

CENTER FOR FLORIDA HISTORY ORAL HISTORY PROGRAM

ORAL INTERVIEW WITH: The Honorable E. J. Salcines

INTERVIEWER: James M. Denham

PLACE OF INTERVIEW: Stetson Law School—Second District Court of Appeal

DATE OF INTERVIEW: August 3, 2010

M= James M. Denham (“Mike”)

S= Judge Salcines

M: My name is James M. Denham. Today is August 3, 2010, and I’m at the Stetson Law School to speak once again with Judge E. J. Salcines. And we are here together to resume our conversations about his years as an Assistant U. S. District Attorney working out of the Tampa office. Good morning, E. J.

S: Good morning, professor.

M: Actually, good afternoon, E. J.

S: Okay. Good afternoon, professor.

M: We’re here to resume some of your memories of some of the important cases that you were involved in from the years 1964 until 1968. One of the first cases that you were involved in involved a major strike; is that correct?

S: Yes. It was a very violent strike by the General Telephone employees and that strike was going on for a number of months. And then when I got licensed as a member of the Florida Bar, just shortly before Kennedy was assassinated, there were some cases at the state level that were prosecuted in the state courts here in Tampa, not by me, I was a very young prosecutor, and those were handled by more experienced prosecutors. And then when I went to the U. S. Attorney’s Office in September of 1964, the major case that was assigned to me was this General Telephone strike that I prosecuted in conjunction with Arnold Levine, who was a more experienced Assistant U. S. Attorney. And there were three defendants that I recall, Belcher, Mobley and a lady called Katherine Prather. It was a very heated defense, very aggressive defense attorneys.

M: Do you remember the names of the defense attorneys?

S: Yes. If I’m not mistaken, Henry Gonzalez represented one or more of those defendants. I think Larry Goodrich represented another. At this point, I’m drawing a blank as to who the defense attorneys were, maybe Frank Ragano. I think Henry Gonzalez was now practicing by himself but he had been practicing with Frank Ragano, who was a very high visibility attorney. I think at the time, he was representing Jimmy Hoffa and may not have been in town. And his partner, Henry Gonzalez, might have been lead counsel. But there were a number of attorneys involved, and it was a hotly defended case.

S: It all centered upon this strike. And why was it in Federal Court? Because they had used a submachine gun to cut cable, but among the cable that they cut was a cable that went directly into the Strategic Air Command what we would now call Central Command at MacDill Air Force Base. When that happened, that immediately triggered FBI jurisdiction, the FBI was in it. We tried the case, and at this moment, I can't recall who the judge that presided was but the jury was unable to reach a verdict, what we call a hung jury.

S: While we were waiting to schedule a new trial of this strike with the use of the submachine gun and two high powered rifles, the seizure of those weapons had occurred in the apartment at an apartment complex called the Morrison Apartments, on the corner of Howard Avenue and Morrison Street in the Hyde Park area of South Tampa. And a police officer without a warrant had broken into the apartment because some strange men had been observed going into the apartment. The policeman responded. When they knocked and the men would not come to the door, they in fact were on the telephone calling their lawyer, I believe it was Henry Gonzalez that was talking to them on the phone, the policeman had no search warrant, but they did go in thinking that a burglary was in progress. There was no burglary in progress, they had permission to be in that apartment because it belonged to Katherine Prather, one of the strikers, but in her cedar chest, these two high-powered rifles were found together with the submachine gun. The high-powered rifles had been used during the strike by going into one of the rooms of the Floridan Hotel in downtown Tampa, and from one of the south windows, firing at the microwave, what you and I now call satellite dishes that were on top of the General Telephone building.

S: As I recall, that building was on Marion Street, probably Marion and Zack. And they had shot, I don't know if it was 30-aught-6 or a 7-mm, whatever the cartridge was, the caliber, but they had shot holes into those microwave receiving satellite dishes. And the submachine gun had been used in cutting the cable that went into the MacDill Air Force Base. The forensic experts had all documented the ballistics involved so there was no question that those were the right weapons used in these targets. But, as I told you, before we went to trial in the federal court, there had already been one other trial in the state court. Those had resulted in convictions and those had gone to the Second District Court of Appeal in Lakeland, and while we were waiting to retry the federal case after the hung jury, the Second District Court of Appeal issued and published their opinion saying that there was no search warrant, there was insufficient probable cause and lack of exigent circumstances that would have given reason for the officers to go in. But they had no search warrant, they had not established the basic requirements for going into a private property without a search warrant, and the Second District ruled, and I think the case is *Prather v. State*, that the seizure was illegal because it was a fruit of the poison tree.

M: Now, when you were trying the case, did you think that that may happen, did you have any inkling and what was your feeling when you learned about the fact that the case was going to be thrown out on that basis?

S: I knew that it had very significant monetary consequences because these employees had been fired and not rehired by the General Telephone. And they were going to be entitled to compensation for all of those weeks and months that they were without their check. So I knew that that case was going to bring significant economic consequences.

S: When we went to trial, the lawyers for the defense had perfected their objections to the admissibility of the evidence. The federal judge in the trial court had allowed it to go forward. He had not found that it was an illegal search the same as the trial court judge in the state court. I believe it was the criminal court of record of Hillsborough County had permitted the evidence to be introduced. But when we received the District Court of Appeal's written opinion stating in detail why the breaking in was illegal and therefore anything that they got as a result, even if it was fruits of the crime, even if it was very incriminating evidence, it could not be used. Without that information, without those weapons, our case fell apart.

M: So you were prosecuting them based on malicious mischief, what was the indictment as you recall?

S: I'll have to give that some thought, but it was some federal communication act law. That is to say the cables that ran into Central Command or then Strategic Air Command, I'll give it some thought and if it comes back to mind, I will call you and tell you. I don't remember what specific statute.

M: Would it have been destroying federal property, malicious mischief?

S: No, it would not have been a malicious mischief; it would have been a very significant federal crime.

M: Attempted murder almost because they're using guns?

S: But there were no humans involved so it wouldn't have been murder but it would have been destruction of property. The microwave towers, if anything, were similar facts to cutting the cable because of the violence. The strike was a very violent strike. They were puncturing tires, they were putting sugar in the gas tanks; it was a violent strike.

M: But really the only reason you came into it was the cables?

S: Yes. We would have had no federal jurisdiction.

M: I would imagine that the trials in the state court would have been very, very extensive.

S: It was, and it was a case of great public interest. And the courtrooms in this type of case get full early in the morning. So the courtrooms were full. The union certainly supported the defendants that were being prosecuted. So there were friends, family and union supporters in the courtroom listening to the testimony. By the time that these people were prosecuted, the strike had been settled. Everything was back to normal, but the consequences of those acts resulted in these criminal prosecutions. So, again, we could not retry the case. We suspected that with this decision of the State Court of Appeal that even if we convicted these defendants, by the time that we got to the Fifth Circuit Federal Court of Appeal that they in turn would adopt the language of the judges of the State Court of Appeal and then the case would have been thrown out. So after consultation with the Justice Department and after they had reviewed how the evidence had been acquired and reviewing the decision of the Second District Court of Appeal, they in turn recognized that it was a loser and they authorized us not to proceed with the

second federal trial.

M: That's a good question because it leads into an issue, it leads into what I want to ask you now and that is the consultation with the Justice Department in terms of your focus on prosecutions. How did that happen, did you meet regularly with the Justice Department officials?

S: We did not meet regularly with the Justice Department officials in Washington. We had regular telephonic consultations. I don't know what the U. S. Attorney -- if he had to report every day to his superiors in Washington. As an Assistant U. S. Attorney, I reported to the U. S. Attorney and then if there was some question, he would direct me, call Carl Belcher, who is in charge of General Crimes, or call Bill Lynch in the Organized Crime Section, etcetera. And then I would make the call.

S: The Justice Department did not interfere with your daily routines. Your cases were brought to you by the federal agencies. They were the police power. You were the prosecution function. They made the arrests. They made the investigations. They brought information to you. Together you developed if you were going to take it to the federal grand jury. Once you indicted, you proceeded. The case was your case. However, if you were going to dismiss a federal grand jury indictment, you were obliged to call the Criminal Division of the U. S. Attorneys in Washington, D.C., the Attorney General's Office, and justify to them why a grand jury indictment was now going to be dismissed. If there was going to be a dismissal of the indictment, you certainly had to inform the agent of the federal agency that had investigated the case, say the Postal Inspector, the Secret Service agent, the FBI agent, the Internal Revenue agent or the Alcohol Tobacco agent, depending on the nature of the case. You did not dismiss a case after indictment without informing them why this case was falling apart. The witnesses had died, witnesses had changed their testimony or a laboratory test had subsequently cleared someone. Remember we didn't have DNA back then. Fingerprints were very important, handwriting very important, tire tracks important. Chemical testing, ballistic testing, that was pretty much the extent of the crime laboratory. There was no such thing as DNA. There was no computer-generated analysis.

M: Were those facilities available to you here in Tampa?

S: They were not in Tampa. Those facilities were in Washington, D.C., and once in a while, the state crime lab, which was very small and very limited, would make available their -- but generally, those cases came to us through the state system. The sheriff had investigated, the police department had investigated, and then a federal agency had picked up their work product and then it came to us. So what control did Washington have, not really, we did our job and they assumed we were doing our job every day, come in and do your job.

S: And, of course, the U. S. Attorney is responsible for what his assistants are doing. However, we could not dismiss an indictment without the okay of the Criminal Division in the Attorney General's Office in Washington. And we didn't call them without consulting and informing our boss.

M: Now, on a daily basis, how much was Mr. Boardman involved in prosecuting cases or would there be specific ones that would be a big priority for him and he would be

involved or would he just let it all happen for you people?

S: Initially, as I recall, Mr. Boardman tried cases. As our office grew and we created a new division in Orlando and a new division in Fort Myers, I think Mr. Boardman tried less cases and was more the supervising senior boss or managing partner of our law firm, where he had to travel to Fort Myers, had to travel to Orlando, certainly he had to supervise what was already happening in the big office in Jacksonville and the big office in Tampa. I don't recall that we had any cases in Ocala, but Ocala, periodically there would be a hearing or two. Remember that also besides this, the U. S. Attorney had to travel to Cape Canaveral to Cape Kennedy. It was developing a lot. There were federal issues, there were federal tort claims. You don't hear too much about that today, but when we were developing the NASA headquarters, there were accidents by government vehicles. I remember one very serious electrical burn that somebody had not tagged the proper cables and wires and a gentleman got terribly burned. And Mr. Boardman would travel there just to be on top of it, and the FBI had to investigate that for us, because you knew that there were going to be significant lawsuits against the government.

M: Talk a little bit about that federal tort law, when did that come in?

S: That was already on the books when I came on and we did not have as many federal tort claims as we had criminal cases. The criminal case load here and I'm sure that there's some statistics that could show you that the Middle District of Florida assumed more cases than the Southern District of Florida when the Middle District was first created. Those cases had to be tried. The judges always gave priority to criminal cases rather than to the civil cases. And then the Justice Department would send lawyers from Washington to help us with civil cases or with land acquisition cases so we didn't have to be worried so much about the suits of eminent domain where the government –

M: Condemnation, right?

S: Condemnation of X number of hundreds of acres because we're going to put a launching pad down here. We had a separate lawyer that could handle that. So we were primarily focused on criminal cases, federal tort cases, civil cases that would come in through injunctions. Once in a while, we used to have three-judge federal courts, very seldom, but our primary focus and the priority was criminal cases.

M: Now, walk me through a typical day. What would be a typical day? I know it's probably difficult to say that.

S: You would come in between 8:00 and 8:15. You would work with the secretary that was going to be assembling all of the files that you were going to have to carry downstairs to the third floor for an arraignment and then you would start at 9:00 in the courtroom. The federal judge would come in, court was in session and then you would go through the daily docket, arraignments, probation violation hearings, sentencing, and then motions. Some motions were done in the open court.

M: So the docket was already prepared and you would take it and you would follow along?

S: You would work in that courtroom.

M: And did you know when you came into the office in the morning, did you know pretty much what the docket had on it, you were already prepared for what was going to be there?

S: Yes, you already knew. You were prepared because some cases commanded more attention, some cases commanded more research than the routine run-of-the-mill. What would be a run-of-the-mill case? An interstate transportation of a stolen motor vehicle, Mr. Hoover had a priority of all of his field offices because they created or they generated a large number of statistics. And Mr. Hoover could use those statistics effectively. He was a very effective speaker when he was appearing before the Appropriations Committee. And he could say, "We prosecuted 1,000 stolen motor vehicles." Well, the truth is the FBI agent was not the one that had stopped the vehicle on the highway, it was a local policeman or a highway patrolman or a sheriff but the car had been stolen out of state and now it was in sunny Florida and everybody wanted a joyride so they'd get a free trip to Florida by stealing a car and bringing it across state lines. The policemen would stop you, because you were speeding or whatever reason, and when it was a stolen car from out of state, their instructions were to call the local FBI office. So an FBI agent would go by and in effect pick up that case, which was a state case and now it became a federal case and we would prosecute a routine stolen motor vehicle. So you didn't have to prepare much for that one.

S: But when you had a complicated income tax evasion case, when you had a complicated search and seizure issue -- back then, confessions were very hot. The *Escobedo* case was the parent case to the *Miranda*, which everybody now knows *Miranda*. But before there was *Miranda*, there was *Escobedo* and there was another one called *Massiah*. Those were the early police- must-give-warnings of constitutional rights if you want to get a confession admitted. Years ago, there were no forensic sciences and many cases were made strictly on confessions. The Supreme Court had come down hard on police tactics, how they were securing confessions, how they were suggesting to some defendant, isn't it true that you did this or that, and, yes, he said this or that. Then they put these restrictions on the admissibility of confessions. So the confession case law was just developing and we had to stay up, I mean on a daily basis, the recent decisions because we knew, especially the defense bar in Tampa was very aggressive. The best defense attorneys in Florida were in Tampa. So people that were charged would hire these quality lawyers who were doing research.

S: Back then, it was all manual, no computer research, and no electronic research. And so we had to stay up on those. And yes, we knew what the docket tomorrow was going to be, because when we walked into the court, we couldn't say give me an hour's time to research. The Judge had a docket and he was going to roll through that docket. And if you weren't ready, he was going to roll over you. So you had to be ready. Yes, we knew what was on the docket. Now, we would go through that docket and by 12:00 – 12:15, we had pretty much completed the morning docket. Then there would be a recess. In Judge Lieb's courtroom, he recessed either a few minutes before noon or at noon because he would go to mass across the street at Sacred Heart Catholic Church almost every day. And as soon as he was finished at mass, he would walk generally with his law clerk or law clerks, he had two, a senior law clerk and a junior law clerk. He would walk down from Sacred Heart Church across the front of the federal courthouse building on Florida Avenue. And half a block was Morrison Cafeteria, and he took his lunch at Morrison's very frequently and then would come back.

S: By 1:15, Judge Lieb was already back in chambers, and at 1:30, the motion practice started. What that meant is the motions that had been filed by attorneys would start being heard at 1:30. Most of the motions you did not have to bring in witnesses. If there were witnesses that you were going to have, then it was like a little mini trial, he would leave his chambers where the motion practice was going on, and then it would be in open court with the court reporter taking down whatever witnesses were testifying. Most motions were legal arguments, citing cases. We had very limited reproduction facilities. Xerox machines took a lot longer to make a copy so we had to literally carry the citation in the books. Fortunately, in the judge's chambers, he had a good set of library books, and if we cited *Salcines v. Denham* at 123 Fed.2d 456, and you told him and the lawyer said, no, I don't think that that case says that exactly, then the judge would say, "Counsel, would you please get me that case or do you have that case?" You would get up a moment, you would get that volume, you would open it up and you would show it to the judge. He would quickly look at it and he says, yes, I agree with you or, no, I don't agree with you, that type of thing. So there were a lot of legal arguments, not factual disputes, but legal arguments. And if there were witnesses, then that took place in the courtroom.

S: Then by 3:30, you were done with your motions. Then you had to get back to the U. S. Attorney's Office, go through your mail, and respond to what we used to call them "Blue bonnets". The Justice Department would send us things that they wanted us to give immediate attention, it was on blue paper. And we used to call them blue bonnets and those had priority of course. Sometimes you could solve the issue having read the blue bonnet, having pulled the case, picked up the phone, and we used to have an FTS system, a federal telephone system, where we could call Washington. Now we have direct dial and speed dial, etcetera. We could call Washington, we could call the U. S. Attorney's Office in the 90-some districts, and we had directories. The State of Florida eventually had something similar called SunCom. But that was before electronic age arrived. Most of the phones back then were dial, the old dial stuff. Our offices were probably World War II desks, heavy metal desks. The bookcases all had a glass cover with a little door, nice, but probably 1920, 1930 vintage, nothing fancy.

S: So at 3:30, you were back in the office, now you had to take care of your correspondence, any emergency calls that you had and then start preparing for tomorrow's docket. Now, if tomorrow you didn't have court in the morning, then you'd come to the office and you would be preparing for a trial that you're going to have next week, or you would have a line of FBI agents waiting to discuss cases that they want either a legal opinion or they want authorization, that was a key word, authorization for arrest.

S: How did the FBI get the authority to pick up someone? Well, if a federal crime is occurring in their presence, they don't have to wait to get authorization, a crime occurred in their presence and they had the right, like any citizen has a right to a citizen's arrest. A felony was committed in their presence. But that doesn't happen every day, so the FBI agents or federal agents, postal inspectors, Secret Service, etcetera, they developed witnesses and when they think that they have enough at least probable cause, then they would come to see the Assistant U. S. Attorney to get a legal opinion, do I have enough, is this enough for us to arrest? Well, what the Assistant U. S. Attorney has to do is to be objective. He can't say yes to any FBI or Secret Service agent that wants to go out to make an arrest. He has to make an independent objective evaluation of the evidence, the quantity and quality of the evidence, was the evidence legally secured; are we going

to have a problem; was there a confidential informant; is the confidential informant available to testify if necessary; is he or she reliable; why do you think he or she is reliable; is there any past history with this informant. So how the evidence has been secured was very important. You may know that somebody is guilty but unless you can prove beyond and to the exclusion of a reasonable doubt, you're not going to convict that person. And in federal court, we had been instructed by our superiors both the U. S. Attorney and the Justice Department don't authorize an arrest if you cannot make it to the jury. In order to get to the jury, you not only must have probable cause, you must have sufficient evidence by clear and convincing evidence to get past what we called a directed verdict. If the Judge doesn't believe that there's enough there to prove your case, the jury will not hear it. The judge can throw it out on a directed verdict, also known as a judgment of acquittal. So what the Justice Department wanted is don't waste the time of the court and the jury and the federal investigation if all you have is probable cause. Yes, you have enough to indict with probable cause, but you need more than just probable cause. You need to have more than that; you need to get to the jury. If you have proof beyond and to the exclusion of a reasonable doubt, you must go forward. So sometimes an FBI agent would tell you, and when I say an FBI agent, it could have been a Secret Service agent, a postal inspector or an IRS agent, and you say, "You have enough to arrest but I can't get past the directed verdict. We've got to develop more evidence than that." So then they would not make an arrest at that moment, they would try to get more evidence or they would tell you let's subpoena witnesses one, two, three before the federal grand jury. Let's see if we can get them to build the case. And then we, with the federal grand jury, developed that case even further.

S: But the function of the agents, of the police agents, is to do the police functions, which is to investigate the case. When you investigate the case, now you bring it to the prosecutor. The prosecutor has to evaluate the quality, do I have enough to get this before a jury or am I going to lose this case on a Motion to Suppress because the agent didn't wait to get a search warrant and he illegally listened to a telephone conversation or he illegally entered into somebody else's property that is a Fourth Amendment violation. That case is dead, try to develop the case some other way. So the Justice Department supervised us but not constantly. We had to account for our actions to the U. S. Attorney. If he wanted us to go to trial, we went to trial. If he agreed with us, then he got on the phone with us if the case was complicated to explain to the superiors in Washington why this indictment should be dismissed.

M: Now, previously, we were talking about some of the priorities of the Hoover FBI as far as prosecutions. You've already mentioned the automobile situation, what were some of the others that he prioritized?

S: And bank robberies, kidnapping.

M: Were there any bank robbery and kidnapping cases that you remember?

S: Oh, absolutely. We had a number of bank robbery cases. In some instances, we had gangs that would travel the country as bank robbers. And we have brought you some newspaper clippings of some of those bank robbery cases. I remember that there was one defendant that the FBI had been after for a long time by the name of Kadra, out of Philadelphia. I remember the defense attorney coming to Tampa after we had indicted Kadra on one or more bank robberies.

M: Would you call this a criminal conspiracy, a gang?

S: Oh, yes, because that was absolutely a criminal conspiracy because you had two or more individuals that were involved in a partnership to commit a crime, in this case, a federal crime. I remember Kadra, who was represented by a very able defense attorney out of Philadelphia and when we were in law school, they always used to say the "Philadelphia lawyer."

M: Yes.

S: Emmet Fitzpatrick was the lawyer that represented Kadra. Ironically some ten years after I had prosecuted his client, I'm at a National District Attorneys' Association meeting and I was representing the Florida prosecutors, and sitting next to me is a face that I think I've met before. And it's Emmet Fitzpatrick. Well, the famous defense attorney from Philadelphia had been elected the District Attorney of Philadelphia. He was followed by Ed Rendell as the District Attorney of Philadelphia, who is now the Governor of Pennsylvania, Ed Rendell. We knew each other from our working with the National District Attorneys' Association as local prosecutors, not federal prosecutors.

S: But besides bank robbing, we had a famous Polk County case, which was a kidnapping of a young teenage girl, maybe out of Lakeland or Winter Haven, I can't recall right at the moment, but we had found these newspaper clippings that will help you. And that was a case that the FBI became very much involved in again because if there was kidnapping going back to Lindbergh, the kidnapping of the Lindbergh child, congress passed the Lindbergh Act and Mr. Hoover took it upon himself that that is federal jurisdiction. So there was a babysitter in Polk County that apparently, as I recall, was not only kidnapped but subjected to sexual assaults going all the way up into Georgia I believe. So that was a kidnapping case that got a lot of media attention out of Polk County, but it was in the Middle District of Florida.

S: And then you had a number of other robberies, some more sophisticated, not just organized criminal conspiracies but disorganized criminal act by someone who was desperate and wanted money and wrote a cryptic message and took it to a bank teller and robbed the bank. By the way, we did not have the sophisticated photography and monitoring system that we now have. We had some money that was in a bag with some powder and when you opened the bag, that powder got on the money and then the money was marked, and it was money from the bank robbery. Back then, we did not have the photography that is now available in bank robberies. And what the FBI or the local police agency would do, they would send you a person who would make a sketch and you would have to describe: Well, his nose is this way, and his eyebrows are that way, and then that's how you would make a composite. Nowadays with the photography that we have, they've got it down in minutes. They know what he was wearing, tall, skinny, etc. Some banks now even have it now as you walk out, they have like a measuring line on the doors so that you can accurately figure out, oh, he was about there. Well, that means he was six feet. If he was taller, he was more than six feet. He was a taller defendant. We didn't have those sophisticated things, like we didn't have the crime laboratories that are fantastically effective today.

M: Now, so kidnapping, do you remember any specific kidnapping? You already mentioned one kidnapping case.

S: Yes, the famous Polk County kidnapping case is the one.

M: We don't think much today of kidnapping. We just don't think much of that as far as that going on, but that seems like that was in the 1960s, all of a sudden, it was a big priority.

S: I think just before it became the Middle District of Florida, there was a very famous kidnapping case here in the Southern District, which later became the Middle District, and I think it focused somewhere that I recall in Fort Myers or Naples. And I want to tell you it was the Mackle kidnapping where somebody was put like in a coffin.

M: That's right. I remember.

S: And some of the federal agents I worked with had worked that particular case.

M: Now, was that during your time?

S: It had just happened. It had just happened. Now maybe Levine or Stichter remember that particular kidnapping case but that was across the land. Everybody in the country knew about that kidnapping.

M: Now, as I recall, her father was the developer of Marco Island, correct?

S: That's right. That's right. I had forgotten that.

M: He was extremely wealthy. One of the things I wanted to ask you about, you mentioned that there was no RICO law when you were in that USDA's office. But when you became solicitor, can you talk a little bit about how that law affected your operations as a state prosecutor and did you have any cases for example that you handed over to the federal courts?

S: Yes, we did.

M: Can you talk about that process? First of all, talk a little bit about RICO and how that changed everything.

S: RICO changed the method by which you built a rackets, an organized crime type of case. It facilitated the presentation of evidence to show a pattern of criminality. We had not been able to show that before. Admissibility of evidence, requirements to prove a criminal course of conduct that shows they're involved, not in just one passing criminal conspiracy but a series of conspiracies to violate the criminal statutes, federal or state. To give you an example of what you just said, were there any cases that we turned over? Yes.

S: I recall we had been developing a very significant arson ring that was involved in insurance fraud and the Tampa Police Department with the fire marshal's office, my office, maybe the sheriff's office, I don't recall all the details, but we had charged a number of people with these series of arsons and insurance frauds. And I recall that the U. S. Attorney's Office and the FBI agent in charge asked us in a formal meeting with Mayor Bill Poe, himself an expert in insurance because he had an insurance company,

he was an insurance executive before he became mayor, and we had developed this case and the federal agencies asked us would you please transfer jurisdiction, let us be the ones to prosecute the case because we have a brand new statute called RICO and we would like to try the first RICO case maybe in the country. And we turned that over and it was a successful prosecution.

M: So that would have been about '79, '80, something like that?

S: I would think maybe even '77, '78.

M: I thought RICO was '78 actually.

S: I could be mistaken. But it first became a state RICO – I don't recall, I'd have to look at the statutes.

M: So states have RICO laws?

S: We passed the RICO law.

M: Little RICO and then big RICO?

S: And I don't remember the chronology, who had the first RICO.

M: But there's a reference to it as little RICO which would be state racketeering, RICO, federal statutes, correct?

S: Yes, there is. And I know that terminology but I just don't remember. I'm almost positive that it was in Billy Poe's office that we agreed, yes, if you will prosecute this because you say this would be the case that could set the standard for future federal RICO, we turned it over. So the ones that testified in the case were primarily city, county and state agents, and then that set the case law for future RICO prosecutions throughout the country. The rulings that were made in the Middle District of Florida set the standard and became the case precedent, *stare decisis*, both Latin words.

M: Do you happen to remember any names of that arson case, the name of the case?

S: The assistant that headed up –

M: No, I mean as far as the name of the case.

S: I understand. But the assistant that headed up that investigation is now a practicing attorney in Tallahassee, I will call Tony Guarisco and ask Tony if he remembers who were some of those key defendant names that could help you.

M: Now, I don't like to go back in chronological order, but I forgot to do this, so we need to go back a little bit chronologically. 1964 Federal Civil Rights Act, 1965 Voter Rights Act, did you have any involvement at all in prosecuting cases? There were all kinds of disturbances of course primarily in Jacksonville primarily in the federal courts.

S: The answer to your question is no.

M: Do you remember anything in Tampa that had anything of similar –

S: That I prosecuted, no. Remember, when congress passes a law, it takes time for the federal agencies that are going to enforce that statute to become familiar with what are the minimum requirements to make an arrest and to build this type of case. So then it takes a while before you do a criminal prosecution. What is faster is civil. And those were generally by private citizens who would complain etcetera.

M: That's exactly the way I thought it worked, but you've confirmed that. Okay. Good. So it would be a matter of a person who felt aggrieved and violated that would actually –

S: Yes, we had cases filed here for discrimination. And the case that I remember most vividly was Judge Krentzman being asked to intervene in school busing and forcing busing. But that was already when I was the elected county solicitor. I had just left the U. S. Attorney's Office.

M: And those cases really came in, in '71, correct, with the *Swann* case? That's when it really heated up, right?

S: And by that time, I was already the elected state prosecutor.

M: *Swann v. North Carolina, Mecklenburg County*, correct?

S: Mecklenburg set the standard.

M: Right, right. Now, there was a gentleman in Orlando that was quite notorious as an organized crime figure named Harlan Blackburn.

S: Yes, and represented by a very aggressive defense attorney by the name of Ed Kirkland.

M: Ed Kirkland. I think the big prosecution of him was in '71, '72, so you wouldn't have been in the office at that time, you would have seen and observed a lot of what was going on.

S: Not only did I see and observe, but my counterpart in Orlando was Ron Powell. He was the elected county solicitor of Orange County and he was very much involved in the Harlan Blackburn surveillance and prosecution. And he would in turn inform me of what developments -- because we had stayed in touch because we figured this was a statewide network and if it's going on in Orlando, it's going on in Polk, it's going on in Hillsborough, it's going on in Pinellas, it's going on in Miami, it's going on in other places.

M: Now, I'm not sure about why this would have been in federal court, why his prosecution would have been in federal court. Maybe it was racketeering -- well, it wouldn't have been RICO, because there wasn't a RICO law yet, but I'm curious about why that was in federal court. Judge Tjoflat I think was actually the judge that was presiding over that case.

S: Yeah. And I would think that the one that could answer that for us would be Kendall Wherry because he was there at that particular time as the head of the U. S. Attorney's Office.

M: Well, he probably would have been the lead person in it.

S: He probably was and he probably knew the agents that had investigated the case. He probably knew what physical evidence was introduced in that Harlan Blackburn case. As I recall, Ed Kirkland was the lead defense attorney with another gentleman by the name of Russell Hornsby, and then for a while, a very prominent defense attorney was Jim Russ, who became a U. S. Attorney for a short time. He had been the county solicitor in Orange County. But those were the leading defense attorneys and I would think that their names probably appeared in that Harlan Blackburn file.

M: I haven't quite gotten through it yet but I saw that yesterday. Now, when you were in the USDA's office, there had been the Kefauver hearings.

S: Yes.

M: There had been all kinds of scrutiny on Tampa in the '50s. There were all kinds of scrutiny about organized crime activities in Tampa.

S: And a lot of unsolved murders.

M: A lot of unsolved murders. And of course, the Kennedy situation was coming along and Kennedy was assassinated and there were all kinds of rumors about the Tampa organized crime connection to some of that. What was going through your mind in '64, '65 when all of that was percolating? Did you have any speculation about it or were you directed to look into any of that?

S: And we did. And there were federal grand juries that I participated with, with Mr. Boardman, with Bob McGowan, who is now deceased, with Charles Carriere, who was an Assistant U. S. Attorney back then. But throw into that recipe that you were just describing, you forget that the mob was supposedly behind the Kennedy assassination.

M: Well, that's kind of what I was looking for, Judge.

S: And that the Cuban connection also was another ingredient.

M: So here you are in the USDA's Office in Tampa. That must have been just a cauldron of innuendos and things swirling around.

S: And frequent briefings.

M: Frequent briefings.

S: Frequent briefings that we would receive because, for instance, Santo Trafficante was not living in Tampa at the time, he was living in Miami. But his family was here and he was under constant FBI surveillance. Jack Brett and John Ambler were two FBI agents that followed Santo Trafficante around. We would kid that nobody would dare shoot Santo Trafficante because he had two FBI agents that were following him and they would be on the scene. Santo Trafficante was not only subpoenaed before the federal grand jury, I believe that he was also subpoenaed to Washington in investigations of the Kennedy assassination when the Kennedy Assassination Commission -- so, yes, what

you're saying is absolutely correct. Not only were there regular briefings, but we were reading in the paper, and the press was speculating, and the *New York Times* was saying this, and the *Washington Post* was saying that, the *Miami Herald* was saying that, the *Tampa Tribune* was saying that. And we were all sensitive to all of this information. But is that enough to indict? If you indict, do you have enough to get past the directed verdict? Can you convict? And that was the measuring stick, do you have enough to convict?

M: Because you could do more harm than good. If you slip up and you're not adequately prepared, it makes it harder for subsequent cases I would imagine.

S: And if you haphazardly charge someone and you go to court, you got to show your hand. And the defense attorney has a right to interrogate witnesses. And then they learn what you're doing by your own witnesses. So then they are better prepared and they know who's working for us. So all of those things are considered when you're doing that type of thing. And if you don't have enough to convict, you better think very carefully because in trying to convict, you're going to reveal your sources, your methods, and your technology.

S: As I recall, the FBI was involved in that type of constant intelligence gathering. But the Internal Revenue Service, under either the Income Tax Evasion or the Gambling Statute, the IRS in turn made cases against some of the people that were involved in the Bolita, in the gambling rackets, what we called the Bolita rackets.

M: So that was the federal entrée into prosecution would be the IRS?

S: Those were easier to prove cases than an organized crime conspiracy as to who is the real don of dons in the mafia, in the Cosa Nostra, that type of thing. Another statute that the FBI used was a statute that controlled flash paper, flash paper, and interstate transportation of flash paper. What is flash paper? Flash paper is a paper that looks like a piece of paper that you write on but the slightest flick of a cigarette, all of your evidence immediately disappears.

S: We had a case of some significance here years ago made by the FBI during the time that I was in the U. S. Attorney's Office where there was an individual who was receiving. And of course, all of the intelligence indicated that he was in the gambling business, he was a racketeer of the Bolita business and so forth, and he was receiving flash paper. Now, the Bolita racket generally concentrated on Saturday morning sales. And you would use the phone to call in. If you were a Bolita seller, you'd be on a corner and people would be making bets. And you would take the bets. And then you would call in the numbers to a check-up house. It might have two or three phones. And the sellers were calling in with the numbers and somebody is writing. Well, the writing material is good physical evidence. But if you raided the place, they always had a cigar or a cigarette and all they had to do was touch it and that evidence just disappeared.

M: So flash paper was combustible then I guess.

S: Instantly combustible. And we demonstrated in the courtroom, for instance, the federal judges had no idea what are you talking about, flash paper? Judge, would you like to see what flash paper is about? Yeah. So you would get a big ashtray, you would get a piece of flash paper, fit it into the ashtray, somebody lit a cigarette and then would

just do this, just flip a little bit. Just the smallest sparkle would hit this and this would go up, and you couldn't even do an ash analysis. There were not enough forensic ashes for a forensic expert to be able to say, oh, yeah, you're betting on the Philadelphia Phillies, you're betting on the Tampa Bay Rays, no. So that became one of the mechanisms before RICO.

S: So the other thing that federal prosecutors confronted with federal grand jury investigations was you brought in a racketeer, do you think that he's going to rat on his people? No. So they would invoke their 5th Amendment right and that's all that you got. So rather than just use the grand jury as a spectacle, no, you can't do that, you've got to maintain the credibility and dignity of the federal grand jury, you better have some good evidence to present. You don't want to just bring in all the Italian-sounding names just to show off that you suspect that they might belong to the LCN, Las Cosa Nostra. No, you better have some solid evidence or the federal judge will call you in and say are you abusing the federal grand jury system?

M: I know that you've talked a little bit about some judges, what their demeanor was like, but I'm not sure that we've talked about your time when you would have to go to Orlando. You would have to drive back and forth between Tampa and Orlando. Can you talk a little bit about how regularly you had to do that?

S: As I recall, at least once a week I would be traveling to Orlando. When we had trials in front of Judge Young, if the trial was just a one-day trial that was easy, but I'd have to carry a bag if I was going to have to stay overnight and I think the U. S. Marshal in Orlando, the supervisor was a guy called Jack Peeples, who later became the United States Marshal after McGuire from PT-109.

M: 109 McGuire.

S: 109 McGuire. Jack Peeples had apparently gone over to the manager of the Travelodge about two or three blocks behind the federal courthouse, the old post office Mediterranean building, not the new modern one where the George Young Courthouse is located, and he would have federal witnesses there. And we took advantage of that special rate that we got. We were on per diem so that's where I would sleep, at that Travelodge. If that was filled, then we stayed at another motel called the Robert Meyer. They may not exist anymore.

M: Now, when you went over there, did you have staff that went with you together?

S: It depended what the nature of the --

M: And did you stay the night?

S: Yes.

M: Well, obviously you just said you stayed the night.

S: If I stayed the night and I needed a secretary to type up written jury instructions, then Vera Atkins, who was the administrative assistant who had been with the U. S. Attorney's Office many years, would also go and I would have to carry her electric typewriter and take it down from the fourth floor of the federal courthouse in Tampa, put

it in the car and drive to Orlando and then take it up to the second floor, and then at the end of the session, put it back in the car and bring it back to Tampa. We did not have the facilities. As I said the other day, George Young had a Xerox machine but we didn't. So, you know, we had to anticipate what issues were going to come up and carry our books from Tampa.

S: In Orlando, my recollection is that a second Assistant U. S. Attorney like, for instance, Bruce Fraser, would go to assist me, and Kendall Wherry would go. And Kendall even rented an apartment in Orlando, but we made that run at least once a week and sometimes stayed over. Sometimes the trials were protracted, complicated trials and they went into four, five, six days. I never had any case that took weeks to try.

M: Now, can you talk a little bit about your relationship with the judges? I know the judges are absolutely separate from your office and there's always an effort to keep your distance I guess you'd say. Would that be true?

S: Yes, but I think it was less than it is now.

M: Now, would you ever, or was this just not done, would you ever discuss the case at all with a judge?

S: Never.

M: If not, if you're not in open court or in his chambers in an official capacity? Never?

S: That was a no, no.

M: Would you ever socialize with the judges? Would you go to parties, would you go to picnics with let's say the Tampa Division, would they ever get together for picnics or outings?

S: No.

M: No, the answer is no.

S: The judge always was never part of that. Did we socialize with the judge? For instance, if Judge Lieb is eating at Morrison Cafeteria and you have your tray and you're walking by, Judge, may I join you? He's got to say yes or no. Yes, come over and sit, or no, not right now because I'm discussing something with my law clerks. Thank you, judge, and you go away.

M: So you wouldn't characterize your relationship with the judge any closer really than a defense attorney let's say?

S: No.

M: In other words, a defense attorney who sees the judge in the community maybe goes to the same church or is in the same club or whatever.

S: Shakes his hand, sees him at the Bar Association luncheon.

M: Right. So you wouldn't consider yourself any closer to him personally than say a lawyer in the hometown.

S: No, I would not consider myself closer to the judge. I probably felt I was closer to the judge's secretary and to the law clerk.

M: But you would never say, Judge, I have a problem with this case because blah, blah, blah.

S: Judge, I'm real concerned about a search and seizure issue, what do you think, no, sir.

M: Never anything like that, it was always official?

S: You had to respect not only the appearance of impartiality; you had to respect his impartiality. And certainly, you would never think of going up to the judge and saying, hey, man, give me a little slack over here because I have a weak case and if you could just let me slide this evidence in -- absolutely not. That's unprofessional, that's unethical. You don't even think about it.

M: Okay. That was my impression. I just wanted to be sure.

S: Now, let me also say this, Judge Lieb was a very reserved and private man. But I was one of the very few Assistant U. S. Attorneys that at Christmastime, he would have in his private home a little Christmas get-together. His wife would make some cookies, she'd make some cake. But I used to sing. I had a good voice. Judge Lieb would invite me because his wife was an accomplished piano player. His son, much younger than me was studying music and we would sing some Christmas carols. But who was there? Judge Paskay, who was the bankruptcy referee, the law clerks, the judge's secretary, the judge's wife, the spouses of the two law clerks. So it wasn't an Assistant U. S. Attorney alone with the judge in his private home, no. Now, periodically, we would go to the Orlando or Orange County Bar Association Law Day Luncheon and we would sit at the table with Judge Young and with his law clerks. We would socialize no more with Judge Young than a defense attorney. A defense attorney might be sitting there. A defense attorney that may have worked for Judge Young as a law clerk three or four years ago, but that doesn't mean that you're going to have an edge in the courtroom because of your having an ice tea at the Bar Association luncheon.

S: When you become a lawyer, professor, you know that a judge is a referee. A judge is an umpire and you may not always like what the umpire rules but the game continues and you go on. And you might think he made a mistake on this ruling. Next time he might make a mistake on your opponent and you benefit from it but there is a certain line that you do not cross. You're my professor. I may see you at the Publix market. You and I may be in the same line to pay, you and I may stop when the lady is giving us a wine sample and we might toast to each other, but that doesn't mean that you're going to give me a better or a worse grade because of that contact. You're going to grade my paper on the merits of what I have exposed to you. But neither do I call you and say, hey, I had a glass of wine with you, I want an A. No, you don't do that, you respect that that's the referee and the referee may be in the same pew with you in church on Sunday but while you're in the field, you better maintain the rules or he's going to give you a red card and get you out of there.

M: We've got about five or ten minutes left and what I want to do is ask you about near the end of your time in the office and you make the decision to leave the federal prosecutor's office. What's going through your mind about the next group coming in and also after you get elected as solicitor, how much contact did you have with the office or did you not have much contact with it at all?

S: Well, let me answer the last part and then I'll get to the first part. When Nixon wins the presidential election, Hubert Humphrey loses the election; we know that there will be a partisan change in the U. S. Attorney, which means that Edward F. Boardman is no longer going to be the U. S. Attorney for the Middle District of Florida. Somebody else is going to be. Well, I didn't stop visiting the U. S. Attorney's Office because the secretaries were friends of mine, the assistants were friends of mine, and I personally liked Judge Lieb very much. I liked his law clerks. His law clerks eventually worked with us. But I continued visiting. The marshals were my friends. The postal inspectors were my friends. I saw them in the street. I would visit with them, FBI agents that I knew. Just because you got elected and you're now a state prosecuting attorney, doesn't mean that you divorce the old friends that you had. No, I continued that. With time, those people changed and they went on to others and you stop visiting them and they stop visiting you.

M: And do you remember who was appointed to the U. S. District Attorney at that time?

S: Yes. John Briggs from Jacksonville was appointed after some delay. Apparently, the senators could not agree as to whom the new U. S. Attorney for the Middle District was going to be but eventually it was John Briggs. So Mr. Boardman was a holdover U. S. Attorney during that indecisiveness by the senators, what name they were going to choose.

M: So that went on almost a year?

S: I suppose, I don't remember but I think it probably took almost a year. And then, Mr. Briggs, being from Jacksonville, designated Jacksonville as the new headquarters of the U. S. Attorney. So this became a satellite of Jacksonville.

M: Now, do you remember the others as they came along, what you thought of them from time to time?

S: Yes. I used to attend the swearing-in ceremony of the new U. S. Attorneys because I always extended a hand as the elected prosecuting attorney to the new federal prosecuting attorney. Most of them were unknown to me. I don't have the list of all the different -- but Mr. Briggs, I remember Mr. Briggs and different cases that we worked together. We had Gentzman (phonetic) I just don't have in my mind right now the list but I was the elected prosecuting attorney here and I made myself available to cooperate and to help with their duties, too. The first part of your question --

M: Had to do with what was going through your mind as far as leaving.

S: Okay. I had considered a newly created county prosecutor position that the Florida Legislature had put on the ballot and that the public had voted in favor of recreating a prosecutorial position called the county solicitor. Many of the county solicitor's offices

had been abolished and the authority of the county solicitor's offices had been given to state attorneys. That had happened in Tampa. Tampa had a Hillsborough County Solicitor's Office. It eventually was abolished and they put all the authority of state prosecution in the state attorney. But in a political election, one of the candidates had said that there was too much power concentrated in one state attorney and that Hillsborough County should have a dual prosecutorial system much the same as Polk County had, Broward County, some other counties, West Palm Beach I believe. And the public voted to recreate the county solicitor's position. When that passed, I considered is this the time for me to leave the U. S. Attorney's Office and run for office. And I think what pushed me over the line was a night that I heard Lyndon Johnson say, "I will not accept my party's nomination." And then I said, "If the Republicans come in, they're going to fire all of us Democrats and I'm going to throw my hat in the ring. I'm going to go talk to my boss tomorrow." And the following morning I walked in and I said, "Mr. Boardman, did you hear the president?" And he said, "Oh, yes. I sure did." And then I said, "I'm seriously thinking of leaving the U. S. Attorney's Office to run for county solicitor." And he told me, "Well, I cannot let you be campaigning for county solicitor while you are an Assistant U. S. Attorney, you're going to have to make that decision and when you're going to leave." I made the decision to run but since I had not taken vacation or sick leave for almost four years, I had enough time that a check could come in for untaken vacation to hold me almost to the runoff election, which was May 28, 1968. So at least I had my check coming in.

M: Well, thank you, Mr. Salcines. We're concluding this interview.

S: Thank you for the privilege.