge Morrison in a half hour in courtroom 11, here's your file, your witnesses are in witness room 2, go interview them, prepare in your mind your opening statement, and your trial is in a half hour. That was trial by fire. That's what we had to do, whether it was a jury trial or a non-jury trial. That's how we got it. The trial lawyers who had to try the cases met their witnesses five minutes before trial, a half hour before trial. And particularly if you had a jury trial you also had to process in your mind what kinds of jurors am I looking for. What kinds of questions should I use in voir dire in selecting juries? What kinds of biases should I look for? So you had to go through all of that stuff before actually starting an opening statement in front of a jury. Sometimes you waived opening if it was in front of a judge. Most of the time you didn't because you wanted the judge at least to know what the case was about and what the judge was about to hear.

So that's the kind of a case we got. We got the case docket. We had to read the arrest reports. We had to read the notes from the papering assistant so we would know what discovery was provided so that if defense counsel objected to use of some item by saying we never got that in discovery, we have to know what was and wasn't provided, and we'd have a half hour to prepare to try the case.

Now these were not trials of the century. These were not cases where you have 6,000 pages of discovery, so I don't mean to overblow it, but still, brand new lawyer, just been sworn into the bar, had never tried a case, and it's trial by fire.

But I will tell you as much sleep as I did not get, knowing when I got into the trial pool, I'm going to have to do these things by the seat of my pants, there was a certain amount of energy that it generated knowing well at least I get a chance. At least I'll know what it's like to stand up and represent the United States. At least I'll know what it means to have to do voir dire to select a jury. At least it will give me practice in conducting direct examination of a witness, or cross-examination of a defense witness. At least it will give me some experience in knowing how to frame what's important when giving an opening statement before a jury or judge, and how best to meet defense arguments and how best to weave what's important into a closing argument or a rebuttal closing argument.

So, I think you had asked about numbers. I think I had eleven trials. I think it was almost 50/50 bench and jury. I probably lost more than I won. If it was eleven trials, I probably lost six and won five. I would suspect that the win/loss was half and half on the non-jury and jury, so half the jury trials I lost and won half. Half the bench trials I won, half I lost. It might have been different. I'd have to go back and check.

MS. COLES: Were they usually one-day trials or longer?

JUDGE ROBERTS: Oh, I'd say that they were mostly two to three days. When there were jury trials, it still took you sometimes a morning to pick a jury, and that was often because some of the judges would require the jurors to write out a little maybe a ten-question questionnaire up front. Some judges didn't.

But you still had to exercise peremptory challenges and make arguments to strike jurors for cause. So often it would take a full morning, if you started first thing in the morning, to be able to do the voir dire.

Oftentimes you would say okay the trial starts at 9:00 a.m. in front of Judge, but he'd have other things he was doing and didn't get to you until 12:00, so you'd actually get some preliminary conference, break for lunch, and come back at 2:00. So anyways, the trials would sometimes stretch over a day.

There were cases particularly in a bench trial, we could finish that in a day, but I'd say most of the cases back then would be one to two-day trials. And back then, before the Misdemeanor Streamlining

bill was passed by the D.C. Council, there were more cases that were tried to juries than there are today. The Misdemeanor Streamlining bill caused many offenses that were prosecuted to be eligible for bench trials only and not jury trials. That I think was a result of the Council lowering the maximum punishments that a defendant would face when charged with a certain misdemeanor, and that lowered the charges to a petty offense which aren't jury demandable instead of one-year offenses, which are jury demandable. So three months of Misdemeanor Trials, special assistant U.S. attorney, trial by fire ended I guess in the end of June, maybe beginning of July, and I came back a seasoned junior lawyer to the Criminal Section of the Civil Rights Division.

And one of the benefits I discovered coming back to the Criminal Section having done this special assignment over to the U.S. Attorney's Office was that one of the things the Criminal Section works on is police misconduct cases. If you have been living in this country in certain neighborhoods, you will have had inevitably some contact, albeit limited perhaps, with law enforcement. I was lucky enough not to have ever been arrested when I was growing up. I did have a view about how police tended to treat people of color, but I didn't have it from the point of view of being in law enforcement. I had it from a point of view of being in a community where we were relying upon law enforcement to protect us and to serve us and seeing some behaviors that were consistent with that and some behaviors that were wildly inconsistent with that. And so

when I was assigned to the Misdemeanor Trial Section, particularly during the intake portion when we were assigned to receive all the complaints that the police were papering and giving to us, it was a good opportunity to develop some insight, deeper insight, a closer insight in working with police officers and exercising prosecutorial discretion by having to try to test your own sense about the credibility that the police officers are bringing to you. You had to discern whether police officers who were coming to you were actually hard-working, honest, bringing you cases and proffering charges that were based upon facts that made sense, that supported the proffered charges that they were bringing in. But you also had to look out for those police officers who were on the job to make money, to earn a salary, to get whatever kind of overtime they could get, and if they could get it by making marginal arrests, arrests that were barely supportable on the facts or that were not supportable on the facts they would still be able to get their overtime. If they were on say the 4:00 p.m. to 12:00 shift, they make the arrest during that period. Prosecutors were not in after midnight, then we didn't get it until 7:00 or 8:00 in the morning, but that meant that they could put in a voucher for overtime and get some money. So there were some officers unfortunately that were more motivated by getting that overtime voucher than they were for doing what's fair and right and just and following the facts, comparing it to the law, and proffering charges.

So I had an opportunity to get a broader exposure to police officers at least in the Metropolitan Police Department and carry that with me back to the Criminal Section Civil Rights Division. And it wasn't just in the papering assignment at the U.S. Attorney's Office. It was also in the motions rotation. We would often have to prepare witnesses who are usually police officers before we went in to argue motions or defend against defense motions. We'd have to sit down with the officers and get from them what they remember the facts to be. If we saw some potential holes in what they were saying or holes in the case, we'd have to essentially cross examine them in prep sessions to find out what's the real deal here.

I'm not saying that that colored all of the behavior of all officers in the Metropolitan Police Department, but it came to give me an appreciation that not all that dazzles is gold and that you know the badges that I saw worn by some of those officers did not always mean necessarily that they were there to do the right thing. And when I'd hear an officer in a prep session say well what do you want me to say, I'm not going to set you up with some answer that's going to make this case when it shouldn't.

So you said what happened when I got back. That was a very instructive experience, and even in the discovery rotation, the discovery rotation when you are sitting there as an AUSA, you had already completed doing the intake. I think the next thing you did was discovery before motions. So defense counsel would come in. These were not cases that

were handled at that time in a vertical fashion. In other words, it wasn't one AUSA who did both the papering and the discovery and the motion and the trial. They got passed off from assistant to assistant depending upon what section, rotation you were in. So I think I started with after orientation, I started with the papering and then I went to discovery and then motions and then trial.

So in discovery, the real odd thing for me was I would be sitting down across the table from people from the Public Defender Service who I really thought I should be or wanted to be and initially wanted to be. The ethic in that office though was you've got to watch out for those PDS lawyers. They are wily, they are tricky. They will try to get from you what they're not entitled to get. In discovery, you have to give what the rules say and you have to protect against them getting from our files that which is work product and something to which they are not entitled. And when it comes to Brady information, you've got to give over what's exculpatory, but if it's not exculpatory, then you hold onto it. And that was sort of the ethic back then, not an uncommon ethic. And I think back today on some of those judgments that we made and trying to stick with the ethic that the orientation people told us about in that office, and I wonder whether today I would make different decisions about what's Brady material, what's impeachable, what's exculpatory. I think today, fortunately in many prosecutorial offices, federally in particular, that ethic has shifted and rightly so because I don't know that the prosecutors are the best ones to know well what might be

impeachable, what might be exculpatory. Defense counsel are the best ones to know, and so there has been a broadening, whether it's because federal prosecutors have suddenly become more ethical or whether they're just afraid of skeptical judges in the federal bench who worry that, you know, the prosecutors are not doing the right thing and they'll be hard on them. But I think there's been a broadening of practice in the discovery phase. But I think back now, there may have been some judgments I made as a prosecutor in the U.S. Attorney's Office Misdemeanor Trial Section that I might make differently today when it comes, for example, to Brady or exculpatory or impeachable material.

Anyway, those experiences helped me when I went back to the Criminal Section, not only in a way to try to be an ethical prosecutor, but in a way to understand how the daily, day-to-day, street police officers operate, what some of their motivations might be, what some of the incentives might be, what some of the disincentives might be, what I might be looking at to give sort of a holistic assessment about some complaint about police misconduct or police excessive use of force when I got back to the Criminal Section.

But you asked what did we do and what kind of cases did we get. Alright, so I told you what the portfolio was, and I do remember several of the matters I worked on. Although I was still a rookie, one early trial turned out to be a major one that garnered a lot of publicity. And it was only my second federal trial.

MS. COLES: What was it about?

JUDGE ROBERTS: One summer evening in 1980, four friends went jogging together in Liberty Park, a municipal facility in Salt Lake City. On their way out of the park, seven shots from a 30.30 rifle rang out, fatally felling the two black men, leaving the two white women stunned and frightened. No eyewitness could identify who the shooter was as he sped away in a shiny gold Camaro. No murder weapon was ever recovered. I was assigned to that case.

An extensive investigation identified as a suspect Joseph Paul Franklin, a former Klansman from Alabama who apparently roamed the country robbing banks and shooting black people and biracial couples. By that time, he had been suspected in over a dozen prior shootings across the country. Partnering with the U.S. Attorney in Utah, we urged the local Utah prosecutors to seek state charges for the double homicide, but they thought then that there was insufficient evidence against Franklin to support probable cause. So, we secured a federal arrest warrant under the federal hate crimes statute, 18 U.S.C. 245.

Franklin was stopped in Kentucky, but during a pause in questioning, he escaped through a window in the police station on foot. Roaming the East in a disguised appearance, he made his way to Florida. Authorities captured him at a blood bank there trying to sell his blood.

MS. COLES: What a surreal series of events!

JUDGE ROBERTS: Indeed! I was on my couch at home with my bowl of popcorn in my lap, waiting to watch the televised Carter-Reagan debate. It wasn't to be. A news bulletin flashed across the screen announcing Franklin's capture, and I knew I'd have to pack up and dash off to Utah right away. In Salt Lake City, First Assistant U.S. Attorney Steve Snarr and I paired up and got to work. A federal grand jury returned a two-count indictment charging Franklin with willfully killing Theodore Fields, Jr. and David Martin because of their race and because they had been using a municipal park.

At the jury trial before United States District Judge Bruce Jenkins, I delivered the opening statement, and Snarr delivered the closing and rebuttal arguments. The trial evidence was circumstantial but powerful and abundant. Snarr and I evenly split up examining the 70 civilian, expert, and law enforcement witnesses and introduced roughly 100 exhibits. Motel registration records bearing Franklin's known aliases, fingerprints and Camaro license tags established his presence in Salt Lake City in the days leading up to the shooting. The Camaro he abandoned at the Kentucky police station was shipped back to Salt Lake City and entered into evidence for the jury to view. Employees at those motels and women whom he met identified Franklin in court and testified to the animus he expressed toward black people, particularly toward seeing black people using Liberty Park and "race mixing" in it. Fellow jail

detainees and his ex-wife repeated boasts he made that he had shot the joggers.

The jury convicted Franklin on both counts. At sentencing, while Snarr stood at the podium delivering the government's allocution, Franklin became enraged, screamed "I'm tired of listening to that little faggot and his trained ape," bolted from the defense table upending a water pitcher, and charged toward the bench.

MS. COLES: Oh my goodness. Were you scared?

JUDGE ROBERTS: No, and I remained seated at the government's table, having no intention of displaying to this racist killer any fear of him. The deputy marshals caught and restrained him and returned him to his table. Judge Jenkins sentenced Franklin to two consecutive terms of life in prison, the maximum sentence then available.

Theodore Fields, Sr., who had testified at the trial to identify his son's picture and confirm his son's race, was a pastor of a local church. As an additional gesture to express condolences and to display that the Department of Justice really cared, I attended a service he preached at his church before I returned home. U.S. Attorney General William French Smith commended Snarr and me for our work on the case.

Franklin fancied himself something of an escape artist, given his success in Kentucky and his temporary success during his subsequent murder trial by state authorities in Utah before he was recaptured in an elevator bank in the state courthouse. A Utah state

jury convicted Franklin for killing Fields and Martin but he was not sentenced to death. Hoping that being transported among numerous states would enhance his opportunities to escape from custody, he began to confess to shootings in other states, albeit only states that did not authorize capital punishment. He later abandoned that selectivity and began confessing more broadly, including to shooting National Urban League President Vernon Jordan and publisher Larry Flint, and to killing many others, including a Missouri worshipper outside a synagogue in 1977.

MS. COLES: So this guy was a serial killer?

JUDGE ROBERTS: Yes. And Missouri executed Franklin in 2013 for that 1977 murder.

MS. COLES: Wow. That is quite an introduction to the Civil Rights Division. What else did you work on?

JUDGE ROBERTS: One of the earliest matters I was assigned to when a colleague was about to take it to trial was *United States v. Wilson*, and it had to do with slavery allegations. And not surprisingly, I said slavery. This is the United States in 1978. What are you talking about slavery? The 13th Amendment took care of that, and even before that, the Emancipation Proclamation supposedly took care of some of that. Well what was happening back then had much to do with the farm labor circumstances, particularly in agricultural states. The cases I was assigned to often were in the Carolinas or Florida. This was a system where the farm labor contractors were certified by the Labor Department to be able to go out

and recruit migrant workers to come and work in agricultural areas or work with farmers who were, you know, growing beans or beets or watermelons or tobacco or cotton, whatever it was, in rural areas. They wanted to hire recruiters to find workers who would do this kind of seasonal work. The farmers did not hire year-round someone to stay on a farm area where the crop was a seasonal crop and they wouldn't be working the full year. So the Labor Department set up a system where they could have farm labor contractors who were certified to go out and recruit migrant workers to come in during a season. Well, there was a great deal of abuse that went along with that.

The farm labor contractors sometimes would recruit some of the migrant workers from skid rows in major urban areas. These were people who often were homeless or people who had alcohol addiction, people who otherwise were down on their luck. Several cases that I worked involved some of these really unscrupulous farm labor contractors going down into a skid row area and enticing folks by saying, hey how would you like to get, whatever it was they promised, \$100 a day working on a farm. I can take you there and bring you back. You'll have a place to live, you'll have food to eat, you know, you'll have shelter. Why don't you come with me and, you know, I'll give you a bottle of vodka while you're on the road going up there. So oftentimes with the recruited people, all you had to say was I'll give you a fifth of whiskey or vodka, what have you, and they'd down it quickly in the back

of some van and have no clue where they were going. They might have been promised that they would be taken to a farm area twenty miles away or forty miles away. Instead, they find themselves awakened after a drunken stupor 200 miles away. For example, one recruiter went to Atlanta, recruited some people, put them in the back of a station wagon, liquored them up, and hours later they were hundreds of miles away in North Carolina, and the folks would wake up saying where am I. The recruiters would contract with the farmer, and the farmer had sort of a buffer between him and any responsibility to the workers because the farmer was hiring the recruiters under contract, not the laborers. The farmer, however, would usually provide some kind of a set of shacks that posed as housing. The recruiter would tell the workers whom they had recruited that's where you're going to live, and it would usually be, you know, miles and miles away from any place urban, any place away from where you could find gatherings of people, so they would be quite isolated. And what would happen is the recruiters would get up early in the morning and tell those workers okay, get up, go dig up those beets or those watermelons, or pick that cotton, whatever it was. And it didn't matter if the workers were feeling ill. It didn't matter if the workers were still under the influence. It didn't matter if they hadn't eaten a full breakfast. The contractors wanted their quota filled so they could get paid by the farmer, and quite often the workers would say well this is not what I agreed to. This is what was promised me. I don't want to do this,

take me home. Or I'm leaving. The farm labor contractors would say you get out there or else I'll beat you up, and they threatened them with violence. They actually practiced violence on some of these laborers. The laborers were forced to get back out in the field to do work.

My first case that went to trial involved that kind of a pattern of activity, and Larry Wilson was one of them, I think his wife was Barbara Wilson, and there might have been another involved in that recruiting.

MS. COLES: They were the recruiters?

JUDGE ROBERTS: They were the recruiters, and they utilized those kinds of, I guess, tricks to get the workers to come with them and to work on those farms. Well, if the workers protested, they'd either be beaten or they'd be threatened with violence to go back out into the fields to work. If they tried to walk off, some of the recruiters would have henchman to go chase them down and drag them back bodily to the workplace and force them to get back out on the field. The housing and living conditions were primitive, to say the least. I had one woman whose last name was Rutherford. She and her husband were recruited. They had been down on their luck and they had alcohol addiction and they were recruited from the skid row but they both went up there. They were quite eloquent in describing the conditions.

They didn't have indoor plumbing. They were given outdoor buckets where they had to relieve themselves. They had, you know, little bedding to sleep overnight. The breakfasts consisted of old and raw

food, when they had breakfast. The lunches and dinners were just pitiful. So they often were in unhealthy situations. They lost weight. They were weakened, and even when they didn't feel strong enough to go out and do this farm labor, the recruiters were there overseeing them, and the henchman would threaten them with violence if they either refused or tried to walk off.

The good news I think in that case was there were some people who had been working for farm labor unions who would go around to different farms where they suspected some of this misbehavior was going on. And I believe in the *Wilson* case, one of the farm labor union workers went onto that farm and kind of suspected that there wasn't something right, and one of the workers there was pulled off to the side, and they said this is terrible. They're forcing us to work. We've been here for three weeks, they told us we'd be back in a couple of days, they're charging us for this nasty food, they're deducting the cost of their transportation and housing for what we're supposed to be earning, and we end up at the end of a week owing them. I mean typical sort of peonage. So you've got to help us get out of here. So those people reported it to the local FBI. The FBI staged a raid. They freed the workers, got them transported back, and eventually the investigation led to an indictment of those farm labor contractors. That's sort of I say the good news. It didn't help restore, you know, the lost time and effort

and pride and dignity that those workers had at one point. It also did not result in prosecution of the farmers. You know, the farmers' excuse was hey I hired the contractors. They were the ones who looked after the workers, they're the ones who were responsible. I didn't know what was going on. We were unable to get firm evidence to show that the farmers indeed were involved in a conspiracy to have this kind of involuntary servitude. We had a sense they knew it was just too obvious, but we were not able to reach as far down to the farmer level. But the recruiters, the recruiters unfortunately were often people of color. You know Wilson was an African American man who grew up in unfortunate circumstances and found this outlet as one of the only ways he had available to him to try to make a little money. Unfortunately he crossed the line and did so in an unlawful manner.

MS. COLES: Did the farmers themselves have any liability?

JUDGE ROBERTS: Not criminal liability because we were not able to get firm evidence either from the workers or from the farm labor contractors or from the other inspectors that came to these properties to say yes, I heard the two of them talking. The farmer told the contractor chase those people down if they try to run away or beat them up if they're not filling their quota. I don't care what they say. If they try to stop working, I want them back out there working. Or I know what you're doing with those people, and you should keep doing what you're doing because I need my quota of

crops filled. We were never able to get that kind of direct evidence in that case, or in another case that we had that was even worse.

That case I told you about was in South Carolina, and it was quite interesting. It was my first time on the road for trial. We tried the case in Columbia, South Carolina. South Carolina was a single district. There was no eastern district or western district. It was a single district. The capital of South Carolina is Columbia, South Carolina. My father grew up in Columbia, South Carolina, so it was of interest to me to go back there, and I still have family in Columbia.

Another interesting thing was that the judge before whom we appeared was Matthew J. Perry, African-American judge, federal judge, probably the first African American to be named to the federal bench in South Carolina. They ultimately named the new courthouse for Matthew J. Perry. He was a legendary lawyer with a civil rights practice where he was fighting hard to combat a lot of the Jim Crow and segregation practices in South Carolina. Very smart, very dignified, ultimately appointed to the bench, and I looked up to him while I was a trial lawyer, and even after I got on the bench. It was a wonderful thing to be able to count him as a colleague. In any event, that's the judge before whom this case went forward. We ultimately reached the resolution, I frankly don't remember what Wilson's sentence was, but he got sentenced. Barbara Wilson I think had taken a plea, and there might have been a third. I can't quite remember, but

that was my first on-the-road trial work that I tried with a colleague of mine named Susan King. She was a more senior attorney in the Criminal Section who had come from the Public Defender Service. She was one of several people who had started out in the Public Defender Service and blazed a trail to the Criminal Section Civil Rights Division. It was quite interesting to me. Indeed in the first office I was assigned in the Criminal Section at the main Justice Department, it was in one of those weird corners of the building on the seventh floor where you had to come into my office in order to get into the next office, which had a door between my office and the other office, but did not have a door straight into the hallway. The lawyer who occupied that office, inner office, was another lawyer who had been a Public Defender Service lawyer who came over to the Criminal Section Civil Rights Division. Her name was Linda Davis. She ultimately became the Chief of the Criminal Section Civil Rights before she took the bench in the Superior Court of the District of Columbia. But anyway, that was my first case that went to trial.

MS. COLES: So you did a peonage case. Did you do any law enforcement cases?

JUDGE ROBERTS: I did. I was assigned to a matter out of the Northern District of Florida. I think it was out of Jacksonville. The complaint came in that a police officer in full uniform in a squad car had followed a young nine-year old black girl as she was walking home from school minding her business. He pulled the squad car over with the lights flashing. He

goes up to this nine- year-old girl who stopped when the police officer came, and he said to her, “You match the description of someone who had just robbed a candy store” and then he says to her, “Now you’re going to have to be searched. Now we can do this one of two ways. We can either have you just come into my squad car, and I’ll search myself, or I’ll take you down to the station where you’ll get strip-searched. Now which one do you want it to be?” This little nine-year-old black girl was just so shaken, of course she took what sounded like the lesser evil. Well I’ll go in your squad car and let you search me. Well what he did was start to molest her. Something got summoned up in this nine-year-old girl that she just began to scream and yell and try to fight back. I think that was enough to scare the police officer off. I guess he feared that there would be other people out on the street hearing all that and so he stopped, but not until after he had molested her quite a bit. But then he told her, I’ll let you go if you don’t tell anybody about this. So he did let her go. The girl went home. Her mother noticed that the little girl just wasn’t right. She had become very insular. She wouldn’t talk. Her normal energy was lacking. She didn’t eat. The mother knew something was wrong and something had happened but that the little girl just wasn’t talking about it. Eventually, either through therapy sessions or just having the mother work closely with the little girl, eventually the little girl bit-by-bit began to describe to the mother what had happened to her, so the mother took that and complained to law

enforcement. We eventually learned about that in Washington, and we directed the FBI to conduct initially a limited investigation. The limited investigation was to collect any local law enforcement reports that might have been gathered. I don't remember if there were any, but we expanded that later to a wider investigation, preliminary investigation. I make that distinction because in the last couple of days, we've heard in the news a lot about Inspector General Horowitz's report having to do with how the FBI had or didn't have predication to open up the investigation into what's called the Russiagate matter, whether Russia had interfered with our election and whether the predication for getting a warrant from the FISA Court was appropriate. Some things that were in dispute had to do with whether they had enough to open a full preliminary investigation or should have been only a limited investigation because each of those types has the FBI doing different things. One is more limited than the others. The report that came out from Inspector General Horowitz focused a bit on the differences. But we eventually in this Florida case got to a full-blown grand jury investigation. I had to go down there. That was another traveling trip I had to make. And interestingly, the officer's name was Willie Thomas Jones. When I got the paperwork, I worried that, you know, this was an African American officer abusing a little African American girl. Interestingly, it turned out he was white. So this is a white Willie Thomas Jones, and I could then appreciate a little bit more how much

that could have affected the fear that this child had in a Southern state with a white cop in full uniform pulling her aside. But it was a challenging case because I thought it very important to make sure she told her story herself, not just have some FBI agent go into the grand jury and tell what he had heard from the girl. So we had to work very closely with the mother to build up trust and to build up enough comfort to have her know that she's going to go in front of a room full of sixteen to twenty- three strangers whom she never met before, a room that had no windows in it, and so on, to be able to speak up and say what happened to her. I obviously can't talk about what happened in the grand jury, but when her testimony ended, the grand jury voted an indictment against Willie Thomas Jones, and rather than go to trial, he took a guilty plea.

I wish I could remember what sentence he had. I just can't, but at the time, Section 242 of Title 18 was the statute that we used to investigate and prosecute use of force under color of law or abusing someone's civil rights under color of law. And it had I think maybe a two-tiered, only a two-tiered, sentencing structure. It was a misdemeanor unless there was bodily injury or something worse. So I think he had a misdemeanor at the time as it was, but I don't remember what the sentence was. It probably was not in excess of a year, and I suspect he had to leave the police force.

So that was a police misconduct case that I had back in the Section. It didn't produce a trial, but hopefully it produced a little bit of justice for that little girl.

MS. COLES: How long were you with the Criminal Section in this round?

JUDGE ROBERTS: That was a four-year stretch, and it was probably, I look back on my, what forty-year career or so, working as a lawyer, and I had some good experiences, but at different points in my career, I've looked upon the things I've done, and sometimes, when asked what's been your best job, that first one really was it. Not to poo-poo any of the other work that I've done, but I think I've gotten satisfaction out of that job in ways that was pretty hard to match in jobs after that. As I told you, I worked at a law firm, got good experience there. Went to the Southern District of New York, U.S. Attorney's Office, got some good white-collar experience there. Came back to D.C. and did both street crime and economic crime there. Enjoyed that. Went back as Chief of the Criminal Section, enjoyed that, but they didn't let me go into court as a trial lawyer having to let my trial lawyers do all of that. And obviously served eighteen years on the bench here and got some good experiences there. But I think if I look back on where I had the most excitement, the most fun, the most learning, the most, I guess, expansion, it was probably that job.

MS. COLES: Okay. Go ahead. Were you going to say something?

JUDGE ROBERTS: Some of that happened because I had some other cases that we can talk about when you're ready.

MS. COLES: Okay. Are there are there any other cases that you remember that you'd like to talk about now?

JUDGE ROBERTS: I do. I do remember. I had another case that was actually a slavery case, but it was involuntary servitude in a religious cult. There was a minister named Robert Allan Carr who ran the Church of God and True Holiness Principles in two or three different cities in North Carolina, and I think one city in South Carolina. What he and his daughter, Gloria Asanthia Carr Cain and her husband, who is Larry Cain, managed to work up was a system involving this very charismatic minister Robert Allan Carr. And I think they gave him the title Bishop. He would create a congregation. He would entice people to join it. Invariably, however, wherever he had a two-person couple, he would drive a wedge in between the husband and the wife and manage to persuade the wives that the husbands were doing no good and managed to persuade the wives to get rid of the husbands and leave the husbands and come onto the compound that he ran. He provided housing and food and so on for these wives, who would then come, after having discarded their husbands, and they would bring their children with them to live in this compound, and in large numbers. Why did he do that? He was able to persuade the wives that they had to tithe, which sounded appropriate, but he also persuaded, in one particular town, I think in Johnson County, North

Carolina, persuaded the wives to take their minor children to work at a place called the Cross Poultry Company. It was a poultry processing plant, so when chicken farmers would bring their live chickens to this processing plant, the workers at the processing plant would take the chickens. They would essentially snap their necks, hang them up on hooks. They would then, I guess, burn the feathers off of them. They'd go through the whole processing part until they came up with final chickens that they can sell to supermarkets. Very gruesome work, you know if you think about it.

What Robert Allan Carr did was persuade the wives whom he had split off from their husbands to come and live in the compound with their minor children and then take the children out of school, persuading them that the schools weren't teaching them what they need to know, the schools weren't teaching them any marketable skills, these schools did not follow the way of the Lord and the way of his preaching. So these women, under the spell of Robert Allan Carr, would take these minor children and have them bussed over to the poultry processing plant, working doing some of the most gruesome kinds of things that young children should never have to do.

MS. COLES: What was the Reverend's connection, did he own the poultry processing plant?

JUDGE ROBERTS: He did not own it. I'm trying to remember. The owner's name was Cross. I forgot his first name. His last name is Cross.

MS. COLES: And getting a cut?

JUDGE ROBERTS: Cross loved it, just like the farmers. Cross had some cheap labor from young kids.

MS. COLES: Carr was getting paid to bring in the kids?

JUDGE ROBERTS: Well on payday, payday was every Friday, Robert Allan Carr told Cross you can pay us in cash, and Cross was right there on payday, had the amount of earnings in cash, and he'd give them to Carr. He'd say, okay, here's the money that your kids earned, or your workers earned, and you can pay them this money. So Robert Allan Carr was then the one that would dole out whatever cash there was he felt like doling out. Well you know he kept 95 percent of that, and then the mothers would get 5% that was leftover.

And it wasn't as if that's all he did. Some of the mothers got wise and said no this isn't right. We're not going to stay with this. We're going to leave this compound. Well, he had a fellow who was a henchman. Jimmy Conyers was his name. Jimmy Conyers was the one who was looking after all of these wives and their children, and if anybody tried to escape, he'd be the henchman that would go chase them down, drag these kids back, and beat them violently. So he maintained that kind of control over these wives and their children, and escaping from the compound was a dangerous thing because Jimmy Conyers would whip them.

Well eventually word got out. We were able to conduct a full preliminary investigation. We were able to get an indictment against Robert Allan Carr, the minister, his daughter, the daughter's husband, and Jimmy Conyers. I think, wisely, they realized they were in some deep trouble. Sections 1981, 1983, 1984 under Title 18 were the involuntary servitude statutes. I'm sorry 15, not 19. 1581, 1583, and 1584. At the time, the penalties carried five years. They might have been structured if there was bodily injury above that. So eventually we grand juried that.

We got indictments against those four people. Robert Allan Carr entered a guilty plea, as did his daughter and her husband. I think Robert Allan Carr got ten years. The daughter got either five or ten. The husband got something less. Jimmy Conyers, the henchman, escaped. Not that he was ever incarcerated, but he just fled. So he was a fugitive for quite a long time.

By I guess 1980 or 1981, I had put in maybe three years in the Section. I had worked with a fellow named Bruce Berger, who was a more senior attorney in working up that case. So it was really his case. He ended up leaving and going into private practice, so the fugitive case was in my lap. I was the one who would have to respond in case they ever found this guy Jimmy Conyers. And months and months and months passed, and he was not found. So I had saved up enough annual leave to go on vacation. I went on vacation, I don't know somewhere warm, down South. I don't know if it was Mexico or the Caribbean or somewhere.

When I get back, I get word that Jimmy Conyers has been caught. So I had to gear up after having months pass where I wasn't focusing on that, and I had to gear up again. And Jimmy Conyers decided to go to trial. He did not take a plea, and he went to trial in the Middle District of North Carolina in front of Judge Hiram Ward. He was convicted. We were able to, we had to work with those children and the wives, and we got some of the children to testify, and it was just gripping to hear these young kids talk about what they went through. In any event, the jury convicted Jimmy Conyers on involuntary servitude counts, and Judge Ward at sentencing said that with the possible exception of a first-degree murder case he presided over, this was the most heinous evidence he'd ever heard in his life. And I think he sentenced Jimmy Conyers to about twenty years in prison, federal prison.

MS. COLES: What ethnicity were the people involved in this matter?

JUDGE ROBERTS: African-American.

MS. COLES: All of them? Jimmy Conyers?

JUDGE ROBERTS: All of them.

MS. COLES: And the person who owned the chicken company?

JUDGE ROBERTS: White. Quite a mirror image of what happened with the farmers. White farmers built this little buffer by having a contract with the contractors, black contractors who would go out and bring the workers in. Cross Poultry Company, white-owned, white-operated. How to deal with this reverend? You know, you bring me some workers and

I'll pay you for these workers. And that was sort of a painful paradox for me, but when you got down to the bottom line, who was it that was being most exploited, these were African-American victims. Hard as it was to say some of the white profiteers were getting away with it, the businesspeople were getting away with it. To gather enough evidence to tie them into a conspiracy was just very difficult.

The good news was though the Labor Department and the farm labor contractor system were at least aware of these operators, and they kept close eye on them, and I do think at some points later on they came under some greater Labor Department scrutiny, probably not the kind of criminal prosecution that happened to the others, to the African Americans, but that was, to learn that this stuff was going on in 1980 in America today, well back then, was eye-opening. And it didn't end there.

I had another case in the Eastern District of North Carolina, same kind of a farm labor contractor violation. Two African American young men, 20 and 21, one was named Richard Warren, one was named Dennis Warren.

MS. COLES: Brothers?

JUDGE ROBERTS: They were brothers, and there were two others in the case. But they did the same kinds of things I described you in the *Wilson* case with much more tragic consequences. These brothers recruited some workers to come to another farm in North Carolina. A couple of

things ended up happening, same kind of setup though. The housing was horrible, the food was horrible. They were being charged for this food and housing so that they ended up, the workers ended up, in theory owing the farm labor contractor and they didn't get any money. A couple of things happened. One guy actually escaped. He made his way to law enforcement. Sorry. Before he made his way to law enforcement, the Warren's henchman caught up with this guy and dragged him back to the farm, beat him, and forced him to go back to work. That formed the basis for one of the counts in the indictment, ultimately under Section 1583. Section 1583 was the statute that criminalized kidnapping for purposes of holding into slavery. Section 1584 was the one that just said if you hold to involuntary servitude, then it's a crime. Section 1581, I think, was the peonage statute that would be used in connection with the financial aspect of it. So one of the things that happened when this guy was captured and brought back to continue to work against his will was we were able to use 1583 as the statute.

MS. COLES: And then he escaped again?

JUDGE ROBERTS: Someone else might have alerted law enforcement. It might have been actually word got out, and the FBI learned about it and staged a raid on that farm, and they were able to liberate many of these workers. In fact, what I think happened was the second huge tragedy here. There was an elderly man who was recruited to come and work at this farm.

He was ill as it was. There was one day in the middle of the summer in the hot open North Carolina field where he collapsed. Rather than get medical attention, once they revived him, they told him get back out there in that field and go back to work. He eventually collapsed and died. That was a case that produced a charge under, I think, 1584, being held to involuntary servitude with death resulting. So that carried the most serious penalty at the time that was available. There was no life imprisonment penalty attached to it until much later after I was Chief of the Criminal Section in the 1990s. But in any event, those guys went to trial. They were convicted in the Eastern District of North Carolina before Chief Judge Britt, Earl Britt, and they got some pretty stiff sentences as well, the stiffest I think having resulted from them forcing the elderly guy to go back to work in the hot field where I think he just died of heat prostration. He might have gotten well beyond twenty years. It might've been almost life. I'd have to go back and remember. But the workers who were there were ultimately liberated, and unfortunately one guy had to die for a lot of this eventually to come out.

MS. COLES: Who was your Section Chief when you were there?

JUDGE ROBERTS: I was hired by a Section Chief named Bill Gardner. Bill Gardner was a gregarious and very skilled and talented guy who enjoyed his Irish heritage, and he had his deputy, John Conroy, who was Irish, and a second deputy was Dan Rinzel, who was not Irish. He was quite German

or very Teutonic. But they were quite a combination of folks. Bill Gardner left, and the more senior deputy at the time was Dan Rinzel. So Dan Rinzel became chief roughly around 1979 or 1980, something like that. So he stayed as my section chief throughout the rest of my time there.

MS. COLES: And I think you mentioned, you said Drew Days was that AAG for Civil Rights when you came on. Did you ever have the opportunity to cross paths with him? Was he a role model of yours?

JUDGE ROBERTS: He was a role model extraordinaire if for no other reason than there were far too few people who were African-American in positions of such authority as he that you couldn't do anything but look up to what he did, and he did it with grace. He did it with style. He did it with class. He did it with great articulation. He did it with intelligence. He did it with skill. Unlike a section chief who's got one pot of things that you've got to deal with, he had what ten sections with all kinds of different civil rights- related matters that he had to handle. He had to deal with Congress. Section chiefs didn't have to deal with Congress. That was one blessing of just being a section chief. He had to deal with the White House. He had to deal with the attorney general. So he had far more constituents that were looking at his behavior and whom he had to persuade to do certain good things. I believe there were several times when some of the work I did came to the attention of the front office, and we had to sort of brief Drew Days on what was going on, and he was

always receptive to learning about what we were doing and always very supportive of the work we were doing. So yes. I did have, I would love to have had more opportunities like Lani Guinier did. She was his special assistant. Lani Guinier was the special assistant to Drew Days during that time, and as of course you know, she later went on to do great work I think before and after at the Legal Defense Fund and later joined the faculty at Harvard Law School. She may have been one of the first black women to join the Harvard faculty, perhaps after Professor Derrick Bell resigned in protest from the Harvard faculty because of Harvard's lagging efforts in recruiting African American faculty. I think Lani benefited a bit from his advocacy when Harvard realized it was in deep trouble if someone of the stature of Derrick Bell was going to leave because of their lame efforts, and one of the first things they were able to do is to get Lani to join that faculty. And dealing with Lani was also just wonderful. I had probably more interaction with Lani than with the Assistant Attorney General.

MS. COLES: Okay, so what made you decide to bring your time in the Criminal Section to an end?

JUDGE ROBERTS: Yes. One might say it's because my last trial there was a trial I lost, and I said oh I better move on. That's not really why I left. But I'll tell you about that trial, and I'll tell you why I left. The trial, this was a different statute. It was a Section 245. This is a hate crime statute. In Willacoochee, Georgia, Johnson County, Georgia, a black family had a

cross burned on their front lawn, and had later received threatening letters. The FBI investigation determined that there were some fingerprints on the letters that the black family received that belonged to a Klansman, a local Klansman who was the head of a Klan, and his name was Clyde Wayne Royals. We ended up having a grand jury indict Clyde Wayne Royals under 42 U.S.C. Section 3631 which was violent interference with housing rights, and I believe with sending threatening letters through the mail, a different part of the U.S. code. We had a photograph of Clyde Wayne Royals in all of his full Klan regalia with the hood and the robe, and he had this full threatening-looking beard. I mean you just got afraid of him looking at him. Well, he shows up at trial clean-shaven, short hair, suit and tie. You know, looking like Mr. Clean America or Mr. Rogers Neighborhood kind of guy, and I couldn't resist making the point in closing argument at that trial that saw what Clyde Ryan Royals looked like. We had a properly authenticated photograph that the jury had seen, and they heard testimony about him, you know, with his imposing-looking full beard stretching down to his belly, you know, wearing a Klan uniform and coming to trial all clean shaven. And I said to the jury in some way, shape, or form you can draw an inference that he's coming before you to make you think he could not have possibly been a bad guy when you saw how he really was back then. Defense counsel, in defense counsel's closing argument, said well what's wrong with having a beard? There's nothing wrong with having a

beard. Prosecutor Roberts has a beard, and I had a beard that time too. And I couldn't help but say in my rebuttal argument, well yes beards were somewhat popular in some respects. I said Jesus Christ had a beard, but he didn't go shave it off when he was falsely accused. That didn't work too well with that jury. I should have known it wouldn't have worked too well because when we were picking the jury, we had arrayed in the jury pool mostly white jurors, a few black jurors, but during the voir dire jury selection, the judge was the one questioning the jurors in the open court, and one of the questions we asked the judge to make sure he asked, this was Judge Alaimo, he said how many of you have any strong feelings about people of different races associating with each other? And before he could get the last words of that question out of his mouth two-thirds of the venire shot their hands straight up in the air. And the other half of the remaining one-third, seeing that so many people raised their hands quickly, they put their hands up. So Judge Alaimo was not going to entertain any motion to strike for cause or grant any motion to strike for cause because he followed up with the question you're supposed to follow up with, can you set those feelings aside and judge this case just upon the evidence and so on. Of course nobody's going to admit they can't, so we had a jury that didn't take too long before they acquitted Clyde Wayne Royals of these two offenses.

MS. COLES:

Do you know why that particular family had been targeted?

JUDGE ROBERTS: They were black, living in an area where there probably was some interest in having more white folks move in, or they were black living in an area that had not been populated by black people before, or they might have been black living in a black area but for some reason the man of the household got uppity somewhere. It might have been like an Emmett Till situation. I don't quite recall how it was or why it was they were targeted, but it was quite clear from the letters that were sent that they, whoever it was, didn't want them living there.

MS. COLES: Did you have any interaction with the family after the trial, like how did they handle the acquittal?

JUDGE ROBERTS: I suspect I did, and I can't quite remember that now some I don't know 35 years ago. My normal practice would have been to prepare them in advance, to console with them afterwards, because, as you know from the Civil Rights Division, sometimes we win, and sometimes we lose. Hopefully when we lose, we usually lose for the wrong reasons rather than right reasons, but we lost that one. The good news coming out of that was that I could let the people there know the Civil Rights Division takes these things seriously and we'll be back there for your if stuff like this happens again. Perhaps little comfort to those who were left behind as victims, but a message we had to get out nevertheless.

One of the things that I took away from that case, however. We had the FBI working the investigation for us, and when we were down there doing the witness interviews and looking at the scene and so on,

he of course took us around different places and introduced us to local law enforcement and so on, this agent. I'll call him Fitz. I think that was part of his name. We got along quite well. When the trial ended in an acquittal, once we got out in the hallway, this was an agent with whom we got along very well, snapped and said, I don't know why you all brought this case.

MS. COLES: The FBI agent?

JUDGE ROBERTS: The FBI agent. I think his name was Fitz Clarke, who had been quite kind to us and accommodating and never once uttered any objection to what we were planning to do by way of bringing charges or trying the case.

MS. COLES: He said that after the acquittal?

JUDGE ROBERTS: He said that after the acquittal, and all I can glean from that is this was a guy who was accustomed to being able to put notches in his belt and bring back convictions, and taking back to the office acquittals was demeaning or was not in keeping with this law enforcement ethos about getting notches on your belt.

So I mention that because it expanded even further some of my understanding of and appreciation of some of the law enforcement ethic, you know, that existed then and might have carried forward to today. And it makes it so ironic that in this era of this administration of the 45th President, that President Trump is turning against the FBI and law enforcement in ways that it used to be civil rights people criticizing the FBI for targeting Martin Luther King, targeting activists, and now the

FBI is the enemy, according to President Trump. It's very odd that other people are saying no, the FBI has been doing the right thing. The tables have really turned. They turned even I guess when the Assistant Attorney General for Civil Rights' office turned out to be the office that J. Edgar Hoover occupied back when he dispatched the FBI to surveil Martin Luther King. Talk about ironies.

MS. COLES: Full circle. So when you finished this trial, not long after that you decided to explore other opportunities?

JUDGE ROBERTS: Yes, but it was not really because I lost the case, but by that point I guess I had gotten four years of trial work under my belt as a criminal prosecutor, and I wanted to remain in litigation but I had not really done a lot of civil litigation so I couldn't really bill myself as a complete litigator without getting some civil litigation experience. So I decided at that point to explore opportunities, partly with the guidance of someone I met who became a very good friend, Tom Williamson. Tom was, I think, the second black partner at Covington and Burling. He was an extraordinary human being who had gone to Harvard undergrad after having turned down a full scholarship to go to Stanford because it was a sports scholarship, and he wanted to not be tied down to the requirements that students had when they accepted sports scholarships. He wanted to engage in the fuller life of a student in the liberal arts academic environment, so he was recruited by Harvard and went there. Tom got his law degree from Boalt Hall where he was on the Law

Review, and Covington did the wise thing to hire him as an Associate. When President Carter was elected, Tom took leave from Covington to become the Deputy Inspector General in the Department of Energy, and, at some point, he returned to Covington. I can't pinpoint the exact time when he and I began discussions about me coming to Covington, but it was principally through him that some interviews were arranged. Interestingly enough, Tom got a Rhodes Scholarship after Harvard, and he went over to England and participated in the Rhodes scholar program where a classmate of his whose name was William Jefferson Clinton later went on to become President. Several years later, Clinton persuaded Tom Williamson to join his administration as the Solicitor of Labor, which is the chief counsel for the Labor Department. I had Tom as a mentor, and I was very fortunate because our acquaintance blossomed into essentially a life-long friendship. We sadly lost him last February, but we continued our friendship. We got married around the same period, had kids around the same period of time. We did summer vacations together on the Outer Banks of North Carolina. The story goes on. Our kids trick-or-treated together. We always did Mother's Day and Father's Day and Christmases and Kwanzaa together. So it developed into a full-blossomed friendship between our families. In any event, Tom was the lynchpin that got me interested in Covington and got Covington interested in me. So it was in the fall of 1982 that I went to

Covington. I believe I continued to work at the Justice Department through September of 1982.

So I left the Civil Rights Division Criminal Section, which I had joined at a time when the Criminal Section had about thirty members, eighteen line attorneys, three supervisors. So we had twenty-one attorneys, and then the rest were staff people. Fast forward to 1995 when I went back, the population had doubled. There were sixty members of the Criminal Section at that time, probably well over thirty attorneys and the rest were staff people, secretaries, paralegals, docket clerks and so on. So times changed.

MS. COLES: When you started, it was the Carter administration, and when you left, it was the Reagan administration?

JUDGE ROBERTS: That's correct. Reagan had become President and began his service in 1981. I left in the fall of 1982. In 1981, the Attorney General was William French Smith, later replaced by Ed Meese. The first appointed Assistant Attorney General for Civil Rights under Reagan was William Bradford Reynolds. Brad Reynolds had as one of his special assistants Charles Cooper. Chucky Cooper, you may have seen in the news recently representing, I think, one of the White House staff people who got subpoenaed by the House Intelligence Committee and went to court to try to, I guess, block his having to go to testify. Brad Reynolds had been criticized widely for turning back the clock on civil rights enforcement, and Chucky Cooper was one of his right-hand men. Sadly for Brad, and I

understand that he just passed away recently, there was some effort to have him become the number three in the Department in the Reagan years, to become the associate attorney general. That effort was blocked and never succeeded in the Senate, I think partly because of some of the criticism that Brad had come under for perceived efforts to turn the clock back on civil rights enforcement, and Reagan, I believe, was infuriated when that effort did not succeed because Reagan was fully behind those efforts that were being criticized.

I gave myself the present of having a six-week vacation between jobs. The first time I was able to take that much time, so I did a cross-country drive during that six-week period, principally in October of 1982. I had my 1978 Plymouth Volare 4-door sedan that I had bought used earlier that year in 1982. I got in that car, and I drove by myself about 10,000 miles across country and back. I took the middle route out. I think it was Interstate 80. I drove from Washington, and I think I made a stop in Cleveland and then made a stop in Detroit. I made a stop in Chicago because I had family members there. I didn't know many people between there and, I think, Omaha, Nebraska, where I think I stopped overnight someplace then drove from there to Denver where my sister lived. I stayed in Denver and did little day trips to ski resorts, and then I wanted to really see Big Sky Country, what I call Big Sky Country. I think people in Montana claim the Big Sky Country term as being theirs, but to me, not anything west of the Hudson River

in New York was Big Sky, but certainly anything west of the Mississippi River out in that northern mountainous area was Big Sky Country. So I had a chance to go beyond Denver to places like Wyoming, Idaho, and some other places. Again, driving in my little car all by myself. I had my pamphlet that identified the locations of every Motel 6.

MS. COLES: No Google?

JUDGE ROBERTS: No Google [laughter]. I don't even think the Internet existed back then. But happily I had the brochure that identified them all. Motel 6 had this very popular commercial on the radio advertising Motel 6, and there was a guy named Tom Bodett who ended each of the commercials by saying, "This is Tom Bodett come on and see us, and we'll keep the lights on for you," which sounded corny, but I tried it out once, and they actually had very clean sheets, clean bathrooms, and they were priced very reasonably. I think back then it might have been \$19.99 per room. So I kept that and, when I was not with a relative, stayed there. But I got my chance to see Big Sky Country, and when I hit California, I hit the area of northern California. I had a cousin there who lived I think in Oakland, and he, let's say he is quite a vibrant guy. He had two motorcycles. At that time, I was a motorcyclist. He had a 1,000 CC engine motorcycle and 1,100 CC motorcycle. So it's 12:00 midnight, he wakes me up. I was staying with him for the night, let's go ride the motorcycles. So Vernon convinced me to put on a helmet, get on a

1,000 CC motorcycle, where all I'd really ridden in my lifetime was a 450. I had a Suzuki 450 that I had been riding back here in Washington. So I got on this motorcycle that was more than twice the size of engine I was accustomed to, and he took me across the Golden Gate Bridge at about 100 miles an hour. There was no traffic, and he said let's live. We were going across the Golden Gate Bridge, 12:00 midnight, 100 miles an hour. My stomach, my heart came up into my mouth. Fortunately, I made it back in one piece, and I told my cousin thank you, but don't you ever do that to me again. He said, okay, alright. Well tomorrow we'll go up and take a flight in a Piper Cub. He had a pilot's license, and he took me up. Because he had a license, he could rent a Piper Cub, a single engine plane, two-seater. He took me up flying around the San Francisco area because he knew I wanted to just have some fun, new adventures before I started another job.

So that's the middle of my cross-country drive. But I took that scenic route down Route 1, I think it is, in California down to the LA area, and I cut across into Nevada where I got my first chance to see Las Vegas. I didn't spend a lot of money, but I went into the casinos just to see what it was like, then I cut across through Arizona, New Mexico, and then I think I went up through Texas, up into Oklahoma, and then through Arkansas and through the piece of Arkansas that touches Tennessee. I went through Tennessee and then back into Virginia and D.C.

MS. COLES: How long was the trip?

JUDGE ROBERTS: Five weeks. I had given myself a six-week window between leaving the Justice Department and starting at Covington, so I probably had a few days before I left on the trip and a few days after I got back. But I took five weeks driving by myself in my 1978 Plymouth Volare four-door sedan that I just bought and drove cross-country, and it was one of the best vacations I had ever had to that point. It was refreshing to see so much of the country I had never seen. Now I did chart a route that did not take me through – You noticed I said I went through Texas, Oklahoma, Arkansas, Tennessee, and Virginia. I charted the middle route out, and I took the southern route, I think that was I-10, coming back. But in Texas, I started to head north again because I, as a New Yorker, as a son of parents who had lived in the South through the Jim Crow era and had lived in the Carolinas and heard so many stories about Alabama and Mississippi and I had worked in the Civil Rights Division where we continued to have a large flow of racially motivated violence cases, even police violence cases, coming out of Alabama and Mississippi, and I had never gotten cases that took me to Alabama or Mississippi, I didn't think traveling as a black man alone, all hours of the day and night through those two states, was the wisest thing to do, not that there were other parts I traveled to that were completely safe, but I just decided to avoid Mississippi and Alabama.

But anyway, I came back and had a few days before I had to start at Covington, but I did start at Covington and Burling. Again, veered far from my initial goal of becoming a criminal defense lawyer when I first decided to go to law school, but as you grow, you learn more things, and you add additional interests, and the interest I had added was to become a complete litigator. If I had only done criminal work as a litigator, I did not feel as if I'd be able to know the full range and scope and meaning of litigation. So that was my opportunity to spread out into civil litigation, and hopefully toward the end of whatever period of time I thought adequate to get civil litigation experience, then make the next set of judgments, but that's why I went there.

MS. COLES: How was the experience being at a law firm for the first time, other than as a summer associate?

JUDGE ROBERTS: Well, I can tell you that one of the first major things that I was able to experience and appreciate was on payday. I need not tell you that the remuneration from private law firm work was a bit higher than public service work.

MS. COLES: Let's talk numbers. How did it compare back then in the mid-1980s?

JUDGE ROBERTS: Okay. The best I recall, when I signed up with the Department of Justice and accepted the offer to go to the Civil Rights Division, in 1978, while, I guess, I was still a student at Columbia, I believe the offer had me starting as a general attorney at \$17,000 a year, which for me for my first job, hey, I could live off that. That was good money.

By the time I got to the Civil Rights Division, the new fiscal year pay scale adjusted so that what I actually earned was I think \$18,000, and I felt like hey, I'm a hotshot. I got a \$1,000 raise even before I started working. So I got \$18,000 per year as a salary. Over the four-year period, I think there were sort of step increases, and after a certain number of years or a year, you got a grade increase. I think you started out as an 11. After one year, you qualify for getting a GS-12. Now it may be that by the time I left the Justice Department, I was able to be bumped up to a GS-13, but I'm not positive about that. But I think that by the time I started at Covington and Burling, I started at a salary double the salary I started out with when I started working at Justice. I think I was making \$36,000 a year, which to me was "what am I going to do with all this money?" But that's what the rate was for an associate at that time. I don't know if I was billed as a third-year associate or a fourth-year associate, but for a single guy, it was jaw-dropping.

MS. COLES: Did you buy anything outlandish with your first paycheck?

JUDGE ROBERTS: The short answer is no, and I think the first thought I had was put some money away. My parents were quite, particularly my dad, was quite wise in counseling frugality. You never know what's going to happen. You never know when you might need it, so you take a piece of that check and treat as if you just don't know it's there. Put it away somewhere. It will grow. When and if you need it, it will be there, but

don't depend upon it. So I got into the habit of peeling off a piece of it, putting it somewhere and just ignoring it. I didn't live as if I actually had 36 grand every year. I geared myself mentally toward living as if I had less, but even cutting off a little less than 36 at that time was still more than enough for a single guy.

MS. COLES: Did you stay in the same apartment? Did you move?

JUDGE ROBERTS: I moved. I had a rental apartment at 301 G Street, Southwest. It was apartment 310, when I first moved to Washington, and I lived in that rental apartment until I moved to a different rental unit, and in 1983, if I remember correctly, part of that money I had ignored allowed me to get a down payment on a townhouse that was a purchase, not a rental. So I moved into 715 Third Street, Southwest, back to Southwest, in a townhouse, Capitol Park community. Capitol Park II is what it was called. So I was then building up equity in homeownership. It was 1983, so I was I guess five years out of law school, which might be a fairly not atypical time for people to start buying. I think it's a lot harder when you have a family, but as a single person, it was a little easier because I did not have the kinds of expenses that families would have, and I did try to follow my father's advice about put some aside, just ignore it. That enabled me to get a down payment. I shopped around for good interest rates on mortgages, and that was my first home purchase, five years out of school.

I probably felt a little better about buying making a Covington and Burling salary than I would have felt had I continued to be on a government salary buying as early as I did just five years out of law school. That to me, however, was not an extravagance. That was more of an outgrowth of what my father had advised about being sensible and projecting into the future and being wise and being frugal. It was buying into a situation where I could build up equity as another little pocket where something of value could grow.

MS. COLES: What type of case work did you do at Covington?

JUDGE ROBERTS: Well, I was with the group that did principally civil litigation. I remember working with Bill Iverson, who might still be at Covington, on some litigation that involved trade dress infringement. There was a company owned by two brothers in Pennsylvania who had put together a very successful, essentially a weight-loss food company. Customers would buy packages of food that came with instructions about when to eat it, how to fix it, and so on, and the goal was weight loss. There was another merchandiser out there who was suspected of trade dress infringement. In other words, some of the packaging that these brothers who were our clients had been using, it looked like this other guy was sort of a knock-off of what they were doing. At first, I had no idea what trade dress infringement was. It gave me a window into what that was and what litigation about it meant. They ultimately dispatched me to Philadelphia to try that case on my own in federal court, but on the night

before I was due to deliver my opening statement, the partners called me from D.C. to say they had settled.

I had an opportunity to work, as most junior associates do, in the discovery practices, drafting and responding to interrogatories, requests for admissions, defending and taking depositions, responding to motions that might be pending. So I was doing a fair amount of that. But I also represented some corporate clients in federal grand jury investigations. I was also able to represent some pro bono clients that were looking to incorporate and secure tax-exempt status. One of them was the Charles Hamilton Houston Legal Preparation Institute. Donald Temple was a Philadelphian who had moved to Washington, D.C. and had been the founder of the DC chapter of Concerned Black Men. I was also one of the co-founders to help him build up the D.C. chapter. The goal was obviously to provide positive black male role models for young people here in D.C. and to spur their community involvement and academic advancement. But Donald also instituted the Charles Hamilton Houston Legal Preparation Institute aimed at getting pre-law students of color and law students of color well-prepared for the challenges they might face in law school. By that time, I was at Covington, and I was able to persuade Covington to allow me to take on Donald Temple and his institute as a client to get their 501(c)(3) incorporation and to secure their tax-exempt status so they could go raise money and proceed. That institute, interestingly, has succeeded in

producing, I don't know, hundreds of students of color and helping them through law school. They are still in existence thirty-some-odd years later, and Donald Temple is still a firebrand doing what he does.

So the firm experience wasn't simply the litigation, but it also allowed me to reach back into the community. Much of the time with Williamson's encouragement and support and do things that would be important to our community. But I also had spent a fair amount of time defending a large pharmaceutical company that was being sued for product liability claims in connection with a pharmaceutical product that it made for the purpose of addressing certain maladies. Plaintiffs had sued the company because of an alleged defect in this product. I was involved in, I'm trying to remember if it was a class action, but there were certainly large numbers of individual cases filed by plaintiffs all over the place where the firm, Covington, was coordinating counsel nationally. I was involved with coordinating with in-house counsel at this pharmaceutical company in defending these claims. We were doing it at the discovery stage to coordinate this nationally so that the left hand in one district knew what the right hand in another district was doing. We frequently got the kinds of interrogatories and discovery requests from different plaintiffs in different districts that overlapped, so we played a role in coordinating the kinds of responses that the company would produce in connection with those requests. And that was interesting because it required often

that I'd fly out to where the client was and deal with the client's in-house counsel and some others who were out there. It also required sometimes the partners at Covington and Burling, Jack Schafer and Jim McKay -- Jim McKay's son is now, I think, one of the leaders of the D.C. Bar -- to get together to discuss what does all this mean, what's the best way to service the client, what's the best way to advise the client about doing what's right and doing what's fair. Obviously the client ends up having most of the say on ultimate decisions, but we had to counsel them on these kinds of things.

Interestingly, I was in the same, I think, entering class at Covington with a guy who also represented some pharmaceutical entities and who later, as it turned out, Bruce Kuhlik, ended up being the Commissioner of the Food and Drug Administration, and we were associates at Covington and Burling at the same time. I had wonderful experiences at Covington and Burling. The first black woman to become partner at Covington and Burling was Phyllis Thompson. Phyllis Thompson later went on to become a judge on the District of Columbia Court of Appeals where she still is. She might be one of the senior judges there now, most tenured, highest up in tenure. Phyllis is a phenomenal, and has always been, a phenomenal intellect and a fair person. She has her own family. She brought a perspective to the work she was doing at the firm and the work she does on the Court of Appeals that combines not only that of a mother of a young girl, but that of an African American.

What perspectives she brings as a woman, as a D.C. resident, as someone who can bring a variety of experiences to the work she was doing as a private lawyer to the work she is doing as a judge.

That was one of the other benefits, among others, of working at Covington and Burling. So I got my window onto civil litigation, what it means, what goes on with it, what you have to do, what skills are important. I got a window into the environment of law firm practice. I got to meet some extraordinary folks, and so I benefited quite a bit being there.

MS. COLES: Alright. We'll stop there for today.

JUDGE ROBERTS: Alright.