Oral History of John C. Cruden, Esq.

This interview was conducted on behalf of the Oral History Project of The Historical Society District of Columbia Circuit. The interviewer is Tracy H. Scarrow, and the interviewee is John C. Cruden. The interview took place on January 5, 2023 at Beveridge & Diamond, 1900 N St NW, Suite 100, Washington, D.C. This is the sixth and final interview.

MS. SCARROW: We are jumping back in talking about cases that you were involved with during your last stint at DOJ. We talked about the *VW* case and the BP case, so next I thought you could talk a bit about the Clean Power Plan litigation. What was that case about?

MR. CRUDEN: The Clean Power Plan regulation was one of the most significant greenhouse gas reduction rules promulgated during the Obama administration. The rule was the administration's effort to provide a regulatory framework to reduce emissions from coal fired power plants. I led and supervised the voluminous defense of the rule, worked extensively with the leadership of EPA, coordinated with the White House, and supervised exceptional attorneys from the Environmental Defense Section who drafted all of the United States' pleadings in the case.

MS. SCARROW: What was the rule about and why was it so controversial?

MR. CRUDEN: The Clean Power Plan was a creative and far-reaching effort led by the Environmental Protection Agency Administrator Gina McCarthy to try to regulate the emission of greenhouse gases from coal-fired power plants, which at that stage were the United States' largest source of greenhouses gases. EPA went through an arduous series of public meetings and conferences to develop regulations (dubbed "The Clean Power Plan") that the EPA believed would result in a significant reduction of greenhouse

gases from the planet. Each state was assigned specific goals for reducing carbon emissions. Their goals could be accomplished however the state saw fit, but EPA could step in if the state refused to submit a carbon reduction plan. If every state met its target, the Clean Air Plan was projected to reduce carbon emissions from power plants by 32% by 2030 and to achieve significant health benefits due to reduced air pollution.

The final version of the Plan was unveiled by President Obama in August 2015. Opponents immediately declared that the Plan was illegal. Only ten days after EPA announced the final rule, twenty-seven states petitioned the United States Court of Appeals for the District of Columbia Circuit for an emergency stay, arguing that the scope of the rule's "building blocks" for action went beyond the authority of the Clean Air Act. Eighteen states filed in support of the rule.

MS. SCARROW: What happened with the stay requests?

MR. CRUDEN: We prevailed in the Court of Appeals for the D.C. Circuit, but in February 2016, in one of the most well-known examples of the Supreme Court's "shadow docket," the Court stayed implementation of the Clean Power Plan pending judicial review. To put it mildly, we were shocked by the stay. It was truly unprecedented and unfortunate. This turned out to be the last vote of Justice Scalia.

MS. SCARROW: Did the case get argued on the merits?

MR. CRUDEN: Yes. Surprisingly, the D.C. Circuit decided *sua sponte* to hear the case *en banc*, but without the Chief Judge of the Court, Merrick B. Garland, who

recused himself, as he was at that time President Obama's U.S. Supreme Court nominee. We prepared for oral argument as if it was a Supreme Court argument and held multiple rigorous moot courts that included senior lawyers from the DOJ office of the Solicitor General, EPA, and FERC. In September of 2006, the *en banc* court heard over 7 hours of oral argument. At the end of the argument by many excellent oral advocates, I was firmly convinced that the court would uphold the rule.

MS. SCARROW: What happened?

MR. CRUDEN: Unfortunately, the D.C. Circuit did not rule before the end of the administration, and the Trump administration predictably repealed the Clean Power Plan and replaced it with what they called the "Affordable Clean Energy Rule," which was not nearly as significant in reducing greenhouse gases as the Clean Power Plan. Much later, the rule became the subject of a Supreme Court decision in *West Virginia v. EPA*.

MS. SCARROW: Who argued the cases you were supervising?

MR. CRUDEN: The case was argued by exceptional attorneys: Eric Hostettler, Amanda Berman, and Norm Rave. There were many good attorneys in the case, but I thought the DOJ team was by far the best.

MS. SCARROW: This case is probably an excellent example of how slowly these cases make their way through the courts. After the administration changed, you weren't involved, but can you tell us what's happened since then?

MR. CRUDEN: As I mentioned, the Plan was stayed by the Supreme Court and before the D.C. Circuit issued its ruling on the merits, the Trump administration

withdrew the Plan and replaced it with their own less rigorous Affordable Clean Energy rule. The Trump Affordable Clean Energy rule was also challenged; and just before that administration changed, the D.C. Circuit ruled 2-1 invalidating it. That decision was then appealed to the Supreme Court. In June 2022, relying on a new rendition of the Major Case doctrine (a substantive canon of construction that bars agencies from resolving questions of major economic and political significance without clear statutory authorization), the Supreme Court held in *West Virginia v EPA* that EPA lacked the authority to create the Clean Power Plan.[27]

Nevertheless, EPA retained the authority and responsibility to regulate power plant emissions. In early 2024 EPA finalized rules establishing greenhouse gas standards for power plants under the Clean Air Act for existing coal-fired power plants and rescinded the Affordable Clean Energy rule. In May 2024, EPA published its new rule in the Federal Register. And on the same day, states and industry filed petitions in the D.C. Circuit Court of Appeals challenging the rule. The case is still pending at this time.

MS. SCARROW: Can you describe your interaction with the White House on the Clean Power Plan?

MR. CRUDEN: Unlike enforcement cases where the Obama White House gave that responsibility solely to the Department of Justice, the White House was

[27] *West Virginia v. Environmental Protection Agency*, 597 U.S. 697 (2022).

involved in the defense of key regulations, as they were the implementation of key policy decisions. From time to time, the White House counsel would ask me for briefings on cases. This certainly was true in the Clean Power Plan litigation. At one key moment, the White House Chief Counsel called me to ask something about the Clean Power Plan, and I told him what we were doing. This inquiry frustrated me because his call came at a time when we were facing multiple deadlines in a challenging schedule. The White House counsel paused a little bit, then said something like, "Well, it probably irritates you that I make all these calls to you, and you'd probably like me to leave you alone so you can do your job." I agreed, albeit, perhaps, too enthusiastically. Then he said, "Well, let me tell you something, John. Every time the President of the United States asks me what you are doing, I'm going to ask you what you are doing." Hard to disagree.

MS. SCARROW: You have been a proponent of environmental justice. Can you tell me about your role in both creating and then supervising the government's efforts on environmental justice?

MR. CRUDEN: Environmental justice has been a centerpiece of my professional work for many years. There is little question that pollution falls disproportionately on those who lack resources. My own view is that environmental justice gives a voice to many who are impacted by environmental problems, but have no real access to assistance, and their voice is unheard.

I recall Dean Schmoke, then Mayor of Baltimore, speaking at the Annual D.C. Bar Conference in which I was announced as the new President. His thesis was that environmental justice was the new civil right.

While at DOJ I established an Environmental Justice Task Force, and then created a special counsel, Cynthia Ferguson, to supervise and enhance our environmental justice matters. She was aided by a well-respected friend of mine from my military time in Europe, Quentin Pair, also an environmental justice advocate in ENRD. The Task Force reviewed cases for environmental justice implications and then monitored those cases. During my tenure as Assistant Attorney General we met with environmental justice groups to get a better understanding of their needs and to benefit from their advice. I also served on the White House Task Force on Environmental Justice. In that capacity, my recommendation to broaden our outreach of the environmental justice effort to include Native American Tribes was accepted. While I understand supplemental environmental projects (SEP) are controversial, and banned during the first Trump administration, I am a firm advocate of such environmental projects.

MS. SCARROW: Can you talk about several of the more famous cases with environmental justice issues, for example DOJ's suit against New Orleans and your work crafting the settlement?

MR. CRUDEN: We previously discussed the settlement with the city of New Orleans, which led to the complete upgrade of the city's antiquated sewer system. That settlement also created the first environmental justice Supplemental Environmental Project, called a SEP. The New Orleans SEP is one of the best examples of environmental justice playing a role in the ultimate settlement. The illegal sewer overflows in that case flowed to a number of locations, including the nearby Lake Pontchartrain. One victim of the pollution was Lincoln Beach, a 17-acre beach and amusement park that was created in the 1950s as a segregated beach. Over a period of years, probably due in no small way to the pollution coming from the city, the beach was closed. When we negotiated the final consent decree to resolve the city's Clean Water Act violations, we included a Supplemental Environmental Project that required the city to make Lincoln Beach "fishable and swimmable," for all the citizens of New Orleans. This is a classic example of promoting and obtaining environmental improvement in impoverished areas with a history of neglect.

MS. SCARROW: I understand there was another environmental justice case here in D.C. where DOJ brought suit against the District for historic sewer overflow problems.

MR. CRUDEN: Yes. The D.C. case was similar to what had happened in New Orleans. As in many older cities, about one-third of the District has a combined sewer system. The system overflowed during heavy rain when the mixture of sewage and stormwater exceeded the capacity of the sewer pipes. The

overflow, which contained bacteria and trash that can be harmful to waterways and the aquatic life they support, discharged in three locations: the Potomac River, Rock Creek, and the Anacostia River. The Anacostia River, in particular, is an area that is used by minority communities all along the water for fishing and recreating. Pollution clearly has an adverse impact on the community.

DOJ sued the District of Columbia, handled ably by Nancy Flickinger, a superb attorney, and I led the negotiations with the Deputy Mayor that ultimately resolved the case. In the original settlement, D.C. agreed to build an underground tunnel capable of holding 30 million gallons of combined stormwater and sewage under the Potomac River. The tunnel, which should be completed by 2030, will use gravity to allow the collected combined sewage to flow to the Blue Plains Advanced Wastewater Treatment Plant for treatment. The Anacostia River solution required construction of a 13-mile-long underground tunnel for combined stormwater and sewage storage during rains. That project is already reducing overflows by over 90 percent.

Originally, one underground tunnel was to be constructed to divert the overflow from Rock Creek. Later, while I was Assistant Attorney General, we negotiated an amendment to the consent decree to eliminate the underground tunnel for Rock Creek. Instead, stormwater runoff will be managed through innovative green infrastructure such as rain gardens, porous pavement installations, and rain barrels. In addition to helping

reduce combined sewer overflow, which adversely impacted minority communities, a side agreement between DC Water and the District of Columbia created an ambitious local jobs program, including training and certification opportunities for District residents interested in construction, inspection, and maintenance jobs. The goal was to have over half of the new jobs created by the green infrastructure project filled by District residents.

MS. SCARROW: So, you previously mentioned when we were talking about your overall responsibilities that you were one of the leaders of President Obama's Task force on illegal wildlife trafficking. What did that mean?

MR. CRUDEN: During the Obama administration, the President set up a task force to focus on illegal wildlife trafficking. The task force was managed by three co-leads: the Deputy Secretary of State, the head of the Fish and Wildlife Service in the Department of the Interior, and me. We brought together every agency that had responsibility in any way for wildlife trafficking. I'm very pleased that during our tenure, we also brought in the Department of Defense because they had unique information that was beneficial to our work. In particular, DoD's presence in Africa and elsewhere gave us a better idea of what was happening on the ground.

As Co-chair, I hosted multiple meetings at DOJ of relevant agencies, was the lead federal official on worldwide conferences on illegal wildlife trafficking in Botswana and Hanoi and helped draft the National Strategy to Combat Wildlife Trafficking.

I also testified before the House of Representatives Committee on Foreign Affairs in a hearing entitled "Poaching and Terrorism: A National Security Challenge."[28] In my testimony I reported that ENRD had significantly increased its work in this critical area. Not just prosecutions but also conducting numerous training sessions abroad on investigating and prosecuting illegal activity in Indonesia, Brazil, Peru, Honduras, and Russia. The Division also conducted international capacity-building in the area of illegal wildlife trafficking through its participation in INTERPOL (specifically the Wildlife Crime Working Group, Environmental Crime Committee, and Fisheries Crime Working Group) and the International Law Enforcement Academy (with programs for eastern European and Southeast Asian law enforcement officials). I also spoke about our enhanced prosecution efforts, their results, and challenges we were facing and highlighted the decline in elephants and rhinos worldwide.

I usually kept a fake rhinoceros' horn on my desk, which I showed during press conferences. When I had the audience's attention, I would explain that poaching and illegal trafficking of tusks and horns was so widespread because of the value of the tusks and horns. A single rhino horn is worth tens of thousands of dollars. And, when the horn is ground up into a powder, it is more valuable by weight than gold or cocaine!

[28] https://www.justice.gov/opa/speech/poaching-and-terrorism-national-security-challenge-statement-assistant-attorney-general

My testimony before Congress both described the problem and supported legislation to improve enforcement**.** Fortunately, this is one area in which I absolutely received bipartisan support. There was consensus that it was critical to address illegal trafficking if we were to protect species; and after my testimony, both Republican and Democratic members approached me to offer their support.

The year after my congressional testimony, I was asked to speak at the annual conference of the International Union for Conservation of Nature in Honolulu. In that speech I described a prominent example of the Environment Division's robust prosecution of illegal wildlife trafficking known as "Operation Crash," a multi-agency effort to detect, deter and prosecute those engaged in the illegal killing of rhinoceros and the illegal trafficking of rhinoceros' horns. A "crash" is the term used to describe a herd of rhinoceros. Nearly 40 individuals and businesses had been charged; and, by then, over 30 had been convicted. Defendants in these cases were sentenced to significant prison terms and forfeited millions of dollars in cash, gold bars, rhino horn, luxury vehicles, and jewelry.

MS. SCARROW: You mentioned the international conferences held in Botswana and Hanoi. What was your role and what were these conferences like?

MR. CRUDEN: There were two internation illegal wildlife conferences during my tenure. As the senior administration official, I led the U.S. delegations to both the conference at Botswana and the later one in Hanoi. At both conferences I presented the position of the United States, urging aggressive enforcement

and describing what the U.S. was doing. My speech at the Botswana meeting is on DOJ's web site.[29] In Hanoi I met with senior Vietnamese officials, as well as the head of the British delegation, Prince William.

My visit with Prince William was memorable, although we only briefly discussed wildlife issues. What we really talked about was what we had done that day in downtown Hanoi. He told me about playing soccer with local high school students, while I had been in a pedicab going through the city's narrow but wonderous streets. Prince William said he was envious, as his embassy would not let him do what I did, believing it to be too dangerous. When I finished the meeting and briefed the U.S. delegation staff, they were most disappointed that I had not met Prince William's wife, Kate Middleton

MS. SCARROW: I also understand you went to China as part of the delegation led by Secretary John Kerry, concerning illegal wildlife trafficking.

MR. CRUDEN: That is correct. When the Chinese leaders came to the U.S. and met in the State Department, I spoke to them about the status of illegal wildlife trafficking in the world, urging them to do more. Secretary Kerry then invited me to join his delegation when he visited China. (One aside: enroute to Beijing, in a China Airlines plane, we suddenly lost power and were forced to land in a small town in northern Canada. We stayed the night, delayed as they fixed the plane.) My China visit was fascinating as

[29] https://www.justice.gov/opa/speech/assistant-attorney-general-john-c-cruden-delivers-remarks-kasane-conference-illegal

my days were spent with China's equivalent of our Department of Justice and the Environmental Protection Agency. At my request, the U.S. Embassy set me up with a series of meetings with NGOs and law school professors, and I spoke at China's equivalent to our U.S. Chamber of Commerce. My favorite part, though, was walking the Great Wall.

MS. SCARROW: I think we pretty much covered everything from your DOJ tenure, but I understand that as President Obama's term was ending, as was yours, you met with him personally in the Oval Office. What was that like?

MR. CRUDEN: Toward the end of the administration, I was called by the White House Personnel Office and told that the President would like to see me. He knew I had led the litigation and settlement in the BP/Deep Water Horizon oil spill litigation, and he wanted to talk to me about the result. People are always surprised when I tell them that the White House played no role in enforcement cases, leaving all the decisions to the Department of Justice.

That said, I knew that the President was personally interested. He had established the National Commission on the BP/Deepwater Horizon Oil Spill and Offshore Drilling, spoken a number of times about the oil spill, and had personally met with governors to make sure they knew the administration was in full support.

I had been to the White House many times, but never to the Oval Office. Senior staff brought me to the waiting area, then at the appointed time, I walked through a hall directly into the Oval Office, where President Obama was standing to greet me. His first words to me were "I

am glad to have had an Army Ranger on my side." He had me right there, as his words meant then he had reviewed my background and knew of my military experience.

We spent one-on-one time together, with me outlining the challenges of the case, the year of negotiations, and the final consent decree that five governors, five state attorneys general, and five federal agency heads, had signed. I told him about the six public meetings on the Consent Decree which we held to packed audiences in six different locations, and that the court ultimately approved the detailed settlement without changes. He had numerous questions about how everything had evolved, and his knowledge of the case was impressive. I was able to tell him with confidence that the result would be a positive legacy for the administration, as billions of dollars over a 20-year period would be available and restricted in use to restoring the Gulf and surrounding area to what it was before the devastating oil spills. And, federal and state governments were being reimbursed for their expenses, and new requirements were being put in place to avoid future oil spills of this type.

At the end of that time, he thanked me and directed me to go back to the Department of Justice and tell everybody involved how proud he was of them and the result. It was late at night by the time I left the White House, but I went back to the Department of Justice, and sat down at my computer, and thanked everybody that had been involved including the support staff, on behalf of the President. Later, the White House

photographer sent me a whole album of pictures of just the two of us. One of my favorite moments.

MS. SCARROW: Back to your discussions with the President. I understand that he later said to you, "run through the tape, right to the very end, right to your last day, and you're doing good things for the American people." How did that resonate with you?

MR. CRUDEN: Like most of America, political appointees of the Obama administration were completely unprepared for the election results in November 2016. Like many others, we were disheartened over the election. While we were still processing the result, the President called his senior political appointees to the White House to talk with us personally. Notwithstanding the election, he exhorted us to work every day for the American public, right to the very end of the administration, and, in his words, "to run through the tape." I knew immediately he was using a track analogy for his words, the image of running through the tape. As a track person in high school and college, I understood what that meant. We were taught to lean forward at the end of the race because sometimes even a few inches might help you prevail. He knew enough about that sport to be able to use that as an image for us as a goal, to serve the United States in the best conceivable way right to the very end and to do so by going forward and breaking the tape. That supercharged all of us.

The President's words were particularly important to me, as we were then working round the clock to wrap up the civil settlement and

criminal plea agreement with Volkswagen in that massive case, now referred to as "." We resolved the case and held a packed press conference announcing the agreement on the criminal phase and the final civil settlement in late January, just before the end of the administration.[30] We were motivated by the President charging us to work until the very end and every day acting in the best interest of the United States.

MS. SCARROW: It sounds like you clearly ran through the tape. Was there any sort of transition between you and your successor? Did you have any contact with them, or did you sort of walk out of your office and that was it?

MR. CRUDEN: There was a transition team that came into the Department of Justice. Ronald Tenpas, a former Assistant Attorney General, a former U.S. Attorney, and a Rhodes Scholar, led the team reviewing the Environmental Division. I knew Ron well and had extremely high regard for his knowledge and professionalism. He interviewed Section Chiefs, discussed the state of the Division with me, and advised the transition team.

MS. SCARROW: Looking back on your long and illustrious career at the Department, why do you think you stayed for so many years?

MR. CRUDEN: I didn't plan to stay as long as I did. But, counting my various assignments at DOJ as Special Counsel to the Assistant Attorney General, Civil Division; Chief of Environmental Enforcement; Deputy Assistant

[30] https://www.justice.gov/archives/opa/pr/volkswagen-ag-agrees-plead-guilty-and-pay-43-billion-criminal-and-civil-penalties-six

Attorney General; and finally Assistant Attorney General, Environment and Natural Resources Division, I was at DOJ for more than 23 years.

There's something magical about standing in court, looking at a judge or jury and saying, "I'm John Cruden, I represent the United States." It's very humbling, and a great responsibility. I loved the challenge and thought the men and women at the Department of Justice were some of the finest lawyers I ever met and ever had the honor of serving with. The Department of Justice is the only federal agency whose name also is its goal: justice. All of us at DOJ bonded together to try to bring meaning to the name of our organization. When I thought my prosecutors were being overly aggressive, I reminded them that we were the Department of Justice, not the Department of Prosecution. The concept of "justice," was something that guided me. I was motivated by the mission and wonderful colleagues. Speaking to law students, encouraging them to consider public service, I often said: "Not every day, and not in every case, but in some days and in some cases, I go home at night believing that I just made a difference."

MS. SCARROW: So, you were entitled to some well-deserved R&R after you finished your tenure with the Department. What was the first thing that you did when you left DOJ?

MR. CRUDEN: During my final couple of months at DOJ I started having serious hip issues, probably related to my military time in Airborne, Ranger, and Special Forces units. My doctor wanted to replace the hip immediately,

but we were in the middle of VW negotiations and that was my highest priority. After negotiating with my orthopedic surgeon, we agreed to a date almost immediately after the administration changed.

MS. SCARROW: What did you do after you recovered from your hip replacement surgery? Did you travel? I understand you visited several law schools.

MR. CRUDEN: After I recovered from the hip replacement surgery I went on a speaking tour, fulfilling commitments that I had made while I was at DOJ. My wife joined me on a multiple city tour in which I taught at West Point, lectured at the University of Vermont Law School, and spoke to the Virgina and West Virginia bar conferences. Later, I was invited to be a featured speaker and be interviewed on television at the annual International Association Bar Conference in Sydney, Australia concerning the Volkswagen enforcement action and settlement. They were all quite interesting, in particular teaching at West Point. While there we visited their beautiful cemetery, which sits high above the Hudson River, the final resting place for many friends, including my college roommate and my college debate partner. At that time, my wife and I agreed we would eventually be buried there. A few years later, I returned to that graveyard for the memorial service of my beloved wife.

MS. SCARROW: I understand you later received an Award from the United States Military Academy.

MR. CRUDEN: Yes, I received their Alumni award for professional accomplishments. One of my West Point roommates, Glen Hewitt, nominated me for the

award and assembled a number of letters in support. It was a real honor to receive the award, as my career was shaped by West Point in many ways.

MS. SCARROW: You also became active with the American College of Environmental Lawyers. Can you explain what that organization is and how you were involved?

MR. CRUDEN: Yes. Former Deputy Attorney General Carol Dinkins nominated me to become the first federal government lawyer in the prestigious American College of Environmental Lawyers or ACOEL. In 2017, I was elected to President of ACOEL. During my tenure, the annual conference was held in Charleston, South Carolina, which drew the Governor and the Mayor of Charleston, and we put on programs with the Environmental Protection Agency and others on environmental issues. We also supported pro bono work including capacity building for illegal wildlife trafficking in Africa.

MS. SCARROW: While you were serving as President of the American College of Environmental Lawyers, you also were leading a small consulting group that had contracts with two state groups that were working on water issues. Can you describe that work?

MR. CRUDEN: After I left the administration, but before I joined a private law firm, I formed a small consulting group, with Steve Samuels, a retired water expert at the Department of Justice and his wife JoAnn, a retired environmental consultant and we worked with two state organizations: the International Commission on the Potomac River Basin and the Delaware River Basin Commission. Our most significant product was a lengthy

report, following interviews with senior leaders in Virginia, Maryland, and D.C., examining the Potomac River and making recommendations as to how they could handle low flow issues if there were water drought problems. I understand they refer to this as the Cruden Report.

MS. SCARROW: I think this is out of order chronologically, but there are two organizations that we haven't talked about, and I wanted you to briefly touch on. You were a member of the Administrative Conference of the United States from 2013 to 2014. How did that fit into the work that you were doing?

MR. CRUDEN: That's a very unique organization with a highly qualified membership of professionals, many from the academic community. I was involved for one year while President of the Environmental Law Institute. I participated, and voted, but had just a modest role. As soon as I was nominated by the President to be Assistant Attorney General, I had to resign from that position.

MS. SCARROW: Second, I'd be remiss if we didn't talk about your role in the D.C. Circuit's Judicial Conference Committee on Pro Bono Legal Services. We talked about your commitment to pro bono work, but can you talk about your role on the Committee and how important it was to you?

MR. CRUDEN: The D.C. Circuit has several important committees, and one of them is on pro bono representation. Then Chief Judge Sentelle appointed me to that committee based on my experience in the D.C. Bar. The committee was quite active, met frequently under the supervision of a federal District Court judge, and prepared reports on pro bono activities for the annual

D.C. Circuit Judicial Conferences. Because of my interest and support of government pro bono, I wrote the portion of the report outlining government pro bono activities. Each year the number of government participants was on the rise. And each year the committee selected the best federal agency doing pro bono work. I was, and continue to be, very honored that the accolade is named the John C. Cruden Award.

I can remember standing with then Chief Judge Merrick Garland, who I knew from his days at the Department of Justice, at one of the government pro bono award ceremonies. He was the main speaker and told me that it was one of his favorite meetings. He enjoyed meeting with, and honoring, the government pro bono winners of the year. His presence and enthusiastic support made these award ceremonies a real success.

MS. SCARROW: Getting back on track chronologically, since 2018, you've been working at Beveridge and Diamond as principal. Can you talk about what drew you to the firm?

MR. CRUDEN: Initially I was attracted to the firm and encouraged by its then-managing partner Ben Wilson. At one stage Ben called my wife from Germany to encourage her to support him in getting me to the firm. I knew Ben well. I had lectured in the class that he teaches at Howard Law School and brought him on to the Board of the Environmental Law Institute when I was President. As I learned more about the firm, I concluded that Beveridge and Diamond was the best fit for me. It practices exclusively environmental law, I knew many of their attorneys, and I liked the firm's

commitment to quality of life, excellence, integrity, and professionalism. This year the firm celebrated its 50th anniversary. It has received many environmental accolades, has a remarkably diverse group of lawyers and staff, and is dedicated to professionalism and service.

MS. SCARROW: Is it correct that you're co-leader of the firm's Litigation Practice Group?

MR. CRUDEN: Yes, I co-lead the Litigation Practice Group and serve on firm committees, including the firm's Pro Bono Committee.

MS. SCARROW: Can you discuss your work at Beveridge and Diamond?

MR CRUDEN: My practice is diverse, exciting, and enriching. The biggest area for me is environmental litigation; and I have had a variety of clients, including the International Joint Commission, which governs the boundary waters between the United States and Canada. I have also represented an environmental NGO in New York, a crane company, the state of Oklahoma, Arlington County, and a number of others. And I am involved in representing the city of San Francisco in a Clean Water Act case that is currently before the Supreme Court. Another part of my work is providing strategic advice to companies on changes to the law, ways to make certain they remain in compliance with the law, and ways to improve performance and management. I also serve in several cases as an expert witness. I have now done about 5 such cases and have another pending right now. It is interesting for me, a litigator, to now serve as an expert and have others preparing me. Finally, I have continued to have a robust speaking schedule, giving lectures on the Supreme Court to

conferences of the American Bar Association, the American Law Institute, and the American College of Environmental Lawyers. In addition, I have been a featured speaker at Internation Bar Association conferences in Seoul, South Korea and Lisbon, Portugal.

MS. SCARROW: More recently, in October 2020, you were awarded the ABA's Lifetime Achievement Award in Environmental, Energy, and Resources Law and Policy. Can you tell me about that?

MR. CRUDEN: I was surprised and very honored. That is their highest award.

MS. SCARROW: I understand that the award is given to someone who has dedicated a lifetime of work in environmental, energy, or resource law and policy, in government agencies, the U.S. Congress, state legislatures, and other institutions, and that you were only the third recipient to ever receive this award.

MR. CRUDEN: I believe that's correct. When they announced the award, they focused on my efforts to improve the environment, my work leading record-breaking enforcement, and my efforts to promote civility and integrity.

MS. SCARROW: I understand that you are still active in the ABA, and that you have served on the Board of Governors.

MR. CRUDEN: Yes. The ABA's Board of Governors makes policy decisions for the ABA. A few years ago, I was elected to represent the District of Columbia and Virginia on the Board. It is a fascinating organization. While on the Board, I was a member of the Profession, Public Service and Diversity

Committee and served as liaison to the Center on Human Rights and the Government and Public Sector Lawyers Division.

MS. SCARROW: I understand that at the beginning of President Biden's term, you served on his transition team. Can you talk about that role?

MR. CRUDEN: After the election, but before inauguration, I served on the transition team. Our work was confidential. I can say, however, that my work was entirely Department of Justice-oriented.

MS. SCARROW: You might not be able to talk about it, but was it helping to recommend people to put it into place in the offices or more policy related?

MR. CRUDEN: There were people other than me also focused on the Department of Justice, but my responsibility was almost entirely reviewing and then interviewing candidates for key political positions and then making recommendations to the overall transition team, which, of course, reported to the President-elect as to who should be selected and when it should happen.

MS. SCARROW: You've also served as an adjunct professor, both at George Washington University and Santa Clara University Law Schools since 2018. Can you talk a little bit about teaching and what you like about it?

MR CRUDEN: At George Washington University I teach a class on environmental law in the Trachtenberg School of Public Policy and Public Administration. My students are enrolled in the Master of Public Policy program. I find the students fascinating because they're not lawyers and they ask more "why" questions that focus on policy.

The class I do annually at Santa Clara Law School is advanced environmental enforcement. It is a weekend class starting Friday afternoon and ending Sunday afternoon. It is very interactive, very practical. The students role play, present arguments and positions, and brief leading cases. Their final exam is to prepare a citizen complaint in a Clean Water Act case.

MS. SCARROW: Sounds interesting. Before we leave your professional life and turn to your family, I have one last environmental law question. What do you think the challenges are ahead in the environmental world and where is the future of environmental law headed?

MR. CRUDEN: Two parts to your question. I frequently talk to law students, both as a professor and a mentor. I'm very bullish about the environment, energy, and natural resources sectors as a good place for law students to study and find a satisfying job.

Without question, the threats of climate change and weather events are going to be challenging throughout the world for the rest of our lifetimes. There have been some gains, including the impressive Biden era Inflation Reduction Act that put more money into advancing and promoting alternative energy projects and research and development. That's all positive, but the challenges are daunting; and we need worldwide cooperation and not just U.S. efforts to address the crisis. A key issue in the future will be the role of China, by far the largest emitter of greenhouse gases.

Our bedrock environmental laws were passed with overwhelming bipartisan majorities in the 1970s and 1980s. There really hasn't been anything significant since the Clean Air Act Amendments in 1990 and the Lautenberg Act Toxic Substance Control Act or TSCA Amendments since then. Changes are needed to address the modern era of environmental issues. For example, changes and improvements in chemistry, recently uncovered unforeseen dangers of "forever," or PFAS, chemicals. Our laws must be adaptable enough to address new and unforeseen developments.

I continue to support the environmental justice concept. I still believe that, without question, much of the environmental degradation of the United States is falling disproportionately on minorities and low-income people and that we need to continue to work on correcting both historical and current injustices.

And, last but certainly not least, we must continue efforts to improve and make the environment something that we can be proud to pass on to our grandchildren and beyond.

MS. SCARROW: Next we're going to turn to your family and round out our oral history. I know that we've interspersed conversations about your family throughout our talking but wanted to turn more specifically to them. I thought we could first start talking about your daughters, Kristen and Heather. Can you tell me a little bit about what they were like growing up?

MR. CRUDEN: I am passionate about my exceptional daughters and am enormously proud of them. Kristen was born in California at Stanford University Hospital

when I was in law school. Heather was born in Frankfurt, Germany when I was stationed there as a JAG officer. Both are distinguished professionals, mothers, and wives. Kristin earned a master's degree from the University of Virginia in education. She is a reading specialist in the Loudon School District. Heather lives in Yorktown, Virginia, with her husband, who was, up until recently, an F-15 pilot with the Air Force. He is now a financial planner, often working with military families. Heather works with him. Both daughters have two children of their own, making me the proud grandad of four grandchildren—two boys and two girls—who are the centerpiece of my life.

MS. SCARROW: I understand that while your daughters were in high school you were teaching high school students at St. Stephens Methodist Church. Can you talk a little bit about that?

MR. CRUDEN: When we came back from Germany, we found a nearby Methodist Church which we selected because it had a wonderful youth program. While there I was asked to teach high school Sunday school, which included both my daughters. Talk about being constantly evaluated! It was a rewarding experience.

MS. SCARROW: I understand that when Kristen returned home from her freshman year of college that she had a job at the Justice Federal Credit Union and the two of you would often drive to work together. That must have been fun.

MR. CRUDEN: Yes. We usually commuted together to Main DOJ. The Justice Credit Union is inside the Department of Justice, so I knew it would be safe for

her to be there. Kristen worked as a bank teller; and when Heather graduated from high school, she replaced Kristen at the Credit Union. They worked summers and over the Christmas holidays, an important source of money for college. I thought it was a wonderful entry level position for them: a real job requiring professional clothes, the need to arrive on time, and real clients to serve. And they both ended up knowing a lot of people at DOJ, including Attorney General Janet Reno. I treasure that time together with my beloved daughters.

MS. SCARROW: You mentioned that Kristen went to Virginia Tech. Where did Heather go to school?

MR. CRUDEN: Heather went to James Madison University and received her degree in computer information systems. She also played on JMU's water polo team.

MS. SCARROW: You mentioned that you have four grandchildren. Can you talk a little bit about them?

MR. CRUDEN: The oldest, Ryan, just graduated from Virginia Tech studying cyber-security and national security. Lauren just graduated from the University of Virginia in Charlottesville as an English major. Both will be staying an extra year in college to get their master's degrees. Third, is Jonathan, who just finished his freshman year at James Madsion University. And then, fourth, is Katelyn who is graduated from high school in June 2024 and has an athletic scholarship to Radford University. Each of them was the

captain of his/her high school cross-county team. Ryan and Jonathan are Eagle Scouts. Each one makes me immensely proud.

MS. SCARROW: Ryan and Jonathan are siblings, and Lauren and Katelyn and siblings?

MR. CRUDEN: That's correct.

MS. SCARROW: I understand that Katelyn was born in Okinawa?

MR. CRUDEN: Katelyn was born in Okinawa. Heather and her husband, Scott, were assigned to the air base in Okinawa because Scott was an F-15 pilot. We visited Okinawa, an utterly amazing island, reminiscent of Oahu in the 1960s.

MS. SCARROW: I also understand that you had a special trip with each grandchild when they turned ten.

MR. CRUDEN: Yes. An organization called Road Scholar puts together vacations for grandparents and their grandchildren. We encouraged each grandchild to choose a National Park vacation. Ryan chose Yellowstone. Lauren picked the Glacier. Jonathan wanted Mt Rushmore and Custer State Park in South Dakota. And Katelyn chose white water rafting through the Grand Canyon. Wonderful memories.

MS. SCARROW: I know this might be difficult to talk about, but can you talk a little bit more about your wife Sharon?

MR. CRUDEN: I am honored beyond belief to have had a wife I adored in marriage and greatly admired for over 52 years. We grew up in the same small town in Michigan, dated our senior year of high school, and then she went to college first in Michigan and then Chicago while I was going to West

Point. We married ten days after I graduated from West Point at the Mary Martha Chapel in Greenfield Village, Dearborn, Michigan.

After all the military schools that I needed to go through -- airborne ranger, jump master, infantry -- we went to Germany together. She taught all during the time that I was in the military. She often said that she taught at every possible level. from pre-school to graduate degree classes. While I was in law school, she received a master's in special education through the University of California at San Jose and then taught at De Anza College. Later, she received her education specialist degree and taught at University of Virginia. She also taught multiple officers and enlisted people through the University of Maryland when we were in Europe. Sharon was a groundbreaking force in the then new field of special education and was well known in that discipline. She also had an astonishing musical ability, both singing and playing the piano, which she did throughout her lifetime including in several choruses. When we were in Europe, she was the church choir director. Her legacy as an educator, musician, and mother was extraordinary in all respects.

In 2021, Sharon had a tragic accident and died from a fall. She was buried at West Point at the cemetery we visited together a few years earlier. Through donations and contributions made by people who knew her and loved her, we now have three benches that bear her name. The first one is in Oronoco Park in Alexandria, Virginia, in a path along the water that she walked almost daily. The second is opposite the new Army

Museum, dedicated not just to her, but to all Army wives. We had a formal ceremony inaugurating both of those benches. The Oronoco memorial was led by our minister, and the one at the Army Museum was led by the former Judge Advocate General of the Army, Major General William K. Suter. Both involved a number of my West Point classmates and officers I served with in the Army. And then more recently, through donations by the American College of Environmental Lawyers, there's another bench dedicated to her and located in a wonderful park at Accotink Lake in Virginia. This bench recognizes her musical contributions as well. Finally, we established a scholarship in her name for graduates of our high school who choose to teach. So, her legacy continued, and she was an absolutely integral part of my life.

MS. SCARROW: So, we've discussed your wonderful career, your rich family life, but tell us what you like to do for fun.

MR. CRUDEN: Much of my life has involved athletics and being outdoors. In spite of my zeal, my high basketball career was cut short by a lack of size and talent. The rest of my athletic endeavors have been fueled by my love for athletic competition, unencumbered by any real ability. In high school I ran track and received a scholarship to the University of Michigan before being accepted at West Point. In college my primary sports were track and boxing. While in the military, I joined the Potomac Valley Track Club and participated in many of their national level meets, along with competing in the Senior Olympics in both running and biking. When stationed in

Europe, I learned to cross-country ski and competed in military competitions. Returning to the U.S, my athletic career then went from Master's track, to longer 5 and 10k races, and then ten "sprint" triathlons. At the suggestion of my daughter, I became SCUBA certified and have now dived in multiple countries, including Australia's famous Great Barrier Reef. And have completed kayaking trips in Alaska and the Canadian Thousand Islands, and this year near Key Largo in Florida. Now, living in Old Town, Alexandria, near the wonderful Mount Vernon trail, my exercise is often biking and hiking on that glorious path along the Potomac River, which is also a national park.

MS. SCARROW: I understand that you also had DOJ-oriented vacation travel group adventures?

MR. CRUDEN: Yes, I should mention my exceptional vacation travel group. Starting in 2011, David Buente, a past Section Chief of the DOJ Environmental Enforcement Section, organized a National Geographic Society trip to Alaska and Denali National Park. Those invited and participating were: Angus MacBeth, former Deputy Assistant Attorney General, and his wife; Nancy Firestone, a federal judge and former Deputy Chief of Environmental Enforcement Section, and Pat Payne; Steve Ramsey, former Chief of Environmental Enforcement, and Ann Ramsey; Sheila Jones, former Assistant Chief, Environmental Enforcement Section, and Doug Browning; Don Carr, former Section Chief, and Celia Lin; Dave Buente and Fran Dubrowski; plus my wife and I. Subsequently we have

traveled together to Ecuador, Galapagos, Turkey, Greece, Albania, Montenegro, Bosnia, and Croatia. Some of the latter trips were on the Sea Cloud, a historic 5 mastered sailing ship.

MS. SCARROW: One last. question about your background. I know that you have coached a Special Olympic swim meet for over two decades. Can you describe how you became involved?

MR. CRUDEN: When my youngest daughter, Heather, was a senior in high school her Honor Society had a requirement for community service. As she was on the school swimming team, she decided she would volunteer in the Special Olympic program for swimming. She then asked me to accompany her – an opportunity no dad would pass up! That experience taught me a lot, and I went through the several rounds of training to become a certified coach for Fairfax County, and I now have my own team.

MS. SCARROW: What do you do as coach? How often do you practice and do you have another assistance?

MR. CRUDEN: My team has now grown to 55 special needs swimmers. We meet in three class segments each Saturday. With a co-coach and ten volunteers, we teach beginner, intermediate, and competitive swimming. We also have 3-4 swim meets each year that are identical to any high school swim meet with the same events. At the end of the season, selections are made for the annual Virginia Special Olympic Games swim meet in Richmond. In 2024, 15 of our swimmers were selected to participate and 5 of them won their event. This is a passion of mine, and I strongly believe that I receive

more than I give from these dedicated young people. They may have special needs, but they give their absolute best and are a constant inspiration to me.

MS. SCARROW: I understand that you received Fairfax County's Volunteer of the Year award for your Special Olympics work.

MR. CRUDEN: I'm proud of that but am prouder of our athletes' effort and dedication and the fact that so many of our swimmers have gone on to be successful in the competition. Many of our athletes at the Virginia Special Olympics Games win their events. And two of our athletes have competed in the International Special Olympics Games. I continue to believe that I receive much more than I give by working with these amazing athletes.

Before each competition, we all recite the Special Olympics Oath, written by Eunice Kennedy Shriver: "Let me win. But if I cannot win, let me be brave in the attempt." Those few words describe much of my life, too.

MS. SCARROW: Thank you for sharing that with us. Is there anything else you would include as we close?

MR. CRUDEN: Thank you, I would like to close by honoring a fallen friend who had a significant impact on my life as a mentor, Steve Pollak. I knew of Steve, as a former Assistant Attorney General of the Civil Rights Division at DOJ. When I became President of the D.C. Bar, he was gracious in giving me advice and assistance. Throughout his five decades of practice, Steve was actively involved in the legal services community in Washington,

D.C., serving in various leadership roles at the District of Columbia Bar Foundation, the D.C. Access to Justice Commission, the Lawyers' Committee for Civil Rights Under Law, and the Washington Lawyers' Committee for Civil Rights and Urban Affairs. Steve recruited me to be a Board member of the D.C. Bar Foundation while he was President, and we were lifelong friends. I miss him and honor his memory.

MS. SCARROW: So that pretty much wraps up the questions that I have. Is there anything else that you would like to touch on before we finish up?

MR. CRUDEN: No. Only to thank you. You've spent a lot of time talking with others to prepare for this interview, and you have had to review many press releases, my law review articles, and even my congressional testimony. You were so professional and so thorough, and it's really been wonderful for me to get to know you and appreciate just how you handled this interview.

MS. SCARROW: My pleasure.