

**Oral History of Carol Garfiel Freeman
Fourth Interview
October 18, 2021**

Jodi Avergun: This is Jodi Avergun:. I'm meeting with Carol Freeman: at her apartment in Chevy Chase, Maryland, for our fourth oral history session.

Carol Freeman: Oh, you're not visual?

Jodi Avergun: No, this is all. We're just using this as a tape recorder.

Carol Freeman: OK. Since I am now back in Maryland, I was able to find out some of the information I didn't have before.

Jodi Avergun: OK.

Carol Freeman: First of all, I found cards from when I was in the U.S. Attorney's office. For some reason, these made it through the dissolution of our house when we moved to an apartment. I had, as an AUSA, ninety-seven trials, which did not include uncontested pleas of not guilty by reason of insanity. Most of these people were found guilty. One interesting footnote, I talked the last time about a sex abuse trial I had had when I was a private attorney, of a man, a little old man, who was accused of fondling little girls, and he was found not guilty. Well, his name turns out to be one letter different – I didn't mention the name – one letter different from the name of a man I prosecuted who was sentenced under the Narcotic Addict Rehabilitation Act. Probably not the same person, but I thought that was really an odd coincidence.

In 1995, I seem to have made a list of the Appellate Division's appellate opinions in which I was listed as an attorney. There were eighty-three by 1995. Eighty-three published appellate opinions, probably some of them

where I was the trial attorney, and six were cases that I argued as a private lawyer, which included the Manville case – that was the one about the admission to the bar of a man who’d been convicted of manslaughter. I also remembered that I had petitioned for cert. in only one case. (Actually I did it in another case and cert was denied.) But in this case, I had had a case from the D.C. Court of Appeals where the issue was whether the police had probable cause to stop a car and search it and find a gun. A citizen had reported that the driver of this car had a gun. The question was whether the government had submitted sufficient evidence of the credibility of the witness, the citizen who said the man in the car had the gun. The D.C. Court of Appeals affirmed, Judge Gallagher dissenting. Well, on my cert. petition, Justice Douglas would have granted cert. on that issue, which I thought was a bit of a victory.

Jodi Avergun: Yes.

Carol Freeman: To correct a few things, I had said that in Manville, we had assumed that there probably was somebody arguing against admission, and I found that I have the material here.

Jodi Avergun: Nice.

Carol Freeman: I saved the Court’s opinion and the decision that I wrote for the committee. The Court appointed an amicus, and the D.C. bar submitted an *amicus* brief, apparently approving admission. I’m not sure what the *amicus*... well, there was somebody who submitted a statement in opposition to the brief of the *amicus*. Anyway, that’s a footnote there.

Jodi Avergun: I just want to add after this transcript that Carol has an actual slip sheet on paper that they used to publish slip sheets on, and three-hole punched, and she has—

Carol Freeman: the report of the committee on admissions.

Jodi Avergun: —a typed, you know, a real typewriter on typewriter paper, a report of the DC bar committee. So what year is this from, Carol?

1988

Jodi Avergun: 1988.

Carol Freeman: Also I said that it was Judge Nebeker who had dissented, and said that his friend Judge Terry agreed. Actually, it was Judge Terry who said that, who dissented, who said that Judge Nebeker, who had retired before the opinion came out, had agreed with Judge Terry, and would have dissented. Both of them are very good friends. I think I've mentioned before that Frank Nebeker was a mentor of mine, I've—

Jodi Avergun: Yup.

Carol Freeman: —seen him many, many times in the succeeding time. Anyway—

Jodi Avergun: Let's get the name spelling right, while we're here.

Carol Freeman: N-E-B-E-K-E-R. I will go over the transcript.

Jodi Avergun: OK.

Carol Freeman: So I wanted to answer some of those questions.

Jodi Avergun: Yeah.

Carol Freeman: We left off last time after I talked about the Leake case — L-E-A-K-E —

Jodi Avergun: Right.

Carol Freeman: Which is the man who took hostages in the Kensington Temple of the Church of Jesus Christ of Latter Day Saints. I reviewed my files and I came up with some more cases that might be worth mentioning, some of which were when I was with the Public Defender's Office, some of which were court-appointed afterwards, and I suppose one or more of them might have been retained, I'm not sure. One of the more interesting cases was the case of the young woman, probably age 18, who was living with her boyfriend's family, became pregnant, didn't tell anyone she was pregnant, and gave birth to the baby in the bathroom of the house and then put it in a garbage can outside. The baby survived, and later was adopted, but the young woman didn't remember a lot about being pregnant, giving birth, and what she had done with the baby, so we had to engage a hypnotist, who hypnotized her to bring back her memories so that we could enter a plea. She pleaded guilty to child abuse, and was placed on probation, so—

Jodi Avergun: So you were defending her...

Carol Freeman: I was defending her. These were all defense cases.

Jodi Avergun: OK.

Carol Freeman: That was definitely in the Public Defender's Office, and I had a co-counsel who was a former DC police officer whom I had known. He was a motorcycle officer. I don't want to mention names—

Jodi Avergun: Sure.

Carol Freeman: —in some of these. Anyway that was an interesting case.

Jodi Avergun: Yes.

Carol Freeman: I had several other clients who had mental issues. One of the saddest ones was a boy, from the rural Montgomery County area, who was severely retarded... severely mentally deficient...

Jodi Avergun: OK.

Carol Freeman: ...and he was accused of, and probably did, light some barns on fire. He couldn't get bail, and it was so sad, he used to call me up from the jail and say "I did good, Ms. Freeman, I took a shower," and it took me nine months or more to persuade the Assistant State's Attorney—who was a very good prosecutor—that this guy really was mentally deficient...

Jodi Avergun: Right.

Carol Freeman: He claimed he had taken the cows out of the barn before he set it on fire, but there were no cows in the barns.

Carol Freeman: We finally persuaded the prosecution to agree that he was not competent to stand trial and he was released to an appropriate facility. But before that happened somebody in the community got word of him and wrote outraged letters to the local paper about how the defense counsel wasn't doing anything, this man was kept in jail, and the Public Defender had to write a letter saying not true, it's the prosecutor's fault—

Jodi Avergun: Right.

Carol Freeman: That was an interesting case. I felt sorry for the guy.

Jodi Avergun: Yeah.

Carol Freeman: Very sad.

And then there was a woman, a Hispanic woman, who was living as a housekeeper in the basement of a house near Churchill High School. They

allowed her to have her young son live with her. She developed some serious mental disorders and ended up knifing the daughter, who was a teenager at the time, causing serious but not life-threatening injury. I represented her with an Assistant Public Defender who was Spanish-speaking, and we ended up with a trial in which she was found guilty but not criminally responsible. She ultimately, I think, did get out of Perkins, the mental hospital, on conditional release. But I've lost track, as I mentioned before, I've lost track of a lot of these people.

Jodi Avergun: Sure.

Carol Freeman: There were a few repeat clients that I had, mainly women with serious drug addictions. Sometimes I was able to get them into Second Genesis or another program, sometimes I wasn't. But they would keep coming back. They were not young people at this time, they were middle-aged women. There was one young woman who got into a fight at a house and ended up stabbing one of the people to death. We had a good trial with her. She was found not guilty, self-defense. I felt good about that one.

Jodi Avergun: Sure.

Carol Freeman: There were some other murder cases where the people were guilty. There was one case of a man who was accused of burning or setting fire to his house where his wife was sleeping. That got me into research on arson and arson investigation. Very interesting. I ended up not going to trial with that one because the Public Defender thought I was spending too much money – this is the State Public Defender, not my friend Ted Wieseman – thought

I was spending too much money on expert opinions, and they decided that this client was not qualified for the Public Defender.

Jodi Avergun: Wow.

Carol Freeman: So he did have another lawyer, who had a trial and he was found not guilty. But I think part of that was because I had already done—

Jodi Avergun: The research.

Carol Freeman: —all the research and gotten an arson investigator as a witness. Interesting. Then there was a very sad case of a woman who had a diabetic son about age twelve, and she belonged to a church that believed in prayer over medicine. She had taken her son to a doctor who had prescribed insulin. But one day, with the support of members of her church, she prayed rather than giving him insulin and he died. The county found indicated child neglect which she appealed. She didn't like my opinion that she might be found guilty of manslaughter and perhaps murder so she fired me (this was not a PD case) and retained another lawyer. I don't know what happened ultimately. That was a sad case, because the boy could have lived if they had just treated him, given him insulin.

Jodi Avergun: Seems parallel to things that are going on today, doesn't it?

Carol Freeman: Yeah.

Jodi Avergun: Yeah.

Carol Freeman: I had one nice case, a teacher at the Muslim school, an older man, well, I was going to say in his fifties, because most of the clients were in their twenties or thirties.

Jodi Avergun: Right.

Carol Freeman: He was accused of tweaking a student's ear. I presented all sorts of character witnesses for him. That was a "not guilty" verdict in twenty minutes. That was a nice case.

I could go on and on because I've got pages and pages and pages, but there were people in robbery cases, drug cases, murder cases, simple theft cases.

Jodi Avergun: Did you have any...

Carol Freeman: A lot of interesting people.

Jodi Avergun: ...white collar cases?

Carol Freeman: Not really.

Jodi Avergun: Like frauds...

Carol Freeman: Not serious white collar.

Jodi Avergun: They seem to have some money to pay.

Carol Freeman: Exactly.

Jodi Avergun: Right.

Carol Freeman: By the winter, the fall of 1989, I'd been at the Public Defender's Office for seven years. My father had died and I had some estate matters to deal with.

Jodi Avergun: Right.

Carol Freeman: We decided it was time – I decided it was time to leave the Public Defender's Office.

Jodi Avergun: Right.

Carol Freeman: So I left and I resumed private practice, sharing space with Paul DeWolfe – D-E, capital W-O-L-F-E – who had been an Assistant Public Defender when I was in the PD's office, but he had left the Office somewhat earlier,

I think. So we shared space generally from 1989 until 1998, where I left private practice, we'll go into that later.

I had a general practice, mostly criminal, including a lot of appeals in the DC Court of Appeals, some domestic cases. One involved an adoption by a non-parent, which was more of a paternity case, because the – and I certainly am not giving names here – the woman, who was a teacher, had become pregnant by a high school senior. My client, a man, a government employee, had met her while she was pregnant, took care of her, they got married, and the teenager had shown no interest in the baby until they sought to have my client adopt him or her. Then he showed an interest. So it involved depositions and other issues. That ended up with a settlement. That was interesting, that was basically a civil case.

I had several CINA cases, "Child In Need of Assistance" cases – in juvenile court, where – I had a lot of them – where usually men were accused of abuse – how do I put this? I haven't looked at the details of all of them, but they were not very pleasant cases. I had one long-ranging divorce case where I represented a man who was another government employee. I don't know if this is appropriate to say, but I would probably rather represent a guilty person in a murder case than somebody in a contested divorce case. They are awful, because as a lawyer, as a person, I can see what should happen.

Jodi Avergun: Right.

Carol Freeman: But you can't make the client do what should happen.

Jodi Avergun: Right.

Carol Freeman: Or the other party's client do what should happen. They're fighting over children, they're fighting over access, awful, awful cases.

There were some estate matters that I handled for a friend, and for family members. Then I had some civil cases. One was a case involving – this may or may not reveal names, which I don't want to do.

Jodi Avergun: Sure. We can review the transcript after and you can see if it reveals too much.

Carol Freeman: I'm not going to use a name.

Jodi Avergun: Sure.

Carol Freeman: But this was a person who had access to the facility at the Montgomery Aquatic Center. He was accused of spying on girls undressing themselves, changing their clothes – through a camera, not through a hole in the wall.

Jodi Avergun: Right.

Carol Freeman: And he was charged criminally. That case was dismissed because it was not a crime then.

Jodi Avergun: I'm shocked.

Carol Freeman: The Maryland legislature subsequently enacted a statute making that criminal. But the case did end up in an equal employment opportunity case, an EEOC case in the federal court, with related state law claims such as invasion of privacy, where one girl who was spied on sued the county and my client in federal court. So that was interesting, because we got into some civil depositions and ultimately settled that. The county went to trial and the plaintiff won substantial damages.

Then I had another case where Paul and I were co-counsel. A three-year-old girl was in a daycare center, and it appeared that she may have been abused by one of the daycare workers. That ended up in a hotly contested civil case in state court, depositions, discovery, all sorts of things like that. That ultimately was settled.

Then I had a case where a – not your law firm – but a woman who was employed by another one of the prominent law firms was fired, and she claimed it was because she had multiple sclerosis. That also ended up in discovery and depositions – I think we had depositions – and that also was settled. That’s why my son calls himself a litigator and not a trial lawyer. I call myself a trial lawyer because most of what I did was trials.

Jodi Avergun: Right.

Carol Freeman: He calls himself a litigator because hardly ever does he go to trial.

The last client I specifically remember from that period of my life was a man who had filed a post-conviction claim with Judge Mize in the Superior Court, claiming that he had gotten ineffective assistance of counsel. Judge Mize picked my name out of a hat – I didn’t know him before – and he appointed me. With the help of an investigator, we did a lot of research, we went to the area, we took pictures, and investigated the officers involved, and showed that they were lying. They could not have seen the drug deal that they claimed they saw. So Judge Mize vacated the conviction, and the man went home. That was nice. Judge Mize wrote a very nice opinion which I hope is in a box that I hope to find downstairs. It isn’t in the box

that I brought upstairs. [I found it in another box.] But that was a nice way to sort of end up.

Jodi Avergun: Happy to help you find it easily. Carol, how do you spell Mize?

Carol Freeman: M-I-Z-E.

Jodi Avergun: M-I-Z-E? And what case, it was Superior Court?

Carol Freeman: Superior Court.

Jodi Avergun: How did you – can I, can I ask a question – how did you research the officers, it was before the internet, I assume. So what were some research skills?

Carol Freeman: Oh, I may have, I think I must have contacted the PDS people – the Public Defenders' Office.

Jodi Avergun: Right.

Carol Freeman: Or I talked to other lawyers and I found that there had been complaints about the man and the government didn't want to reveal his personnel report – personnel file, and we had some litigation about that, I think –

Jodi Avergun: Right.

Carol Freeman: – or there were discussions about that. But what was significant was that I went out with the investigator, it had to do with an... OK... Here is... here's the house.

Jodi Avergun: Mhmm.

Carol Freeman: Here's an alley.

Jodi Avergun: Mhmm.

Carol Freeman: Here's across the street.

Jodi Avergun: Mhmm.

Carol Freeman: It's one of these row houses.

Jodi Avergun: Mhmm.

Carol Freeman: It's up from the curb, and there, there's an area before you get up to the porch.

Jodi Avergun: OK.

Carol Freeman: The officer was in the alley over here and claimed to have seen my client on the steps give drugs to somebody else. Well, we took pictures, it was physically impossible, it couldn't have been seen. I went out, and I talked, I talked to the family, I went into their house and visited with them, nice people. And I felt good about that.

The other thing that happened during that nine-year period, and I don't want to go into details – on several occasions I was nominated for a Maryland district court judgeship. I was not appointed.

Jodi Avergun: Mhmm.

Carol Freeman: That's OK.

Jodi Avergun: Yeah.

Carol Freeman: In the summer of 1998, in one of the legal periodicals I saw an ad for an attorney for the *pro se* unit of the U.S. District Court. It wanted somebody with some experience who knew something about criminal law and civil law, and it was to assist the judges. I thought "that looks like something I could do." I applied, and I was appointed. At the time there were – there were originally – at that point, three attorneys in the *pro se* unit. One of them had left, and it was her position that I was going to take. These are people I can name. One was Addie, A-D-D-I-E, Hailstorks,

H-A-I-L-S-T-O-R-K-S, there was Mike Zoeller, Z-O-E-L-L-E-R, and the judges on the appointment committee had me go down and talk with them before they appointed me, probably to find out if Addie and Mike thought they could get along with me, because it's a very small unit.

Jodi Avergun: Sure.

Carol Freeman: I will say the woman who left remains friends of the group and we have lunch every six months or so. We actually had a Zoom lunch last fall.

Jodi Avergun: Mhmm.

Carol Freeman: I'm trying to figure out if we can meet in person this fall. But nobody's, they're not going back to their office yet. Mike left and became a federal government attorney. I think his place was taken by Michelle Singletery, S-I-N-G-L-E-T-E-R-Y. So for a long time, Addie, Michelle and I were the unit. We still are in touch, even though I left there in 2004. That was a very nice position.

Jodi Avergun: Mhmm.

Carol Freeman: Interestingly, I started off as a law clerk to a federal judge in New York, and I ended up as a senior law clerk to a bunch of federal judges in DC. I thought that was very symmetrical. My responsibilities were, of course, more significant when I ended up, because I was an experienced attorney at that point. But we worked very closely with all the U.S. District Court judges, some of whom I knew before, some of whom I didn't know before. They were all very fine judges, and very fine people, and it was really a pleasure and an honor to be working with them.

What did we do? We did not handle post-conviction cases, 28 U.S.C. 2255s, even though that technically, I think they're civil cases. We would handle the *in forma pauperis* applications by people who wanted to proceed without prepayment of fees. These were, these could be interesting. There were a lot of petitions by people with serious mental issues. I actually did screen a petition by somebody who said that the CIA had planted transmitters in her teeth. Really.

Christmas one year, right before Christmas, somebody wanted the President to extend a force field over the United States because something awful was going to happen. Needless to say, we had a little semi-form order, opinion that we would draft up granting the IFP, but dismissing the complaint as not warranting federal intervention.

Some of them were more meritorious, there were employment cases, there were Freedom of Information Act cases. I'll get to the prisoners' Civil Rights Act cases later, in a few minutes. There was one man who, I forget what his issue was... had to, may have had to do with parental leave, but he had a daughter – he worked for the Post Office – and he had a daughter who suffered from a very, very serious genetic disease, and I forget what his issue was, but it was a sad case, because he was, he claimed he was not being treated properly by the government. Probably had to do with leave, or something.

Anyway, so we reviewed these IFP applications, some of which were handwritten, some of which were typed. We would either grant – we'd almost always grant the IFP, and sometimes we would dismiss the case

immediately. If we did not dismiss the case immediately we would authorize the clerk to issue summonses to the defendants. When I say “we” – we would prepare Orders which we would then bring to a judge to sign. We didn’t sign them. After these summonses were served, the defendants very often would come in with a motion to dismiss or for summary judgement. There was a form order that we would issue to the plaintiff, giving him or her a certain amount of time to respond to the motion, or the motion would be granted. Most of the time they came in with some sort of a response. Then we’d review the papers, decide whether there was a triable issue – first of all, whether the complaint stated a valid claim under Federal Rule of Civil Procedure 12(b)(6), or whether summary judgement should be granted. Most of the time we would draft an opinion granting the motion to dismiss or for summary judgement. Sometimes, we denied the motions, and in those cases we would recommend appointment of counsel. When I say “we do this.”

Jodi Avergun: Right, you mean the people who, are, right, the judges sign–

Carol Freeman: It’s assumed the judge signs it.

Jodi Avergun: Right. Like every law clerk. You do your drafting, the judge signs.

Carol Freeman: I will say there were, most of the time, most of the judges would sign what we gave them. Sometimes, they would make a few changes. I remember one discussion I had with Judge Kessler, where I would have granted a motion to dismiss, she didn’t want to do that. So we had some serious legal discussions about how we could avoid dismissing the case. Usually, our understanding – and I say “our” but I only really have personal knowledge

of mine, but I assume, since my colleagues are still there, that the judges agree, most of the time, our understanding of the law turns out to be correct. Or at least, the judges agreed with us. So, we then, if the case survived a dispositive motion, we would recommend appointment of counsel for the *pro se* plaintiff and there is a body of lawyers, a stable of lawyers who agreed to accept these appointments, and we'd appoint a lawyer for the plaintiff, and it would go into general civil proceedings. That's what happened in – I think – I talked the last time, or maybe the first time, about the Lawrence Caldwell case, where he had lawyers from the National Prison Project, and went to trial and received 174 thousand dollars or something, from the city for really bad maltreatment at the District's local prison, Lorton. Now, it may be that the Prison Project found him, or he found the Prison Project before, but occasionally one of these cases would go to trial. I think that's the only one I had that went to trial but I know some of my colleagues had cases that went to trial. So that was good. We did justice there.

Jodi Avergun: Did you stay involved, once another counsel was appointed?

Carol Freeman: Yeah, because they would file a motion or have discovery issues that had to be ruled on. Most cases then settled.

Jodi Avergun: So you remained the law clerk, the staff in that office remained as the law clerk for the case, whether or not there was counsel. OK.

Carol Freeman: It didn't go back to chambers.

Jodi Avergun: Got it.

Carol Freeman: OK. There were cases I didn't mention before that were prisoners Civil Rights Act cases (42 U.S.C. 1983). We had a lot of them, and one interesting part of that was that I learned a lot about conditions in prison. Because although for thirty-five, or what, thirty-eight years I'd been either sending people to prison or saving them, trying to save them from prison, I didn't know much about conditions in prison. There are really very bad conditions in most prisons. These were federal prisons, usually. I mean, they, the prisoners were not well treated by the prison staff. Unfortunately, after – I forget which year – Lorton closed at one point, all the DC prisoners were sent around the country. The prisoners would file the Civil Rights Act cases in the federal court in D.C. but at that point we needed to transfer the cases. We almost always we would not dismiss cases of prisoners' civil rights issues but we'd have to transfer them to the state where the prisoner was incarcerated because you needed to get personal jurisdiction over the guard or the correctional officer who had committed the impropriety and at that point the position became somewhat less interesting because I liked the prisoner cases because these are people I had dealt with. I'm trying to think, I think once, there was one case where somebody appeared who I had represented at one point. I think that's the case. Usually it wasn't somebody that I knew but it was somebody who I could have known.

Jodi Avergun: I'm just getting out a charger.

Carol Freeman: I kept out an opinion in one case which was not a prisoner Civil Rights Act case. This is a case I had with Judge Friedman, Paul Friedman, called *Warren v. United States*. This was a case involving guano. Bird poop. The

opinion is at 234 F.3d 1331 (D.C.Cir. 2000). I read this over last night. There's an island called Navassa in the Caribbean somewhere which had been taken jurisdiction of by the government 150 years ago or so.

Jodi Avergun: The US government?

Carol Freeman: Yes.

Jodi Avergun: OK.

Carol Freeman: Up until the year 2000, 1900, 19 oh something, there was a company that had the license to mine guano on this island. Guano apparently is rich in phosphate and some other minerals but the market for that deteriorated and the license lapsed. Somewhere in 1996 Mr. Warren apparently got some jurisdiction over the assets or the name of this Navassa phosphate company and brought his claim to confirm title thinking he had title to it. Well some years before that, 12 years before he filed his claim, the government, the U.S. government, the Coast Guard, had exercised jurisdiction over Navassa; they had a white house there, they had it ringed with do-not-trespass signs. Anyway, so Judge Friedman and I did some research, some investigation and it involved all sorts of interesting issues that you don't usually come upon and there was a hearing on a motion and Judge Friedman issued an oral opinion which was affirmed by the Court of Appeals.

Jodi Avergun: And what was the result?

Carol Freeman: Oh, well Mr. Warren lost.

Jodi Avergun: He lost. OK.

Carol Freeman: So there came a point when we had a lot of FOIA cases, Freedom of Information Act cases, which came up with high stacks of affidavits from

the FBI or the CIA or whoever, most of which were blacked out as privileged. Very tedious to go through. The U.S. Court of Appeals had held that you had to be very careful and very stringent in reviewing these. So it was a very cumbersome uninteresting process to write an opinion in a FOIA case.

Jodi Avergun: Right. So how did it get to the District Court? Was it that—

Carol Freeman: Some Pro Se filed a—

Jodi Avergun: Right. But he went through the FOIA process with the agency and didn't like something that the agency did and then sued.

Carol Freeman: Yes.

Jodi Avergun: OK. But they weren't interesting opinions to write?

Carol Freeman: Well there was one set of cases brought by a woman who was very obsessed with Scientology and I cannot tell you because I haven't read any of opinions recently what the particular claims were but she had some serious issues with people involved in the Scientology Church and there were a bunch of opinions involving that and this is another one of the obsessed plaintiffs that we had to deal with. Then there was another woman, I forget why she was suing, but there was one woman who ended up filing complaints against us and the Court based on our actions. Truth be told I don't remember much more about it.

Jodi Avergun: You didn't get deposed on the case?

Carol Freeman: No no, it didn't last very long. So there came a time in 2004 when this became repetitive and wasn't as interesting anymore and if I say that my older son who had at that point a four-year-old son wanted me to quit and

spend more time with his four-year-old son. That wasn't the main reason I retired, though. My husband had retired ten years earlier. I was going to talk about that a little bit later but I can do that now. We met in the late winter of 1969 and got married that October. In 1971, as I have mentioned, I had my first son, in 1974 I had my second and in 1979 I had my daughter. When I met Arthur, he was working for a small consulting company that did basically OEO (Office Economic Opportunity) consulting down in Appalachia. In the winter of 1970, 1971, when I was pregnant, he thought perhaps he should get a more stable position. He had gone to Columbia College, Columbia Business School, and worked for the New York Telephone Company, then came down to work for ComSat and then to the small consulting company. We were living in this, not really a dorm, but Hamilton House on New Hampshire Avenue and there were a whole bunch of singles living up there and several of them were State Department people and one of them knew of an opening in the Economics Bureau of the State Department. Arthur applied for it and was appointed. So beginning in January of 1971 he had this stable job. He was a Foreign Service Reserve Officer. He was not subject to being transferred overseas so, anyway, he worked there doing some very interesting things. My son Alan has spent two days doing an oral history of Arthur which he had been bugging him to do for years but given the fact that I'm doing it, Arthur finally agreed to do it.

Jodi Avergun:

That's good. So you're an inspiration. So we have to thank the D.C. Circuit Historical Society for that too.

Carol Freeman: So my husband represented the United States in conferences involving international satellites, international telecommunication. He said, and he's been telling the grandchildren, there's something special about being at an international conference and sitting there behind a plate saying United States. The same feeling I got when I would stand up in court and say Carol Garfiel for the United States. We both understand what it's like and you, having been AUSA, you understand

Jodi Avergun: Completely.

Carol Freeman: Anyway, so Arthur had retired in 1994, 1996 but had gone back for a while on special assignments, but by 2004 he wasn't doing that anymore and we wanted to do some traveling, so I retired. Technically, retired. I did two other things, legal things while I was retired. I probably mentioned that I was involved in the American Bar Association, Criminal Justice Section beginning mostly in 1982. I was on the editorial board of the Criminal Justice magazine. At least for while I was Chair of the Board of Editors. I was on the Publications Committee. There was a book that the publications committee brought out written, the original one written by William Greenhalgh, who was a professor at Georgetown. The Fourth Amendment Handbook. The book included a summary of every federal court, every Supreme Court Fourth Amendment decision, and it went through several different editions and I think there has not been one since the one maybe five years ago that I basically was involved mostly with getting out.

Jodi Avergun: My law review article was about Fourth Amendment issues and the reliability of confidential informants so *Illinois v. Gates* and then the *Leon* exception so issues close to my heart.

Carol Freeman: I was Vice Chair of Publications from some period. I was also appointed to the main ABA Standing Committee on Publication Oversight that my son Alan, who was active in the law student division, claims credit partly for that because he got the law student division to support me. When I retired, Paul Rashkind, who was a federal Public Defender in Florida, had been writing the Cert Alert column for the *Criminal Justice* magazine for years and he retired so I took over the Cert Alert column and I wrote that for 15 years until about a year ago or two years ago when I decided that I was bored with it. That was very interesting and actually I used to keep running into judges or friends who said they read my column. I wasn't sure if anybody read it but it was something I could do being retired because you can get all the Supreme Court information online. For a while we were putting in citations - I'd go up to the Montgomery County law library to use their computer to get the citations and if I was in California when the column was coming out, Alan would get them for me. But then we realized nobody needs citations anymore, they just google the name of the case. So we don't do citations anymore. I thought what would be helpful would be to quote the precise questions presented and then, when there was an opinion, to write it up in some detail, including dissents. I tried to be somewhat judicious but there were occasions, one I remember in particular, where Justice Ginsburg dissented and wrote this so much more powerful

dissent than Justice Kennedy's majority opinion that I had much more space for Justice Ginsburg.

Jodi Avergun: [Phone ring?] I'm sorry, can you just, I don't know what's going on here. I'm sorry we have a meeting with a district attorney this afternoon in New York, so my associate is, telephone. I was in New York last week. I wasn't going to get there on time. No worries.

Carol Freeman: Anyway I learned more from the Supreme Court while writing the column than I did when I was a practicing lawyer.

Jodi Avergun: How often was it published, your column?

Carol Freeman: Four times a year.

Jodi Avergun: And how did you choose which cases to review, because you couldn't do all, right? You couldn't review and write on all the cases that the court granted cert. on.

Carol Freeman: Only criminal. Criminal issues and I added prisoner civil rights cases. I added immigration cases that had a criminal aspect to them. But not civil cases and I think it was an SEC case that I decided that I didn't have to write about because I didn't understand it. [laughs] I didn't want to bother burdening them that way. I did write up criminal post-conviction cases. The Guantanamo cases I wrote up. Things that I thought a criminal practitioner should be aware of. A lot of immigration cases had criminal aspects. Sadly. Anyway, I met with the man who took it over after I retired. He's got a whole different approach to it. It's interesting, it's not the way I did it, but I was comfortable. I felt more comfortable when I ran into somebody who said I read your column. OK. the other thing that I did very

seriously, particularly after I retired, was the William B. Bryant American Inn of Court. That was founded in 1987. I got a letter asking if I wanted to be a founding member. A group met at the US District Court and we established the William B. Bryant American Inn of Court. From 1987 until maybe two or three years ago I was very active in that. Are you familiar with the Inns of Court?

Jodi Avergun: I am. And was there Edward Jennings Bryants Inn of Court? Also, here in DC?

Carol Freeman: No. It was an Edward Bennet Williams.

Jodi Avergun: Edward Bennet Williams. OK. I wanted to be in that one and then spoken to it but they have, they had a policy that there could only be two senior lawyers from each private law firm. We had several former senior Justice Department officials so I didn't get in. No, it's a great thing.

Carol Freeman: It was fun. It was interesting. After a while I was on the administrative board. I was Counselor to the President of the Inn for a few years. I was President finally and the last two years I have not been active. I'm an emeritus member. At one point my son Alan whom I've mentioned often, he wanted to do something legal with me so he joined the Inn and we were on a team together for a few years and so that was fun. The other two things that I've done since I retired, well I've been doing them beforehand, I've done a lot of needlepoint including dining room chair seats and if you look around, a lot of pillows...

Jodi Avergun: Oh that's yours. Wow.

Carol Freeman: and I didn't, now I'm doing them for my grandchildren. My oldest grandson is at Elon University. I've done a pillow for him. I'm now starting on a pillow for my second grandson who just started at the University of Rochester and I've done for the little girls, my daughter Susie's two little girls Winnie the Pooh designs, so I do a lot of that and I've done a lot of that watching baseball.

Jodi Avergun: So do you take your needlework to the ballgame and you do it there?

Carol Freeman: No, no. I do it while I'm sitting here watching TV. While I'm not excited about the current post-season I do like Max Scherzer and so I'm sort of interested in the Dodgers although having been a Brooklyn Dodger fan, it's very difficult to root for the Dodgers.

Jodi Avergun: Exactly. They deserted you.

Carol Freeman: But I'm rooting for Max Scherzer. The other thing that I've done a lot of is genealogy. We started off several weeks ago with a genealogy of my family which the way it came out orally was totally inarticulate and mixed up and when I was going through the transcripts, I rewrote the part of it but I didn't realize at that point that I hadn't done the tracking properly, so it comes out, I'll ask about that later, anyway I rewrote it so it makes more sense but nobody probably is going to listen to the transcript. They'll read what's online.

Jodi Avergun: I don't know what they'll do because I think a part of the oral history the attraction of it to people is listening to the speakers speak. We'll see. I don't know. It'll be an interesting question to ask the society how it's accessed.

Carol Freeman: We can talk about that later. So I think what I've done here summarizing my life. Most of the defendants I represented were not evil people although a few of them were. Most of them grew up in undesirable situations. They didn't have family who had education. They didn't have family who necessarily worked regularly. There were drugs around most of the time. I had one client, a young man, like 20, 21, who kept missing court appointments, missing appointments. Why? Nobody in the house he lived in had an alarm clock. He didn't have a calendar. So I tore a calendar out of one of my little books and gave him a calendar. But nobody had an alarm clock. These are not people who have stable working lives and the kids who grow up are handicapped by that. It's not a racial thing. In Montgomery County I had a lot of White defendants, Hispanic also, but a lot of White defendants. Including one family with a very sad young woman. I first heard of her because she was living with a guy who ended up killing somebody and I had him in a murder case. A few years later I forget how she came to the justice system and then her husband was having problems and I went to their house. I helped them out. They lived off Twinbrook Parkway somewhere. These were White people who were... and the husband's brother I ended up representing. That was when I was a private lawyer. She ended up killing herself. I went to her funeral. Very sad. Very sad. She was doomed from the beginning. Then there was another family. African American or Black, The woman, the mother was studying at Trinity University. The kid got involved, I think mainly beginning in juvenile court but I forget exactly. He had a few cases. The mother had cases. A daughter

had a case. These people were better educated than the White family but they still all had problems. They were family type problems. So when I say most of them grew up in bad situations and they were not evil, it wasn't racial. I have had clients of all sorts of different races.

Jodi Avergun: It was economic more than anything?

Carol Freeman: Education and economics. Many of them were into drugs. Most of them wanted to do well but once they were released they get back in the same community and these young men who were in jail would tell me A B C in order to do this that and the other thing. Then they'd go home and their friend would say come on have a little fun with us and they'd get back into the same thing. There were basketball players I represented who got into drugs and into problems. Very sad. I don't know what the answer is. Better education and support would help. Decriminalizing drugs would help. Mainly better education and I'm all for the Biden proposal creating a mandatory pre-school and family support. We've got to do something to help these people and education and family support is important. That's a summary of 35 years or more 38 years in the criminal justice system. I always treated clients with respect and I think back to when I was a AUSA there was somebody with the Public Defenders' office who, when he was interrogating his client on the stand, would call him by his first name. I never did that. I'd call them Mr. so and so or Mrs. so and so. I would not wear jeans to go to the jail to talk to people. I dressed like a lawyer. I think that's important. I don't want to be friends with them. I want them to think I'm their lawyer and that I respect them. I think generally my clients

appreciated what I was doing for them. I think they were comfortable with their representation. A few of them occasionally, and I have no problem with it, would file post-conviction claims which were always dismissed. I think particularly of one client who was on the Mariel boat from Cuba when a prison in Cuba was opened up and a whole bunch of people came over to Florida. He and his brother and somebody else were involved with a drug distribution ring. The brother was more involved than this particular man. But I would always - he didn't speak English and I would interview him at the jail and I'd have a colleague with me or an investigator who spoke Spanish to him. Nice man. One day around the Jewish High Holy Days, I went to see him and he said Gut Yontiff (Happy Holiday) which was so sweet. These were not evil people. I liked him. Unfortunately I heard, he, they were obviously going to be deported. He was out in detention in the Eastern shore and he died of an infection of some sort.

Jodi Avergun: Oh no.

Carol Freeman: But I remember him. Usually I agreed with the verdicts. Certainly, when I was the prosecutor if they were guilty I agreed with them. I do remember one case I had as a prosecutor where there had been a shooting and an undercover policeman had witnessed the event - I forget how it worked - but the victim was a bad guy and the defendant was not the bad guy. The victim didn't come to trial and I was in trial before Judge George Hart and we went up to bench and I said this victim is not here. He said is there any reason I shouldn't dismiss the case (which I had tried unsuccessfully to get the government to let me dismiss). I said not at all, Your Honor. So the

case was dismissed. There were two defense cases that I remember that I really wasn't sure about. One was a guilty and one was a not guilty. The guilty verdict was for a man who was alleged to have assaulted a Hispanic woman who was in her car off Georgia Avenue somewhere and the assailant left in a bicycle and they found a bicycle near my client's house, apartment. He was convicted and I'm still not sure, he probably was guilty but I wasn't 100% comfortable with that. I think he's one who filed a post-conviction petition claiming ineffective assistance of counsel that was denied but I kept trying to get that case dismissed. I remember having more conversations afterwards with the Assistant State's Attorney about that. Then there was another man who was... He wasn't homeless but he had met a woman, a religious not religious but if I say a good Christian woman you'll know what I mean. A spinster, straight laced spinster, who he met at I think some kind of community center and at one point she ended up driving him home. He made a sexual approach to her. I forget how much detail there was. He certainly tried to kiss her. Kissed her. He may have fondled her. He was found not guilty of attempted rape but guilty of battery and a fourth degree sex offense. He probably was guilty of a more serious offense. So these are the two cases that I think of where I wasn't totally comfortable with the verdict. I had not guilty verdicts where I was confident the client was not guilty or at least that the government hadn't proved it. Those were two cases. Generally my opponents were ethical and were reasonably competent. That's both when I was in the U.S. Attorney's Office, when I was opposing the U.S. Attorney's Office, and when I was a Public Defender

opposing Assistant States Attorneys. I think I was lucky as a defense counsel to always be opposing good prosecutors and I think most of them, I think most of my colleagues - and I include a whole bunch of different people - follow the Department of Justice mantra that the government always wins when justice is done. I recognize that I came from privilege. My family was comfortable economically. They prized education. I was expected to be a professional. My family supported me in all the choices I made. That includes my married family as well as my birth family. I went to Columbia which as I mentioned earlier I think had women in law school back to the 1930s if not earlier. So I wasn't subjected to nonsense. It took me longer to attain the goals that I wanted because I was a woman probably partly because I was Jewish but I always got there. Although as a footnote, there were times when I thought, you know it would be fun to apply to Ruth Bader Ginsberg to be a law clerk. I don't know if you've ever had that thought. But you know I never worked on the Supreme Court and I wonder what that would be like.

Jodi Avergun: Amazing.

Carol Freeman: But I've wanted, as I said, my husband was always supportive. We never were transferred out of the country. He had a more regular - career isn't the word I want - position. Because he would always be home by six unless he was out of the country for three weeks for an international conference. I never had live-in help. I always had fulltime day help. The one time that my daughter Susie age two broke her arm, I felt OK because I had been off trying to find navy blue pants for my older son who was going to be a school

safety patrol. I was doing mother things. Not law things when she hurt her arm. She continues to remind me that I failed to pick her up at ballet one day because I was at the jail with a client. She says it was twice, it was only once. At dinners when they were growing up we would have legal discussions and I would give them a fact situation. Should we go to trial or should we get a plea and depending how they chose I might recommend an action to my client. They all grew up knowing mommy is a lawyer and the funniest time probably was when Alan was a first-year law student. He and Susie were both at home. We had a wonderful discussion Alan and I at dinner about the Washington Shoe case, personal jurisdiction and the others were sitting there lost. So that, that's my life in the law. I feel very fortunate that I was able to have an interesting career, during which I believe I participated in the doing of justice, and that I had a supportive husband with whom we raised three children who have useful careers that they enjoy, are public service minded, and have married excellent people and produced all together six wonderful grandchildren.

Jodi Avergun:

Carol, it's been wonderful. I have enjoyed hearing about this. I'm sure the people who access the DC Circuit Historical Society will love reading about this. I'm going to stop the recording.