



**GEORGE H. W. BUSH ORAL HISTORY PROJECT**

**TRANSCRIPT**

**INTERVIEW WITH WILLIAM P. BARR**

April 5, 2001  
Charlottesville, Virginia

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## TRANSCRIPT

### INTERVIEW WITH WILLIAM P. BARR

April 5, 2001

**Young:** Mr. Barr understands that he will be the only one, aside from those who produce the transcript, to see the original transcript. He will have the opportunity to edit it to his satisfaction, and we will request his clearance of that edited transcript so that it can be used for philanthropic, educational, and research purposes. One copy will go to the Bush Library and one copy to the Scripps Library here. We all understand that the main audiences of these oral history proceedings are people not yet born. We'd like to think that we are speaking for history and to history, so the purpose is a form of long-term and permanent enlightenment about each administration we study, so that the voices and story of the Presidency, as it was seen by those who knew it best, can be recorded.

Why don't we go around the table and each of you say a few words for the purpose of identifying your voice for the transcriber.

**Barr:** I'm William Barr, and I served in the Bush administration as Assistant Attorney General, Deputy Attorney General, and Attorney General.

**Young:** I'm Jim Young.

**Baker:** I'm Nancy Baker. I'm a professor at New Mexico State University and fascinated with the attorney generalship.

**Riley:** I'm Russell Riley, an assistant professor here at the Miller Center. I was a graduate student years ago, also working with Jim at the Miller Center on earlier oral history projects.

**Meador:** I'm Dan Meador, law faculty, retired, of the University of Virginia Law School. My association with the Department of Justice was that I was an Assistant Attorney General when Griffin Bell was the Attorney General, 1977 to '79.

**Young:** So we can start. We'd like to hear in your own words how you came to join the Bush administration and became, through a series of steps, the Attorney General.

**Barr:** I started off in Washington at the Central Intelligence Agency and went to law school at night while I was working at CIA. During my tenure at CIA—1973 to '77—the investigations of the agency started, and I moved to the legislative counsel's office. While I was there, George Bush became the director of Central Intelligence, and that was my first exposure to him. During that time, there were not only investigations that required his appearance, there was a lot of

legislation that curtailed the powers of the CIA that he had to go up and testify about. That brought me into some contact with him.

I remember the first time I actually dealt with him. It was legislation proposed by Michael Harrington, a very left-wing representative, and Bella Abzug, that would require notifying all the people whose mail had been reviewed by the CIA under a program called HT/Lingual. He had to go up and testify against the legislation. I had written testimony, and I went up and sat in the seat that's behind the witness. Someone asked him a question, and he leaned back and said, "How the hell do I answer this one?" I whispered the answer in his ear, and he gave it, and I thought, *Who is this guy? He listens to legal advice when it's given.*

So I had that kind of exposure to Bush—not that much. I was a junior staff person there, but because of the intensity of the Hill oversight at the time, I guess I had more contact than I otherwise would have.

I applied for a clerkship as I was heading for graduation, with Malcolm Wilkey, a U.S. Court of Appeals judge on the D.C. circuit and a Houstonian. He had been U.S. attorney there as well as the head of the criminal division of the Justice Department in the [Dwight D.] Eisenhower administration. Wilkey took it upon himself to call Bush at the time I applied, for a reference check. Bush said he knew me a little bit but would check further into it, and he talked to other people about me. I guess this registered me in his mind as somebody who was at the Agency and was clerking for an acquaintance and friend of his, Malcolm Wilkey. This is a long answer, but it's sort of interesting, at least the way things worked out.

I went into private practice after my clerkship, and when [Ronald] Reagan came to power, I was on the transition, but I was involved in litigation, so I didn't go right into the White House. After the litigation was settled, I went over to work with the domestic policy staff. In that capacity, I had a lot of contact with [C.] Boyden Gray during the time I was there, mainly on regulatory kinds of issues, and we became friends.

**Young:** Excuse me for interrupting. Boyden Gray was at that time—

**Barr:** Counsel to the Vice President. I didn't have too much contact with Bush, but I had a lot of contact with Boyden Gray during the time I was at the White House. Then I went back to private practice to make partner in my firm, and Bush ran. A friend of mine, who had been a co-clerk and had worked on the NSC [National Security Council] staff and was close to Jim Baker, named Bob Kimmitt, asked me if I would help with the Vice Presidential screening. So I got involved in screening people on a list of potential Vice Presidential candidates.

I was down at the convention, and when all the crap hit the fan on [Danforth] Quayle, I spent several weeks doing damage control—how to respond to different allegations that were being made. After the election, I worked in the counsel's office of the transition team, and the first sub Cabinet position that they considered was the head of the Office of Legal Counsel [OLC] because Boyden Gray thought that that was a very important job and was intent on getting someone in that position who believed in executive authority. He asked me if I would take that

position. Although I in some ways wanted a more commercial job with a little bit more application to private practice, I thought, *Oh, it's a pretty good job actually, so I'll take it.*

So I went into the Office of Legal Counsel. I met with [Richard] Thornburgh. I had not known Thornburgh. I was the White House's choice, and I was acceptable to Thornburgh, and so I started there in the administration. I believe, based on what Boyden said, that Boyden told the President that he should appoint me as head of the OLC. He reminded the President who I was, that I had known him since the CIA, had supported Bush over the years, and that sort of helped. That's a long answer.

**Young:** I'd like to ask a little bit about the screening—what actually you were doing there, what was going on? There are very few people who seem to know the full story of how the selection of Dan Quayle came about, though we haven't asked everybody.

**Barr:** Did you interview Bob Kimmitt?

**Young:** We haven't talked to him yet.

**Barr:** Or Bob Teeter?

**Young:** He's on our list, too.

**Barr:** A list was given to us. I can't remember how many people were on it, maybe eight or nine people. We got all their tax returns and financial records.

**Meador:** Are we free to interrupt with a question? Where did that list come from? Who made it up?

**Barr:** It came from Vice President Bush.

**Meador:** Who made up the list initially?

**Barr:** I don't know who helped him on it. I assume that Teeter and Baker and others consulted with him on it. So we looked at press coverage and interviewed some people who could tell us about whether there were certain issues we should look into. We had a guy named Fred Goldberg who later became IRS [Internal Revenue Service] commissioner—who was a tax partner at Skadden Arps—look over their income tax. I looked over press accounts. I interviewed people relating to Quayle; I interviewed people who were related to the Paula Parkinson issue. I had to go around and interview people and find out how we were going to handle different issues. In Quayle's case, we looked at what issues had come up in his earlier campaigns. I don't know how the decision was reached.

**Meador:** Do you mind saying who else was on that list of eight or nine?

**Barr:** People like Bob Dole? I think it was Bob Dole, Jack Kemp, Paul Laxalt, a few others.

**Young:** Do you remember at what stage this list had been prepared for examination? Was it rather late or was it early in relation to the nomination itself?

**Barr:** Oh, there was plenty of time. There was no rush on it. I can't remember exactly. Names were occasionally pulled and added during that time. Quayle had not always been on the list. I didn't discuss this directly with the Vice President or Baker or Teeter. Kimmitt went over to brief on individuals—not all at one time, but he would go over and talk to him about one, and the next day about another, and so forth. Kimmitt did mention the National Guard service, so it was not a surprise. I guess you know that a few of the things that came out were not legitimate allegations. They were false, such as the allegation that someone else took his bar exam.

But aside from that, the things that came out were all things that had surfaced and been discussed. When the thing started looking like it was going south at the convention, people tried to distance themselves from the process. I think that was unfair to Bob, that they tried to suggest that this stuff was a surprise.

I remember there were people who felt that we should get an idea of who it's going to be, with some lead-time to prepare them for the inevitable press conference, and go over some of the issues that we thought would come up based on our review. I don't know who made the decision, but the thing was obviously very rushed, and there was virtually no time for preparation at all. I didn't find out about it until I got down to New Orleans right before. In fact, I think Bush told Kimmitt while he was driving in the limo to the hotel in New Orleans, just after his arrival in New Orleans, who it was going to be. He went up on the showboat, and I was standing there. I was supposed to be told who it was so we could go and pull that file and tell some other people who it was going to be. And Kimmitt was up on the showboat with Bush, and he went like this.

**Riley:** For the record, the respondent made a “Q” sign in the air.

**Meador:** Do you have any theory about why Bush chose Quayle?

**Barr:** It's just my own personal speculation. I think he was looking for a younger, vigorous guy, that generation. Quayle came across as an attractive young politician who was fairly conservative. Teeter had been involved in some of his campaigns and probably thought a lot of him. Although people later tried to distance themselves from it, I think he probably consulted with Baker and others about it and felt comfortable about Quayle.

I personally feel that Quayle got some bad breaks early on, like that first press conference where things he said were misconstrued, or he was inadequately prepared. Quayle was actually a very intelligent, able man, in my opinion. He may not come across as a heavyweight, which may be one of the problems, but I think he's a very able person.

**Young:** You've already said that one of the questions is the degree of preparation that Quayle had for being chosen and for facing the press. I understand from what you just said that there really wasn't any preparation.

**Barr:** Not that I'm aware of. And I think Bob Kimmitt felt the same way. So I spent the entire time in New Orleans in my hotel room chasing down malicious rumors about Quayle.

**Young:** Who was in charge of handling the damage control?

**Barr:** I can't remember exactly, but Bob Kimmitt and I were involved. I'm sure Baker's people got involved at some point. Kimmitt, for a period of time—at least when I was most active, which were the days during the convention and right after the convention—Bob and I were doing a lot of it, and it was very *ad hoc*. For example, we called lawyers in Indiana. One of our friends had worked in the White House in the Reagan administration, so we called him, and he followed up on the National Guard questions. It was all very *ad hoc*, just using our informal web of friends around the country.

**Young:** As somebody who had been in the Reagan administration, but with good ties with Boyden Gray, and known at least to George Bush as the Vice President, do you have any observations you'd like to make about the experience of moving from one administration to the other? A lot was made in the press at the time about tension during the transition period between Reagan's people and the Bush people. Do you have any observations to make on that? Were there instances of that? How was it handled? Was it a friendly takeover?

**Barr:** It was generally a friendly takeover. I was not an incumbent in the Reagan administration. I was coming from my law firm. There were obviously people who felt that because this was a friendly administration, they should be able to stay in their jobs. I think they were surprised that there was a presumption that people would move out of their jobs and make room for a new group. In Justice, obviously, Thornburgh had just come in to replace [Ed] Meese, so I believe he had extracted some indication that in the change in administration he would stay on. I'm not sure about that, but I assume that he did.

But I know that a number of the people in the Justice Department, like Frank Keating and Doug Kmiec and others, felt bad. They felt they should be considered for these positions, and they felt bad that they were being pushed out. I was put in an awkward position because I was awaiting confirmation, and I sort of hung out in OLC, and Doug was still there issuing opinions. Since I wasn't a government employee—or at least I wasn't confirmed at that point—I wasn't going to interfere with what he was doing.

**Meador:** Was your selection as Assistant Attorney General made before Thornburgh was selected for AG?

**Barr:** No, no, Thornburgh was there. I forget exactly. I think he came in in August, right before the election. Meese went out, and Thornburgh—

**Meador:** He was already in place when Bush—

**Barr:** Yes, he occupied the position initially under Reagan, before Bush won the election. He was in place, and he had some personal staff around, people from Pennsylvania. But he didn't have any other people who were part of the Bush administration in there. I was the first to come

in. I was the first selected sub Cabinet person nominated, I believe. I went over to Justice, and I think I got some kind of temporary employee kind of thing so that I could actually hang around there.

Basically, it was a very strange transition to the Justice Department, sort of backwards, if you will. Ultimately you can say it benefited me and that was primarily that Thornburgh had difficulty getting a deputy on board. He wanted [Robert] Fiske, and Fiske got blocked. Meanwhile, I was the senior appointed official in the Justice Department, and I was the only guy who could actually work with Thornburgh and deal with his Pennsylvania crowd there. Some of his staff were exclusionary and made a big mistake trying to isolate Thornburgh. Because of the nature of my job, I actually broke through that and gradually built up a relationship with Thornburgh. Then he brought in somebody else as deputy, and as you know, that guy self-destructed in six months. Then, because of the way things evolved, I was almost the actual deputy for a long period of time.

**Meador:** To what extent did Thornburgh select the other Assistant AGs as contrasted with the White House selection of those people?

**Barr:** Personally, I think one of the hallmarks of the Bush administration was actually they did a fairly good job. All administrations completely screw up personnel, in my opinion, including the current administration, although they've got very good people in top positions. But they usually screw up the lower positions. I thought Reagan did it to a fare-thee-well. I mean, they just brought in this polyglot group. It's a sort of capricious process, and people got jobs they had no business getting. I thought Bush actually did a fairly good job at it and was fairly deferential. Both the White House and the Cabinet Secretary had to agree to appointments. But I think that they were fairly deferential to the judgments of the departments and a couple of the Cabinet Secretaries, as they should have been.

Now, OLC was different because OLC is viewed as the lawyer for the White House in a lot of ways, and so they have a bigger role in choosing that position. Basically they would send over three or four people to be interviewed for the different Assistant Attorney General positions. Thornburgh would then say who he liked, and the White House—namely Boyden—would okay it, and they would be hired. Boyden was, in my opinion, a very good counsel to the President and, in fact, he and I are proud of the fact and comment to each other that in the four years, no one ever really got in trouble in the Bush administration. There were no real scandals to speak of that took significant people down.

And, contrary to some views, he did not intervene or interfere much at Justice. Watergate made Republican administrations very wary of the Justice Department, and I think Republican administrations—including the Reagan administration, and certainly the Bush administration—took the view that the Attorney General/Justice Department was special and different, and you didn't mess around with it, didn't intervene, you didn't interfere. There was a lot of deference paid. Boyden had certain areas that he was very active in, like judicial selections. He and his crew were very into that, which is fine. And he had certain regulatory issues that he was heavily involved in, the regulatory council under Quayle. He had certain other issues—like ethanol and

other environmental things—that he got very interested in. But basically, he let most of us in Justice do our shtick, and they were very deferential to us.

Let me just give you an example of how deferential. I remember right before we indicted the Pan Am 103 people, the investigation was going along, and the President said to me, “Would it be okay for you to brief us in the National Security Council on where things stand?” *Would it be okay?* “Well, I work for you; you’re the top law enforcement officer. Of course it’s okay.” The attitude was, you have to be very careful with pending matters of justice.

**Meador:** Do you recall any incident during the whole four years of the Bush administration in which either the President or somebody in the White House instructed the Attorney General or the Department to take any steps or do anything specific?

**Barr:** You mean a case?

**Meador:** Any case, or to adopt a certain policy to pursue? Any sort of instructions, you might say, coming down from the White House?

**Barr:** Never in a criminal case, and never in a civil matter, except in certain positions that we were taking to the Supreme Court, yes. The only examples I can remember are the [Nancy] Cruzan case, where Ken Starr wanted to take a position that I felt was sort of wishy-washy, and I think Thornburgh thought it was wishy-washy.

**Meador:** Did you get White House instruction on that case?

**Barr:** I wouldn’t call it instruction. I think we went over and talked to Boyden and told him the differences of opinion and asked him what he thought. It turned out that he agreed more with Thornburgh and me, and so the brief was written accordingly.

**Meador:** Were there other instance of Supreme Court cases where you had significant White House involvement or discussion about the position to be taken?

**Barr:** That was the only one I remember. There was no question which side we were coming at in Cruzan. The question was the legal analysis and how strong our position was.

**Baker:** How about the VMI [Virginia Military Institute] case? I understood that there was some disagreement with the White House—if you should pursue an appeal.

**Barr:** I’m trying to think how that happened. You have to remind me what happened there.

**Meador:** The district court held that VMI could constitutionally operate as it was, didn’t it?

**Barr:** Right.

**Meador:** That was my recollection. That’s what the district judge, Jack [Jackson] Kiser, held. It went to the fourth circuit then, and I don’t know the rest of it myself.



**Baker:** There was something about the circuit decision that surprised people.

**Barr:** I think the Justice Department took the position that supported coeducation, but—this is very vague—we wanted to allow the school a lot more flexibility in structuring programs so that they could have a sort of separate but equal type facility or cadet program. We were basically trying to be more deferential to the state in the position we ultimately took. I thought that’s what we did. I don’t remember a big disagreement. I saw where I gave remarks before in the book, and someone suggested, or I suggested, that I disagreed with Boyden about something on a civil rights matter, but I really can’t remember.

**Meador:** Within the Justice Department, were there any significant disagreements, say, between the Solicitor General and the Attorney General—either you or Thornburgh—about a position to be taken, not necessarily involving the White House, but internally within the Department?

**Barr:** Yes, there were significant disagreements sometimes between the SG’s [Solicitor General] office and my office on a position. One of the big ones was the *qui tam* statute, which is basically a bounty hunter statute that lets private citizens sue in the name of the United States and get a bounty. I felt then, and feel now, that is an abomination and a violation of the appointments clause under the due powers of the President as well as the standing issue of the Supreme Court. So I wanted to attack the *qui tam* statute, and the SG’s office wanted to defend it. That was a big dispute.

**Meador:** How did it come out?

**Barr:** Mexican standoff, we didn’t file at all. [laughter]

**Baker:** I’d like to rewind, because you made some interesting comments when you were at the OLC about the Deputy Attorney General, Ayer. Was Donald Ayer selected by Thornburgh? How did he end up as deputy and yet still feel frozen out? I get a clear sense that you were able to work with Thornburgh and that inner circle of Pennsylvania aides.

**Barr:** What happened was Thornburgh made a mistake because he was acting on the rebound, and he acted quickly to salvage the situation. He was embarrassed by the fact that Fiske had gone down in flames, and so he acted very quickly in plugging in a substitute. I think he was guided by the advice of Robin Ross, who was his chief of staff and a Pennsylvania guy. He had been with him as Governor, and Murray Dickman, another aide who had been with him as Governor in Pennsylvania. I think they had known Ayer when he was Deputy Solicitor General, and he looks good physically, and he has a good resume, and so they just quickly moved on it. I don’t know exactly who recommended him.

But Ayer basically came at it as you would expect someone from the SG’s office to come at it, no feeling for how to run an organization, no feeling for how to deal with people. He took very rigid—unnecessarily rigid—positions on things. He was too concerned about his prerogative, that he be given the prerogative of the office—rather than earning the prerogative—in everyday give-and-take of discussion and dealing with others and so forth. He had a tin ear, he had no

political sense, he did stupid things. I thought Thornburgh was actually too patient with him, and to hang on as long as he did was clearly a mistake from day one.

I'd been handling national security affairs every since I started at the Justice Department because Thornburgh saw that I had the CIA background. This actually turned out to be important for my own career. He said, "Why don't you go over and get into National Security Council stuff?" So he sent me over to sit on something called the Deputies Committee, which is actually a pivotal group within the administration. The Deputies Committee became the crisis management committee for the administration on foreign affairs. Then it started branching out in other areas because it was such an effective group. In my opinion, it was one of the best groups I've ever been associated with.

Bob Gates was the chairman of it, Larry Eagleburger and Bob Kimmitt from State, David Jeremiah from Defense, and I was an assistant secretary, and I was in Justice. [Paul] Wolfowitz was also from Defense. During the Panama matter—or leading up to those matters, where there was stuff going on—Thornburgh had me dealing with it and reporting to him. Ayer had arrived on the scene and started trying to take over that account in a confrontational way. Thornburgh said, "It's none of your damn business. Barr's handling that." And he felt irritated by this, a slight somehow. They just didn't hit it off, and after a few months he was gone.

**Baker:** So it wasn't that difficult for you to move into the inner circle, as it were. Or it wasn't that closed a shop that Thornburgh had established as Attorney General?

**Barr:** It was somewhat tight, but it wasn't so closed that I couldn't get into it, and Mike Luttig, who was my deputy. Mike and I were very close, and Mike, as you know, became head of the OLC and then went on the fourth circuit. I was very pleased to get him to come in because he in his own right could have been head of the OLC from the beginning. He came in as deputy. He and I rapidly became the chief aides to Thornburgh, aside from his Pennsylvania people, so that when his Pennsylvania people got in trouble, I told Thornburgh that they may have to go, he agreed with that and asked me to do it. So I had a meeting, which was an awkward thing for me, but I basically had to tell his Chief of Staff—and this happened in a very short period of time—"You are out." Basically, Luttig and I then moved in. [laughter]

**Baker:** Here you had Thornburgh coming in right after Meese's controversies in the Justice Department, and then Thornburgh facing problems, and then finally you coming in. There was a lot of discord—or unsettling, maybe—in the Department of Justice. Did that hurt morale? Was it difficult to get things done?

**Barr:** You're asking about Thornburgh's tenure, in some sense. Thornburgh, in my opinion, was just great. He was a great man and had all the attributes to be a great Attorney General, and I think he was. But even more than that, I think he was not well served by his aides. A lot of people say if he had had the same Chief of Staff that he had as Governor—unfortunately, he became a judge and therefore was not available, a guy named [Jay C.] Waldman, who had served him—he would have been fine. The people he had around him were not seasoned, they didn't have good judgment, they didn't understand the Department of Justice, they didn't understand Washington.

And I also think they started thinking ahead of Thornburgh as a potential Presidential candidate, so they isolated him. The people who are Assistant Attorneys General do not like having to deal with some staff guy for Thornburgh acting like he's the Deputy Attorney General. They tended to cut off substantive access to Thornburgh, and there was a lot of resentment on their part because of that. But when issues did get Thornburgh he was right on the money.

**Meador:** Since Thornburgh brought all those people in from Pennsylvania, why is it that he had to call on you to tell them to go? He couldn't speak to them himself?

**Barr:** I think it was awkward for him, too, because these people had been with him a while. I think that generally, when you've been in as high a position in government as Thornburgh had, you try to avoid unpleasant situations if you have other people who can do it for you. [laughter]

**Baker:** You're the hatchet man.

**Barr:** Yes, I was.

**Meador:** Can I go back into the work in OLC for a minute? When you rendered opinions, or your office prepared opinions of various kinds, to what extent were they actually run by Thornburgh? Or did you just put them out without ever clearing any of them with him, or how did that work?

**Barr:** Well, there are two different kinds of opinions. I think I wrote only one opinion that was an Attorney General's opinion while I was there. That was the [Joe] Doherty case involving the Irish terrorist we were going to put back into British hands. Otherwise, they were OLC opinions where I signed them, and basically I did not run them by Thornburgh. However, I think a few of them got notoriety, and he hadn't heard about them in advance.

He said, "We need a system for you to give me a heads-up on what you're saying on these things, so that if they're made public or get out, I'm not blind-sided." I put out routine opinions, but I would warn him if I was putting out ones that I thought could be politically sensitive if they were disclosed. But he would never second-guess my legal judgment.

**Baker:** So the White House counsel would come to you directly? I know Theodore Olson said that when he was head of the OLC, he and the White House counsel spoke every week. Was that your situation?

**Barr:** Oh yes. I probably spoke every day to Boyden or someone in his office. People in his office would talk to my deputies. But other general counsels, people within the department, received advice as well. We set up some things because of Boyden's and my own interest in the powers of the Presidency and President Bush's, too, because I think Bush felt that the powers of the Presidency had been severely eroded since Watergate and the tactics of the Hill Democrats over an extended period of time when they were in power. So we set up a group of general counsels under my chairmanship, and we'd bring in all the general counsels of all the executive agencies. I chaired the group. Boyden would come over, and we basically set uniform standards

on how you handle document requests, how you serve executive privilege, what Congress can get, what they can't get. We tried to impose a certain uniformity.

**Meador:** I'd like to ask another question about relationships between the Justice Department and the White House. Griffin Bell set up a system, and I wondered if this was continued or anything like it. He established a system—and he got an understanding with the White House—whereby all communications coming from anybody in the White House would come only through the Attorney General or the deputy or the associate. They would deal with it, and it would be up to them to decide whether they brought in anybody down the line on it. The point was to immunize people lower down from any potential pressure or interference. Did you have any system like that in effect during the four years you were there in the department?

**Barr:** Yes, we continued with the Reagan rules that had been put in place by Fred Fielding at the beginning of the Reagan administration. I told [Alberto R.] Gonzales, I talked to him about this administration—"Start out very tight, and then as people start getting better judgment, and they understand what's right and what's wrong, you can loosen up a little bit." But basically there are three points of contact: There's the Attorney General, there's the Deputy Attorney General, and there's the head of OLC. Those are the principal points of contact.

The head of OLC, depending on what their role is—at minimum, legal opinions are discussed. The positions the administration should take on Hill testimony or legal opinions—that's discussed on a regular basis with the White House. Inquiries about other matters, operational matters, tend to go to the Deputy Attorney General unless someone wanted to talk to the Attorney General. But I would regularly talk to the White House on all positions I was taking part in. I would talk to the Chief of Staff, I would talk to Boyden. It's not true that there's only one channel, from the counsel to the head of OLC or just to the counsel. I would talk to [John] Sununu; I would talk to Andy Card when I was deputy and Attorney General.

**Riley:** Could I ask you to return just a minute to this committee that you said you had set up because of concerns about the erosion of Presidential power? Could you elaborate a little more about the operations of this? Did you deal with things on a fairly high theoretical plane, or were you establishing very pragmatic sets of policy?

**Barr:** There's a memo—I think it has actually been made public by the administration, or it was among published OLC stuff. We went through eight or nine issue areas, current issue areas, that were precipitated mostly by Congress, that impinged on congressional prerogatives. We basically were sort of the police on those issues, and we met on an ongoing basis.

The OLC under the [Bill] Clinton administration has become a shadow of its former self. But it was a big deal in the Reagan administration and the Bush administration and had a lot of power. Under me it grew to twenty-six lawyers, I think. It went down to eight or nine or something now.

**Meador:** Could we talk a bit about judicial nominations and the role of the department and White House during the four years you were there as AG or lower down? Can you describe, generally speaking—lay aside the Supreme Court for a moment—talk about district judgeships, court of appeals judgeships. Could you describe how that was handled?

**Barr:** There was a judicial selection committee over at the White House. I believe it was chaired by Boyden. It has traditionally been chaired by the Counsel to the President. Usually the Attorney General attends that, accompanied by the principal aide of the Justice Department who's involved in judicial selections.

**Meador:** Who was that in your time?

**Barr:** When I was there, before I was Attorney General, Thornburgh would take over Murray Dickman, one of his Pennsylvania guys, and the only one who survived, actually.

OLC took the lead in pulling together opinions if someone was already a judge, or background material that would reflect the person's philosophy, abilities, and so forth, and do assessments of individuals. Candidates would come in and be interviewed by three or four of the committee, there was a committee in the Justice Department, the interviewing committee, consisting of Mike Luttig and Barbara Drake. I can't remember the others, but there were two or three others. Candidates would come in and be interviewed by this group at Justice. The group would then assess the candidate and have regular meetings with the department, sort of saying, "This person is a loser, this person is okay, this person's fantastic," and then giving that feedback to Boyden. I believe [Lee] Liberman and others in his office would be in on it.

**Meador:** There was something called Office of Legal Policy. Did it have any role at all in this?

**Barr:** One of the people in the Office of Legal Policy, I think, was an interviewer. When Meese was there, he had a guy named [Stephen] Markman, who was head of Legal Policy, and he was sort of the chairperson of the judicial selection thing. But it moved to OLC under Thornburgh.

**Meador:** To what extent did Thornburgh himself have any role to play in these district judgeships, court of appeals judgeships?

**Barr:** On those things, it was basically handling heavy lifting on the political give-and-take that occurs on those appointments. You know, Senators have their favorites, and there's a lot of politicking going on, and so he would have to handle those kinds of things.

**Meador:** Were there any situations in which your Justice Department group was at odds with the White House legal counsel group, the committee?

**Barr:** Oh yes, not severe problems, but there were certainly cases where we preferred somebody, and Boyden and Lee Liberman preferred somebody else. But I don't recall any real bloodbaths.

**Meador:** Did Bush himself ever take any interest in an individual appointment?

**Barr:** Below the Supreme Court level? Yes, when he had heard from Senators or a particular friend of people he knew who were pursuing judgeships, he would weigh in.

**Young:** With Boyden Gray?

**Barr:** Usually with Boyden. The hardest part of judicial selection is on Capitol Hill.

**Young:** Could you talk a little bit about that and how much were you involved? We still haven't finished the subject of judicial—

**Barr:** It's a very important function, and I think President Bush had a firm view of putting good judges on the court who reflected his philosophy and our philosophy. But I personally did not get involved in it too much because it was so time consuming, and you had to deal with the Hill people so much. I basically let others do it.

Apart from the Supreme Court, which is handled in a different way—on other appointments, for example, in New York, we had this deal where the Democrat gets to name one out of every three, or something like that. We were requesting that each member of Congress give us three names for every position. We were saying they couldn't dictate a particular candidate. They had to come up with three names, and then we would choose.

Now most people complied with that, but there were a few who tried to dictate exactly who was going to get it. [Daniel Patrick] Moynihan came up with two names for two slots. Somehow he had a sense he was entitled to propose two people, so he submitted two names. He put a hold on all judicial confirmations. For weeks and weeks, no judicial confirmations were being done because he wanted his two people. Of course it reached an impasse—this was when I was Attorney General. I said, "Okay, I'll interview his candidates directly."

So I interviewed both of the people he was insisting upon, and I picked one that I thought, *We could live with this one*. It was Sonia Sotomayor, who's now on the second circuit. This was for a district court. I said, "Okay, well, tell you what we'll do. We'll do Sonia Sotomayor, but not the other one." The other one was one we just couldn't put on, from our perspective. I broke the logjam that way. But we lost weeks and weeks with this kind of—

**Young:** But you didn't deal with Moynihan directly.

**Barr:** Oh, yes, he'd call me up. The Senators would call.

**Meador:** Did you ever have any problems with the ABA [American Bar Association] committee with all these judgeships?

**Barr:** Yes. We obviously had a running battle with the ABA throughout the entire time about their ratings of people. I remember meeting Ron Olson, from Munger, Tolles & Olson out in California. He obviously was a very reasonable guy. We talked to him about it. Later on, the president of the ABA came to my office, and he was an asshole.

**Meador:** Did you have problems that the ABA was coming in with reports of "not qualified" on people you really wanted? Was that the problem?

**Barr:** Yes. For example, there was clearly a bias against prosecutors. You could be an AUSA [Assistant U.S. Attorney] with significant cases, and they would come in with “marginally qualified” type ratings. Then some other person who’d never been in a courtroom would come in as “superbly well qualified.” It was extremely biased.

**Meador:** Did you ever have to go to the mat with them before the Senate Judiciary Committee? Let’s say you nominated somebody they were opposing and came in and testified against them?

**Barr:** I think we did, but I can’t remember. I vaguely remember some battles where we just went ahead and nominated people. I don’t recall losing one because of that.

**Meador:** I wonder if we could shift to the Supreme Court.

**Barr:** I just want to say something about appeals, because in appeals that involved Bush—the line-item veto was one that directly involved him—he talked to me about it when I was there at OLC. I thought it might be good to spend—it reflects his views on things.

There was pressure throughout the administration to look at the line-item veto. It wasn’t just something that came up late. When I was head of OLC, we started looking at whether there was an inherent line-item veto. There was a lot of conservative commentary about it, and supporters of the administration said that he should just test the waters, assert it, exercise it, and then get batted down. But it couldn’t be found. So we did a lot of research, and I had my monks in the Office of Legal Counsel going back into hoary antiquity looking for any kind of precedent we could use. And we did, we found Scottish precedents from 1500, and all that kind of stuff, weird.

Finally I went over to Boyden, and I said, “Boyden, I have good news and bad news.” He said, “Okay, what is it?” I said, “Well, the good news is we did find an example from 1415 or something, some king who did something that looks a little bit like a line-item veto. The bad news is he had tertiary syphilis and was mad as a hatter. So if we exercise this power, we should call it the ‘syphilitic prerogative’.” [laughter] In other words, I told him we couldn’t establish the line-item veto.

I talked to the President about it. He was in the East Room with some ceremony going on. Afterward he came in, and Boyden and I were standing there talking about this. He said, “You know, I’m under a lot of pressure to do this line-item veto stuff. My view is that you weaken the Presidency by asserting powers that aren’t given, and then getting defeated. Unless you feel that we have a good claim here—I don’t want you stretching—I think the way to advance executive power is to wait and see, move gradually. Certain prerogatives are clearly ours, and we should not reach for something that’s beyond our grasp.” That was an example of an opinion he discussed with me directly.

**Baker:** You felt on things like, let’s say, the pocket veto, that there were sufficient grounds to argue that a three- or four-day adjournment of Congress was not a recess.

**Barr:** Right, but also pocket vetoes, as I recall, had been through OLC jurisprudence and so I wasn’t very uncomfortable. I mean, if Luttig had really [inaudible] once in a while it would flare

up, but the office had never been involved in a pocket veto, as far as I can recall. But that was one that we felt more safe on.

**Young:** Were there any other examples like the line-item veto where you had direct conversations with the President about it?

**Barr:** I had direct conversations on other things, national security matters, prosecutors, certain prosecutors in the Noriega case, but on an OLC opinion, I don't recall any other. I talked to Jim Baker when he was Chief of Staff and I was Attorney General on the indexing, the ability to, by executive order, change the way you index capital gains rates.

**Young:** This was right at the end.

**Barr:** That was at the end of the administration, but I didn't discuss that directly with the President. I can't remember another opinion I discussed with him, except obviously the big ones when I was actually deputy. The biggest incident was the war in Desert Storm, and the Congress said he couldn't attack Iraqi forces without congressional authorization. That was the biggest advice I ever gave him.

**Meador:** I wonder if we could take up Supreme Court appointments. You had two vacancies during the Bush administration. I wanted you to take them one at a time in order and describe the process involved in filling those vacancies.

**Barr:** OLC was told at the very beginning of the administration to gather up the background work that we did on potential candidates under the prior administration. I believe that had been done in the Office of Legal Policy. We were to put together a notebook— When I say “told,” Thornburgh, Boyden, and I discussed this as the best way to proceed. We kept a notebook of twelve, thirteen, fourteen candidates.

**Meador:** This was well before vacancies occurred?

**Barr:** Yes, well before vacancies. This was like the equivalent of a group of people perceived to be possible Supreme Court justices.

**Baker:** A wish list.

**Barr:** A wish list. We kept this list, and we kept reading opinions, if they were judges, and some of their writings. We had everything we wanted to know about the individuals, and periodically we would discuss them. When I was Attorney General, Boyden said the President wanted to have lunch to discuss judges. So I went over. Boyden at that time was with Sam Skinner and the President. We had lunch in the area where President Clinton and Monica Lewinsky apparently carried on. We went over each of the candidates in the book, discussing the pros and cons. In case there was a vacancy, he just wanted to know who we were thinking about. I assume he had done the same thing with Thornburgh. Who was the first vacancy that came up when I was there?



**Meador:** Was it Thurgood Marshall's departure from the court?

**Barr:** Who was put on first? [David] Souter?

**Baker:** Souter.

**Meador:** [William] Brennan went off first, that's right.

**Barr:** I think I did meet Souter for the first circuit when I was head of OLC, because Sununu was pushing him. So I interviewed him. I think we put him on the first circuit or the second circuit.

**Meador:** First circuit.

**Barr:** He seemed okay. Then somehow when the vacancy occurred on the Supreme Court, Sununu, and particularly [Warren] Rudman, just went ape pushing Souter as a candidate—Rudman in particular.

**Meador:** Had Souter's name been in that book that you had compiled earlier?

**Barr:** No. It may have been added after we put him on the circuit, because people suggested he should be added. So he was added to the book. He was assessed as a candidate. There were three or four people who were presented to the President. I wasn't at that meeting at that point. By the time that happened, I was with the deputy's office. We had our own beliefs as to who should get that appointment. I believe that Thornburgh didn't take a hard and fast position, but suggested that Souter would be less controversial than Edith Jones. I think the main reason that Souter got the nomination was because of Rudman and Sununu.

**Meador:** Do you mind saying who else was in this book that had been compiled earlier?

**Barr:** Well, Edith Jones was certainly one possible candidate, but I don't want to get too deeply into it. My story has already been told about how we smuggled Souter in, and Mike Luttig spent a lot of time preparing Souter for his hearings.

On the second one, the two leading candidates were Emilio Garza and Clarence Thomas. I interviewed both of them. I was deputy. Thornburgh was still getting ready to go to go run Pennsylvania, so we kept him away from it. The President decided to pick Clarence Thomas.

**Meador:** Had Thomas been in that book earlier?

**Barr:** Yes.

**Meador:** He was in that from the start?

**Barr:** Yes.

**Baker:** So basically you recommended other people—

**Barr:** In both instances, Justice made recommendations in the process, and the people involved were the counsel, the Chief of Staff, and the Vice President. Those were the people in the meetings where it was decided.

**Young:** Why do you suppose the Vice President was included?

**Barr:** He was the Vice President. He was included.

**Meador:** Was there any serious disagreement on these selections, right down to the wire?

**Barr:** I believe that on Souter's case there were two votes for Edith Jones and two votes for Souter.

**Baker:** So it really was Bush deciding, breaking the tie.

**Barr:** Bush did not get good advice in the situation.

**Meador:** And on Thomas, was there any disagreement on that one?

**Barr:** No.

**Riley:** Are you at liberty to say whether there were other African-American candidates in the pool at the time?

**Barr:** I can't remember. I think there probably were.

**Riley:** Were you getting any external input other than the back-and-forth you were having with some people in the White House about this? Again, unlike some people here, I'm not an expert on the politics.

**Barr:** Sure, there's always kibitzing going on from outside on judicial appointments generally and Supreme Court specifically, prominent lawyers about town who tend to have a Republican or conservative background, will call and lobby, and politicians, and so forth.

**Riley:** Interest groups?

**Barr:** Interest groups.

**Baker:** Did the President ever ask that names be added to this book?

**Barr:** He would ask occasionally and pass the net again, try to develop additional candidates, make sure there was diversity.

**Baker:** I was thinking about Franklin Roosevelt getting so heavily lobbied for Learned Hand's appointment to the Supreme Court, and that hurt. He refused to appoint Learned Hand. I wonder if Bush himself was subject to pressure from others in the community, outside of government.

**Barr:** I'm sure he was—probably from Senators. But I never saw any of it. Aside from Rudman. I can't remember why Rudman was so important at the time, but Rudman was carrying a lot of water for the administration on the Hill. He was a very strong guy, and I think that he carried a lot of weight on the Souter nomination—

**Meador:** The impression you got from the press was that Rudman was really the key actor in the Souter nomination. Is that more or less accurate, do you think?

**Barr:** Well, he was the key actor outside the administration.

**Meador:** Was there any kind of key actor either inside or outside on the Clarence Thomas situation?

**Barr:** I think one of the views was if you put somebody up you want to have a good strong advocate in the Senate who has influence. I felt we had that in Danforth, and it turned out to be right.

**Young:** You were not involved after the selection in briefing the candidate, preparing the candidate?

**Barr:** Luttig did it for both. He did it for Souter and for Clarence. Mike had been nominated for the fourth circuit in the summer of 1991. I asked if he would stay back, not leave yet, to help prepare Clarence Thomas, which he did. He then went off on a much-deserved vacation to Hawaii right after the close of the hearing. I was sitting in my office as deputy. The administration had deferred any decision on Attorney General because of the acrimony of the hearing. We expected a big fight as well.

Sununu told me that the President would hold off on naming the Attorney General, and so I was in the deputy's office. I was acting Attorney General, and all of a sudden I got a call from Duke Short, who was Strom Thurmond's guy, and he said, "I have to send something to you. The messenger should be getting there momentarily."

Then this guy came walking in with an envelope, and I opened it up, and it was Anita Hill's affidavit. I read it, and then I called Mike in Hawaii. I got him off the beach. I read him part of the affidavit. I said, "Mike, you think we have a problem here?" He said, "Yes, we have a problem." I said, "You better get back here." So he came back from Hawaii, and he helped through that fight. I stayed away from it, basically. I kibitzed a little bit, but I didn't have to, because we had the machine in place to do it. He got criticized for that when he later went on the court.

**Meador:** What was the basis of that criticism?

**Barr:** The criticism was that the Senators said it was inappropriate for somebody who had already been confirmed to become a judge to be involved in that, and it was inappropriate for Justice to be involved.

**Meador:** He'd been confirmed but not sworn in, was that the situation?

**Barr:** So OLC, in typical fashion unearthed fourteen or fifteen people going back to John Marshall, who were in the executive branch who continued executive duties after they had been confirmed for judicial posts. So going back to John Marshall—

**Meador:** He was Secretary of State after he was confirmed.

**Barr:** We had a lot of examples and blew them out of the water on it. And the other objection was that Justice should not have been helping actively on the nomination. As soon as the vote was over, I said to Luttig, "Get your ass sworn in. It's harder to impeach somebody." [laughter]

**Meador:** Could you describe the role of the Office of Legal Policy in the department during the time you were Attorney General? How was OLP used? What did they do?

**Barr:** OLP, when I was Attorney General, basically supported the policy initiatives that I wanted to do. I had previously taken out the person who had been there, and I put my own person in, Paul McNulty, and I used him to help develop studies and articles and things like that that were supportive of things I wanted to do. It did not have the same role in the Bush administration as it had in previous administrations. It really shrank a great deal and essentially became part of the public affairs apparatus. OLC essentially took over a lot of the responsibility.

**Baker:** It seems, then, that the Department of Justice was strengthened in the Bush administration, would you say, or more of the responsibilities for legal policymaking shifted back to Justice?

**Barr:** Yes. One of the things that really struck me about the Clinton administration which— the liberals like to suggest that Republicans somehow interfered with the administration of justice, but the irony was that it was Democratic White Houses that interfered. Even in setting policy, the actions of the Justice Department and the Attorney General, whether it was Thornburgh or me— we had 900-pound gorillas within our domain, and no one would cross us. The crime bill was completed in the Department of Justice. Boyden really wasn't interested in those kinds of issues.

Policy was clearly in the Department of Justice. We could do anything. We just had to say, "Here's what we want to do." And the White House guys would say "fine." I was frustrated in the last year of the administration because I thought we should be doing things that [Richard] Darman was basically blocking. But in terms of the policy decisions, it was all from the Justice Department, and no one would ever second-guess us.

Now, I think that completely changed with Clinton administration. The Justice Department wasn't even involved with the crime bill, which to me was remarkable. So, in my opinion, the role of the Department was strengthened under both Reagan and Bush, and I felt while I was

there the utmost deference to the Department as the enforcer of the laws and the developer of policy. I thought that was good.

**Young:** Could we talk a bit about the decisions made respecting bills in Congress or—

**Barr:** One area that I'll say the White House, Boyden, got quietly involved in, was civil rights. We won four cases in a row in civil rights on the legislative end, so whatever position we took on civil rights, that became much more of a collaborative discussion where it wasn't just Justice calling the shots. That was really the one area where I'd say that was more of a political exercise.

**Baker:** Was it Justice's or the OLC's recommendation that the President use signing statements as he did with the Civil Rights Act of '91?

**Barr:** Yes, we at OLC were great proponents of using signing statements, and then we recommended vetoes and stuff. We were very activist in those things. Later, when I became Attorney General, I took a broader view and was more willing to compromise. [laughter]

**Baker:** It's easier if you're the head of the OLC—

**Barr:** Well, I remember something: Someone tried to quote something back to me when I was Attorney General, and I said, "Yes, but I said that was when I was head of OLC, not as Attorney General." [laughter]

**Young:** What was it? Rufus Miles's law that says, "Where you stand depends on where you sit"?

**Meador:** When you were the Attorney General, could you say approximately how often you actually met face-to-face with Bush, how much personal interaction you had with him?

**Barr:** I met with him, obviously, in Cabinet meetings and National Security Council meetings because I sat on the National Security Council. I met with him in his office privately—the schedule would show it—but probably four or five times on particular policy or particular issues.

**Meador:** Do you remember what some of those were?

**Barr:** Yes, for example, one of them was the one we talked about, the crime situation and certain of our initiatives on it—we'd talk to him about that.

**Young:** This was late in the administration or—

**Barr:** Well, yes, I was only Attorney General for the last seventeen months really, acting for part of that. So I went over to talk to him about crime trends and initiatives. I remarked before when I was down here, he had just gotten off the phone with [Boris] Yeltsin, and I couldn't get his attention. Then I told him that crime had gone up every year of the administration.

**Baker:** That got his attention.

**Barr:** Then he started focusing. Crime went down the year after that, started going down. So I was discussing those issues with him. At the very end, I met with him on the pardons. And then I would meet with him on occasions where there was an event. For example, a lot of Cabinet guys went down to Atlanta with him to announce the Olympics would be there. I'd ride with him in the car, fly with him on the airplane. I remember once he had a ceremony honoring victims in the Rose Garden, so I thought I would chat with him a little bit.

I remember we had a law enforcement function out on the Ellipse, out on the Mall. He said he would come along with me, and we were walking back to the car, and that's when he asked me about the [Manuel] Noriega case and what happens if you lose. I said, "We won't lose."

**Meador:** You mentioned the pardons. Of course, that's taken on added interest here in recent weeks. In the pardon cases—you know there was some newspaper coverage about those pardons later on in the Bush administration. Did each one of those go through the pardon office, the pardon attorney's office in the Justice Department?

**Barr:** Which ones? The ones at the end?

**Meador:** Yes, all of them.

**Barr:** I don't remember, I must admit. I asked some of my staff to look into the indictment that was brought, and also some of the other people I felt had been unjustly treated and whether they felt that they would have been treated this way under standard Department guidelines. I don't remember going through the pardon office, but I did ask some of the seasoned professionals around the Department about this, asked them to look into it. Based on those discussions, I went over and told the President I thought he should not only pardon Caspar Weinberger, but while he was at it, he should pardon about five others.

**Meador:** Did you oppose any of those pardons in the last couple or three months of the administration?

**Barr:** The big ones obviously were the Iran Contra ones. I certainly did not oppose any of them. I favored the broadest— There were some people arguing just for Weinberger, and I said, "No, in for a penny, in for a pound." Elliot Abrams was one I felt had been very unjustly treated. I do remember there was some controversy over some pardons, but I can't remember how they came down. The Justice Department was playing our usual role—naysayers.

**Baker:** All the ones you recommended he did pardon?

**Barr:** I believe so.

**Young:** That's throughout the time you were Attorney General?

**Barr:** Yes. I didn't really get involved in the pardon process. I think I probably did as deputy. I can't remember what the term was in the Bush administration, but when I was Attorney General, I called them the bar chart on pardons, and I said, "I would like to make sure what the standards

are.” I suggested some standards of my own, and I said that they should look at the little people. I wrote a little note saying, “Look at the little people, not just the people with influence.” The pardon thing was not really an issue for me, like the Iran-Contra verdict. And at that point, even regardless of what I said, you have to pardon at least Caspar Weinberger—

**Young:** Was there ever an issue—

**Barr:** While I’m at it, there’s a little bit of an inaccuracy in the book *Shadow* written by [Bob] Woodward, so I’ll just use this as an occasion to straighten the record out.

**Young:** Please do.

**Barr:** He’s accurate that he landed in the yard in the helicopter. And he waved me into his office, and I went in. He asked me about the indictment that had come down the Friday before the last election. I know it was his view earlier, before the indictment that he felt that the gap was closing, and he had momentum going into that last weekend, and he did say to me that he felt that that indictment had cost him the election. He was very infuriated by it.

Now Woodward said in his book that he “bellowed” at me. He didn’t even raise his voice. He just said that he felt it cost him the election.

**Meador:** On that point, do you have a theory about why Bush lost the election?

**Barr:** Well, I sort of went through it the last time I was here.

**Young:** Let’s hold off on that a bit and go back to some earlier matters. Were you at all involved in the Domestic Policy Council while you were Attorney General? You were chairing it, weren’t you? Thornburgh, this was a holdover, the Attorney General chairing a Cabinet committee, I think, called the Domestic Policy Council.

**Barr:** Yes, I think that had lapsed. I sat in on certain Cabinet council meetings. He had this Cabinet council system. When it affected Justice, I would sit in on the meetings. Basically, the only thing I had to deal with other agencies on in the domestic sphere was the drug war. But otherwise, basically I didn’t want people kibitzing on my policies, so we never really brought them before Cabinet councils.

**Young:** Were there any routine relations you had with David Bates, the Cabinet secretary?

**Barr:** I probably had less than many, but yes. I don’t think the Cabinet councils for the domestic sphere were particularly significant for policy. There was a big gap between the apparatus in the foreign policy field and the domestic field, which probably occurs in every administration. It’s probably a function of the changing nature of the Presidency. But in the foreign policy field, as I said, the deputies were just an amazing group. We became very good friends. We were able to have discussions with confidence, and we were just very effective in managing situations. And I think, frankly, that it was because I was on that group that they made me Attorney General. All those people like Gates, Larry Eagleburger and all those people, I was comfortable with them.

But there's no similar thing on the domestic side for the drug war, which I feel was one of the major problems during the administration.

**Young:** Let's get into that then. You think there could have been anything like that on the domestic side?

**Barr:** Well, it's very difficult, because the role of the President domestically has become so diffuse that it's hard to find one weak loop. With economic policy, you could have a dominant player, whether it would be the Secretary of the Treasury—in our case, we certainly had somebody who was a dominant figure and was, in my view, one of the basic problems with the Bush administration.

**Young:** You're thinking of [Nicholas] Brady?

**Barr:** Yes. And then it left a vacuum for a guy like Darman. But then beyond economic policy, what is it? It's a little bit hard, and if you consider law enforcement, it's basically the Attorney General being satisfied. I tried to get a lot of the drug issues to the deputies, which I succeeded in doing because I could get action and a little bit more decision-making and direction from the national security side. So I started pushing the drug issues into the national security.

**Baker:** Also, as you commented in your earlier works or speeches, it freed up some financial resources for you in the DOJ [Department of Justice], once it was shipped over to the national security.

**Barr:** One of the big things was the budget deal. It was pretty bad for the administration, and part of it was the freeze on all discretionary spending. You couldn't do any additional discretionary spending. Of course, Justice got a 15 percent increase in our budget four years in a row, so the Department in the Bush administration—if you look at the growth—was unbelievable. And especially when everyone else was going down, and I was taking money out of State and Commerce. So I had nothing to cry about. We certainly were getting more money than anybody else. And I was very aggressive in the budget process when I was deputy and when I was Attorney General. My agency didn't take no for an answer, and I would always threaten to take it to the President. I would make Darman schedule a meeting, and I was going to argue with him. OMB would cut a deal at the end before taking it to the President. So I was happy with that. But at the end, in the last year, our hands were tied, and I was trying to find some initiatives. I thought that it definitely hurt the President politically as well.

The way I got money was I went through our budget and found things that I felt that we could legitimately call national security functions, and I pushed them over to the national security budget, where there could be changes. That freed up that \$80 million or something like that. Not much, but enough so that some of the expenses got freed up on the domestic side.

**Baker:** In my studies of the Justice Department, it appears that in the '80s and early '90s, the Justice Department's jurisdiction in international-related criminal activities really expanded, including, of course, those opinions that you wrote while head of OLC, but also closer cooperation with Interpol and the other roles of the FBI [Federal Bureau of Investigation]. Is this



a trend that you see continuing, and is the Department of Justice going to play a more and more active role internationally with domestic policy maybe taking a back seat—or maybe not a back seat, but a “co-seat”?

**Barr:** I do think it’s inevitable, continuing the trend, because a lot of the legal problems in the federal government’s lap are multinational problems, particularly terrorism and the drug war. That was one of Thornburgh’s pet projects, and he deserves a lot of credit for redirecting the department, or putting greater emphasis on international. He supported the FBI’s revamp program in support of weakened restrictions. He started the process of negotiating various bilateral agreements and multinational agreements on drug issues and on terrorism issues and really engaged in those.

Part of the strategy was to put in place the legal framework that would allow us to take the drug war overseas more, the head of the snake rather than the tail of the snake in the United States. He put a lot of that structure in place, and I do think it’s important. I think the Clinton administration, when they came in, reversed that, paradoxically enough. You wouldn’t think they’d be for fighting the drug war on the street corners, but they basically were. The Clinton administration shut a lot of that down and shifted the war domestically.

One of the big tension points in the government is the State Department versus the Justice Department. And in my administration it was difficult because of the natural affinity of the President and the whole administration to the international stuff, and a view that the Justice Department really couldn’t be trusted because we were cowboys. And stuff like the indictment of Noriega at the end of the Reagan administration didn’t help that. We didn’t really understand all the niceties of foreign policy, and so you have to be a little bit careful of Justice. And the big dynamic basically is that law enforcement priorities overseas are given little more than short shrift. They’re basically low priority for the striped suit set because the country may find it *offensive* if we raise these issues. The Justice Department is the only agency that cares about enforcement as the primary mission. This is a tension that’s never really been worked out, and it’s one of the basic underlying problems in the drug war.

**Young:** You want to go into that now?

**Barr:** For example, there’s a little bit of friction, because I felt the Mexican government was completely corrupt. I think Bush liked [Carlos] Salinas—the State Department was all over Salinas. The people in the Justice Department couldn’t believe it, because they were all corrupt. So that made life pretty difficult, especially when we fought the doctor, [Humberto Alvarez-] Machain]. He was the guy who was snatched, spirited out of Mexico. The real facts there were that the Mexican federal police did offer him up and bring him to us, the DEA [Drug Enforcement Agency], it was my understanding. Then, in my view, what happened was the drug cartels bribed individuals in the foreign ministry of Mexico, and the foreign ministry then launched a formal protest with the United States. So we were caught in 180 degrees—the federal police had cooperated by turning this guy over to us, and then the government changed its mind—

**Baker:** And said that we kidnapped—

**Barr:** —said that we kidnapped him, and it was unauthorized. So this was litigated to the Supreme Court because Judge [Edward] Rafeedie in the ninth circuit said that he took issue with my snatch opinion and said it violated customary international law, and therefore we would have to give him back. All through that time, the State Department, the President asked about it occasionally because he was getting pressure from the Mexicans, who raised this at every conference. It became sort of an embarrassment. Our position was, “This guy is going down, we’re keeping him, and that’s that.” And it was litigated to the Supreme Court, and we won. And then it went back for trial, and Judge Rafeedie threw out the case. We had to march the guy across the border.

**Baker:** That’s a good example, though, of the tension between State and Justice.

**Young:** I would like to hear more about that tension and how it played out, for example on the BCCI [Bank of Credit and Commerce International] probe.

**Barr:** They were not involved there. When there’s a criminal case going on, they all run for cover. They didn’t like the Noriega indictment, obviously. But what did you want to talk about—Noriega?

**Young:** Yes. Some issues in which there was a substantial interest in Presidential— and also foreign policy or national security.

**Barr:** Well, Pan Am 103 was interesting. There you had the criminal investigation being done. I was briefed on it regularly, and the Scots were doing a fantastic job, as was the FBI. And as it neared, we were under a lot of attacks because everyone had their theory, and a lot of people thought it was the Iraqis and the Syrians, and there were cover-ups and so forth. But we were coming to the conclusion that it was the Libyans.

When I saw it approaching, I mentioned my plan to the President, and he said, “Yes, that’s the absolutely appropriate thing to do.” I would brief the National Security Council before we actually brought indictments. I went over to the National Security Council meeting. I briefed the National Security Council on the evidence and why we felt we could prove beyond a reasonable doubt that it was two members of the JSO [Jamahiriya Security Organization], which was the Libyan Intelligence Service. Then there was a discussion of what we should do about it. This was right before the indictment was made. There was a disagreement.

I was disappointed in the position of the foreign policy people because I said that we had to think about the use of the criminal justice process in terrorist cases because we had set a very high standard. I said that in my opinion, international terrorism cases, like a lot of the drug war, are really a national security issue, and you have to be careful how you use the judicial process and the law enforcement process. Just like you can’t use the Army to solve every problem, you can’t use the court process for the prosecuting function. They have to be tailored to the situation that they’re suited for, and I said that we set a very high standard for ourselves in a terrorist situation to say that we would only respond once we felt we could prove something beyond a reasonable doubt. In some cases, a much lesser standard may be appropriate.

In fact, we have used lesser standards in bombing [Osama] Bin Laden and other people. We don't necessarily need proof beyond a doubt. But I said here we've been very civilized. For the past few years, we've been conducting this investigation, and now we've come to a conclusion beyond a reasonable doubt that it was the Libyans. All this time has gone by, now what should our response be? We have these half-baked sanctions in place that haven't really done anything. Is there a sanction against Libya that's appropriate? Is it really enough to get these two intelligence officers and bring them over and prosecute them, and you're happy? Is that justice? That's not justice.

But before I said that, Jeremiah said, "I'm the Defense Department, you're Justice." I said, "That's what I'm talking about, justice. What's justice in this case? Justice is pursuing these two bag men?" I said, "We all know what this means. This means that this was the Libyan government, and I believe retaliation should be taken against Libya. It should be a massive retaliation against Libyan military intelligence targets."

I said, "Mr. President, is there any doubt that if the day after the plane went down I came in here and said, 'It's the Libyans, and we can prove it,' what we would have done? Well, we've taken seven years to prove it beyond a reasonable doubt in the civil courts. And now we have oil sanctions that are going to be the response?" But, unfortunately, that *was* the response.

**Baker:** So did Defense think you were moving in a little bit on their terrain?

**Barr:** Well, they had a lot of people—It wasn't so much Defense, I'm sure State was arguing for sanctions, Justice was arguing for military retaliation. Forget this—you know, bring these people over, put them in front of a jury, all that kind of stuff. Is that what this is all about? It's ridiculous.

**Young:** The Defense Department was just not saying anything, is that right?

**Barr:** Basically he just sort of said, "I'm Defense," but I'm talking about justice. Justice here is not spending another several years trying to get these people in front of a jury.

**Young:** The President was at this meeting?

**Barr:** Yes, he didn't say anything.

**Meador:** Was the State Department involved in these discussions?

**Barr:** Yes. State wanted to do sanctions. Since I was the one who had to deal with the families of the victims, I was a little bit hotter about the situation. But that's another example of this whole issue of the role of the Department of Justice versus the national security apparatus in terrorist situations. It hasn't been thought through. It's one of the areas that came up a few times in this administration. The Noriega situation was one where—

**Young:** Could I ask one other question about that? Brent Scowcroft's name has not come up in your conversation thus far. He was at that meeting, I presume.

**Barr:** Yes. I don't think he said anything. I love Brent Scowcroft. I think he's one of the greatest guys. He was always very supportive of the Department of Justice on issues. I'm sure that there were bigger fish to fry on the issue of Pan Am and Lockerbie, and people felt that after such a lapse of time, leveling the JSO or something like that would seem—

**Young:** Over-reacting.

**Barr:** I don't believe so. But Scowcroft, I don't think agreed, but he didn't say anything in this particular situation.

**Young:** He didn't win the Scowcroft award at this meeting?

**Barr:** Which was? Sleeping? No, he didn't sleep at that meeting. I think Scowcroft is great, really good at policy and statesmanship. I dealt with him on a lot of things, including pulling off the Haitian boat people, putting them back in Haiti, and offering to house them at Guantanamo. He backed me on all this stuff.

**Baker:** But you had that run-in a little bit with, was it with the Defense Department over the use of Guantanamo Bay?

**Barr:** I had a run-in with Colin Powell. We were using Guantanamo Bay, and it seemed like every other week I would be called over to meet with Colin Powell, [Dick] Cheney, and Brent Scowcroft, and they, of course, were complaining. They would then call me over, and I would ask Sam Skinner to join me because I needed support on the domestic side. Their position was, "Guantanamo is a military base, and why were all these people here, the HIV people, all these other people? How long are you going to be on our property with this unseemly business?"

I'd say, "Until it's over. But we're not bringing these people into the United States. This is a very convenient base outside the United States, and it's serving a good function." They were always complaining. I would say, "What do you people do at Guantanamo? Maybe this is the highest, best use of Guantanamo. Maybe Guantanamo should be turned over to the INS [Immigration and Naturalization Service] and used as a processing center. Maybe this is the best use for the United States as opposed to whatever you people do with it." We got a little bit feisty.

**Baker:** But you don't get grounded easily.

**Barr:** Well, in this one, politics was not the reason we were doing this by any means, because we were enforcing immigration laws. I'm serious when I say I wouldn't change my view because of politics. But I did point out that the notion, what do you want me to do? You want 80,000 Haitians to descend on Florida several months before the election? Come on, give me a break. Governor [Lawton] Chiles, the Democratic Governor, is supporting us in this policy? Florida will go ape. Now if you want to give me Fort something-or-other in Arkansas and let me put them there, I'll be glad to put them on American soil. [laughter]

**Meador:** Speaking of INS, do we want to get into that now or later?

**Young:** I think a little bit later. We wanted to talk about Noriega.

**Barr:** Noriega was an interesting thing. The Department had a black eye on that, so to speak, because the whole national security apparatus was really ticked off that the U.S. attorney had gone off and indicted a head of state, and all the problems that caused. But it goes to show you that they didn't ever suggest that the indictment be quashed or anything like that. Once it happened, okay, this is the legal process, we have to live with it.

The Deputies Committee during the time I was there dealt a lot with Panama and Noriega. The first time I was involved, I knew that we were looking at ways of ridding ourselves of this guy in a lawful way. So when there was the first spontaneous insurgency there by pro-American types—people we felt were not bad actors—I was sitting over at my office at OLC, and I got this call saying, “Could we intervene right now?”

I think Noriega was on tour or something; he was in a command center. Could we start now putting our troops out into the streets in ways that might help the insurgents and lead to the demise of—in this case, not necessarily his death, although I guess there would have been gunfights and so forth. I was asked for this running opinion on how far we could go.

I basically said, “Just go out there and do what you have to do.” But the thing fizzled that afternoon, and it was a big embarrassment for the United States, in my opinion. Periodically, you know, a lot of legal advice was sought about how far we could go in various operations and various plans.

After that fizzled, I was a big supporter of taking decisive action and making sure the next time was completely successful. Sometimes there were issues coming up about whether we could support coups, and the extent to which violence was involved, and though it was directed against Noriega, was that assassination? There was a lot of consulting me about those kinds of issues, but basically I was a big proponent of a successful operation there.

We made plans for the swearing in of the government while our helicopters were en route and all that kind of thing, and they would invite us in. I wasn't sure exactly when it would be launched, but I knew what was coming. That night I was playing my bagpipes for Thornburgh, I was Assistant Attorney General at that point. But I got up in my Highland regalia and was playing for his Christmas party when he said, “You'd better get over to the White House.”

**Riley:** Did you change?

**Barr:** I went home and got changed. In retrospect, I wish I hadn't. I then spent that night at the White House, and we got papers ready for deputizing people as U.S. marshals, the President implementing the arrest of Noriega, and the various legal theories as to why this was a justifiable defensive act by the United States, which of course it was. We had five or six different theories why this was okay under international law.

**Baker:** Was there anyone arguing that it was an issue of sovereign immunity under international law? Anyone in the administration?

**Barr:** Not within the administration. We had a couple of legal theories of how to justify the investigation done that night, the issues and so forth. We had all the legal paperwork done so that the arrest of Noriega would be upheld in court. That was an interesting time.

I remember I went and spent Christmastime with my kids, who were singing at the Shrine of the Immaculate Conception. I was there as proud father, and just before it began I got a beep. I got called down to the situation room because they finally found Noriega and they had me on the phone in the situation room. It was interesting.

**Baker:** Was it your idea to get it on with rock music?

**Barr:** No, that was a cool one.

**Young:** The bagpipes might have done it.

**Barr:** The bagpipes might have actually—Actually the question that was asked me, the reason they had me down there, was because the unit that was outside thought that the papal nuncio was going to put him in a diplomatic car and just put him out through the cordon and that we would lose track of him again. So the guy wanted to know what happens if they come down the driveway in a diplomatic vehicle? I said, “Take him out.” And the guy said hesitantly, “Take him out, sir?” I said, “Remove him from the vehicle.” I came close to giving an inappropriate directive. But I said, “Remove him from the vehicle.” And that was the extent of my brush with international law at that time.

**Meador:** Could you describe your relationship when you were the Attorney General with U.S. attorneys all over the country? To what extent were you in contact with them, directing them, at odds with them? What did you feel to be your relationship with all that scattered cast of characters out there?

**Barr:** I feel I had a great relationship with the U.S. attorneys. I was the head of OLC and then the acting deputy in May 1990, so basically I was head of OLC for only a year. The first thing I did was bring in three U.S. attorneys who were well regarded among other U.S. attorneys, and I made them contemporaneously associate deputies, and they continued to hold their position as U.S. attorneys. So these guys were actually U.S. attorneys in their districts and working at Justice as associate deputies. I had three of them.

**Meador:** How could that work physically?

**Barr:** They basically spent most of their time in Washington, and their first assistants took over the day-to-day management.

**Meador:** What was your reasoning behind that?

**Barr:** My reasoning was that I felt that there was, as there always is, a degree of estrangement between main Justice and the field. In my opinion, the Justice Department is a field operation. It's like an Army, and the real work is out in the divisions, it's not back in the Pentagon. My idea was that the Justice Department wasn't on 10<sup>th</sup> and Constitution, the Justice Department basically was field units. In order to make it clear that headquarters was there to coordinate and support those operations, I wanted to basically get those guys inside the tent pissing out, rather than outside the tent pissing in, as Lyndon Johnson said.

I basically tried to co-opt the U.S. attorneys, not in a [Nicolo] Machiavellian sense, but basically get them in so they could see and be involved in the operation of main Justice so it's not *terra incognita* to them. They're involved. I held a lot of regular meetings. I suggested to Thornburgh that we bring in some of the key people to be leaders and put them on the Attorney General's advisory committee and meet regularly with them. And I spent a lot of time visiting U.S. attorneys' offices in the field.

**Meador:** To what extent did either you or Thornburgh have a hand in picking those people to start with? Or were they White House appointments, or senatorial appointments?

**Barr:** None of them were initially Bush appointees so we were not involved at all in their appointment. In the beginning of the administration, the White House had a bigger role; toward the end, the Justice Department had a bigger role. I think that would happen naturally, but my view was that the Department needs very good, professional U.S. attorneys. They're basically the division commanders. To have just political hacks in those positions—buddies of the President or other such things or big fundraisers in states—are the wrong types of people for those jobs. I think people should have political sense, but they have to be very professional people, lawyers and administrators. So I would basically tell the White House people that I can't have a bunch of bozos out there who are just going to cause trouble. I need good people in those jobs. And the White House understood. After a while, people wised up, and they understood that.

**Meador:** Griffin Bell took the position that U.S. attorneys ought to be taken out from under Presidential appointments and be appointed by the Attorney General, who would know good lawyers and be more professional. Do you have a view on that idea?

**Barr:** Yes, I can see the merits of that idea, but I think that if you have a strong Attorney General and the backing of the President, you can keep the U.S. attorneys in line. I think it just takes a little more work. The hardest one is obviously Manhattan.

**Baker:** Yes, I was going to ask: New York.

**Barr:** New York is the hardest one. But other than that I never had a problem. My New York guy wasn't Rudy Giuliani, so he wasn't that independent, but he basically ignored 50 percent of what I said, just did it his way. And as a result, in a very short period of time, I wanted people—In 1991 we launched a project called "Trigger Lock," that was basically if the DAs in states got someone with multiple offenses on the record, they would transfer them over to the feds, and we'd put them away under mandatory minimum sentences under firearms laws.

That thing was great because you just give people a directive, and all of a sudden this machine starts. We were putting away over a thousand people, actually incarcerating a thousand people. By the end of the administration, we had done over 18,000 people in a very short period of time. It's amazing to see the apparatus actually working. I think that one of the things of the Clinton administration was—I talked to the U.S. attorneys, and they didn't have any idea what the priorities of the Department of Justice were. Everyone had their own priorities. But at least in the Bush administration, Thornburgh and I made it clear: here are our priorities. By and large, U.S. attorneys followed it.

[BREAK]

**Barr:** I was up on the Hill talking to the House Republican caucus, and I got a call that the President wanted to see me before a Cabinet meeting. But I couldn't get down there in time, it turned out. I got down for the Cabinet meeting, and Sununu said, "He wants to see you after the Cabinet meeting. This is it." Sununu, I think, had been interested in helping me become Attorney General. So at the end of the Cabinet meeting I went in, and Sununu said, "Okay, he's going to offer you the Attorney General position, but you're not a very high profile political guy, so we're not getting much political mileage out of putting you there. So we may want to name your deputy, someone we could get some political benefit from. Is that a problem with you?"

I said, "Yes, it is a problem for me because in the Department, in my experience, if there's any daylight between the Attorney General and the deputy, it's impossible to manage the Department, and the career people drive wedges between you, and there's fighting." He said, "Well, let's not get into it now. Just discuss it with the President."

The President said, "Bill, I'm delighted. I'd love you to be Attorney General." And I said, "Well, why are you selecting me Attorney General?" He said, "I know there are a lot of political guys out there who might get me more benefit, but the best politics in the Department of Justice have been well-run Departments of Justice. You've been running the show there, and I think you're doing a good job, so I'd rather keep you there in charge."

I said that was good reasoning. No, I don't think I was that impertinent. I just said, "Oh, okay." And he said, "Now I guess John told you about this other thing." I said, "Actually, that's a problem, Mr. President." He said, "Oh, it is? What's the problem?" I said, "Well, let me put it this way. The Attorney General's balls are in the Deputy Attorney General's pocket, and I'm not putting my balls in anyone's pocket I don't know."

So he sort of nodded and said, "Oh." I said, "If you think about it, Mr. President, when is there a big problem at the Department of Justice? It's when you have a deputy and Attorney General who aren't getting along. Look what happened to Meese with his situation. The reason you have an associate Attorney General is that the Attorney General wasn't getting along with the deputy, and you created a third position to bypass him. Look what happened to Thornburgh." I said, "I really feel I need someone who—"



He said, “You have someone in mind?” I said, “Yes, I do.” He said, “Well, I’ll tell you what. You just interview the guy we have in mind. But if you feel that way about it, you take your guy.” I said, “Fine.” That was it. I thought that was interesting.

**Meador:** Who was it you brought in, you picked?

**Barr:** I took a guy who was my aide while I was deputy. He was a U.S. attorney from Vermont, [George J.] Terwilliger.

**Meador:** On that point, can you describe in your time there in the department, the role of the associate Attorney General as compared with the deputy?

**Barr:** When I was the deputy, there was no associate. I was acting associate. So everything came to me.

**Meador:** In other words, that position was simply not filled.

**Barr:** Never filled it.

**Meador:** Never filled throughout the Bush administration?

**Barr:** No, I had to fill it. We filled it at the very end. That was part of my deal, that I picked the deputy, but I’d put in somebody as associate they were satisfied with. But throughout the Bush administration up until maybe the last eight months, there was no associate. And when I was assistant, I was basically the number-three person in the Department, and then when I was deputy, there was no associate. To me, that’s the best way to run the Department.

**Meador:** What did you use the associate for in those last eight months when you filled the position?

**Barr:** I gave him some of the civil functions.

**Meador:** Did you feel the associate was sort of a fifth wheel in the picture or something like that?

**Barr:** It depends. I think that if an Attorney General does not have experience in the Department of Justice, it might be better to have two senior people who can bring in different perspectives and abilities. You might bring somebody in who can make the railroads run on time, and somebody who had more political sense and could run certain initiatives and so forth. I think a lot depends on what the lineup is. But I didn’t feel the need for an associate when I was deputy, and when I was Attorney General I didn’t need an associate. We had a great associate who made a good contribution, but I don’t think it was strictly necessary. But if you have people with gaps in their knowledge or experience, then it might be good to have some extra people around.

**Riley:** I wanted to come back and ask a question about the Noriega stuff. You had mentioned that you wanted to talk a little bit about your conversation with Bush with respect to your appointment. Was Bush in the White House when all of this was going on with Noriega?

**Barr:** Yes, he was the President.

**Riley:** Can you talk a little bit about your observations about what he was doing at the time? We're curious about his operating style in a foreign policy episode or crisis. Is he directing people in a very hands-on fashion? Is he relying on folks to do his work for him and standing back and making broad decisions behind the scenes or—?

**Barr:** Basically on foreign policy matters, my observation was limited because we would have discussions in broader groups and then he would walk into the Oval Office with Cheney, Scowcroft, and Powell and sometimes Gates, too. And they would have more limited conversations. Examples of times where I actually saw the decision-making process would be certain covert action approvals, where we would discuss a covert action. I would be in on those meetings because of the legal dimensions. He was very engaged and understood what was going on and would make the decision in a very executive way.

Another time I saw him engaged in a crisis situation was the Los Angeles riots. The state verdict came down on the cops. I was out in a press conference within a few minutes of it, I think. You know, it was like fifteen minutes later I issued a statement. I went down to the press room and said, "There's still a pending federal investigation. This isn't the end of the process. The federal government will still continue to review this, blah, blah, blah. But we're not going to tolerate any of this stuff out in the streets."

Then he called and wanted to know what we were up to and make sure we got a statement out. I said we'd just gotten a statement out. Then he said he wanted me to come by. I guess actually, later, as things got worse in California, he said he wanted me to come by the next morning at six or some ungodly hour. Overnight I had prepared this plan to use 2,000 or more federal officers to supplement what was out there, basically to enforce the law out there. A lot of people think that the Department of Justice can just click its fingers and get a lot of resources, but the fact of the matter is it's very difficult. We had only 150 marshals available as part of their special operations group. We put together an amazing polyglot organization of FBI, SWAT [Special Weapons and Tactics] teams, U.S. marshal SWAT teams, Border Patrol special operations group, a prison special operations group, and things like that. Even the Park Police put in their SWAT team.

We scraped together 2,000 people and told them to stand by at different airports and rally early that morning, because I figured the President might want something done. I showed up at the meeting. I had to go with [William] Sessions, and Sessions was an idiot, basically.

**Meador:** He was the FBI director.

**Barr:** I felt he was not with it. He just sat there. The President wanted to know what the violence was about, and I told him that there were a lot of street gangs involved and this was primarily

centered on street gang activity. I told him the names of the gangs that were involved, that the violence was largely street gang activity, big-time gang, not like street gangs in the 1950s—Crips-type gangs.

I explained that the LA police force is a very small police force—it's highly mobile, but it's very small. I said, "The National Guard is all screwed up, and they're having trouble getting the National Guard there. We have two other choices. You can get as many civil guys out there as you can, and I have 2,000 who can move, but I would need air support from—" Powell was sitting there. I said, "I need Colin's help in getting them out there, but I could get you 2,000 people out there by three or four in the afternoon, assuming the military transports were available."

I said, "The only other alternative would be regular Army." We had just gone through an exercise two years earlier in St. Croix, so I was very familiar with how to use regular Army in a domestic situation. I understood all the code sections and what you had to do. That would require a declaration by the President, basically a breakdown—I've forgotten the term at this point, but basically the President has to issue a proclamation telling people to cease and desist and go to their homes. It's sort of an antiquated statute. And then if they don't cease and desist, you're allowed to use regular Army.

**Young:** Is a request from the Governor? Can the Governor make the request for intervention?

**Barr:** Well, he could, but I don't think that that's a prerequisite for using federal troops. I said we can get everything ready to use federal troops, but that was really the only other alternative. And Colin Powell said what troops were available, what bases, and so forth.

So he said, "Go ahead. Let's launch those civilian guys. Let's not try to resort to regular military right now." I said, "Okay, who should I have George Terwilliger talk to?" Powell gave me a name. And in an hour, they had transports starting off on the east coast flying across the country, landing at Birmingham, Alabama, picking up the FBI agents there, landing in the next city, basically hopscotching across the country. Then they had Air Force buses waiting at the Air Base busing these guys in. So we did get everybody out there at the time I said.

I was hanging around the Oval Office at that point, and the President was on the phone to the Governor. He was on the phone to the mayor, getting reports, asking, "Where's the National Guard? When can you get the National Guard up there?" Very much engaged.

While I was there, he probably talked three or four times to the Governor and one of the members of the Cabinet who was out there in California at the time. He talked to him. He was very engaged. He talked to some civil rights leaders who were calling in, and he was very much in command. Then he made the decision toward the end of the day that more power would be needed, and so we implemented the plan of using federal forces. That was an interesting episode.

**Young:** Did he go out there?

**Barr:** No, but he went later.

**Young:** Did you go out there with him on that?

**Barr:** No. There was a debate about whether he should go out and how soon he should go out.

**Riley:** Did you take a position on that?

**Barr:** I probably said he probably shouldn't go out. I don't recall. My role in those things, I felt, was to be more of a law-and-order kind of person, not tolerating this kind of stuff. One of my disappointments is that we were prepared, and set up task forces, and could have brought federal indictments against a lot of the people involved, the gangs involved. I went out there, and we had these rooms that looked like war rooms in organized crime cases. There were pictures of the gangs, and who reports to whom, and videotapes showing the individuals involved. We could have cleaned that place up. That was shut down by the Clinton people when they came in.

My idea was, "Fine, we can bring a federal case against the cops. We're also bringing a federal case against these people." Unfortunately, we just brought the federal case against the cops and never pursued the gangsters.

**Meador:** You say you had to launch that before the end of the administration?

**Barr:** No, we had launched the federal—We had set up a joint task force with the state people and were preparing to bring federal charges using RICO [Racketeer Influenced and Corrupt Organizations Act] and other things against—

**Meador:** But they had not actually been brought before—

**Barr:** The case had not been brought. Then when the Clinton people came in, they said, "Let the state people handle this." And, of course, nothing was done.

**Riley:** Did you have a similar opportunity during your involvement in the Noriega situation to see the President in action?

**Barr:** Yes, we'd have the National Security Council-type meetings discussing what was happening, and why we were having difficulty locating Noriega, things like that. He was very engaged.

**Meador:** You mentioned the FBI. Can you say anything about the relationship between the Attorney General and the FBI in your time? Anything particularly noteworthy there, or stressful? How would you characterize that?

**Barr:** I think, even operating under the disability of having Bill Sessions as the director of the FBI, I forged a very good, strong relationship with the FBI. I personally don't think there's any institutional problem the way it's structured, and I think the Bureau should be a little bit separate and apart, the way it is. And if you can work closely with the right people at the FBI, the Attorney General's interests can be satisfied. My basic problem was that, when I was assistant

and the deputy, I'd forged a very strong relationship with the second tier of leadership at the FBI, became very close to them, and still am very close to those people. I thought they were fantastic, able people at the FBI. Sessions, in my opinion, was way above his head and basically liked going to Embassy parties, but he was, in my mind, very deficient.

**Meador:** What do you think explains his appointment to that position?

**Barr:** Well, they were sort of desperate. Four or five people they had offered the job to turned them down. This was Meese when he was Attorney General. Finally they offered it to Sessions. Sessions had a reputation as a tough judge down in Texas, but he was just way above his head, in my opinion. I was not aware of any situation where he added value. He was completely detested by the FBI professionals, all the way from top to bottom. He was a laughing stock within the Bureau. I had talked to the President about the need to remove him after the election, and that was the plan.

But that notwithstanding, because of the strong relationship with the guys who were in charge of the different divisions and the deputy and so forth, we had a great relationship with the FBI. You see, when I was deputy, I met with their deputy once a week. The head of the criminal division met with the head of the FBI criminal division once a week, and the four of us met together frequently. I got budget relief. I got money for the FBI. They supported the programs that I thought were important, so when I wanted to move foreign counterintelligence officers from FCI [Federal Correctional Institution] over to violent crime, I did it. And they did it.

**Meador:** Did the FBI field investigations do their own potential judicial nominees? Did you review each of those files yourself, or did you leave that to somebody else?

**Barr:** I left that to somebody else.

**Meador:** You didn't look at the files yourself?

**Barr:** No. I think there were one or two files where a Senator was pushing somebody who engaged in Clintonsque behavior, and I had to see, okay what does the file say? What's the basis for turning this person down? I might look. You know, someone put a sticker on the page, and I would read the paragraph, but I wouldn't go through files.

**Meador:** Griffin Bell had an assistant who put paper clips on the edge of the page where some problem appeared, and Bell said, "I like to see a file with no paper clips in it."

**Barr:** I'm sure somebody went through those. I know there are people who went through the files, but I really wasn't interested in that stuff. If somebody had done something that had certain panache and deserved to be discussed with me, I'd get the facts, but I wouldn't go poring over a person's file.

**Meador:** The three disqualifying things that always struck me about potential judicial nominees were either liquor, women, or taxes. Does that cover it, in your view? Were they the problems that you encountered that may knock somebody out of the running?

**Barr:** You said money?

**Meador:** Liquor, women, and taxes.

**Barr:** Yes, I guess that's right.

**Young:** Never men?

**Meador:** I hadn't heard of that one, maybe so. It's a new ballgame.

**Young:** Drugs.

**Barr:** Drugs could do it. Action that involved discrimination or something like that would do it. There are a lot of reasons nowadays to knock somebody out. I had a lot of background investigations, and no one could ever find anything. I told my FBI friends it meant I could cover my tracks very well. I remember someone called me up and said the FBI interviewer had asked if I ever told jokes. What kind of jokes did I tell? I said, "Well, Jesus, they're getting into jokes"—quickly mentally flipping through my repertoire of jokes. But fortunately, the agent was experienced enough not to push that line of questioning.

**Baker:** That's a problem for getting people to agree to serve on the Cabinet or any of these positions.

**Barr:** Sure it is. Right.

**Meador:** I think the list of disqualifying factors or circumstances has grown greatly, don't you?

**Barr:** Oh, yes. One is added every year or so. But on the other hand, things that used to be disqualifying no longer would be. A certain amount of sexual indiscretion is overlooked.

**Young:** You talked earlier about some programs and changes you wanted to institute within the Department of Justice and the fate of those efforts, some successful, but maybe not all of them as successful as you would like to have seen. Can you tell us about that experience and about the White House response?

**Barr:** That's a big topic area. Basically, my attitude was every function can be improved and will be improved. We put together a proposal for every single component, even the trustees. What's their mission? What are they doing? How could we do it better? What are the priorities? Are we being as efficient and as effective as we can be? I had every component come in, basically saying, what's our job? What are our priorities? How can we do it better? What laws have to be changed? What administrative rules have to be changed? What are the resource issues? I'd have every component come in to do that.

**Young:** When did you do this? When you first became Attorney General?

**Barr:** I started it when I was acting Attorney General but didn't start implementing it until I was confirmed. I drove people hard to do this. I drove them very hard to do the work and set firm deadlines. A lot of that stuff was done administratively, but there were a lot of other things that required either legislative support or budget changes that I couldn't implement directly. Now, Steve Colgate, who just left, was the head of administration when I was there and stayed there during Clinton's administration. He said he still kept those big books, and every time Janet Reno said, "Is there something we can do in the immigration area" or something, he would take out the bible and say, "Well, here are fifteen things that Barr suggested to do, but they required—" She'd propose it, and it would get passed because it was a Democratic Congress. But Congress was preventing us from doing a lot of this stuff.

One of the biggest areas was immigration, which was a constant, chronic problem. People have said every Attorney General and every Deputy Attorney General who has tried to do something about immigration has been broken by the Agency. But I did try to make a lot of changes at the immigration—

**Meador:** What were the major problems you saw there that you tried to correct?

**Barr:** I think we made some headway in professionalizing the administrative people there. I brought in people who had won awards throughout government—you know, SES [Senior Executive Service] level people—as good administrators—for example, people in the IT [information technology] area and budget area and so on. I'd get them out of OMB [Office of Management and Budget], get them elsewhere, bring them over as part of essentially a management SWAT team to try to get some efficient and effective and accountable management at that place.

But then there are basic problems having to do with resources, the lack of Border Patrol. I was trying to cut fat and put it out onto the line, so I would eliminate resources and slots in certain functions, and I would create new Border Patrol positions and put those people out on the line. But I couldn't do enough of that. I needed more resources devoted to the Border Patrol. Border Patrol is actually a very important, effective agency, but it frequently gets short shrift.

**Meador:** What was your experience in trying to control the Mexican border? Was it out of control, or under control, or somewhere in between?

**Barr:** It was out of control but controllable and getting under control. Good steps were taken, and the Bush administration was getting a lot more control over it, including putting up the fences. I believe that with a little bit more resources—I had a study done and a plan done for how a few tens of millions of dollars more investment could make a world of difference along the Mexican border. There were just certain gaps that we had to fill. But good effective fences did cut down substantially on immigration. It was a big issue out in California, so I devoted a lot of effort and energy to doing our best to shut down the border in California. We kept on pushing them further west, and then eventually you get them going over long stretches of open ground, and once you get them out of the cities—

**Young:** You mentioned earlier that you'd done very well budgetarily in terms of increases—15 percent is the figure you used—but these were resources that you needed on top of that.

**Barr:** Right. Immigration just never was as successful getting funding. I would ask for more, but OMB would shoot it down because INS was not a sexy place to put money. I kept pointing out to Darman that immigration was a significant issue. In my opinion, there's support for cracking down on illegal immigration as they come in. Where you start getting into the more political problem is where you try to take away benefits and protections while the people are here. But most people, including Hispanics in California, supported aggressive stands to stop them coming across the border.

One of the basic problems with the INS is the division between service and enforcement. You have half the agency processing claims for asylum and being—or should be—service-oriented, and the other half being enforcement. They're both under the same roof, and that's a schizophrenic agency. I believe that they should be divided. I think Bush is right, George W. is right. But most of the proposals were divided and then part of it put under the State Department. In my opinion, any enforcement function under the State Department is doomed to failure because basically—

**Meador:** You mean enforcement function under State? Because there's also been a suggestion of putting enforcement under the Labor Department, hasn't there?

**Barr:** Yes, yes. But my view is the Department of Justice is the right place for it. It's just that you should divide those functions so that you have one agency looking at enforcement and the other one becoming service-oriented toward the people who are here. But we had massive problems.

Here's a perfect example of the State Department and Justice. One of the biggest problems we have with immigration—or had, I think it's still a problem—is the abuse of the asylum laws. People would get on the airplane, they'd come to the United States, and then they'd claim asylum as soon as the airplane touched down. Under our laws, we have this very robust process that they have to go through. They'd be put out on parole pending their asylum hearing, and then they'd disappear. Then we tried detaining them, and we ran out of space in New York. We had 40,000, 50,000 a month. It was just unbelievable, the influx coming into the United States claiming asylum. I can't vouch for that figure, but we just didn't have the space to put them.

Other than crossing the border, this became the primary means of entry into the United States. And unlike crossing the border, these people tended to stay, whereas most of the people who cross the border go back. So I came up with a plan, which was that 80 percent of these people came in through six airports—London, Paris, Tokyo. They were all channeled through certain airports overseas. We had a program that we had started in Canada, and basically the idea was that we would screen people, with American INS officials there, before they get on the plane, and really look over their credentials and their *bona fides* and so forth.

I had to fight State Department tooth and nail on this because that would put an extra burden on their consular officials, and they wanted have fewer Americans overseas. They didn't want to



have INS people overseas. I showed the huge amount of money that we would save, plus the security benefit of screening people before they get on planes coming over here. Eventually I got into a situation where I had something State Department wanted badly. They needed some Justice Department approval on something. I went over to have lunch with Larry Eagleburger, and I said, “Larry, I’m not going to do this unless you let me put INS people in these six airports.” He agreed. So we started expanding the program.

**Meador:** Is that continuing?

**Barr:** I don’t know whether Clinton is continuing it. That’s a digression.

**Baker:** I was actually going to follow up on that, asking about the State Department and conflicts over the issue of immigration in the United States and Mexico. Given the Bush administration’s relationship with Salinas, was the State Department putting any pressure on you not to be as aggressive in cracking down on illegal immigration?

**Barr:** Occasionally they would call up and sort of take the Mexican line about us being too aggressive on our side of the border. But that wasn’t really a high level—

**Baker:** I know in my area, Mexico is highly sensitive to what they see as a militarization of the border.

**Barr:** Right, and that’s what we would be accused of, because we would allow the training of troops. We have Marines and so forth in training on the border.

**Baker:** The Justice Department, working with the Defense Department, would coordinate these?

**Barr:** Right, and the State Department was very skittish about that.

**Baker:** That it would look threatening to Mexico.

**Barr:** Yes. But the drug area was the main area, the high-level area of confrontation between Justice and the State Department. On the drug war, when I became Attorney General, part of the review with DEA [Drug Enforcement Agency] was, “Look, we’ve built this great infrastructure now, we know where these people live. The Medellin cartel, we know exactly where they live, and we know when their planes take off. We’ve seen them land. We’re charting all this stuff. We’re spending over a billion dollars a year in military budget just watching this all happen in front of us. Now we need an end game. And whose end game is this? There are only two end games: You either lock them up or you shoot them, one or the other. Basically it’s either a Justice end game, or it’s a national security end game. I was trying to force discussion. What’s our end game here? How do we incapacitate these organizations?”

I proposed certain steps. I had six things we can do now to exploit the information we have to actually make an impact on the drug traffic. I basically said that if I could do these six things, then I could halve the cocaine coming into the country, or more, by October. But I ran into primarily State Department resistance on it. Just to give some examples: We had this system in

Mexico where they'd fly the planes up from Colombia. As they would be coming in, we'd have planes circling around, and we'd estimate where they were going to land. Then we'd scramble these helicopters and planes that have our Mexican police that we had co-opted and were keeping incorrupt. We would then swoop, the DEA as advisors with the federal police would come in, and we would then take over the airfield, capture the plane, destroy the drugs or destroy the plane, and so forth. This had pushed the trafficking all the way down the peninsula so it was now coming into Central America. Virtually no aircraft were coming into northern Mexico. They were all coming into places like Guatemala.

We had one State Department helicopter in Guatemala, and that was doing marijuana eradication under a State Department program. I said, "Right now, 70 percent of the coke coming into the country is coming through Central America. Most of that is coming through Guatemala at this stage, and 0.1 percent of the marijuana is coming through Guatemala. Can we use this helicopter to do the same thing down in Guatemala that we're doing—to push them down even further?"

The State Department wouldn't let us do it. So I asked for some Blackhawk helicopters from the Army National Guard, and they didn't want to part with them. Before Desert Storm, the Army wanted to militarize the drug war. They saw it as a new mission beyond the Cold War. So the Army was very interested in the drug war—you couldn't keep the Army out of the drug war. They'd seize that mission and throw any resource they could muster because they viewed that as their post-Cold War mission. Then Desert Storm happened, and you couldn't get those guys anywhere near the drug war. All of a sudden I got a bill for like a million something dollars for airlifting DEA agents to Peru. I said, "What am I getting billed for? You used to do that for free." But that was the basic attitude shift that occurred.

**Baker:** Why was the State Department so resistant?

**Barr:** Because the State Department is not interested in the drug war. It's an irritant to them. They're interested in maintaining good relations with the government. They're not interested in the drug war. The only guy who was ever interested in the drug war in the State Department is Robert S. Gelbard, the guy down in Bolivia. He was tough, and he ended up in a high position in the Clinton administration. He actually did something. He shut them down in Bolivia, and we worked very closely with him. But most of them were not interested.

Anyway, most of these things I couldn't get done.

**Meador:** Was there much discussion in the Bush administration about using the military forces for either immigration or drugs? Was that ever part of the discussion?

**Barr:** Oh, yes, using the military in drugs was always under discussion. I personally was of the view it was a national security problem. I personally likened it to terrorism. I believe you can use law enforcement to some extent, particularly in the U.S., but the best thing to do is not to extradite Pablo Escobar and bring him to the United States and try him. That's not the most effective way of destroying that organization.

The other example was in Upper Huallaga Valley, which was the front line of the drug war. Virtually all the coke is produced in the Upper Huallaga Valley, 80 percent of all the coke. The rest of it is produced in Bolivia, but 80 percent was produced in Peru, in a place that was very manageable in size. We had these base camps there, just like Vietnam-era base camps, with DEA agents and co-opted national police. They have to fly it out of the Upper Huallaga Valley because they can't get through the jungle. So that's the weak link in the entire thing. They're flying it out of the Upper Huallaga Valley.

The Peruvians started shooting down planes, and that forced them to go at night. But we had these Vietnam-era Huey helicopters that were always in for maintenance, and one Korean War-era plane that supplied them from Lima had to go over the Andes with oxygen masks that dropped down. And that was the front line of the drug war.

So I said, "What is this nonsense? I want Blackhawk helicopters, I want more DEA agents there, and I want good support. We will shut down these little airports and really give them a hard time in Peru." I couldn't get it done. Before I left, I said, "You know, we're going to lose agents because these things are rickety and they're old." After I left, a Huey went down, and DEA agents were killed. I still don't know what they're flying down there. I never followed up on it.

The drug war was the biggest frustration I faced. The Bush administration did a very good job putting in place the building blocks for intelligence building and international cooperation, but we never tightened the noose. We never used the information we had, and the building blocks, and the relationships we had, to figure out, "Okay, now what do we do and how are we going to do it?"

**Meador:** Did the President ever get drawn in on these discussions or take a position?

**Barr:** He didn't take a position, but there were meetings where I would express frustration, as would some others. But without the military and the State Department supporting you overseas, it's very difficult to make progress. Bob Gates was very supportive, and together with the CIA we were able to do some very good things. But I didn't find the others particularly supportive.

**Young:** The military dropped out.

**Barr:** Yes, they weren't interested.

**Young:** And the State Department never was an enthusiast.

**Barr:** Right.

**Young:** Where did the drug czar, so to speak, fit into all of this?

**Barr:** Well, [William] Bennett became sort of an irritant to Thornburgh in the sense that we never liked the idea of a drug czar. We thought the drug czar was the Attorney General. So when the drug czar was formed, we did our best to coexist with him. Our view was that was basically a strategy-setting organization, but Bennett liked to go out with a flak jacket and go on raids and

get publicity and all that kind of stuff. I personally like Bill Bennett. I'm a friend of Bill Bennett's, and I think he was very important in the administration. But I don't think that that mechanism makes much sense, because he doesn't have any real power.

**Baker:** And he wasn't able then to bring in the military and the State Department, which is the idea of having a drug czar in the first place, to coordinate.

**Barr:** Right. But in my view, if you really want someone who controls—you can't set somebody up and then take the resources of other agencies and let them order them around. You have to pick an agency and say, "This is your function. You use your equipment and your resources. You can borrow from others, but there has to be an operational agency in charge." They would never trust Justice overseas, so they would never put Justice in charge. State Department wasn't interested in it, and the military lost interest.

**Baker:** If the President had taken a very strong stand and had basically told his Secretaries of Defense and State, "You will cooperate on this with the Justice Department," might that have made a difference?

**Barr:** Oh yes, it would have made a difference. I don't blame Bush particularly, because I think there were other priorities at the time, and we were feeling our way to what the solution is here on the enforcement side anyway. But I think there's a lot more that can be done in the drug war outside the United States with Presidential leadership, and we lost an opportunity to do it. Then Clinton de-emphasized the international stuff, and so I think we're not in particularly good shape.

I don't know if any President is ever going to take it on, because there's an increasing view that it's a bloody battle, and we're never going to be able to win it, so why take it on in the first place? My attitude is if you're not going to fight a real war, if you're not really going to try to do something about this in a meaningful way, then don't pretend you are. It's a waste of people's time and lives. That was my greatest frustration. You know, there are 65 different agencies involved, everyone was turf-conscious. It was pathetic. It goes to the coordination of law enforcement generally. I had a fight with Brady over this thing, which is the basic division in law enforcement between the Treasury agencies and the Justice agencies. That division is felt in the drug war, but it's felt across the board.

Basically, my view was, as I expressed to Brady, things that go clink should belong to the Treasury Department, things that go bang should belong to the Justice Department. Okay, Secret Service—we didn't want protection anyway, because we don't want the President to get killed on our watch. So you keep the Secret Service. That's a historical anomaly, so to speak.

**Baker:** ATF [Bureau of Alcohol, Tobacco, and Firearms].

**Barr:** ATF. Guns and bombs and kicking in doors and stuff, that's Justice Department. That's not a revenue function. You want to do alcohol, fine. But bring these guys into the Department of Justice. Customs? Fine. You worry about widgets coming in that haven't paid duty, that's customs. But eighteen Blackhawk helicopters in Florida flying over, doing a drug bust, is not

customs. That should be the Justice Department. Narcotics should be Justice. And it's led to a complete screw-up because every committee on the Hill wants its own little police department. Basically, Treasury is a favored agency, because Treasury doesn't really threaten people very much. So Dennis DeConcini would shower money on the Treasury agencies.

But the Justice Department people basically don't like, because the Justice Department was viewed as someone who might get you someday and put you in prison. No one wants to give the Justice Department any resources. So you ended up with a situation where eighteen brand-new Blackhawk helicopters were sitting in Florida while customs agents danced around in their flight suits, and DEA agents were dying in Peru in Huey helicopters. You know, it just doesn't make any sense.

**Riley:** Did you have any allies on Capitol Hill that you could count on?

**Barr:** Not on these issues—maybe [Orrin] Hatch to some extent. But, whereas people like [Fritz] Hollings were basically antagonistic toward us, partly because of party reasons, Treasury would get *carte blanche* on their budgets.

**Riley:** But there was political mileage to be gained in taking a position in support of a war on drugs.

**Barr:** Yes, but the way they wanted it, every committee wants their own little police force. They wanted to have a war on drugs. But giving it all under the judiciary committee and the appropriations justice subcommittee, that's not the way to fight the drug war. We want to have hearings on the drug war, so we need Customs under us. And we like to go down to shoot guns at FLETC [Federal Law Enforcement Training Center]—The primary training base for law enforcement agents in the United States is run by the Treasury Department. If I wanted to get new agents or new Border Patrol, I had to negotiate with the Treasury Department for priority in training. I said, "Why the hell is the law enforcement training base in the United States run by the freaking Treasury Department?" It doesn't make any sense.

I would raise these issues and push. I said I wanted these agencies under the Department of Justice. There's good public policy reason for it, and in my opinion, this has been borne out. These agencies all have penis envy of the FBI, and so everyone's trying to out-macho everybody else. They would invite camera crews on their raids and stuff so the camera crews can get to see "ATF" on the back of raid jackets and so forth. The Treasury Department was completely unprofessional in that they would tip off the media before raids.

And guess what? That's what happened at Waco. Everything that has gotten screwed up has generally started off as a non-Justice Department operation, including Ruby Ridge, which was an ATF case. That's what happens on these things. Lack of adult supervision is not good.

I tried to get Brady to see the light, but Brady was not a very imaginative guy and just took the party line. I tried to elevate it in OMB, but I could not get any support for it. Reno was blessed by having a Secretary of the Treasury who actually had some sense. [Lloyd] Bentsen said, "I

don't want any part of this." Bob Rubin didn't want any part of it. [Al] Gore came out with a study saying these agencies should be part of the Justice Department, and Reno shot it down.

**Riley:** Did you find the President's relationship with Brady to be problematic for you in this also? I mean, the obstacle was there, but did it become more—

**Barr:** Yes, I thought it was problematic. The fact that Brady was a colleague—he was the same age and a buddy of the President's—made it very hard for me to take him on and made him a little more arrogant about the position he took with the Department of Justice.

**Young:** The same must have been true of Jim Baker, I should think, although he may not have been involved at that level for most of your issues.

**Barr:** Baker, personally, is a very reasonable guy, and we didn't lock horns. The time I got crossways with Baker was on an antitrust announcement that I made about the Japanese. He got really pissed off at me because he thought I was upsetting relations with Japan. One of my closest friends was Bob Kimmitt, and he was Undersecretary of State, so basically I could usually—not on big issues like our relationship with Mexico, but usually on operations or something else—I could talk to Bob Kimmitt and we could work something out.

**Meador:** Speaking of training. They set up this institution now down at the University of South Carolina, training U.S. attorneys and so on. Was that under way in the Bush administration or was that something that came later?

**Barr:** I did it.

**Meador:** You did it?

**Barr:** Yes. I did it because I sat back and watched Treasury and the other agency law enforcement functions getting all their budget requests, and I said, "Who are our friends on the Hill?" We had a few friends, basically people who were friendly because they believed in the Justice Department. I said, "Look, we have a lot of assets. In fact, our agency is growing by leaps and bounds, we have a lot of facilities, we have to be more strategic about where we place these things."

I had an inventory done of all our facilities, and then I'd go in to Bobby Byrd, and I'd say, "I can put this, this, this, and this in West Virginia, but what I need is your help over here, here, and here." And Bobby Byrd could deal with that. So I basically shut down some facilities and moved them to West Virginia. Then I'd say to Hollings, who was the head of our appropriations committee, "What can we do for South Carolina?" They were shutting down an air base in Myrtle Beach. So I said, "Justice will take it over, and we'll put a training facility there for U.S. attorneys and for agents and so on."

**Meador:** In Myrtle Beach.

**Barr:** Yes, at the Air Force base. I figured it would be nice to have a beach, beachfront property. Our proposal was to help out, put a big facility in South Carolina. Then over time it was pared back to just the AUSA training facility, and he said he didn't want it in Myrtle Beach, he wanted it in Columbia. And he wanted it associated with the University of South Carolina. So I authorized it, and he became very friendly after that. I was his "buddy."

**Meador:** My recollection is that it hadn't been created in your time there, it was just planned to launch, and it came into being later, is that right?

**Barr:** No, it was planned and launched when I was there. The ribbon was cut after I left.

**Meador:** I see.

**Baker:** That sort of brings us to state law enforcement initiatives. I know—you and federalism would like to devolve more U.S. government responsibilities onto the states. In the war on drugs, were you able to do that? What relationship did the Justice Department have with local law enforcement?

**Barr:** My views on that were not so much on the drug war. It was the reform of the criminal justice system. We had good relationships on the drug war, but not as good as—I can get into later, if you want to, why Treasury had better ones at the time—but my view was that we were continuing what had started under Reagan. Reagan had reformed the criminal justice system of the federal government so it was a very tough system, and what we had to do was finish that at the federal level, put in place the enforcement infrastructure we needed, enforce those laws, and have a tougher system.

Basically, we now had to get the states to make their systems like the federal system. What I felt was that we had to define what the federal role was in violent crime. Violent crime was becoming a big problem. It had gone on for a number of years and was at record levels in 1991. A lot of it was gang related and drug related.

My view was that we had to define what the federal role was, and then we had to get the states to do the rest. And the federal role, in my opinion, was drug organizations that were multi-state, guns—because historically gun enforcement had been done by the federal government—and organized crime. To branch out, to make sure we were branching out from the traditional Mafia organizations to include street gangs, and that street gangs were as much a threat as organized crime in the traditional sense of the word. Guns, drugs, and organizations.

**Baker:** So you were pushing for more rigorous state legal mechanisms, sentencing guidelines—

**Barr:** On the one hand, what I wanted to do was set up a blueprint for saying, "Here are the things that we recommend you need to do to your state systems." That was the 23 recommendations, which I still get called about today. People say it's a bible on their desks. It's 23 recommendations on how to have a better criminal justice system, coupled with joint programs with the states on certain enforcement things that would serve almost an educative role in showing what could be done with effective law enforcement. Setting up a joint task force to go

after the large gangs in major cities, the Weed and Seed program, and Trigger Lock were the three joint state and local federal programs that were meant to show how the aggressive use of tough laws can make an impact. Those were the three programs that were done, coupled with explaining, “This is how you have to change your system.”

**Meador:** Did you do anything about policies relating to federal and state prosecutions where there was a concurrent jurisdiction in terms of deferring to the state during prosecutions? Did you address that at all?

**Barr:** Yes. Typically you defer to the state. But where we didn’t was the gun enforcement, which got a lot of criticism from federal judges and from others, because all of a sudden they discovered federalism and didn’t like the big federal role. That’s the program the DAs loved because they’d find these guys with yellow sheets a mile long—violating gun laws, using guns in violent crime—and all that they could get was eighteen months. We could get twenty years mandatory minimums. So they brought them to us, and we put them away in federal prison. It had a radical impact. The federal prison population grew 12 percent in 1992 alone, and most of them were violent offenders.

**Young:** Going back to what you were previously saying about these three programs, was the Governors association ever involved in this?

**Barr:** I made a presentation to the Governors. I think Bill Weld actually invited me to do that, and I started working with a few of the Governors, Tommy Thompson. I got into juvenile crime as well. So I forged relationships with a few of the Governors. [Pete] Wilson and I, strangely enough—he had put a hold on my nomination, a weird situation because what the antitrust was doing, it affected Hollywood. He put a hold on my nomination for Attorney General, and we ended up being very good friends because of our positions on violent crime, going after gangs and shutting down the border with California. We became very good friends, and he was very supportive of what we were trying to do. We did work a lot with the Governors, the DAs, the attorneys general. I spent a lot of time with states’ attorneys general.

**Meador:** Did you ever have dealings with state courts or the Conference of Chief Justices and groups like that, or the state judiciaries?

**Barr:** I did a little bit. I just want to tell you, there’s one vignette. As I was trying to get this stuff done, during the campaign, Bush was out in California. It was the weirdest damn thing because I’d been batting my head against the wall trying to get some of this stuff done. I got a call at home from the President: “I’m out here with Pete Wilson, and he’s been telling me what a fantastic job you’re doing on these law enforcement initiatives in California. But he wants more help. Are there things we could do on this, this, this, and this, and others?” I said, “Well, Mr. President, I have a package of proposals sitting on Dick Darman’s desk. They’ve been sitting there for a long time, and it addresses precisely these issues.” “Well, we better get on top of that when I get back” and so forth.

**Baker:** But nothing ever happened?



**Barr:** Nothing happened.

**Young:** Why not?

**Barr:** Because of the interagency process. But anyway, going back to judges—I spoke at a few judicial conferences and things like that, but I didn’t have that much contact. I met with [William] Rehnquist once a year, the last year I was deputy and the year I was Attorney General.

**Meador:** I was going to ask you, during the four years you had in the department, was there any kind of regular contact with the federal judiciary, the judicial courts of the United States, to develop measures or to help federal courts, improve federal courts? Did you do anything like that, or testify in committees in favor of bills designed to do something about the federal courts?

**Barr:** No, I basically fought with the federal judges over two issues, because they were always bitching about the caseload. They continued to send judges who would complain to me and claim they were representing federal judges. They didn’t like these terrible cases being brought into their courtrooms, these violent crime cases and drug cases and so forth. This was not the stuff that should be brought into federal court. I said to them privately, and said a number of times publicly, that this was elitist nonsense, that they were there to serve the people, and if this was a high federal priority, they’d do their jobs as judges. They’re not above the fray, and the fact that they would rather piddle around with some antitrust case or something else was irrelevant. I had no sympathy for their bitching about those kinds of crimes in federal court.

The other big thing—and I still think it’s the main problem with the federal judiciary—is they’d always be talking about their caseload—and this was, by the way, the only criterion that was of any importance to me—not the only, but the main criterion of importance to me in picking district court judges: They don’t use summary judgment. If you read the Supreme Court’s cases on summary judgment, there’s a lot of latitude to use summary judgment. And they don’t. Federal judges don’t use summary judgment the way they should. As a result, their dockets are all crammed up. So my number one prescription for the federal judiciary is that they should use summary judgment. Everything goes to trial, apparently. Do you disagree with that?

**Meador:** I’ve always thought summary judgments should be used more than they are.

**Barr:** It’s terrible.

**Meador:** If you think the federal courts are bad, the state courts are even worse on it. They rarely use summary judgment, most of them. I think they’re scared to. They’d rather let a jury decide it than take the heat.

**Barr:** And so they chew up resources and time with trials that should never be held. And the costs they impose on society—because basically no one wants to take a risk of going to trial—is bad. So I had this uneasy relationship with the judiciary because they didn’t like the kinds of cases we were bringing. They thought we were federalizing street crime. That was their basic beef.

**Meador:** Did you ever appear before the Judicial Conference of the United States to talk to them or discuss things with them at one of their meetings?

**Barr:** No, I just appeared at circuit conferences.

**Young:** We've dialed back to the earlier subject. In answer to the question you said, "interagency process" and smiled. I think you ought to talk about what that means.

**Barr:** I wasn't sure what it meant. Usually it means delay in bureaucracy, having meetings, and having people ponder things, but no decision ever being made. There was never really a coherent interagency process. There was no forum for my kinds of issues on the domestic side, and therefore I tried to bring things over on the national security side because you actually were dealing with pretty good people over there and an efficient process.

**Riley:** Did you have many interactions with Roger Porter and his shop?

**Barr:** Yes. As I said in my remarks before, Roger is a very intelligent guy, but he came at things from an academic process, policy process standpoint. I didn't know it at the time, but he was writing a book while he was doing this, which sort of irritated everybody when he later published it. In my opinion, he was part of the problem, which was process for the sake of process and not really focusing on what do we have to do politically [banging on table]. Let's get it done.

**Riley:** In your time in Washington, have you seen other models of people in that kind of domestic policymaking apparatus in the White House who have done a good job? You said that you felt like the interagency process was more process than results oriented.

**Barr:** No, I haven't. I haven't thought that much about this. But part of it is the domestic agenda—outside of the management of the economy, as economic policy-setting—there's a discrete cast of characters. It's an analog to national security: head of the Council of Economic Advisors, head of OMB, Secretary of the Treasury, whatever. You have a group there.

But on other domestic policy issues, the cast of characters could shift from issue to issue. And the agency with primary jurisdiction doesn't necessarily want to get other agencies involved. I'm sympathetic to that. You know, if I want to do this, why do I want HUD [Housing and Urban Development] sitting there deciding whether I should do it? It's a difficult thing to do. You need a President, ultimately, who puts advisors in the White House who are really focused on certain domestic issues. An issue has to become sufficiently important to do that.

**Young:** There's one theory or interpretation of Darman's position in the administration—which was obviously a leading one in many areas of domestic policy—and that is that the name of the game ceases to be policy itself and becomes the money. It's the primacy of fiscal issues. The power—even with no Darman there—would tend to gravitate to OMB or to somebody who had an agency with plenty of resources, plenty of expertise, and plenty of information about the budget and everything goes through that. Was that one of the blockages to results-oriented domestic policy, in your understanding?

**Barr:** It wasn't OMB as an institution, it was the leadership of OMB. OMB is a great institution, and any President worth his salt would want a strong OMB. They're the best professionals in government in OMB, and you need that function. But, in my opinion, you need someone who's broader-gauged than a bean counter. And I don't even think that Darman was necessarily a bean counter. He viewed himself as a policy guy too. I just think he had a tin ear. I think he was dissociated from what real people care about, and had his own ideas of what was important as policy.

Also, his personality was such that he essentially enjoyed the process of killing other agencies' initiatives, because it made him feel more important. There were occasions toward the very end where I think he became a little bit more interested in some of the stuff I was doing, a little more tractable. But by that time it was too late to really do anything.

The President said to me after the election that one of his regrets was that he was not supportive of the domestic Cabinet officials who had particular agendas they were trying to get done. He mentioned that he knew I had been trying to do some things in the law enforcement area, and he regretted not having been more supportive of it. I don't know if it would have had an impact on the election across the board, certainly not just Justice Department stuff. The forces at work were maybe too profound. But it might have made a difference.

**Young:** Well, from the outside, it looks like, for all of the differences that there were—and there were many, between domestic policy and foreign affairs and national security policy, both in terms of the personalities and the agencies involved, and the close-knittedness of the national security people—it looks like there really were two people more or less in charge of affecting domestic policy. And those were Darman and Sununu. This is not my theory—I don't know what to think. But in so many discussions, both Darman and Sununu emerge as having the President's ear and being key people on certain issues of domestic policy, just as much so as Jim Baker, Brent Scowcroft, Bob Gates, and Dick Cheney.

**Barr:** I think the economic policy team for a long period was weak and divided, but I don't know enough about economic policy to know whether it made a difference. A President can be much more successful if he's good on international, because he controls that. Now, in domestic policy, the pivotal fact was the recession that arguably was caused by over-enthusiastic monetary policy that tanked the economy too long and too deep. I don't know whether better people would have been able to cope with that, or whether the President could have changed that. In my opinion, as I said before, the President was never a good communicator. But when you're a Republican, you have to be, because you're sailing against an unbelievable headwind in the media coverage of an administration. Anyone who suggests that the media is not extremely biased against Republican administrations is just being disingenuous. It clearly exists. So you need a good communicator, and he wasn't.

Once the economy tanked, and the media started covering it as if we were in the middle of the Great Depression, even during the quarters where we were recovering, the President was in a position which was a no-win proposition for him. I was at Cabinet meetings where this basic problem was discussed, which is, if you speak the truth—which is that the thing is turning

around—then the media is all over you saying, “You’re out of touch, you don’t understand the pain.” Even though the economy had turned around.

But then if you go out and do what the media is basically telling you you have to do, which is, “I feel your pain, things are terrible, blah, blah, blah,” then you’re saying the theme that they want you to. You’re reinforcing the notion that we’re in the depths of a depression. I think that the media had him where they wanted him to be, and they drove it home. I don’t know whether anybody but the great communicator himself could have gotten out of that box.

**Meador:** How would you evaluate Sununu as a Chief of Staff?

**Barr:** I love Sununu. I like him because he’s a very upfront New Yorker. He intimidated some people, but if you understood him and you were a New Yorker, you could get along with him just fine. My instinct is that he was a far better Chief of Staff than people give him credit for. And maybe because some people were “intimidated” by him or didn’t like his brash, in-your-face manner, they didn’t stand up to him on policy, and therefore there was no give-and-take the way there should be in policy development.

I do think that the budget deal they reached was a big mistake, and he played a role in that. But apart from that, he made the trains run on time, and in the domestic area he was at least somebody you could go to as an enforcer and someone who could provide some adult supervision where it was needed in the domestic area. I’m not that sure about his role in the foreign policy area. He was certainly more of a neophyte. But I think the guy is great. I like him.

One of the things that got me into the press when I was deputy was the altercation I had with Secretary [Louis W.] Sullivan over his change of HIV policy on immigration. In other words, under the immigration law, it says that if someone has a dangerous, contagious disease they’re not allowed into the United States unless the Attorney General gives them a special waiver. Otherwise, they can’t come in. They have to be treated for it if it’s curable, and if it’s not curable, they still can’t come in. The Attorney General can give a waiver for hardship like medical treatment or to visit family or something. The law had actually been changed from “dangerous, contagious disease” to allowing the Secretary of HHS [Health and Human Services] to list “diseases of public health significance” or something like that. He wanted to de-list HIV as a disease of public health significance and leave in curable diseases like syphilis and TB [tuberculosis] on the list, but take off HIV.

So Sununu called me when I was Deputy Attorney General. They didn’t want to muddy up Thornburgh on this because they figured Thornburgh was going to have to go run for the Senate. So he called me up and said, “Sullivan is about to come out with this rule. We need some Justice input on it.” I said, “I understand.” So I asked for a meeting with OMB—this was the interagency process.

So the guy at OMB—not Darman, but Darman’s deputy—held a meeting. I went over, and the Deputy Secretary of HHS went over and said, “What’s your problem?” I said, “I’m not only in charge of immigration, but I’m a lawyer for the administration, and I have problems with this. How can you possibly say that HIV is not a disease of public health significance?” “Well, blah,

blah, blah. He's the top doctor, he's the doctor of the administration, and this is his position, and that's it." So I said, "Okay, well I'm the top lawyer in the administration, and that's it, that rule is illegal, so I'm not clearing it." Then it turned into a big fight and went public. I took all the heat, but Sununu was in the background.

[BREAK]

**Riley:** ... war on drugs, there was always a demand-side question dealing with the drug use in the U.S. Was there engagement with the education department at all?

**Barr:** Who was the Secretary of Education?

**Young:** Well, [Lauro] Cavazos first, and then Lamar Alexander.

**Barr:** Was that the order?

**Young:** Yes.

**Barr:** I thought Cavazos was at the end.

**Young:** No, Cavazos was held over from Reagan. He was Secretary under Reagan, and then Lamar Alexander was called in.

**Barr:** I guess there was a reason for letting Cavazos go, because I was very impressed with him. I thought Lamar was great and always on top of things, but I didn't really get to work with him that much. I worked a little with Jack Kemp because, as HUD, he was involved with trying to get drugs out of public housing, and that was part of our big push in the cities. So I worked with Kemp. Let's see, who else?

**Young:** In the education department, there was an issue about announcement of a policy that it was illegal or not permitted to support black colleges or something like that. I'm not remembering exactly what it was, but it created quite a furor. It was an affirmative action issue. I'm wondering if you got involved in that at all.

**Barr:** Yes, it probably would have been good for me to go back over files. I think there were occasions on both sides of the civil rights issue where I vaguely recall some incident where someone suggested that we couldn't give assistance to black colleges, and the Justice Department came out very quickly saying no, that was wrong, you could give assistance to black colleges. There were people who were going too far to the right. Then there were people going too far to the left sometimes, where we had to intervene and say, "What you want to do on that program is a quota, it isn't permissible." Again, you'll have to dig in my memory on things, but I don't remember any significant altercation with Education. The most significant altercation I had with an agency over something that was important, again, was on this HIV policy with HHS that got into the newspapers.

**Meador:** If I could shift a little bit from relationships with other departments to Congress. In the four years of the Bush administration, did the Justice Department develop any significant pieces of legislation, any bills, that it really went to bat to try to get enacted by Congress?

**Barr:** The principal one was the crime bill. There was another civil rights bill, the Americans with Disabilities Act.

**Meador:** Was that a Justice Department-created bill?

**Barr:** Thornburgh was one of the main proponents of it. I don't know who else would have done it, but I think it was largely drafted at the Department of Justice, and Thornburgh was one of its chief proponents as a piece of civil rights legislation.

**Meador:** Did you ever go up and testify yourself on pending legislation?

**Barr:** Well, as OLC and later as deputy, I was the main testifier for Justice on things.

**Baker:** So you did on the Civil Rights Act of '91?

**Barr:** Yes, I testified. That was the bill to undo some of those decisions—

**Baker:** Wards Cove [*Wards Cove Packing Co. v. Antonio*]?

**Barr:** Yes. I dealt a lot with [Edward] Kennedy trying to reach agreement, where we could reach agreement on certain civil rights—I always enjoyed dealing with Kennedy because he was very direct and he knew how to make a deal. It's very easy dealing with him. He'd call up and say, "Look, I know you don't want to go too far in this direction, but here's an issue we can isolate where I think you would agree with me. And if I guarantee you that this bill will stay at that dimension and we won't use it as a vehicle, can we work together on it? And in return, here's something I can do for you." We'd just cut a deal, and it was done.

**Baker:** And he'd stand by his deals?

**Barr:** Yes, he would stand by his deals. It was the art of the possible, so it was usually something that could be done.

**Young:** Did you find that unusual with members of Congress?

**Barr:** Yes, most members of Congress—I don't know how to analogize it, but it was almost like dealing with an infant. [laughter] They always want more, you're never sure how to please them, and so forth. It was difficult.

**Baker:** That was across the aisle, on both sides?

**Barr:** Yes.

**Young:** That was my next question.

**Barr:** Sometimes your friends are your worst enemies. Let me just say that I had great relationships on the Hill, on both sides of the aisle, because I worked them very hard—worked them not in the sense of lobbying, but I would return calls promptly, and I would make sure that when someone asked us to look at something, we’d look at something, we’d get back to them, and so forth. As a result, I had a very good relationship, except with Jack Brooks. It was very difficult dealing with the House Committee because Brooks was very ornery and very partisan.

**Baker:** Wasn’t he always threatening a subpoena?

**Barr:** Yes, he was constantly threatening to subpoena us and throw us in jail. He was a very partisan guy. In contrast, Chuck Schumer, who was in the House at that point, the head of the Crime Subcommittee, was very responsible and easy to deal with. Joe Biden and I had a very good relationship, became friends. It was easy dealing with him as well.

**Young:** Well, that comes out quite clearly in the record, starting with your confirmation as Attorney General. Those things become noticeable historically when you hear so much about deadlock and division and conflict between the administration and Congress, and it’s not the whole story.

**Riley:** One of the early issues—according to the briefing materials—that you were asked to go to Congress on was the flag burning. We haven’t touched on that yet, and that’s something that probably historically people will want to look back on. Can you tell us your story about how that issue emerged, your role in it, how things eventually resolved themselves?

**Barr:** Was it the Johnson case?

**Baker:** *Texas v. Johnson*?

**Barr:** *Texas v. Johnson* invalidated either prosecution or the statute that said you couldn’t burn the flag. That plus some flag burnings precipitated a move for a constitutional amendment to prohibit the burning of the flag, the desecration of the flag. The more liberal forces didn’t like the idea of a constitutional amendment, at least on this subject, and so they tried to head it off by suggesting that somehow you could do a statute that would pass constitutional muster under the *Johnson* case. And they wheeled out Larry Tribe and [Geoffrey] Stone from Chicago and [Walter] Dellinger from Duke, who all prostituted themselves by going up there and suggesting that yes, you can craft a statute that would be constitutional. We obviously wanted a constitutional amendment. And from my standpoint it was clearly a legal imperative if you wanted to protect the flag, but I’m sure there were also others outside Justice, I’m sure there were political motivations as well. It was a good political issue.

I had to go up and explain that you could not do it by statute, you had to do it by constitutional amendment. In the process, I became somewhat friendly with Larry Tribe and Walter Dellinger, even though they were on the other side. Then later, when the flag statute was passed, it had to be defended in the Supreme Court—the Department of Justice tried to defend it. I think the Hill

actually filed briefs because they weren't sure we were going to defend it vigorously. Of course, we were right all along. It got struck down.

At the time it had some currency as an issue, and people were all exercised about it. It would be interesting if in the future people will wonder why that was an issue.

**Young:** The Solicitor General then was Starr?

**Barr:** Yes.

**Young:** Was that a case in which there was a discussion about the politics of that issue, what would be done by the Solicitor General?

**Barr:** The basic standard in the Department of Justice, the rule we followed—and I think it's basically the standard—is that generally you will try to support the constitutionality of a statute even if the Department of Justice itself has doubts about its constitutionality. There's a presumption that you will defend the constitutionality of congressional enactments, with an exception, which is that any statute that impinges on executive prerogative we will not defend. As I recall, we had a discussion and we decided: We think this is not constitutional, but we will apply our general standard and make the best case possible.

**Meador:** That touches on something you mentioned briefly this morning. There's a longstanding tradition about the independence of the Solicitor General, and I wonder how that played out during the four years of the Bush administration. Was the SG's office given a very high degree of independence, or was a short leash kept on it? How would you describe that?

**Barr:** Generally, I would say it had a significant amount of independence, but I think that, depending on who the SG is, they tend sometimes to get carried away with themselves and start viewing themselves as the so-called tenth justice who has some kind of loyalty or responsibility apart from being an appointee of the President. I personally don't buy that and believe that the person is carrying out the role. The President is the chief law enforcement officer under the Constitution, and the SG is just carrying out part of his function. I have never believed that there's anything wrong with White House or other components in the Justice kibitzing or even trying to turn around what an SG is trying to do. You know, most people don't want to get into that because most of those issues are not of political significance. But if an issue of political significance comes up, then people have kibitzing rights—

**Meador:** Was Starr the SG throughout the Bush administration?

**Barr:** Yes.

**Meador:** All four years?

**Barr:** Yes.

**Meador:** Do you have any evaluation of him as SG that you would care to offer?



**Barr:** I think he was an excellent SG. I had a disagreement with him on *Cruzan*, and I had a disagreement with him on *qui tam* and a couple of other cases here and there. But, by and large, I think he was a very good SG.

There was one incident that one of my former aides is constantly reminding me about because it was sort of a funny scene. We were stopping Haitian boat people as soon as they came out of Haiti. We intercepted them on the high seas and turned them around and put them back into Haiti, because we viewed them as economic refugees, not political refugees. So this judge up in New York kept on putting stays on us and actually enjoining the Coast Guard and the Justice Department out on the high seas, claiming we were violating different things.

We used these emergency things where we went right from the district court up to the Supreme Court to get the stay lifted. We did it twice in a row. The Supreme Court lifted the stay twice in a row. Then this judge slapped on another stay. He was doing it on the theory that we were violating the High Seas Act, the High Seas Treaty that was implemented through the High Seas Act. I forget exactly the details. This would have been a big problem.

Brent Scowcroft called me and said, “When are you going to get that thing lifted? We have tens of thousands of people heading to the United States, and our ships are just stopped. We can’t use our ships.” So I said, “I’ll get it lifted this afternoon.” He said, “You’d better. This is important. We can’t have a judge in New York enjoining military forces of the United States.” He was all exercised about it. He said, “Do you have a backup plan?” I said, “Yes, I have a backup plan.” He said, “What’s your backup plan?” I said, “My backup plan is that if we can’t get the stay done, we put our ships within the three-mile limit of Haiti and stop the boats within the three-mile limit, and then we’ll put them back on shore.” There was this long silence.

I said, “You see, that way we wouldn’t be violating the High Seas Act.” And he said, “But that would violate international law, wouldn’t it?” And I said, “Yes, but it wouldn’t violate American law.” [laughter] He said, “Hmm, let’s hope we don’t have to go to plan two.” So anyway, one of my aides came in and said, “Ken Starr is going to come in here and tell you that he can’t go back to the Court because it will exhaust the Court’s patience. We’ve already been up there twice on some emergency procedure, and we just can’t go to the well too many times. He’s going to come in here, and he’s going to be citing all kinds of stuff, and he’s going to tell you that.”

So the door opened in my conference room, and I’m sitting at the table, and he started walking toward me with this stack of books with little yellow stickums coming out. I said, “Ken, I need a fucking stay by three o’clock.”

**Baker:** Preemptive strike.

**Barr:** “And that’s an order.” And he said, “Okay,” and he turned around and he walked out. Excuse the language. If you knew Ken Starr, you would know that he was quite taken aback by it. Ken would never use such language. He not only got the stay, but the Court said that the district court could not exercise any further jurisdiction in the case. So it just shut the thing

down. It was great. That's an example of the SG sometimes viewing the relationship with the Court, but needing some guidance on what they have to do for an administration.

**Meador:** I'm a little hazy on this point. Was Starr appointed by Bush, or was he already there?

**Barr:** He was appointed by Bush.

**Meador:** Do you know the story behind that appointment? Was that a Bush decision, or who really was instrumental in that appointment?

**Barr:** I don't know how the idea arose. He was very highly regarded, and I think he was probably getting a little bored on the court. I think he wanted ultimately to go on the Supreme Court. I think he maybe believed it was a good stepping-stone to that position, that the administration would be indebted to him and put him on the Court. In retrospect, I wish he had been put on the Court instead of Souter, but also I think it was a mistake for him to do that, because when you take those positions, then you start collecting baggage.

**Meador:** A mistake for him to become SG?

**Barr:** Yes.

**Meador:** He would have been better off to stay on the D.C. circuit?

**Barr:** Oh yes, he'd be on the Supreme Court, in my opinion.

**Riley:** Was his name on the list of eight or so you talked about earlier?

**Barr:** Yes.

**Meador:** Was it a close competition between him and Souter at that time?

**Barr:** Yes, I think there was. I regret very much that he's not on the Supreme Court. I think that was a mistake on his part to take that job.

**Baker:** How were *amicus* decisions made by the Justice Department? Was that the Solicitor General's decision? Did you get input from the White House counsel on which ones the United States wanted to sign on?

**Barr:** I think generally it would be the SG's call, but I'm sure there were cases where either the AG—either Thornburgh or me—just said we wanted to be an *amicus*, this is important. I don't recall a dispute over any of that. Maybe you can remind me of one.

**Baker:** Oh, no, not that there was a dispute. I was interested in the process.

**Barr:** On a politically sensitive case, we would talk it over with Boyden and say, "We want to be *amicus* on this." Things having to do with abortion and things like that.

**Baker:** Affirmative action cases—

**Barr:** Yes, civil rights cases and things like that, we would obviously, or some issue dealing with federalism or something like that. But I don't recall. Basically, the SG—like most jobs in government, and like the Justice Department as a whole—95 percent of it is not that politically charged, and decisions will be made pretty much the same regardless of which party is in power. You just do it day in and day out. You have a lot of independence doing that kind of thing. Usually it's in those few areas where you start getting into delicate issues that people will be looking over your shoulder. As I say, in the criminal justice process there was never an incident where anyone discussed a criminal case with me, at least no one in the White House or no one in the executive branch. Every once in a while, a member of Congress might blunder in and want to get involved.

**Meador:** When you became Attorney General, were there any changes you wanted to make, or did make among the Assistant AGs or at that level in the Department?

**Barr:** No, I was pretty much satisfied with the people there. There were some who left, and I was involved in naming the successors. But I don't recall forcing out any Assistant AG, and if there were a few who were a little bit of a problem, you just worked around them, through your own staff. I did leave certain people in place who I otherwise probably would have liked to leave simply to block the White House from putting their own person there. It's true: If you create a vacancy, you never know what you're going to get. I knew the White House people—"Wouldn't it be great to give this job to so-and-so?" All of a sudden, the incumbent looked a lot better.

**Meador:** When you moved to the deputy slot, Luttig became OLC, right? Was that your pick or somebody else's?

**Barr:** When I became deputy, well, there was never any doubt because it was Thornburgh's pick. But people would say that Mike and I were joined at the hip. We were very close at OLC. I treated him as more than just a principal deputy there and encouraged as much access for him to Thornburgh directly so he became trusted by Thornburgh. There was never any question that when I left OLC it would be him at OLC. Thornburgh asked me if I'd be his Chief of Staff as well as deputy, and I said I didn't think that would be a good idea for him. For me to be deputy and his chief running his staff would be—He needed someone who just focused on his stuff. So Mike started playing more of a role as sort of a counselor with Thornburgh and Thornburgh's staff. At that point it was basically Thornburgh, Mike, and me. As I said, there was no associate.

**Meador:** It's interesting how Justice Departments vary from one administration to another in various ways in dealings with the White House. I have a sense from what you're saying here, that in the Bush administration, OLC played a far larger role than it has in some other administrations. Is that your impression? Do you have a basis to compare it with other administrations?

**Barr:** It was my impression that while I was there and while Luttig was there, it played the biggest role it's ever played in the government. It took a lot of the functions out of other

components in Justice—as I said, Office of Policy was basically collapsed—and it took on more of a role of being the enforcer for the Attorney General within the Department, to some extent.

**Meador:** And in judicial selection, I gather.

**Barr:** It did play a larger role in judicial selection, and it played a larger role within the executive branch in terms of policing the general counsels, clearing testimony.

**Baker:** And, in fact, that organization you mentioned this morning of general counsels, which you worked together on—I know that your primary mission there was to secure Presidential authority so that you wouldn’t be sending mixed signals on issues like executive privilege. Did that also assist outside of the issue of Presidential power on other types of issues, you had a direct link to agencies?

**Barr:** Oh, yes, definitely.

**Baker:** With Sullivan, that example that you gave us with Sullivan’s list of HIV—

**Barr:** But on a more positive note, they came a lot more for advice.

**Baker:** So they would initiate it, then?

**Barr:** When I arrived, I think there were eight or nine lawyers. And one of the reasons we grew to twenty-six in a short period of time was that I think people realized that Boyden put a lot of stock in OLC, and so did Thornburgh. The other thing was that OLC, when I got there, had begun viewing itself almost as a court rather than as a counsel giving advice to a client. As a result, the average time it took to get an opinion was six months.

**Baker:** That’s too long.

**Barr:** It’s too long. Their attitude was “no opinion before its time,” almost like an ivory tower court. The integrity of the opinion was more important. I came out of private practice, and my attitude is, *Well, a good lawyer is objective and will tell the client what the law is.* You don’t have to be an Article III court to be objective and to have your primary duty be advising people what the right answer is under the law. But you don’t have to act like a judge to do that. You can do that as a lawyer. So I basically said, “We’re a service organization. When people ask for our opinions, we’re going to get them out the door and to them in time for them to use them.” So the time it took to get an opinion out fell dramatically to just a few weeks, a couple of weeks, three weeks, four weeks, depending on the complexity of the opinion. But it became much quicker [snaps fingers], and as it became quicker, more people started asking advice. So we got a lot more requests for opinions.

**Baker:** Then that lasted through your tenure at Justice, that OLC maintained [inaudible] and this inter-relationship with the agency attorneys also? That continued after?

**Barr:** Yes. Now, Luttig left just as I became Attorney General, and he had a deputy named [Timothy] Flanigan. I felt there wasn't enough time to send anybody else up and get them confirmed, and if I moved Flanigan, then I felt somebody else would be pushed on me. So I kept Flanigan there. And while he did a superb job, Flanigan didn't have the same relationship with me that I had with Thornburgh or that Luttig had with me. Luttig was very close to me, and Luttig and I both became close to Thornburgh. I did not necessarily turn to Flanigan for many things above and beyond just producing opinions, whereas I would say that my role and Luttig's role was much more than producing opinions. It was more consigliere, sometimes an enforcer within the department, things like that.

**Meador:** In relation to these other agencies and so on, did you ever have any problems about the so-called independent litigating authority? Did you ever get crossed up with them about that problem? I recall that as being a sort of sore spot at times.

**Barr:** Yes, we made assertions a lot. We tried to head off other agencies like the SEC [Securities and Exchange Commission] and the FCC [Federal Communications Commission] and claim that they couldn't assert certain positions in their litigation. We never really made that much headway with it, but that was a constant irritant. The IG [Inspector General] was another constant irritant.

**Meador:** It seems that I recall efforts at various times for different agencies to acquire independent litigating authority, there was a sort of thirst out there among some agencies to get that, and that was being resisted by the Justice Department.

**Barr:** Definitely. The Justice Department definitely would resist independent litigating authority just like we resisted other law enforcement authority elsewhere. And that's why there was constantly a problem with the inspector generals that came across when I was there, because I tried to slap the wrists of the inspector generals and curtail their authority, and that became somewhat of a *cause célèbre*. Proliferation of law enforcement authority or litigation authority is a constant problem.

**Meador:** Can I ask you a question about recruiting new talent for the Justice Department? A so-called honors program was in there for a long, long time. I had a feeling that somewhere back in there—I don't know, fifteen, twenty years ago—it seemed to fall on hard times or lower its standards. In your time, was the honors program alive and well in terms of trying to recruit top law school graduates to bring into the department?

**Barr:** Yes, when I was there—and I think it's still the case—there's no trouble recruiting top legal talent in the Department of Justice. It's very hard to get in from law school. Usually you require two or three years of experience in a top law firm before you'll even consider bringing somebody in. It's still very desirable. We raised the salary levels of the assistant U.S. attorneys, and that created more demand for those jobs.

**Meador:** Did you feel that the Department was retaining talent for long numbers of years, or was there a lot of in and out?

**Barr:** We were basically retaining talent. There are certain different patterns in different offices. In the southern district of New York, the pattern is for people to go in for short periods of time, in training. But in most other offices in the United States, except certain big cities, it's generally a career pattern, people in there for 20, 25 years. I think one of the great problems faced by the Department of Justice did start occurring while I was there, but it really accelerated and became a severe problem under Reno.

Part of it was the natural retirement of a very talented group of people who came in at the end of World War II. Like many other institutions, there was just a long backlog of four or five years of war, and a lot of the really good quality people who had held positions of leadership in the military then went to law school and were coming out. The Department of Justice picked up a lot of top-flight people. I'd have to say, it included a lot of Jewish lawyers who in the early days were discriminated against by Wall Street firms and so forth, and a lot of them chose to go into the Department of Justice.

That generation started retiring, and I think that was a big loss to the Department. I found that there was a gap. The experience level was starting to drop when I left the Department, and my understanding is that during the Clinton administration it has dropped precipitously. A lot of career people have left, and the average age of AUSAs is getting younger and younger.

The same thing has happened at the FBI, and that happened particularly under the Clinton administration. The FBI was at risk because a lot of its top agents were in their fifties, and they could retire unless they were retained and there was a special reason to stay. There was great inducement to leave. And, as you probably know, the FBI as an institution did not look favorably on the Clinton administration. They didn't like his conduct, and they didn't like the priorities of the administration. So there was an exodus, and the average age of the FBI has fallen precipitously. The average age of the agents is very young. The experience levels have dropped. I think that's a big challenge for the Department of Justice and its prosecutorial power.

One of the things I took away from the Department of Justice is what awesome power prosecutorial power is. There's no other power like it in government. Maybe the power to shoot a foreigner in war, but the prosecutive power destroys lives. And who makes the judgment to bring a case, to indict? Who makes that judgment? Frequently it's some young person who has a lot of vested interest in a particular case. Who's supervising that person? How does that person get the perspective and the judgment and seasoning in life to take a broad view? I think it's a real problem now.

I think the other big problem is this notion that has gained currency that there's something wrong about political officials reviewing cases. Actually this has largely been precipitated by the liberal critics of the Department of Justice and by the Democrats on the Hill. It's very destructive to personal liberty because what they're trying to do is to say that political-level people shouldn't be reviewing cases. You leave it to the professionals, leave it to the line attorney. If someone second-guesses a line attorney, then there's something wrong.

In fact, my attitude is—and if these people only knew—the second-guessing is not for political reasons, it's really because someone is exercising some maturity of judgment and putting things

in perspective and saying, “Why would you indict this person over this?” It’s like the case against [Charles] Robb, in my opinion, was not a righteous case. That was a situation where adult supervision prevailed.

**Meador:** What case was that? I’m sorry.

**Barr:** Senator Robb.

**Meador:** Senator Chuck Robb.

**Barr:** Yes, and that happened on my watch. I think that was a case where an AUSA had a particular ax to grind. I’m not saying the guy was acting improperly by his own lights, but he had lost perspective and he was on a headhunt. It’s very easy for prosecutors to go hunting for scalps.

**Meador:** I think this tendency goes way back, to view the staff, lower-level decisions, as being the accurate one and anything decided higher up the line as somehow improper. I’ve seen that a long time.

**Barr:** Well, that’s a very bad thing. But I think it started picking up after Watergate, the idea that the Department of Justice has to be “independent.” And from there you get that it should be even independent of the political appointees who are there, and that somehow the career person has some kind of—My experience with the Department is that the most political people in the Department of Justice are the career people, the least political are the political appointees. That’s an overstatement to dramatize a point. But I found that a lot of the career people, when I got pressing them on something, would start giving me political calculus. And I would say, “That’s not your job. I don’t want your political advice. I don’t want you to start bringing in political considerations.”

I think that things are getting worse in this regard because as the average age of prosecutors falls—coupled with the tendency for political appointees to be afraid to review anything—there is a lot of injustice being done in the law enforcement function.

**Baker:** You’re speaking here about the potential abuse for prosecutorial discretion. Is this tied in, then, to some of your long-stated opposition to the special prosecutor’s office because it really does remove that discretionary authority from some political accountability?

**Barr:** That’s exactly it. You’re absolutely right. The independent counsel statute is a manifestation of this that’s made worse by the fact that you take the prosecutor and by statute give him a single focus. So you almost remove any perspective or resource constraint on the person. No resource constraint, single perspective, a political environment where you’re almost driven to find something or else you’ve wasted—To justify your existence. And no ultimate accountability.

Ninety percent of the judgments reached—that’s an overstatement. People, I think, have done superb jobs, like Jake Stein. But then you have the persecution of Olson for some chicken-shit reason for several years, which kept on—the man’s life was destroyed for several years.

It was interesting. I was certainly the most senior non-prosecutor at the Department of Justice. I was surrounded by prosecutors, most of them career prosecutors who were political appointees. Most of our political appointees at Justice were career prosecutors, which is interesting. They were not political hacks. In that context, at the time—but certainly since that time—I have come to feel that political supervision of the Department is very important. Politically responsible people. Someone ultimately has to answer to the political process. I think the thing is being driven the opposite way.

Now they're trying to tie that in with Bush. As I said, they were hands-off on the criminal stuff. But where this ties in, was on all the independent counsel fights I had because I predicted to people—As soon as I was confirmed, I said, “We’re going to get more requests for independent counsels in this last year than you’ve ever seen.” At some point the public integrity section told me that I had received more requests for independent counsel in eighteen months than all my predecessors combined. It was a joke. They wanted one on Neil Bush, they were requested on several Cabinet Secretaries, they wanted it on Clayton Yeutter, they wanted one on Baker, they wanted one on Bush and Baker on Iraqgate.

**Baker:** There was that BNL [Banca Nazionale del Lavoro] bank case.

**Barr:** Yes, the BNL case. They wanted one on Inslaw and all this stuff. All the conspiracy theories were going around. I didn’t believe in the statute, but applying the statute, there was no basis for any of these cases. Brooks was in high gear here, and I got into this big pissing contest on Iraqgate. The way I tried to defuse the situation was—even though an independent counsel was not required, in my opinion, because they didn’t meet the statutory test—I just used my inherent authority—which is now all the AG has because the statute has been killed. But at the time I used my inherent authority to appoint outsiders to come in and conduct investigations. On Inslaw I could never quite understand what the allegation was.

**Baker:** Justice had stolen some software or something? And was trying to bankrupt the company—

**Barr:** Right, and we were in cahoots with Israeli intelligence, and there was this octopus theory and that we had murdered people. None of it had supposedly happened on my watch or Thornburgh’s watch, but we were always getting castigated about this, and we could never quite understand what it was. I remember Thornburgh came to a staff meeting and said, “Will someone please explain to me what the hell the Inslaw matter is?” I felt the same way.

But anyway, I appointed a retired Democratic judge named Nicholas Bua, from Chicago, who was well known to Paul Simon. I didn’t announce it until my confirmation hearing. Simon asked what I was going to do about Inslaw, and I said, “Well, I’m glad you asked because I’ve just asked Judge Nicholas Bua to come in and conduct an investigation. I’ve promised him *carte blanche*. Let the chips fall where they may.” Paul Simon said, “He’s an excellent man, that’s great news.” And that was it. Once Simon gave his imprimatur, that issue was off the table. Bua just thought the thing was nonsense and came out with a report saying it was nonsense.



Then the other one was [Frederick] Lacey on Iraqgate where I kept on saying no to Iraqgate, no to Iraqgate, kept on saying no, no, no, no. Then two things happened that made it hard for me politically to hold the line. One was an allegation that the CIA hadn't turned over all the information—there were some cables or stuff that the CIA hadn't located. Then the other one was—this goes to something you mentioned, Dan, and this is one thing I told Gonzales when I was giving him my advice on how to handle relationship with the Justice Department as White House counsel.

Some newly hired assistant counsel to the President, who had previously worked in the Justice Department in the administration, was sort of showing off that he knew his way around the Department of Justice and had been asked a question about what's happening on this BNL case. He personally called up the AUSA in Atlanta and asked about the case. And this woman AUSA named [Gale] McKenzie, the call ruined her life because she spent the next three years trying to persuade people there was nothing inappropriate. She basically faxed him a newspaper article describing the status of the case. This became a thing of the White House trying to lean on the prosecutors to cover up the prosecution of the BNL.

So those two things created another firestorm. I had gotten things on the right track, but this created another firestorm. So I brought in Lacey. I had actually called Ben Civiletti. I asked Ben to come in, and I asked him if he would do it—because there's no question that Ben is a committed Democrat, but at the same time he's a professional. He's a very honorable guy. Civiletti wanted to do it, but he was headed towards a big trial. He tried to figure out if there was a way he could do it, and decided he couldn't do it. So I picked Lacey, who was unfortunately a Republican. But he was a distinguished judge in New Jersey.

He came in, and he did an investigation. I remember the President did call me from Air Force One. He was headed out to some campaign event, and he said, "Just explain what all this is about. I might get asked a question about Iraqgate. Explain what's going on and what this guy Lacey is doing." So I explained that all to him. He never discussed the substance or anything. He just wanted to know if he was asked a question, what Lacey was doing. Lacey came out with a report after the election saying that Iraqgate was all nonsense.

The third one was the House bank. Congressman Brooks and some Democrats (who are still there, so I won't mention their names) came and basically tried to bully me into backing off the House bank investigation. Two of them took me back in my office, asked me if they could speak to me privately, and threatened that life could be very difficult for me if this thing was really investigated. So I told them, "That's tough. It's going to be investigated." They tried to get me to back off and not have records subpoenaed. I didn't back off, but I appointed Judge Malcolm Wilkey—who was the judge I had clerked for—to come in and do it, to run the House banking investigation. He was another independent counsel.

My point there basically is that the Department of Justice is dealing with Congress all the time, and the divisions are dealing with Congress all the time, there's oversight going on. And having us conducting investigations of over a hundred members of Congress at once would just be distracting. So I set up this separate unit to do it. Those were the three that I brought in under that authority. I turned down all the rest.

At the very end, one thing that still was bitter to me was the Passportgate matter, where the allegation was that there was something improper done in the search for Clinton's passport records at the State Department during the election period. And initially, some of the career people in the public integrity section had some kind of wacky theory, a very broad theory that if the search was done for a political reason, it was improper. That it was theft of government property because you were depriving the government of the good and faithful services of a public servant by having a public servant do something that wasn't proper, something like that. This was theft of government property. I said this was all a crock. I wasn't going to support that theory. It was much too broad, and I didn't believe that if an executive official has the power to open a file and look in a file, it's not illegal that he may have a political motivation in doing so. What he does with that information may later create a problem, but not searching the file itself.

So anyway they kept on coming back to the drawing board, and they finally came in with a much more narrow thing, suggesting that one of the people in the White House, Janet Mullins, had been untruthful, and lied, violated 1001. I felt, based on what I was told by the public integrity section and the head of the criminal division, that I essentially didn't have any choice because there was an allegation of wrongdoing by a covered person that required further investigation. I asked that she come in and be interviewed. You see, under the independent counsel statute, the Attorney General cannot subpoena anyone, or force or compel anyone, to give testimony.

I thought the thing could be cleared up just by talking to her. The statute was scheduled to expire, I think, on December 15 or December 8. The Republicans were getting attacked for letting it die and threatening to veto any replacement bill. I think her lawyer just felt I was going to let the thing expire, let the clock run, and that would be that. I didn't feel I could do that. Plus I felt from an overall standpoint if people felt I was playing fast and loose and not enforcing the statute, it would just give impetus to pass another independent counsel statute. So I went to the court and had an independent counsel appointed, [Joseph] diGenova, who was a Republican and a good prosecutor.

**Baker:** Was that because Mullins's attorney had recommended that she not come and talk to you?

**Barr:** Yes. Mullins's attorney advised her not to come. Everyone was mad at me. In fact, in the President's diary, he said, "Everyone is down on the AG over here." I don't know if he said this for history's sake, or if he was posturing here, or whether he really said it, but he said, "I have confidence in the Attorney General. I'm sure he did what was right under the circumstances." But a lot of people in the White House were very irritated that I had done this and felt I should have just let the clock run.

I still believe it was the right thing to do for a host of reasons, not the least of which was these people were ultimately exculpated and got all their attorneys' fees and so forth. But that still was very bitter to me. I wanted to go through the entire time period without ever having an independent counsel. But in this situation, I had to do it.

During my last few days in office, Bernie Nussbaum arrived on the scene and came in and said, “So what advice do you have?” I said, “Well, we’ve killed the independent counsel law, and we’ve taken the heat for it. As a Republican, I would love to see you guys live under that statute. But as an American, I know it’s a terrible law. It’s debilitating to anyone in the executive branch, it’s just terrible. Let it die and let us take the heat for it. Don’t breathe new life into that statute.”

And he said, “Well, we’re committed. The President is committed to having the most ethical administration in history. We have nothing to fear from the independent counsel statute. So we’re going to seek its reauthorization.” And I said, “Be my guest.” And he was gone a year later. [laughter]

**Riley:** But others were not.

**Barr:** Others lasted eight years.

**Young:** Can we turn to another kind of politics in the Bush administration? You mentioned, and a number of other people have mentioned, that the budget deal was a kind of turning point in the administration, or at least began what ended as a defeat for reelection. Did you notice any change, first of all, in your relations with Congress or with Congress members’ attitudes toward the administration, including but not necessarily restricted to matters pertaining to your department after that deal had been made?

**Barr:** Not really. I mean, I didn’t experience it. Maybe that’s because on my portfolio my relations were dictated by the issues I had to deal with.

**Young:** The reason I ask is that others who have commented on this have said that things then became extremely partisan, and “The Democrats were out to do us in. They were already thinking about the next election, and they had us over a barrel.” At that point, what they saw as bipartisanship or something approximating it—the inclination to work together, to compromise on issues—began to decline. I’m just asking whether that was your experience or it wasn’t.

**Barr:** Not on my issues. But my issues, the partisan people were partisan from day one, trying to make life difficult for us. Justice sometimes can engender bipartisanship because of the issues we work on, so people who were very partisan, like Schumer, I could deal with. I could deal with Biden. Nothing changed there. But then, as the election approached, it got harder. Biden called me up and said, “Well, Bill, I’m going to have come after you on this Iraqgate stuff. I’m going to go public and have to basically attack you for not appointing an independent counsel.” I said, “Well, thanks a lot. But I’m doing the right thing here, and this is all bullshit, and you know it.”

**Young:** But he called you. That’s something.

**Barr:** Yes. I had a good relationship with most of those guys.

**Young:** What about how you saw what happened in the White House before or after Sununu’s departure?

**Barr:** It was a disaster.

**Young:** Tell us about it. And then there was another change at the eleventh hour—from Skinner over to Baker. So we really try to get from everybody their views inside and from the outside.

**Barr:** Well, it was an absolute disaster. I like Sam Skinner. I consider myself a friend of Sam Skinner's, but that was not the right job for Sam Skinner. Sununu, he'd give you an answer, he'd make a decision, you'd get into a policy dispute with him, you'd fight it out. Sometimes you could persuade him, sometimes you couldn't. But the White House just became complete process with no substance, as far as I could tell. As soon as Skinner arrived, he went through a lot of gesticulations about having management consultants come in, do team-building exercises, and all that crap that you get in the corporate world.

But there was no rolling up their sleeves—"What do we have to do? Who's going to do it? Let's get it done." It was all process. It was all, "Why don't we send in some issues and put an issue list together?" and all this kind of stuff. And these lists never went anywhere. It was Roger Porter in his element. It was just shuffling paper. I got in trouble at one point a little bit. He brought over Yeutter, who had been Secretary of Agriculture, as one of his henchmen, and Henson Moore. There were certain things I wanted to get done, and I was getting frustrated by the inability to let me do certain things. I can't remember what the specific was. But I called up, and Yeutter came on and started giving me the runaround, and process type stuff. I just hung up on him. He got all offended. I had been insolent. A lot of people were frustrated in the agencies because there was just nothing to deal with at the White House while Skinner was there.

**Young:** This affected you mainly because you couldn't get any answers out of the White House?

**Barr:** Yes, couldn't get answers, couldn't get them to give me permission to do certain things, couldn't get disputes I had resolved.

**Young:** Such as?

**Barr:** Such as my fights with Darman on various things.

**Baker:** It was during this time your initiatives were sitting on Darman's desk?

**Barr:** Time was running out at this point. I'd been fighting these things since January, certain things I was trying to force to a head, and I couldn't get anywhere.

**Young:** You had your own program to put through.

**Meador:** Why did Skinner leave?

**Barr:** I'm sure he was dumped.

**Meador:** Why did he leave Department of Transportation is my first question.

**Barr:** Sam is an interesting guy. He liked to be talked about as potentially Attorney General. I thought he was sort of interested in being Attorney General. But he talked to me when I was deputy and said, “I’m not really interested in being Attorney General. You’d be a good Attorney General.” I never knew where he was coming from with that stuff. I think he wanted to get out of Transportation. When I was named Attorney General, he was lobbying for the job of Chief of Staff. Unfortunately, Sununu got into his death spiral, and Skinner campaigned for the job. He was bored at being Transportation Secretary. He wanted something else. Skinner was mentioned for just about any other job for periods of months leading up to this. I suspect it was because he was getting bored at Transportation.

**Riley:** Do you have an idea about why Bush decided to do this?

**Barr:** I’m sure Bush was being told by people that—well, there were a lot of knives out for Sununu. I’m sure Bush had concerns about Sununu, wanted Sununu over the side, wanted to put somebody else in. I don’t know why he picked Skinner. Sometimes the people who were advising Bush had a vested interest in not necessarily putting a strong person in. I’m not sure a guy like Baker would want a strong Chief of Staff there who could rival Baker.

Now, a lot of people thought Baker should go over there early. Baker wanted to be Secretary of State. I think Baker’s a very talented guy, and if Baker had gone over earlier it could have made a difference. I think he does know how to run the show. But by the time he got over there, it was too late. The budget for the campaign had already been spent and allocated, and there was virtually nothing he could do. But when I needed stuff, I’d go over and talk to him, and boom! A decision would be made.

**Young:** But one of the first things Skinner did after bringing in Henson Moore and doing a management survey, or something like that, was to announce that Darman would no longer be quite as important as he was before, and I could imagine what the reaction to that was. So it’s really puzzling how Bush came to settle, in the context of that time.

There’s been a real public relations problem with Sununu. He’s having a major reelection problem coming up. He’s getting bad news on the economy from the public and good news, better news, from inside. And some of the key people who were involved in his first election campaign are no longer around—Lee Atwater gone. And everybody at the White House is saying, “You need to do something”—so far as I’ve been able to hear—“We need to do something to counteract this message that Bill Clinton is getting out, or that’s coming out, and we need to get a theme and show our accomplishments.”

Thinking in that context, and trying to think of Bush in that context, I’m really puzzled as to how it came about that he would select, as a replacement for Sununu, Skinner—or anybody who was not strong enough, or was unwilling to pull those things together.

**Baker:** Was it his popularity rating at the time being so high that he didn’t think it was a serious threat?

**Barr:** I don't know because I never talked to him about this. But I had my own theories at the time, and I have my own theories now. It's an amalgam of different factors. I think there's truth in the proposition that he was more comfortable with foreign affairs than domestic affairs. And with a guy like Baker over at the State Department, someone he would normally rely upon to have a broad, across-the-board policy judgment and execution ability, there was no logical person for him to turn to on the domestic front. Darman, who was Baker's guy, had gotten him in trouble, and he didn't like Darman, I don't think. He valued Darman for certain things, but he understood Darman's shortcomings. He wasn't going to turn the keys of the kingdom over to Darman. So there was no logical person for him to turn to.

**Young:** Why couldn't he have another change, and let Darman go? Or give him something else?

**Barr:** I'm not sure. Darman was fine. Darman would be okay if there was some stronger personality, a counterweight.

**Young:** He didn't select such a person, though.

**Barr:** No, he didn't. Maybe he thought Skinner was that person. I don't know.

**Meador:** During that year, did there come a time, in your recollection, when you or others in the administration began to sense that Bush had a reelection problem, that things weren't all going well? Was there some moment in time when the realization began to set in?

**Barr:** I remember—in early March, I believe—there was a Cabinet meeting where Kemp and I both talked, and I was trying to second what Kemp was saying more than anything else. Kemp and I talked later after the Cabinet meeting and basically said to each other, “We're going to lose this election.” I would say around March I felt we were going to lose the election.

**Meador:** Now, what gave you that feeling?

**Barr:** Just the correlation of forces, the way things were headed, and the lack of organization on our side.

**Young:** That was discussed at the Cabinet meeting?

**Barr:** Kemp basically was saying, “We've got to get off our ass, Mr. President, or we're going to lose this campaign.”

**Riley:** Was the President receptive to that kind of input, or did you get the sense that he was still feeling fairly calm and confident?

**Barr:** I don't know what he was feeling. I think there was a combination of things. I don't think he was cocky about things, but I do think that he wasn't sure what to do about things. There were a number of things going on. My own view was that the President probably felt that when push comes to shove, he couldn't imagine that the American people would elect someone like Bill Clinton, a draft dodger, a huckster. That the American people would elect someone like that as

President of the United States? I don't think he believed that could happen. Over me? Who has a record of service to the country, and the handling of Desert Storm and so forth? So I think he had a hard time coming to the realization that it was potentially there. This is may be my own projection, I never heard him say anything about this. But it was certainly my own attitude: *Well, if the American people are going to do that, then let 'em do it. If that's what the American people—*

**Meador:** Fatalism.

**Barr:** It's more like, *you deserve the leadership you get. And if that's what you want, I'm not going to debase myself. I've performed. I've done what I'm going to do. And if you want somebody else, be my guest if that's what it comes to.* Maybe a little bit of that. I think another strand here is that he's a very loyal person, and he does not clean house. As I said last time, he's a gentleman of the old school, and he's loyal to his people. He doesn't seek scapegoats or chop heads off at the first sign of trouble. He stuck with certain people too long. I think that was part of it. He wasn't willing to make the kind of deep shakeup that was necessary.

I think that he was of the generation that maybe didn't have the kind of feel for what was going on in the country and how to connect with the American people that may be necessary in the communication age—the sense of empathy, being one of you, and that type of thing. He didn't come across that way.

**Young:** You know, they always said Reagan was hard of hearing. Well, maybe to some of the buzz in Washington, but he was never hard of hearing about outside. He had almost an instinct, I think, for that, that Bush maybe did not have, for reading the tea leaves of public sentiment.

**Barr:** That might be true. I think part of it also, though, is “I'm not going to go down and play the game, acting, and being somebody I'm not.” George Bush is a private person, he's reserved in his dealings with people, to some extent. He's a warm, sensitive guy, and he's an intelligent guy and a cagey guy. But he's not the kind of guy who's going to stand up there and act, and bite his lip, and put on a charade. He has a little bit of pride in the sense that “I'm not going to be somebody I'm not,” not even to stay as President of the United States.

**Meador:** Given all of that, how do you explain how he got as far as he did in politics? I mean, he came a long way up through the ranks and was successful politically. How did he do all that so well, and then in the end seem to fall short?

**Barr:** Well, the kinds of positions he had were positions where he didn't have to please the electorate. He had to please political colleagues. But I also think something has gone on in American politics itself. It moved since World War II days from a society that still had an aristocratic component. I'm not saying we were an aristocracy by any means, but there was an aristocratic component, there was a sense that there were certain people who—through achievement and through their conduct and through other things—have earned a certain stature in society. But we are becoming more and more a vulgar society. It calls for different kinds of politicians, different kinds of people on the tube.

Everyone now thinks that their opinion is just as good as anybody else's. Thirty years ago, someone would say, "Well, you know, gee, if the Secretary of State says that, he knows more than I do about that." We live in a world of Jerry Springer. Everyone is encouraged to believe that their opinion is *just as good* as everybody else's, not because it's more thoughtful, rational, or closer to an objective truth, but because it's *their* opinion. And that kind of environment requires a different kind of politician. He has to be a panderer.

**Young:** Yes, but this infection, this contagion, also afflicts a lot of politicians.

**Barr:** Oh yes. And a breakdown of party discipline—

**Young:** I mean, look at congressional behavior. Sometimes it's hard to award people like this the respect that their elders in another age might have merited.

**Meador:** What I think I hear you saying is that time had moved on, and Bush and the times had sort of gotten a little out of synch with each other. The time had moved on beyond him, so to speak.

**Barr:** No, what I would say is, first, Republicans have to be better communicators to win and hold power, because they have to counteract the big headwind. He was not a good communicator. Second, his demeanor and bearing in the environment in which he—The times had shifted in that respect, and people wanted more pandering to them than someone like Bush. Bush wasn't going to pander. When he did, he didn't come across as genuine.

**Young:** Well, apparently, in one respect, somewhat like Jimmy Carter, he was extremely good in the face-to-face context, meeting people and local groups and so forth. He was at his weakest as a communicator when he was coming across in the mass media, in front of the camera, which was Reagan's great strength, that he could do that.

But if you look at the first Presidential campaign and compare it with the second, it's the difference between night and day in terms of the way it was organized, the way the President came across. Some of the enthusiasm he communicated, especially in his acceptance speech, which came back to haunt him—

**Meador:** What would you say about that comment on the difference between the first campaign and the second campaign? Could you comment on that, the point he just made? Why were they different, did you think they were different, and why?

**Barr:** The initial polls, as I recall, during the period in the first campaign when we were looking at the Vice Presidential candidates, were very scary. It looked like there were some wacko ideas being—not wacko, but I mean people were really searching around for what kind of Vice President, and how do we get ourselves out of this hole? So it had all the earmarks of a disaster. I can't remember exactly what started turning the thing around.

**Young:** [Michael] Dukakis. Dukakis was way ahead. It turned around at the convention, the convention speech.



**Barr:** At the convention it started closing up.

**Young:** Yes.

**Barr:** But the other thing is, Dukakis started making some big mistakes. I think part of the difference was Atwater. There was someone in charge, someone self-confident.

**Young:** Atwater and Sununu. Both did different things, but—

**Barr:** Elections when you're an incumbent are always different because a lot of the people around you are people who may be good at governing, but are not necessarily good at running campaigns. In Clinton's case, they were good at running campaigns, period.

**Young:** There was a blurring of the distinction.

**Barr:** But Bush actually felt—I think I heard him discussing this at one point—he said that the skills that it takes to win an election are different from the skills it takes to govern. Just because someone has been a good campaign person doesn't necessarily mean that they should be given a particular position in government, because they are far different things. He had a certain respect for the process of governing, I felt, in real contrast to Clinton, who viewed it as an extension of the campaign. The power was to be used to help you keep power. Bush had this ethic that you believe in good government and doing the right thing, and that was instilled across the board. That's not to say people didn't have an eye on politics. Maybe part of it was that you're an incumbent, your schedule, the people you're dealing with, and everything else is a little bit different from when you're not an incumbent.

**Riley:** Might some of this have been a reaction to his experience in the first campaign, which had heavy populist elements that don't seem to mesh very well with the more patrician figure that you've painted. You've got the ACLU, and the flag waving, and—at least under the scenes, the sort of Willie Horton sub-element. Do you think he comes through that and feels like maybe, *That's not the way I like spending my hours?*

**Barr:** No, I don't think so. The Willie Horton thing, I don't think that bothered anybody. I think it was Gore who first came out with the Willie Horton thing.

**Riley:** Yes, sure.

**Barr:** No, I don't think it was a reaction like that. I don't know. There are some people who suggest that he was on medication for his health a little bit, and it took the fight out of him. I wouldn't be surprised if that were the case; I don't know. If he was on medication at the time, it probably did have an impact on him. But if you look at the big picture, I'm not sure. The economy was such, and the way the media was playing the economy was such, that the basic problem was his inability to communicate and come across as the common guy.

**Meador:** Do you see any parallel here between his experience in reelection and Jimmy Carter's reelection experience? You had one-term Presidents, one of each party, who were defeated for reelection. Is there any kind of comparability here at all?

**Barr:** I think the thing that got Carter in trouble was that he was almost throwing up his hands. He went up to Camp David and accused the country of malaise and tried to figure out—This public exhibition, *Gee, what's going on? What's gone wrong?*—which sort of suggests that things were out of his control. Then you had the Iran thing in which they *were* out of his control. It was a combination of domestic malaise and the humiliation of the United States. I think it was a little different for Bush. I don't think Bush got to the point of *Gee, I don't know what's going on here*, accusing the country of malaise.

It's easy to look back and say, "If he had done this, this, this, and this, it would have been different." I don't know. I think there were a number of things that had to be straightened out, given the economy and given apparently the way people feel about the economy, the all-importance of it. I don't know whether he could have.

**Meador:** You don't see any one or two dramatic points along the way that, had they gone differently, the election might have gone differently? Nothing stands out as being a critical, fatal turning point or anything like that?

**Barr:** No.

**Young:** Except you have said that the budget deal, the election might have been lost right there.

**Barr:** Well, it could have been.

**Young:** The breaking of his very dramatic pledge.

**Barr:** As I think I said last time, I remember saying at the time, "We've lost the election." I was still at OLC, the first year of the administration. I said, "We're not going to get reelected here because of this." Then Desert Storm masked the inherent weakness of the administration. To the extent policy makes a difference, Desert Storm was a double-edged sword. It was a great achievement, but it allowed people like Darman and others to basically say, "Hey, he's very popular, and we have these great achievements, so why is the drug war important, or why worry about immigration?"

**Riley:** I think we got testimony that during the last year there were efforts to approach the Cabinet officers to say, "What can you bring us that we can market, or that we can trumpet as being a part of a domestic initiative?" Do you recall these kinds of efforts and suggestions that you made about initiatives that were developed within Justice that would be useful for the President to flex his muscles domestically?

**Barr:** A lot of that happened under Skinner. That's what I referred to as the process for process's sake. They'd have a meeting where they'd discuss potential lists of issues. I'd say, "I've had my issues over there since January, and I can't get any action. I'm doing this, this, and this. I've

asked for the President to be involved in this event and this event. I've made all kind of trip proposals for this initiative, that initiative, and I can't get any answers from you freaking people."

**Riley:** It just didn't go anywhere.

**Barr:** No. I'd say, "I have my proposals over there. I'm not going to go to more meetings where you sit around making action lists. This list of issues isn't going to turn the election around." By the time they got around to that, it was sort of late in the game. Part of the problem is that—this is sort of philosophical, I guess—but if you have the economy running against you, then it seems to me you have to be able to move the debate up to a higher philosophical level. And a lot of the people in the Bush administration were technicians. They were people who could put together a list of three issues. They would say, "If we amended this provision of this act, we could get thirty extra dollars to people who adopt kids" or something like this.

You're sitting there listening to this string of all these little "initiatives," and you're thinking, *What's this going to accomplish?* Basically, what you then have to do, when you have the economy the way it is, you have to be able to fight the election on the plane of ideas, which is, "Look, we stand for this kind of government, they stand for this. They want to take your money away, they don't trust you." It's basically what George W. Bush finally got to, which is, "They want to take your money and spend it for you, and we want you to keep it." You have to get to certain basic ideas about the difference between them and us and what we mean programmatically. And because Bush was not a good communicator, and because I do think Bush has a tendency, unlike his son, to become impatient with broad themes and ideas—

**Baker:** The vision thing.

**Barr:** The vision thing. Then he couldn't take the campaign to that level, and no one around him could. Let me just say, one turning point—not turning point, it was probably lost already, but I remember Bennett talking about it—that kid who stood up in Richmond, I guess it was, in Virginia. To me it epitomized the entire election, the pandering that was going on, and the difference between politics today and the Clintonesque politician and Bush.

This guy gets up and says, "We are your children, what are you going to do for us?" Remember that question? And the President sort of fumbled around, this little specific and that little specific, the student loan program or whatever. And Bennett—I forget if Bennett said it publicly or said it privately—but he said, "You know, that was a potential turning point. The President, a man of ideas, could just say, 'I'm not going to do anything for you. I'm running to be the Chief Executive of the Republic. I'm not your father, and I'm not going to take care of you like a parent. How do you like them apples?'"

I mean, start getting down to what the basis of government is. "I'm here to be the Chief Executive of the federal government, and our job is to protect the security of the country and do certain basic things, and that's what I'm going to do. You're independent and responsible. I'm not doing anything for you."

**Young:** That message may have gotten through even though he didn't say it. That he was just the Chief Executive, he wasn't the President of the people.

**Barr:** I don't know about that, though.

**Meador:** Richmond, I thought, was one of the lower points in his campaign. He didn't come out looking good after Richmond.

**Barr:** The debate.

**Meador:** Yes, the Richmond debates. That's where he looked at his watch, you remember? You know, the famous looking at the watch? The press made a lot out of that.

Could you describe the role of Quayle in the Bush administration compared to, for example, what you see with Cheney now, what you saw with Gore during Clinton's time? How would you describe and characterize Quayle's role in the administration?

**Barr:** I think the President treated Quayle very well. As far as I could tell, he brought him into the decision-making process on the key decisions. I'm not sure. I don't think he necessarily carried much extra weight because he was a Vice President. I think his voice was one of a number of voices at meetings and deliberations, from what I could tell.

**Meador:** Did he make significant contributions at any time?

**Barr:** I think he did on the regulatory task force where he was trying to increase productivity by reducing regulations and so forth, and encouraging improvements in American productivity, which did, in fact, occur. I think he did a good job there. He was a pretty substantive guy.

**Meador:** Do you have a sense that Bush relied on him for much, or was he just sort of around there as a participant in discussions? Did Bush look to him to do much?

**Barr:** I don't think Bush relied on him to the extent, for example, that George W. will rely on Cheney as a gray head and somebody who brings a lot of experience to the table. I don't think he did that.

**Young:** Of course, Quayle, as I understand it, was occasionally asked on some quite important issues to speak, to do some work on the Hill. And he was a significant voice, perhaps, in the debate within the administration on the question of not going to Congress to seek authority to have a debate on the Iraq war. He had a very good reputation as a Senator, a very good reputation.

**Barr:** It became politically convenient to mock him. I mean, ridicule is a great political tool, and if you can get someone pinned down and characterized the way they did [Gerald] Ford, to some extent, it's great, but unfortunately—

**Young:** There are two things that haven't been mentioned here concerning the declining months of the Bush administration, where often the focus is on Skinner, and the watch, and the signs like that. But something else happened as a result of the budget deal that seems clear, and that was that there was a divide, a wedge driven within the Republican Party, and you had quite dramatic defection on the part of the conservative Republicans, [Newt] Gingrich and others. The division within the Republican Party, it seems to me, the conflicts within the Republican Party, did not help Bush at all, and in fact may have been contributing to the fate of the election. What's your feeling on that?

**Barr:** Well, I think that's true, and more—probably worse than the division—is the demoralization of your base, essentially. I traveled a lot, and I traveled a lot to California, because I figured that, within the bounds of propriety, the more I spoke out about the administration, the policies and so forth, in certain places like California, the better. Very early on I could tell that things were in pretty bad shape. Orange County, where you'd expect very strong support, people were very hostile, Republicans were hostile. I'd go back, I'd talk to people at the White House, go up to Darman and others and say, "Things are bad out there."

**Meador:** What were they hostile about?

**Barr:** The administration.

**Meador:** Specifically on what basis?

**Barr:** Either specific issues—they're not listening, or I'd be taken into the corner by a group of Republicans who'd say, "Listen to the stupid things they've done. They've done this, this, this, and this." Not just policies, but inside politics. "Joe Blow, who's been a county leader here, can't even get his phone calls returned"—that type of stuff.

**Young:** And also there was significant dissatisfaction being expressed during the bad days, before things turned around, in the economy, by businessmen. Corporate donors, the people who had contributed a lot—not only was there complaining about the breaking of the pledge, but long before Clinton apparently started "it's the economy" and "feeling your pain," there was significant complaint, or request for some kind of action to try to turn things around from their own business constituencies. The President apparently was not in the mode to take any action in response to those complaints.

**Barr:** Yes. And I think part of that, frankly, is lack of care and feeding of your constituents from the White House. In the Reagan White House, they had a much more effective outreach program, and Clinton obviously carried it to new levels. But the Bush White House was very inept in this area.

**Young:** Do you think that the President didn't think that was necessary? Or was it a technical failing? Or Darman and Sununu didn't think it was necessary? Because you would think—especially when storm clouds appear on the horizon—that the White House would be very active in that regard. Was this true, and if so why?

**Barr:** I don't know. I'm sure if I looked over the table of organization and remembered who was in what job, I would have positive critical remarks to make—

**Young:** Dave Demarest was saddled with the job. He occupied the position of Director of Communications with Bobbie [Barbara] Kilberg. We have not talked with them. If you look at other administrations, there's a pretty heavy investment, not just by Clinton, but in other administrations, a pretty heavy investment in that outreach.

**Barr:** A lot of the people in the Bush White House, in my opinion, were not the kinds of people or had the kinds of background, or kind of life experience, that they understood the Reagan-Democrat kind of mentality. They didn't. There was a little bit too much WASPiness.

**Young:** In other words, they weren't good politicians, is that what you're saying?

**Barr:** No. Well, maybe that is what I'm saying. They weren't down-and-dirty politicians in the sense that they were willing—

**Young:** But some were not outside the Beltway.

**Barr:** They weren't outside the Beltway— Frankly there was a gap, and is a gap, in the Republican Party, between the country club Republican set and the more ethnic, blue collar, or Roman Catholic element.

**Young:** Buchanan—

**Barr:** Not so much Pat Buchanan, because Pat Buchanan is somewhat a fraud because he is a Washingtonian—Not so much that type, frankly, not the real right-wing people like Pat Buchanan. I would say more the mainstream Catholic vote, which is the swing vote, frankly. I'm not into running campaigns or politics, and we actually tried to stay away from the campaign. I didn't go down to the convention, but I'm obviously interested in politics. My view was that the key constituent, the reason Bush lost the election, had largely to do with the Catholic vote. And if you really start looking at the votes, if the Catholics go Republican, Republicans win. If the Catholics go Democratic, the Democrats win. It happened this last election. They went very tidily for Bush whereas they'd gone against his father.

But I'm using them more as a proxy for Reagan Democrats, a little bit more ethnic, a little bit more blue collar, a little bit more middle America, less upper crust country-club type. I think there were too many people in the White House who were country club Republicans.

**Riley:** This is where the Atwater deficiency—

**Barr:** This is where the Atwater deficiency came in. I would talk to people. I was active in a number of groups of that ilk, and people would try to get me: "You've got to get this group in here, you've got to get that group. Go speak to these people, go speak to that group." A bunch of idiots over there didn't understand. "Oh gee, there's a proposal to speak to this group and a proposal to speak to this group." I mean, whoever's making the decisions of allocating the time,

the care and feeding type activity, I don't think was exercising very good judgment. There were also too many people in charge of the campaign. They had a triple-headed monster there, and no one was in charge.

**Meador:** Are you aware of any consideration ever being given to dropping Quayle and picking up another Vice President?

**Barr:** No.

**Meador:** You don't think that was ever considered seriously?

**Barr:** I think probably people considered it, but I think it was rejected quickly.

**Riley:** You said that you had not gone to the convention, but obviously you watched it. Can you report here your reactions? Do you have recollections? Did you feel like that was a good convention? Was it one that you felt was a missed opportunity?

**Barr:** I can't remember how I felt about it. I tried doing everything I could, I felt we were going to lose the election. I wasn't saying that to people in the Department of Justice, I was being a cheerleader. But privately, I thought we were going to lose the election, so I probably didn't feel too good about the convention.

**Riley:** Jim introduced the Buchanan factor. That's something you haven't talked much about. You dealt with immigration issues, and I recall that was one of his crucial issues during that year. Were you asked by the administration to take a more upfront role on that issue based on Buchanan's challenge?

**Barr:** No, I basically tried to do that a little bit myself, but tried not to do it from more of the—The way Buchanan did it was—how to say?—more the hate-mongering school of thought. My attitude was to stress the fairness of our system, and that we let more people into our country than all the rest of the world put together. If you take all the countries of the world and add up how much legal immigration they allow, we allow more in than I think the rest of the world combined, very high levels of immigration in our country. I tried to talk the positive, it was great and good, something we should continue. But the corollary to it was an orderly process, where everyone got a fair opportunity to come in here, and from certain countries, just because they border on us, we shouldn't allow people to come crashing in the back door instead of waiting their turn. There are people in the Philippines waiting in line for ten to fifteen years to come. They don't have the luxury of breaking our laws and running across the border. You could do it in a way that's not as negative—

**Baker:** Or xenophobic.

**Barr:** So he was more xenophobic, and I was trying to do it more like, we have to let the fairness of our process work, and we have an open front door. The corollary to that is we can't let people come crashing in the back door. We owe it to people who are standing in line to let them in according to our rules. So I took that up myself, and, as I said, when the President called me

from California, it was like he just discovered this was a hot issue in California. It was a massive issue in California at that time. It's funny. It's gone the other way, but at the time—

**Young:** He had to go there to find that out?

**Barr:** I guess. I kept on coming back and saying to people, immigration is a big issue in California. You know, there's a way of playing it that's not bashing the Hispanics, because I'm a big believer that the Republicans have to reach out to the Hispanics, and so the immigration issue has to be dealt with sort of carefully, but—

**Baker:** But the White House wasn't structured in such a way that you could make an appointment and see the President individually on these kinds of issues.

**Barr:** Oh, yes, I could. I think Skinner in his own way tried to get me over there a few times to talk to the President about these things. I went over to talk about violent crime—that was that meeting where he had just gotten off the phone with Yeltsin.

**Meador:** Was it your impression that if you wanted to see the President at any time, then you could see him?

**Barr:** Definitely. There was no problem with that.

**Baker:** There was no “palace guard,” as they called [H.R.] Haldeman and [John] Ehrlichman?

**Barr:** No. I mean, you can't just say, “Hey, I want to go over and schmooze with him” without a reason. They would make sure that you weren't doing an end run and trying to cut off a policy debate by going in and getting him to ratify something you wanted to do. But apart from that, if you had a reason to see the President, including that you thought the President should hear about something and you wanted to brief him on it, you could set up a meeting. I went over to talk to him about violent crime specifically for that reason.

**Young:** Do you know of any instances where the President wanted to get something done that was not moving along as he would like it and where there was some dispute about whether it should be done, or sitting on it by his own staff, when the President called people together and pounded the table—so to speak—and said, “Get this done, this is a high priority of mine, now cut through all the crap and do it”? Did he ever lay down the law like that that you know of on an issue—let's say defense policy—with his staff?

**Barr:** With his staff? I wasn't on his staff, but I can't think of an instance with domestic policy where I saw him do that. He may have done that.

**Baker:** Of course, that brings us to the Persian Gulf War, where he really did do that and was able to mobilize a lot of “this will not stand” sort of sentiment, mobilize a lot of support.

**Barr:** It's interesting, because a lot of his politics, I think, is personal politics. He believes in personal relationships, establishing relationships, working, talking to people, reaching out to



people. That's something that's very suited to international affairs, because you're dealing with a select group of individuals. He tried to do that in domestic—He tried to reach out and have relationships with civil rights leaders and politicians and people around the country and so forth. But domestic policy is a little bit more difficult to run that way. The Gulf War obviously was his greatest display of competence and leadership as President.

**Young:** Also where there was an enemy in a way that there isn't—

**Baker:** As clearly defined—

**Young:** Unless you make one using, “This is what we believe, that's what they believe.” It's not a declaration of war, but it's a declaration of purpose, as you were mentioning earlier, which he really didn't do. The deeper he got into electoral trouble, the less he seemed capable of doing that.

**Barr:** Well, as I think I said here last time, before the Gulf War, the number-one issue for the American public was drugs and crime, crime in particular. It's hard to put yourself back in that period, but crime had been soaring, the murder rate was astronomical. All the polls showed, prior to August 2—or whenever it was that the Iraqis invaded—that drugs and crime were the number-one issue.

So, with that in mind, not reacting to the politics so much, but because I believe this is the role of the Department of Justice, we tried to put together a program. This was when Thornburgh was still there. We had crime summits. Our basic message was very simple. I worked a great deal on developing this and getting the studies to support it. Developing Weed-Seed and Trigger Lock was very simple then. Predatory violence is the one thing that government can do something about. Crimes of passion we can't. If someone blows away their grandmother for turning off the Super Bowl, we can't do anything about that. That's a crime of passion. But predatory violence is something we can do something about, and the overwhelming proportion of predatory violence is done by the same people. A very small group, less than half of one percent, just keeps on committing these crimes. So we have to go after that group, these repeat violent offenders, and incapacitate them by putting them in prison—very simple. We get them off the street, the crime rate will go down. I still believe that's the case. Anyway, we got all this ready, we started this process. The Gulf War comes along, and then the number-one issue is international affairs.

By the time the Gulf War started dissipating, the economy started going up the chain as an issue, and he wasn't going to make any headway on the economy. One of the things about drugs and crime was that in those days, people still gave Republicans credit for being tougher on crime and tougher on drugs. It was still a high priority. Even when the economy went up, it only dropped to third place or something like that. I was there saying, “Look, this is an issue that cuts in our favor. People are concerned about it, and we should have the President more involved in talking about these issues.”

But the Gulf War came right at a time when it preempted the momentum, and trying to focus the President on a domestic agenda that was number one—crime and drugs—at that time. He went and did the Gulf War thing, and then by the time the glow of that had gone, the economy had

sprung up to the number-one position, and he had a team that was fumbling around with that. I don't know how much was under his control in the first place. Then it became harder for me to sell crime.

**Young:** But there's another theoretical logic in this, that as the economy heated up—didn't heat up, but got up to the top of the problem list—you need an alternative until the gradual recovery or the stabilization.

**Barr:** That was my point.

**Young:** And so, this is obviously the time to talk about crime and things that people care about, not to talk about the economy if there's fear in the White House that if you say something about it, you're acknowledging it's a problem. Just talk about something else that matters to people. I sometimes have trouble figuring out the logic of the way these things happen.

**Barr:** I'm not suggesting that you could make an election out of talking about crime. And I don't think you could by talking about the economy. I thought that basically what was required was first, identify the big issues that should cut our way, like crime, and then go out and campaign partly on those. But also then you take the campaign to the level of ideas, and explain why—withstanding this little bump in the road on the economy—overall you're going to be better with us. And that was never done. Now, with the Gulf War, that was probably one of the most memorable interactions I had with Bush as far as I was concerned. I was Deputy Attorney General at the time. I think Thornburgh was out of the country when this stuff first hit, when things were coming to a head on the legal issues.

**Young:** Yes.

**Barr:** I had been the head of OLC anyway, and so I think it was sort of natural. I'd been the guy still going to the national security meetings, so I think it was natural that they asked my legal advice on it. I think Thornburgh was out of the country anyway, but I had had Luttig working for weeks on this issue. I had told him not to put anything in writing, but basically do all the research. These are issues that anyone interested in executive authority knows by heart anyway, and I'm not sure how much original research was necessary here. But we had people doing a lot of research.

We knew the issue would eventually come, and the President would need some advice on the parameters of his power. First, I believed that the President did not require any authorization from Congress, and I believed that the President had constitutional authority to launch an attack against the Iraqis. But I also knew that it didn't much matter what I thought, because that's what he was going to do. He believed he had the authority to do it, and that's ultimately more important than what I believe.

He didn't put 500,000 troops over there for them to sit there, and there was no doubt in my mind that he was going to go on the offensive unless the Iraqis withdrew unilaterally. So I figured at some point I'd be asked my opinion on this. Then, before I knew it, I got this call that there was going to be a meeting over in the Cabinet Room to discuss the legal issues surrounding the

operations in the Gulf. So I went over there, and there was a cast of characters there, probably a bigger meeting than it should have been. The main figures were there including Cheney and Baker and Scowcroft, the President, Sununu.

**Young:** How about Colin Powell?

**Barr:** Colin Powell was there.

**Young:** Were you all at that meeting with research done by Luttig? What had you done by way of preparation for that meeting?

**Barr:** I had discussed it with Luttig at length. OLC knows all this stuff anyway, because we do stuff on covert actions and things like that. So it's almost like boilerplate what the powers of the President are in war. I had him go back and do more research. I myself spent a little time reading some of this stuff about the Founders' belief, and what war was, and what did they mean by "declare war" and all that kind of stuff.

**Young:** Quayle was at this meeting?

**Barr:** Probably. Although—

**Meador:** Was this *the* meeting to decide whether to go or not go?

**Barr:** No. There's a book called *The Commanders*, which has a fairly accurate description of this. The date of it I forgot exactly, I think it was in December. It could have been January, but I think it was December. In any event, I'm not sure if Quayle was there, because I was sitting in the seat directly opposite the President, which is usually the seat for the Vice President. The Cabinet, as you probably know—you have the President, the Vice President directly, then the big four sit on either side of the President and Vice President. So when I got there, my place was right opposed to the President. I was sitting where the Vice President usually sits. So I'm not sure where he was.

But then they had some staff people there, and I saw that they had pads out in front of them, which means someone is going to be taking notes at this meeting. When I tell this story, it's actually true, but when I was leaving my office, Senator [William S.] Cohen was on the floor, a Republican purportedly, giving this speech saying that if any lawyer ever advised the President that he had the authority—because this was really being debated at the time, and there were opened pieces and so forth—if any lawyer told the President that he had authority to unilaterally attack the Iraqis, then that lawyer would be impeached. I was putting on my jacket listening to this going over to the meeting.

So I went over to the meeting. It was one of these out-of-body experiences, because any constitutional lawyer would love to be asked this question under these circumstances. The President said, "Bill"—and I'm sure part of this was display. I realized that, and therefore answered accordingly. There was no doubt in my mind that he could do it.

He said, “Bill, I’ve been reading these articles. This op-ed piece the other day said I don’t have the authority to launch an attack on the Iraqis. What’s your view, what’s the Justice Department’s view on whether I have the authority?” I’m sort of flattered that he asked me a cold question without having discussed it with me first, because it meant he knew what answer I was going to give him.

I said, “Mr. President, there’s no doubt that you have the authority to launch an attack.” I explained why I thought he did under the Constitution as Commander-in-Chief, and I gave him some different theories. After saying he could do it, I gave him a secondary theory—which I was sort of proud of at the time, it was a bootstrap argument. I said, “Now another reason here, Mr. President, is—even for the critics who would say that that wasn’t true—there’s no doubt that you have the authority to put 500,000 troops in the field. Congress authorized—through the approval of the UN whatever they are, resolutions, and through their authorization and all that stuff, Congress has definitely approved you putting 500,000 troops over there face-to-face with the Iraqi Army.

We have intelligence that they have weapons of mass destruction—chemical weapons, biological weapons—and your job as Commander-in-Chief is to make sure those troops are not preemptively attacked. If you feel as Commander-in-Chief that in order to protect your Army in the field you have to launch first, you absolutely can do that.” Which I thought was an ingenious argument, because that means if you can get your troops there, you can. [laughter]

I said, “However, Mr. President, even though you have the power to do this unilaterally, without any consultation with Congress or what have you, you certainly would be in a better position, the strongest possible position, if Congress did pass a resolution. It would not be the law. It wouldn’t be a statute authorizing you to do it, but a resolution supporting what you did.”

The reason I say that is because on the Hill at that point they were actually talking about passing a resolution that said the opposite, that he *could not* use force *unless* he got their approval. There were some in the administration who were saying, “Just let them do it, screw them, ignore them, and let them pass whatever they want.”

I said, “I think it’s better to get up there and engage, to get up there and see if we can head off that kind of resolution and, in fact, get a resolution in support of it.” He said, “Well, suppose they pass a resolution saying I *cannot* do it. What impact does that have?” I said, “It’s irrelevant. It’s not a statute. It’s just an expression of opinion. They can’t change the Constitution by expressing their opinion on the matter. I would say you could still do it.”

But I said, “I think, under Justice [Robert H.] Jackson’s opinion in *Youngstown*, if Congress is with you on this and does something supportive, then you’re in your strongest possible position. But even if they don’t, I think you’re okay.”

And Cheney said, “You’re giving him political advice, not legal advice.” I said, “No, I’m giving him both political and legal advice. They’re really sort of together when you get to this level.” Then there was a debate as to whether he should get up on the Hill and push. I was saying he should, and Boyden Gray was saying he should. There were others who were opposed.

Eventually he made the decision after that meeting that he would. The White House went full bore on that vote and got the vote turned around, and then ultimately won the vote. That was an interesting experience. I enjoyed that.

**Meador:** Can I ask another question on the international front? Early on in the Bush administration, the Soviet Union was coming apart, the wall came down in Berlin, and one thing and another. I seem to recall some criticism of Bush, that he was moving too slowly on that front. For example, there was a big question about the Baltic countries, Lithuania, Estonia, Latvia—their independence from the Soviet Union and so on. Do you recall any involvements in all that process, anything going on inside that you know about?

**Barr:** The only involvement we had in that process was institution building over there and requests for the Department of Justice to use one of our programs to go over and work with those countries to help build their law enforcement and their court system and so on. But I don't recall any other involvement.

**Riley:** You weren't asked for advice about sovereignty questions related to the deterioration or any of the changes in regimes?

**Barr:** As to who was really in power?

**Baker:** Diplomatic recognition questions?

**Riley:** Yes, diplomatic recognition.

**Barr:** No, the only recognition question we had was the invasion of Panama. It was great because we took these guys, we brought them onto a U.S. base, they were sworn in as the President and Vice President of Panama—this is all while the helicopters were flying there. They were recognized as the legitimate government of Panama, and then they requested U.S. help, all in about twenty minutes.

**Riley:** So that's the difference between foreign policy and domestic policy: The pace is slightly faster?

**Barr:** That tells you what the recognition power is.

**Young:** Don't you wish you could have done that in reverse when it comes to independent Lithuania and recognize it immediately?

**Meador:** It's sort of curious that Panama involved Justice so heavily, and these other questions over in Eastern Europe did not involve—They were State Department matters, I suppose.

**Baker:** Because you had that criminal prosecution and pending indictment.

**Barr:** Justice was heavily involved in Panama from day one because it was technically an arrest mission. It was funny because I was home during Christmas, and my parents came down to visit.

I had what's called a STU 3 [Secure Telephone Unit] phone at my house, which is an encrypted phone. Brent Scowcroft was very concerned about Justice getting out of control. So the deal was that we would make arrests, but each arrest had to be personally approved by Scowcroft. So I would get calls. I had two secure phones in my house, one to the White House. I'd get calls, and my parents would be sitting there—it was Christmastime, the Christmas tree and everything.

“Okay, we have Colonel so and so Gonzales holing up in this thing, and he's expressed an interest in surrendering.”

These would be calls from DEA agents with the troops in the field. They'd say, “We want to apprehend him and make the arrest. This is a member of PDF [Panamanian Defense Forces] who's on our list.” They went in with a list of people to arrest. Then I would call Scowcroft and say, “Okay, Colonel so and so, he's on the list, can we arrest him?” And then he would say, “Hold on,” and he'd come back—I'd have two phones—and he would say, “Okay, yes, you can arrest him,” I'd say, “Okay, you can arrest him.” Scowcroft would tell me it was okay, I would tell them it was okay.

This was when I was in OLC. OLC is supposed to be a bunch of eggheads. We had this joke that one of our first episodes in OLC was the breakdown of law and order in St. Croix after Hurricane Hugo. That was an interesting situation. It showed the Justice Department moving very fast, and everyone else moving very slowly. That was an amazing situation. I was at home, and I got this call from the command center. Again, I was the Assistant Attorney General. There was no deputy at the time. It was Thornburgh.

They said, “The Navy has picked up a call from a ham radio operator, a deputy U.S. marshal who says that the hurricane has destroyed the prison and destroyed the infrastructure there; there are hundreds of prisoners now roaming the island out of this prison; there are gangs; there's a total breakdown of law and order. Civilians are in grave danger, holing up in houses and guns and things like that. It's a complete return to the state of nature.”

I called the FBI guys, and I said, “How long will it take you to get a recon group down there to see what's going on?” And they said, “Okay, we'll start out now.” So the FBI flew in this team of three from Puerto Rico. The next morning, we got the information from the FBI, “It's rioting, it's a complete state of nature here, machine gun firing in the streets,” and so forth.

**Baker:** A [Thomas] Hobbesian state of nature, really.

**Barr:** The Coast Guard then went in, went in close to shore, they confirmed it. People started swimming out from the docks to get in Coast Guard boats. The Coast Guard sent in shore patrols just to secure the perimeter. People started fleeing to them. It was a very dangerous situation. Meanwhile, the Governor on the other island, St. Thomas, was saying there was no problem. I think his name was Farrell [Alexander Farrelly] or something like that.

What the hell do we do? We started quickly looking at the legal books. What authority do we have to go in there and start enforcing the law in St. Croix? We looked at some statutes, and we finally decided that without Presidential authority we could send down law enforcement people

to defend the federal function. That is, we said, “People are interfering with the operation of our courts” and so on. I said, “We can send people down to defend the federal function, keep our courts open, and if they see any crime being committed in front of them, then, as law enforcement officers, they can make the arrest.” Our object was just to get federal law enforcement down there and play it by ear. Technically, we couldn’t send them down to—

**Meador:** Did you consider interference with the mail as a basis?

**Barr:** Yes, we had a whole list of things like that, interference with the mail, interference with the courts. But basically we were claiming that there was breakdown, civil unrest that was interfering with the federal function. We found these old cases that said the federal government could go in there. This was without declaring martial law.

Meanwhile, the Coast Guard was getting more and more alarmed. So that morning I said to Thornburgh, “We should send the FBI hostage rescue team down there with 150 U.S. marshals as well, and just do it.” He said okay. I called the White House, Bob Gates, and I said, “Okay, we’re going down. We have an Iowa National Guard aircraft that’s just been flown in, and we’re going to send the FBI hostage rescue team and 150 marshals from Louisiana. We’re going to get them in today.”

He said, “Hold on, we’re getting a lot of very bad information here, and we’re crossways with the Governor. The President’s thinking about this further.” I said, “We feel that our people’s lives are in danger. We have a lot of federal employees down there, Justice Department employees, and they’ve specifically asked for help.” So about twenty minutes later, he comes on and says, “Okay, here’s the deal. The 82<sup>nd</sup> Airborne military police are going in. We want you guys to wait until you go in with them.”

**Meador:** Who said that?

**Barr:** Gates or Scowcroft, one of them. It was basically they had finally decided. They said, “Okay, but we have to figure out what legal authority” and so forth. This lawyer from the Defense Department came over to my office and—bless the military, they had this book, “What to do with civil unrest.” Plan 304. They opened it up, because they hadn’t used federal troops in municipal United States, in U.S. territory, for civil control, since in the mid-’60s. We were trying to figure out what to do. That’s where I learned all this law, which is: now the President has to issue a proclamation, and then he can do this and that and this.

The reason I’m telling the story, Dan, is this is Mike Luttig’s finest hour. We have all these documents prepared, one document federalizing the police down there, making them under federal control. We deputized the 82<sup>nd</sup> Airborne military police as U.S. marshals. We had all kinds of these legal documents prepared, and we were going to trump the Governor. Luttig had to go in and say to the Governor, “You have to ask for federal assistance. If you don’t, then we’re coming in anyway, and we’ll basically make you look bad.” He had these documents, and he had a letter that he wanted the Governor to sign.

Well, first we had to make the decision who was going to go down there. I was sitting there and Luttig was sitting there, and I said, “Mike, I have three kids, you don’t have any children. You’re going down.” [laughter] So that evening he called me from Andrews Air Force Base. He said, “Bill, you wouldn’t believe this. The FBI hostage rescue team is here with tiger stripes and camouflage paint and M16s, and we’re all sitting in the plane. If you look down the plane, you see all these guys sitting there with tiger stripes, M16s.” And there I am with my Hush Puppies, my Izod shirt, and my chinos.

But anyway, he went down there, and it all worked out very well. That was a very interesting exercise, because in about twenty minutes we made the decision to send people down, and the guy from DOD [Department of Defense] came over, and we were writing up all these orders.

**Young:** I take it what you sent down there was adequate to take care of the problem, is that right?

**Barr:** Oh, yes. It was interesting because we worked it out. We set up little teams with one U.S. marshal or FBI agent and two members of the 82<sup>nd</sup> Airborne. They’d go off on patrols. The military guys were saying, “We’re scared. Our guys are going to be tied up in all kinds of problems if a member of the Airborne shoots an American citizen.” They were very worried about the *posse comitatus* stuff and all that. So we said okay—

**Young:** Were these people from all these various agencies or outfits trained to work together as a team?

**Barr:** No, this was all done ad hoc.

**Young:** Because the story on Grenada was a very different story.

**Barr:** This was all done ad hoc. We sent a real strong guy, FBI guy, down there named [David] Woody Johnson, and Woody became the deputy for a while at the FBI. He got together with the military guys, and they worked it out very quickly.

**Baker:** Sounds like Justice really took the initiative on that.

**Barr:** I was very proud of that, because we just decided we were going to do it, and we sort of dragged everybody else with us. They said, “Well, if they’re going to do it, that sort of forces our hand.” That’s when I met Admiral [William] Crowe, who was at that point, I guess he was— What was Admiral Crowe’s job at that point?

**Young:** Chair of the Joint Chiefs?

**Baker:** Yes.

**Barr:** Then he made Powell chair after Crowe retired.

**Riley:** Actually, Crowe went to London under—



**Barr:** Yes, he retired and then endorsed Clinton. So Crowe was there in the situation room. It was bizarre, because that was my first exposure—This was very early on, and they brought in this map of St. Croix, and he brushes it out. There were three or four of us and Admiral Crowe and this Coast Guard guy. The Coast Guard ship was patched through on the loudspeaker, and they're talking—"Where's this?"—looking all around—"Where's the airport, where's the airbase?" It felt a little amateurish at the time. [laughter]

**Baker:** At least it wasn't a tourist map.

**Riley:** If it makes you feel any better, I can remember listening to tapes from the [John F.] Kennedy administration at the Kennedy Library from the early '60s, listening to the President: "How far is it from Columbus, Georgia, to Birmingham, Alabama? Exactly how are we going to get these troops from whichever fort they were—Where is that fort again? Where is Anniston, Alabama? I don't know where that is."

**Meador:** Doesn't he pronounce his name Crowe, as in crowd?

**Barr:** Yes, it probably is Crowe. He was an interesting guy. He must have had some problem with his eyes, because during the thing he kept on licking his hand and rubbing his eye, licking his hand. Maybe he had some kind of problem, but it was a strange habit.

**Meador:** Do you have any idea why he endorsed Clinton?

**Barr:** No, I don't.

**Young:** I'd like to call a five-minute break and then dial back to some unfinished business on the election. [Ross] Perot, for example, hasn't been mentioned, and also I'd like to have your observations on the idea people versus the MBA-type approach, the process people within the White House itself.

[BREAK]

**Young:** I think the tape just started, and what we were talking about was the kind of job the Attorney General performs, and the kind of department the Department of Justice is. That was what Mr. Barr was mentioning when the tape started rolling.

**Baker:** In fact, I think many Attorneys General ended up being administrators more than anything else, just trying to keep the mechanics operating. Is that a real problem? Did you find as Attorney General that the demands of the operation sometimes deflected you away from the bigger picture issues?

**Barr:** Yes. I didn't find that I was deflected, but I felt that a lot of it was managing—not managing in a bean counter sense, but basically just making sure people knew what the priorities were we were pursuing.

**Young:** How much of that did you lay on the Deputy Attorney General?

**Barr:** A lot, because that's what I did as deputy. But because I came out of that position, I used the deputy staff a lot to continue doing that.

**Meador:** You mentioned early on that you gave Gonzales, when he started his administration, some advice about the Justice Department. Do you feel at liberty to say what that was, what you told him?

**Barr:** Well, I basically told him that they should be very strict about contacts between the Department of Justice and the White House, that he had a lot of very talented people in his office, he had brought in a lot of thoroughbreds. And a lot of them would want to be players and impress people with all their contacts. They had a lot of friends over at the Justice Department because it's sort of an inbred group to some extent. There are a lot of young conservative lawyers in the Washington area, and they all know each other, and they're going to have a tendency to want to be players and show off to their friends.

I said, "You've got to make sure these guys stick to their knitting and do not pick up the phone to call around the Department of Justice." I told him the experience that damned near got the Iraqgate investigation all torqued up was just some innocent stray call from a lawyer that became a big *cause célèbre* during the campaign. I gave him that vignette. But I'm sure I wasn't telling him anything new.

**Meador:** My impression is that you thought that Boyden Gray was a very good White House counsel.

**Barr:** Yes, I do.

**Meador:** You give him high marks.

**Barr:** Very high marks. You know, there are people who suggest that he guided the thing, he shouldn't have gotten into policy area. But those are the things that interested him. I give him extremely high marks. I don't recall any serious fight with him. I mean, if we had disagreements, we talked them through, and he appreciated the independence of Justice. He never called up about a criminal matter or did anything inappropriate. When the fact that the President was keeping a diary—I know nothing about this, except a vague recollection, based on press reports. Apparently it turned out that the President was keeping a diary and had felt that this stuff was not responsive to some subpoena in the Iran-Contra matter. There was a question of him having to turn his diary over, and whether he should turn it over further, and also once he turned it over, potentially being interviewed about stuff in his diary.

I remember Boyden informed me about this at some point, and we talked about it and agreed that neither of us could play a role in this at all and that outside counsel had to be provided the President.

I think he handled matters very well. It was very difficult because of the constant pendency of the Iran-Contra case and Lawrence Walsh, who I thought was a—I don't know what to say in polite company. He was certainly a headhunter and had completely lost perspective, and was out there flailing about on Iran-Contra with a lot of headhunters working for him. The whole tenor of the administration was affected by that.

In any event, it was very hard to maneuver the administration through all that stuff, and he did a good job. We didn't lose sight of the fact that there's a difference between being a government lawyer and representing an individual in his personal capacity in a criminal case. We were always very conscious of that, and none of us got into the business—the way the Clinton people did—of representing the President in a personal capacity versus doing our jobs as government lawyers. I think he did a great job.

**Riley:** Some earlier testimony we've had, in discussions, has him very much in the center of the Civil Rights Act. Were you drawn into that? Did he draw you into that?

**Barr:** Which Civil Rights Act? One that was dealing with the Cove case?

**Baker:** *Wards Cove v. Antonio*.

**Barr:** Yes, I was drawn into that.

**Young:** You were speaking about the legislation.

**Riley:** Right, I was speaking about the legislation. I'm not sure—

**Barr:** As I recall—I might be wrong on this—we had won some cases. The Supreme Court had come in with some cases that the civil rights people thought were a step back for civil rights—for example, disparate impact, evidence and all that kind of stuff, basically that moved the thing more in the direction of a conservative opinion on how far you can go on affirmative action.

And there was a reaction on the Hill against that, so the question was putting up legislation that restored a balance but didn't go too far to the left. There was obviously a lot of concern that once you put an act up on the Hill, you get legislation moving on the Hill, you don't know where it's going to end up. But yes, I was involved to some extent on that. I forgot exactly when that was.

**Baker:** I think he vetoed the '99 —

**Riley:** He vetoed it as being a quota bill, and it was all a debate about it being a quota bill.

**Barr:** When was that, in 1990? I'm sure I supported the veto, probably was one of the ones arguing for a veto with Boyden.

**Riley:** I have a vague recollection of there being a rather unusual clarifying memo or something.

**Baker:** Signing statement.

**Riley:** Signing statement. Were you involved at all and consulted in the drafting of that?

**Barr:** Yes. I can't remember the details, but we would have drafted the signing statement.

**Baker:** Now you described signing statements in one of your talks here or one of your articles, as being of two different types: one where you felt that the act had a provision which was unconstitutional but the act as a whole, you felt, was necessary to sign. The other reason to use a signing statement is as a legislative history, to help provide interpretation for future courts perhaps if they're analyzing that. So in this case, with the Civil Rights Act signing statement in 1991, do you remember which camp that fell into?

**Barr:** Probably interpretive. This raises the whole debate that came up that we felt that the President could refuse to enforce unconstitutional laws, especially if they dealt with his prerogatives. Congress's game is to take a piece of must-pass legislation and throw something that's quite offensive on it that derogates some Presidential power, that's one of their tactics. So our attitude was "Fine, we'll sign the bill. We're just not going to enforce the unconstitutional part." There was a mini debate about whether it's appropriate not to enforce the law.

**Baker:** If it's selective law enforcement.

**Meador:** Did you have any court decisions in which the court relied upon the signing statements as part of legislative history in interpreting the statute?

**Barr:** I don't remember.

**Meador:** I just wondered where that idea came from, whether it was original in the Bush administration or whether there's some history behind it. I don't recall running into a decision where the signing statement was relied upon by a court. Maybe there are some. I just don't recall any.

**Barr:** I can't remember. There had been articles written about signing statements, so I'm sure I knew at one point. The rationale basically was that in the legislative process, the President's signature is as much a legislative act as the passage by Congress itself, and therefore looking at just what Congress thought is interesting. But what the President thinks is just as important.

**Baker:** Franklin Roosevelt did something on one of the early actions that had a legislative veto in there. He issued his own opinion of the Attorney General's finding that that was an unconstitutional derogation of executive power. I gave a copy of that to Charles Cooper when I interviewed him. He was interested in that one.

**Young:** Was the Bush White House so closed to ideas, so concerned with policy, process, that it was closed to bold ideas on themes, as they were sometimes called, or visions?

**Barr:** Yes, generally I'd say that's a fair criticism. I don't think Sununu personally was, but I think a lot of the people involved in the policy process were. So I think that's a fair criticism.

**Young:** Darman went out of his way once, in public—maybe more than once—to ridicule the “new paradigm” idea. Now whether the “new paradigm” idea is a good idea, a good metaphor for ideas and themes in the administration, or whether it’s simply the stalking horse for something else, I don’t know. But I’d like to hear your thoughts on that.

**Barr:** I know [James] Pinkerton was the guy on the new paradigm, but I can’t remember what the new paradigm consisted of. My reaction to Darman is simply that Darman’s basic problem is that if it’s not invented by Darman, it’s no good. I don’t care what it is, if anything gets any kind of attention that’s not a Darman idea, then he tended to torpedo it. That was his problem, I think.

**Young:** I see. Well, what do you think Darman’s ideas were?

**Barr:** I don’t know. His main idea seemed to be to enforce the budget agreement that he had fashioned, and spend most of his time policing it. Now, I can’t remember exactly what the new paradigm was, but it wasn’t only Darman.

**Young:** Jack Kemp I think, in fact, invented that term, didn’t he? Maybe not. Maybe it was Jim Pinkerton. But these were people who were concerned about the bully pulpit, and the Presidency and this administration as the source of new ideas. They weren’t being satisfied. In fact, they were being side-blocked.

**Barr:** Oh, absolutely. I would talk to Kemp about that a lot. It’s hard to explain. You know Darman’s a very intelligent guy, and there may be some areas where he can contribute on the level of ideas and themes and so forth, but he didn’t seem to produce much in that administration that was productive. I forgot what role Pinkerton had. You mentioned Bill Kristol. I think Bill Kristol tried very hard—and Quayle did also—to become a little bit more thematic and focus on some basic policy differences, and try to create policies—or at least articulate policies and cluster initiatives in a way that could be explained and reflect the basic differences between the parties. But there wasn’t much support for that.

**Young:** On the President’s part?

**Barr:** I can’t tell. I never got the sense that the President was comfortable talking about those kinds of things. That wasn’t his strength, and I think that it’s too bad he didn’t have someone around him he had confidence in who was better at doing that. You look at his son. His son, I think, is innately suspicious of people whom he may view as too idea-oriented, but by the same token, I think he has a greater appreciation for ideas in politics. He spends a lot of time with policy people. He has some people who can integrate this stuff, like Karl Rove and others. So he’ll be more successful than his father in that respect, and clearly he already is. He has identified certain basic things he wants to do, and he has his shtick about them, and he’s out there doing it.

**Young:** People often cite this as contrast between Reagan and Bush, that Reagan had a few very important ideas that did resonate—with Reagan Democrats as well as others—and kept at it fairly consistently.

**Barr:** On the other hand, there's also the fact that Bush was coming at the end of two terms of Reagan. And if you're going to storm the wall—which Reagan and Bush did, Reagan as President, Bush as Vice President—you storm the wall. You had certain limited objectives you were trying to break through, and you did. You accomplished a lot of what the whole effort was about. Bush comes sort of as the aftermath of that. It's a little hard to be revolutionary if you've won the revolution over the past eight years, so to speak.

**Meador:** I've heard Bush's term characterized as a third Reagan term. Is there anything to that, do you think?

**Barr:** I think there's something to that. But Bush is unfairly characterized—a lot of the so-called true believers are very unfair to Bush. I think the main problem was what I just said: The Reagan people spent their force because they felt they were doing a revolution, they were taking power. The conservatives were finally in power, they got certain basic things done. And once that happened, you don't—I mean, who is Bush running against at that point? He was really running as a successor, sort of a consolidator, and there's a little less pizzazz to that. It's like being an army of occupation versus the guy who actually storms the beaches. There's a little less pizzazz to that by nature.

Now, as I would say to my conservative brethren—and I'm a conservative—"Don't give me this shit about the Reagan administration being the end-all and be-all of conservatives." I was in the White House in the Reagan administration, and there was more selling out of the conservatives during the Reagan administration than you ever saw under George Bush. And that is a goddamned fact. People will forgive Ronald Reagan for that because on the big things he was true, and he accomplished the big things that he set out to accomplish. So they'll forget the daily sellouts by the Reagan administration.

**Meador:** Do you have any examples of these daily sellouts?

**Barr:** Now you're going back to '82 and '83. I mean, it was constant, and it was partly because the Reagan administration was extremely sloppy in who they put into power. They had a lot of people who hadn't been around government, hadn't really been around Washington, didn't know—It was just a polyglot group of people who came in, and frequently very bizarre things were done that you would never expect out of a conservative administration.

People would go and complain to Reagan, and Reagan let it happen a lot. People forget how frustrated the conservatives were during a big part of the Reagan administration. The troika, the constant battles with Baker, Meese, and [Michael] Deaver. Meese was not in control, and the conservatives spent most of their time gnashing their teeth because Jim Baker and Mike Deaver were running the show. They forget all that.

And then George Bush comes in, probably has in rank and file throughout the departments more conservatives working proportionately than existed in the Reagan administration, and on the important issues, held the line across the board. And these guys are still bellyaching about it. I have very little patience for it.

**Riley:** There was a fundamental difference, at least in public presentation, of Reagan making a declaration that the government was effectively the enemy, and Bush basically making the opposite claim, that it wasn't the enemy, it was something to be used for certain ends. Is that maybe the root of where some of this grousing comes from?

**Barr:** It may have come because of difference in style reflected by those kinds of general statements, but there was genuine affection for Ronald Reagan. He was a great President. I think Ronald Reagan should go down as a greater President than George Bush. I'm not suggesting otherwise. I'm just saying that when it comes to the conservative critique of the Bush administration, it's very unjustified, and they're forgetting a lot of the problems they had in the Reagan administration. They're forgiving the Reagan administration for sins that were far worse than anything committed in the Bush administration. The Bush administration was a fairly conservative administration—on judicial appointments, conservative judges, basically. So I don't think the conservatives have a legitimate beef on Bush. But Bush never got their blood going the way Reagan did.

**Baker:** Bush made more headway—and this is partly because of the Justice Department—on issues of abortion and in the courts. I was wondering if you could speak about the case of *Russ v. Sullivan*, and if there was dissension in the Justice Department with the career attorneys versus those who were higher up in the Justice Department making decisions.

**Barr:** Remind me what that case was about.

**Baker:** That was the gag rule cutting off federal funding to clinics that gave advice about abortion—didn't just perform abortions, but gave advice on abortions. Do you remember that case?

**Barr:** Yes. I don't recall dissension within the department. I'm sure there were career lawyers who groused about it, but it never reached my level.

**Baker:** So it wasn't serious grousing.

**Barr:** No, I didn't hear any serious—Was there press coverage about grousing?

**Baker:** I think there was a little bit at the time, some of the career attorneys coming out saying, "This is a change in precedent. In the past, moneys have been cut off for the provision of abortion, but not for the advisory function between physicians and patients."

**Barr:** No, I don't recall that much dissension about it. Bush held the line on the right-to-life issues across the board.

**Young:** You feel you got a fair shake from the press?

**Barr:** I got a fairer shake from the press than many other people did. I don't think the Bush administration got a fair shake. I think William Safire was contemptible because he would call

me a criminal because I wasn't appointing independent counsel on Iraqgate, and he didn't understand what Iraqgate was about. I think that the press was basically going at it. The *Washington Post* particularly was going after me, primarily because they wanted to get the Iraqgate thing rolling, and I don't think that was fair. Basically that was mostly the editorial page people. But I think the reporters who covered the Department of Justice basically were as fair as it could be to any Republican Attorney General. I basically got good press, I thought, because I spent a lot of time. I would talk to them.

**Young:** You did. I'd like you to talk about that a bit, the time you spent with the press.

**Barr:** Well, some of the press didn't like Thornburgh because they felt Thornburgh was contemptuous of them and didn't like talking to them. And I was somewhat contemptuous of them, but I didn't act that way. No, not really. I felt that it's a necessary evil, and I tried to be as candid as I could. I didn't talk to them much off the record. It wasn't a question of me picking up the phone and talking to them behind the scenes. But I tried to talk to them, give them access to me. They could come up and sit down in my office, and I would talk to them. I tried to do that on a regular basis with each of the major reporters.

There were some very good reporters covering the Department of Justice. Ron Ostrow of the *Los Angeles Times* was one of the deans of the reporters in Washington. He had written a book about Griffin Bell. He had covered the Justice Department for many years, and he was a thoroughgoing professional. He set the tenor of the press corps there because he was the longest-serving one. Then David Johnston of the *New York Times*, and then there was Sharon LaFraniere of the *Washington Post*.

**Meador:** Did you hold formal press conferences?

**Barr:** Yes, I had press conferences. What Thornburgh did, and what Janet Reno did, I thought was a waste of time and also counterproductive. Thornburgh would go down every week at the same day—on a Tuesday or something—go down and stand there and set the expectation that he would go down. So even if there was nothing to talk about, he'd go down and then conversations would go off on different things. Then at the worst time to have a press conference, you'd have to have a press conference, because it was his regular Tuesday press conference.

My attitude was break them up. They're like herd animals, to some extent, when they're together. The best thing to do is break them up and deal with them one-on-one and not try to get your points across in a group setting. But when I had a major announcement to make—it might be indictment of Libyans, or something like that—I would have a press conference, or to announce a major policy initiative. But the way I preferred to do it was one-on-one time with individual reporters.

I would take a reporter with me on a trip. If I was making a trip to the Mexican border, or something important out in California, I would take Ron Ostrow with me. The next trip I would take David Johnston. They'd ride in the plane, they'd get to see me uninhibited—talk to me, and I would talk to them. That's the way I dealt with the press. I basically was favorably treated, I think.



**Meador:** Did you ever hold meetings with departmental employees in the Great Hall?

**Barr:** Yes.

**Meador:** How often did you do that, and for what purpose?

**Barr:** Well, I never had sort of group grope meetings—you know, “Let’s get together and talk about mission” or anything like that. Usually it was a specific event. If the Department had done something, I wanted to give out awards on something, an important case or a series of cases, I would have award ceremonies. People would speak at those. After Talladega, I had a big thing where I gave out awards to people. It’s funny, people have asked me, what is the single most—the event that had the greatest impact and you feel the most satisfaction about? It would actually be Talladega.

**Young:** Why is that?

**Barr:** Because I made the right decision that actually saved people’s lives, in my opinion, and in other people’s opinion.

**Meador:** Can you say precisely what that decision was?

**Barr:** When I was acting Attorney General—in fact, right as I was named as acting Attorney General—the Marielito Cubans—who were still in prison—took over. We were deporting to Cuba. You know, the Marielito Cubans were mostly scum—these people were the scummiest of the scum. These were people who had been through so many review processes and given so many breaks. They’d committed crimes here, since coming here, serious crimes. These were people we were deporting to Cuba. In Cuba, they probably faced very severe prison conditions, very inhumane prison conditions. So they had nothing to lose by resisting going back to Cuba.

They took over the whole building of a prison, a prison section in Talladega, Alabama, and they were holding initially, I think, ten or eleven hostages—who were Justice Department employees—with homemade knives and—

**Young:** How many Cubans were involved?

**Barr:** A hundred and twenty. They had secured themselves in there behind the big steel gate doors, and they had the eleven hostages in there. We didn’t have a federal death penalty. They had made it clear they would rather die than go back to Cuba, and we didn’t seem to have much leverage at that point. The head of the Bureau of Prisons, Mike Quinlan, came into my office and said, “We have a plan.” And I said, “Okay, what’s your plan?”

He said, “This is a Bureau of Prisons matter, and we’re responsible for handling it. What we’re going to do is we’re going to go up, and we’re going to cut these bolts, and we’re going to do this, do that and so forth. We’re going to have our SORT team, Special Operations Response

Teams, go in, and blah, blah, blah.” I said, “Okay, how long is this going to take?” He said, “We think this is going to take twenty to thirty minutes to gain entry.”

I said, “That’s not a good plan. Forget about it. These are our employees, this is our responsibility. You’re not going to do it. The FBI is going to do it.”

I put the FBI in charge of the situation. I called all the people I trusted from the FBI, and we talked about it for a while. I said, “This is not going to come out. Number one, we’re making no concessions, okay? Number two, unless they surrender, this is going to require a hostage rescue operation, because I don’t see that this is going to come out very well, being able to negotiate our way out of this. So start putting a plan together right now, and start practicing it. I want to review the plan personally.”

So they started doing that, and they brought the plan over. This is why I didn’t have that much sympathy for Janet Reno on Waco. They came over, and I went over the plan with them. I understood everything that was going to happen, and the basic problem was that we were not sure where the hostages were in this building, and there were 150 cells. If they were smart, we figured at some point what they would do—and the cells are not cells with bars, they’re cells with doors, steel doors, with little looking-glass windows through them. So if you come through the gate, these big steel doors and gates—there are two different obstacles to get through. Once you get into the compound, you’d be faced with three levels of doors, and you wouldn’t know where the hostages were.

If they distributed the hostages in all the cells, it would almost be a mission impossible to get in. But there were certain common rooms on the first floor, and we felt that they still were holding them in the common rooms, and which were which? If they were holding them on one side like a conference room, or a room over there, or over there, it would make a lot of difference, if you went the wrong direction and so forth. So my attitude was, first we’ll talk to these people and see if we can get something. We need a plan to get in there quick, but we also want some intelligence as to where these people are so we’re not going in blind.

Now, these agencies tend to want to move. And my attitude was that I would keep them in check. I wasn’t going to just listen to what they had to say. I’d work with them on it, and I would use their judgment, but ultimately, just because they wanted to go, I wasn’t necessarily going to let them go.

We talked to them, and they had these demands. They wanted TV cameras to come in and talk about the injustices and all this kind of stuff. I wouldn’t make any concessions. No food. And during the process I said, “I’d like you to figure out how to get some microphones in there.” They were working on that. They could handle that. At one point we sent in some food, just to get microphones in on the trays. They did that, so we started picking up some of their discussions. They were hungry. They were eating ketchup in hot water, that’s all they had to eat.

They were still trying to figure out where exactly the hostages were. Meanwhile, I approved the plan, and then the FBI went to a sister prison in Jessup, Georgia, and started rehearsing the rescue operation at this sister prison, which has the identical configuration.

**Riley:** Was that created for that reason?

**Barr:** No. It was just the same type of prison, cookie-cutter design. We went to a prison that was exactly the same, and I told them to keep on rehearsing it. We tried to figure out different ways of figuring out where the hostages were. And then all of a sudden someone noticed that there was a figure up in one of the windows who kept on tapping his head. And so the FBI guys were observing him for a long time and realized that he had a primitive code, that one tap was A, two taps was B, three taps was C, and he was sending messages.

It turns out this guy was a non-Cuban. There were four or five non-Cubans in the compound, and they had been put in their cells by the Cubans, and this guy was signaling. He was an American Indian, was in for 40 years without parole. Later, we gave him some slack. But he basically was signaling “IRS room.” So we figured he was telling us that the hostages were in this room that was used by the IRS for interviews.

Then at some point, one of the women put on this fit like she was going into a fit, and they thought she was dying—one of the women hostages. So we made some trade. I think I said I would not allow a television camera, but I would allow a print journalist to interview them at the gate if they allowed this woman out, because they said she was very sick. So they traded for that. We got her out. She was acting like she was dead. As soon as they turned the corner on the stretcher, she’s up. She had faked it, and she gave all kinds of information. She said, “They’re being held in the IRS room.”

Early on we established communication by getting a telephone in that had a bug in it, so that was another way of getting a microphone in that could pick up their conversation. They were getting more and more irate and contentious. They wanted to be able to stay in the United States and go through another review process and all this kind of stuff.

I’m into this because this was interesting to me, this whole affair. So we figured, based on her information, that they were in the IRS room, and it was getting late. Then they started playing this Russian roulette type thing, but they weren’t going all the way. They were taking their ID badges and putting them in a bag and pulling them out and saying that they were going to shoot the person. They weren’t actually playing Russian roulette, but it was starting to move in that direction. They were starting to lose control, and they were becoming more adamant.

Basically, the FBI was ready to go in. I said, no, one more day. “What I want you to do is, before I tell you you can go in, I want you to feed them. And we’re going to make a concession, but all we’re going to ask for is the ability to feed our hostages through the bars. We’re not going to trust them to give our hostages food. So all we’re going to say is, ‘We want to make sure that the hostages are okay, so we personally have to feed them through the bars, and in return for that we’ll give you food.’”

So they agreed to that, and that was done to try to confirm at the very end where they were by watching where they took them from and where they put them back. We sent these guys in white coats, who were actually FBI agents. We gave them food, and then we gave each of the hostages

food. They were fed through the bars by the FBI agents we sent. Some of them muttered that they were in the IRS room. And they watched to see that they were taking them back in that direction.

Then there was a curve ball. One of the women at the end said, “They’re holding us in the cells.” This created a lot of consternation because this wasn’t the information that I had, which was that they’re not being held in the cells. She said it in Spanish, and the guy who was there, the agent, was Spanish. What word did she use? Does that word mean a cell? If they’re in the cells, it’s pretty dangerous to go in there. But finally we said it’s contrary to all the other information we had.

So I called and said, “Okay, what’s the best time to do it?” They said four o’clock in the morning. That’s the optimum time. That’s why we fed them when we did, because after being fed, the blood rushes to their stomach and they get sleepy. We heard them saying, “Great party, but I’m going to go to sleep.” That was one reason I wanted to feed them, because they hadn’t eaten in a long time, and we figured it would get them more lethargic that night.

At this point Sessions comes back from his vacation in Myrtle Beach. Basically, I was dealing this entire time with Floyd Clark, who was the deputy, and Bill Baker, who was head of the criminal division, and Larry Potts. So we said, “Okay, four o’clock in the morning.” They’re going to come and pick me up at my home. The press was starting to ask, “What’s going on?” They picked me up at night without headlights and all that, so there was no information that anything was going on. I went down to the FBI command center.

I called Sununu earlier that evening and I said, “We’re going in, but I’m not calling to ask your permission. We’re going to do this. I’m just informing you.” He was up at Kennebunkport. I said, “If the thing goes south, I don’t want people to suggest that I asked your permission to do it or anything.” So he said, “Okay, just one bit of advice.” He’s a smart guy. He said, “Is everybody in the Bureau with you on this?” I said, “Yes, they’ve been chomping at the bit on this one.”

He said, “Well, how about the hostage negotiators?” I said, “Yes, I think they’re with me on this thing.” He said, “Well, my advice to you is you lock them in on that. You make sure that the hostage negotiators aren’t going to come out at the end and say that you acted prematurely.” I said, “Okay, good advice.”

So I asked the number-two guy at the Bureau, and he said okay. They had some really good guys from the Bureau down there on the scene. They went to each of the hostage negotiators, and they all came back and agreed with the decision. So everyone was locked in. Then at four o’clock—I have this on videotape, because they shot it on videotape down there. I was up in the command center at the FBI, and at this point there are ten hostages in there. Oh, we were told by the woman that they had a plan that if they heard an explosion, if they thought they were being rescued, they were all going to hold the door to that room, because the Cubans had these guys with knives outside who had instructions to use the knives on the hostages. They made a mistake being outside the room.

So at four in the morning, I was sitting there in the room, and they had a direct line down there. There was a guy saying, “Okay, the teams are getting on the trucks.” They use these big Suburban trucks and they had set up lines, and there was a lot of stuff done to confuse the Cubans. “They’re going up, they’re picking up speed, they’re in front, they’re planting the charges.”

I’m sitting there, my heart pounding very hard. And then all of a sudden I heard on the microphones this huge explosion, and a guy at the FBI, a guy who was giving me these comments says “Holy shit!” And the explosion sounded so loud and his reaction, I thought, *Shit, they used too much explosive, it’s going to collapse or something*, but—

**Young:** What was the explosion blowing up, what was it doing?

**Barr:** They were blowing the steel doors out of the way. They went in through three different entrances. Actually, they were sending the team in through three different places, and they put explosives up to blow holes through.

**Young:** How many were going in?

**Barr:** Ninety went in right at the beginning.

**Baker:** Wow.

**Barr:** And then followed up by over a hundred. Then, after the explosion, I heard pop-pop-pop-pop, and it sounded like gunfire, and I said, “Holy shit, they’re going to wind up shooting all those people.” Well, it turned out one of the charges didn’t go off. Two of them went off, and they all got in. And the popping was they were throwing stun grenades as they went. When they got to the door, they found two Cubans with knives pushing the door in, and one of them grabbing a hostage. They got there and tackled the two guys, and then they just incapacitated all of them.

And I said, “Get a plane down there because they’re going right to Cuba tonight or tomorrow morning. They’re going to Cuba first thing,” and by eleven o’clock they were already being put on the plane to Cuba before the civil rights lawyers and all these people could come with injunctions and stuff. So—

**Meador:** How many days had elapsed from the beginning to this point?

**Barr:** Nine days. We had kept all the reporters away. The reporters were out there, “Well, things are quiet,” and all of a sudden a big bang, the building shakes, and smoke starts coming out of the back. I was very proud of it because it was very professionally handled it. Within a few seconds of the explosion, the hostages were rescued. I was sitting there, my heart was pounding, and then the guy said, “Okay, the hostages are coming out, one—two—three—I think all nine of them are out.” I said, “Go down and make sure all nine or ten, whatever, are out. Count them. I want you personally to go and count them.” So he ran over there and counted and came back. He said, “They’re all out.” I called Sununu and said, “Okay, it’s all over. It’s fine.”

**Baker:** Do you credit your handling of that for Bush's decision to name you Attorney General? That was speculation at the time.

**Barr:** Why I was—

**Baker:** That you handled it so well and then that you didn't grandstand afterwards, that that really came to Bush's attention.

**Barr:** Yes, I think it did. He called me the next morning and said how proud he was about it and how well handled he thought it was. I think it probably played a role. I think there were a lot of people who supported me as Attorney General because they felt I knew the Department and I had run it well. In an election year, you don't want to change. *The guy seems to have it running okay.* I think people on the National Security Council were for me, but I think that probably was the icing on the cake because I think he felt, *Gee, this guy could actually pull something like that off.*

I went down that morning on the FBI plane. I got there maybe three hours after the actual rescue itself, and went into the room. The families were with the hostages, and they were crying and hugging me, and the FBI guys were all psyched because this was a success. This was the first time the hostage rescue team had been used.

**Baker:** It works!

**Barr:** It works. They'd been in operation since the '70s, and this was the first time they'd ever been used in a real thing like this. They'd been used for crowd control and other things, but—

**Meador:** This was entirely an FBI operation, right? No other personnel were involved in it?

**Barr:** Well, it was huge. The FBI were the first in, and then they were followed in by what are called the SORT teams. Those are huge gladiator-type guys who keep control over the prison. One thing I didn't realize is that there are no guns in prisons, in federal facilities. Order is kept by brute force, if necessary. These guys spend their entire time lifting weights. Well, these SORT teams would line up in phalanxes, and as soon as the FBI was in, they all just flooded in.

**Young:** These are prison personnel, employees?

**Barr:** Bureau of Prisons. The whole thing was handled by the FBI and the Bureau of Prisons. The FBI guys were to get them on the ground, incapacitate them, and then the SORT team guys came and took over, put the handcuffs on them. They lay naked outside for most of the rest of the day until they were put on planes. When I got down there, they were scary-looking people. They were tough people. They were pretty scary people.

I felt good about it. I felt that we had made zero concessions except when I wanted to actually get something for it. We got these people out alive. The Bureau did things in a very disciplined way. It worked like clockwork. It boosted me a lot, actually, internally, especially with the FBI,

because when I got off the plane, one of the top FBI officials there said, “You’ve got balls.” They were happy that somebody had made the decision, hadn’t backed down—

**Baker:** And yet had the patience to wait until the right moment. It probably did buy you some goodwill.

**Barr:** It brought a lot of goodwill. That was the most satisfying thing that happened. Then the hostages gave me this plaque, and each of them signed it. It’s engraved, and they all wrote personal comments like, “I believe I’m alive today because of you.” That was more important than all the legal stuff, frankly.

**Young:** Was this the first time you ever did anything like this?

**Barr:** Yes.

**Young:** So you were learning as you went?

**Barr:** I was learning as I went. One of the things I did is I spent a lot of time out in the field. I’d go out and visit Quantico, I’d visit the FBI offices in major cities. I’d visit the U.S. attorneys. I tried to get a good feel for what was going on. I guess what actually prepared me for this was probably my time at Columbia University. [laughter] I was a member of the majority coalition, and we really wanted to go and get ’em.

**Riley:** You were a jock?

**Barr:** I was one of the jocks, yes. That was my training. I know that was a long story but—

**Baker:** That was quite a story.

**Barr:** I think it played a role in Bush’s— He called me, as I say. He was very complimentary.

**Young:** He should have been. How did Bush handle conflict among his staff and his advisors? Or did he ever get conflicting advice in substantial matters? This is the question that many people ask about Presidents. Did they not like to have conflict? Did they want it resolved before it comes?

**Barr:** He didn’t act like conflict was a bad thing. I think he felt, and he sort of gave the impression, like any good leader, that it’s okay to have conflict among your subordinates, and is in fact healthy, and let them go at it. He seemed to enjoy that. He would sort of smile when people were going at it. He wouldn’t act like, *Oh, gee, guys, you know that’s inappropriate.*

I think most of the real conflicts were probably resolved in smaller sessions in the Oval Office. And I never witnessed a situation in the Oval Office where he said, “You’re right and you’re wrong.” However, at NSC—

**Young:** Making a ruling, saying, “That’s enough—”

**Barr:** Oh, I've seen him make rulings, but he never really got into the to and fro of personally delving into the argument while two people were having it out. I would see him do it more in the national security arena. I remember some discussions of covert actions where people would be taking different positions, and he would directly challenge someone. He would say, "Hey, come on. Do you really believe that? I mean, come on."

**Meador:** You don't think he was the type of President who wanted all of this worked out below him so he was presented with some one final position?

**Barr:** No. I'm sure that generally people like to do that for the small bureau items, but I think he didn't mind on significant issues to have conflict.

**Baker:** Did he like to delve into the reports and the literature? Did he like little summaries?

**Barr:** No, I think mostly stuff was summarized. As I recall, there were option memos that went forward, and a lot of effort was made to torque the options, tweak the options so there was only one option. Part of the job was to make sure your option was presented fairly. At least on domestic stuff—maybe on economic stuff, but I wasn't part of the economic team. But on other issues, it didn't seem to me he wanted to delve too deeply into the facts.

**Meador:** I read that Eisenhower always wanted everything on a one-page memo. Did Bush have any notions about how he wanted things presented to him?

**Barr:** Not that I'm aware of, except they had a format of short option papers that clearly set out options one, option two, option three, recommendation: Defense recommends this, State recommends this, Justice recommends this.

**Young:** I've seen some of the documents in the Bush library with his notations or instructions—I haven't seen enough to make any generalizations, but it's clear that there are some matters in which he is very familiar with the details and wants to know more. I don't know that he micromanaged them, but there were a fair number of these things in foreign affairs, national security affairs, in which he was very much on top, and all he wants is the details. Much more selective is my impression, the specificity of his advice or request for follow-up or something on domestic affairs. But it's not just one page with a sign-off. There are often additional questions, whatever happened to, or why is—?

**Meador:** Griffin Bell had a theory, I believe, if I remember correctly, that whoever writes the options controls the decision. Would you agree with that?

**Barr:** Yes, frequently that's true. That's why I usually asked to see the option paper before—

**Baker:** So you could edit how yours is framed.

**Barr:** You know a lot of them are frequently false options, and there's a lot of gamesmanship played by the White House staff in that respect.



**Baker:** A couple of the books that have come out on the Bush administration have characterized it in terms like “guardianship,” “status quo Presidency,” “procedural Presidency,” emphasizing the fact that the President was not confrontational and liked the lower profile decision making. Do you think that’s a fair assessment of the Bush style, from your experience? I guess status quo because, as you just said, the revolution occurred earlier, the breaching of the walls with the Reagan administration, which left a different function for George Bush to fill.

**Barr:** Well, I think it’s fair to say it is sort of a consolidation.

**Baker:** Okay, rather than a status quo.

**Barr:** You’re consolidating the front lines after breakthrough. I think there was a lot of procedure in the Reagan administration, so I’m not sure that procedural—I think there was plenty of substance, but there were no bold domestic initiatives, or direction taken, or policies staked out generally. I think that would be fair.

His greatest accomplishments were in international relations, clearly. I’m not an expert on any of this, but my impression is that some of the advice he was getting on the economy was actually correct. The American economy needed to fundamentally reorient itself, and that required a painful process of certain industries downsizing, and people losing jobs and being retrained, and productivity increases being required in certain other industries, which means displacement of workers and so forth. I think the advice he was getting was that this was a difficult adjustment, but it was one that had to be done in order to set the stage for a more productive, growing economy, oriented more toward the technological, the new technology, the information age, and that interference in it would be detrimental.

Trying to come up with industrial policy to save certain industries or to prop up certain non-productivity could be counterproductive. I believe that the economy did go through that transformation, and there’s no doubt about the increased productivity and growth that has been experienced, starting with the last quarter of 1992. It’s been remarkable. It was an essential readjustment in the economy, and he paid the personal price for it. But his laissez-faire, to some extent—keeping hands off and letting it happen—was maybe, in a sense, the highest statesmanship. Doing the convenient thing and subsidizing industries and playing fair trade policies and things like that could have been very counterproductive. I’m not an economist, but I think there might be something—

**Young:** President Bush was suffering, in many ways, from the budget deal. There were still some accomplishments from that that had very long-term benefits in terms of restoring the economy—the caps on spending and so forth—which I think, in retrospect, will be viewed as the far more important aspect than the view that one had at the time. He had to pay a price, pay more taxes for that, but they did accomplish a fairly good regime of discipline on spending, from which the next President really benefited more than Bush did.

**Barr:** Right.

**Young:** You had something to do with President Bush on the disorder in Los Angeles, and the Rodney King beating, and this outbreak of violence that was more extreme, but perhaps not unique, in terms of the change in the climate of crime, or the types of crime. Was President Bush shocked by this dramatic event in Los Angeles? Did it have an effect on him? Did he see it as an indicator of something wrong that had to be fixed in America?

**Barr:** I can't tell the extent to which he was shocked. He seemed surprised and wondered what was going on, what was this all about and why the violence, that ugly violence. He asked me. Some people would probably disagree with what I told him, but I did lay a lot of it on gang activity.

**Young:** And you had a program to try and deal with that kind of thing.

**Barr:** Yes.

**Young:** But that didn't galvanize.

**Barr:** Well, no one stopped me. We did make a lot of progress against gangs. But he wasn't as comfortable in that policy area, I guess. My basic take was that this was not civil unrest or the product of some festering injustice. This was gang activity, basically opportunistic. I don't know why he wasn't more interested in these issues.

**Young:** How do you think a second Bush administration would have differed, if at all, from the first, if he had gotten reelected?

**Barr:** I don't know how much it would differ. It would have been considered more successful because the economy would have continued growing, and he would have gotten credit for that.

**Young:** Would there have been some changes made?

**Barr:** Personnel changes?

**Young:** Yes.

**Barr:** I assume there would have been, yes. Obviously, I don't think Baker was interested in staying on as Chief of Staff. I wasn't planning on staying the whole next term as AG. I probably would have stayed one year more, because I didn't have any money. I lost all my money. I had used up all my savings. I had \$15,000 when I left government. I had three kids in private schools and a mortgage, so I couldn't afford to stay, even if I wanted to. So there would have been some changes.

**Meador:** Can you think of any other significant Cabinet changes that probably would have been made?

**Barr:** Somebody would have to remind me, let's see—

**Meador:** You had Eagleburger at State by that time, right?

**Barr:** I think he probably would have stayed in State.

**Young:** He was acting—

**Meador:** Did he ever become—

**Young:** Yes, I think he was confirmed, after it was all over. Darman? Do you think there would have been a change there?

**Barr:** I don't know. He may have been eased out. You know, Baker was always watching after Darman.

**Young:** That's another connection that may have had something to do with Darman's power.

**Barr:** Oh, sure.

**Young:** He had a powerful protector.

**Barr:** Without Baker, I think his power would have been a lot less. But, you know, he's a very commanding individual, he's a very bright guy. He's an engaging guy, also. I liked Darman in many ways. But Darman unleashed, I'm not sure is a good thing. [laughs] Basically, he became a symbol of what a lot of rank-and-file Republicans thought was wrong, as I say, the country club Republican types. And in some ways he deserved that label.

**Young:** I think of him as just a consummate inside-the-Beltway politician, and that was his career, very successful. He served a lot of people well, but never getting out, and perhaps he should.

**Meador:** You mentioned earlier today that you spoke several times at circuit judicial conferences. Do you remember in essence the sorts of subjects you discussed at those conferences?

**Barr:** They usually wanted me to talk about either judicial selection or federal law enforcement policy, why we were putting all these bad cases in the courtrooms. One of those two things was generally the topic. They usually wanted to talk about their big workload, and how they needed help, and I wouldn't get more judges through the process. Now, in retrospect, I think a big mistake was made in judicial selection. It was made over in Boyden's office, primarily, and among many, some of the true believers at the Department of Justice. It's like when you have a baby. Your first baby drops the pacifier, and you boil it in water. By the time you have your third kid, you pick up the pacifier and plug it right back in the kid's mouth. It was the same as selecting judges. These people get into office, and they start poring over some poor schlemiel who wants to be on the district court, and they're acting like this is a Supreme Court appointment. They want perfection, and they're worried about the person's views on this, this, this, and this. As a result, the process moved much too slowly.

My attitude was, Look, okay, circuit court judges, let's be a little bit more attentive to who we put on there and make sure they've got their philosophy straight and we're happy with it, okay? But we can't do that for every district court judge. And furthermore, district court judges aren't the ones ultimately making these decisions, the kinds of ones we're worried about. We want good, law and order-type judges who won't let prisoners out, and we want guys who aren't going to manage institutions and take over school systems and that kind of stuff. Basically we want guys who will throw out cases under summary judgment, craftsman-like judges. We don't need perfection. And frankly, if this guy is pro-abortion it doesn't—I'm anti-abortion myself, but I can live with a few district court judges who are not "right" on right to life.

There was too much grinding at the beginning, and we lost a lot of time. I think that was a big mistake. Part of my advice to the new Republican administration was "Don't look for perfection in every district court judge appointment. Just start getting them out there."

**Meador:** You mentioned earlier that you met sometimes with Rehnquist. How often did you meet with Rehnquist?

**Barr:** Just a couple of times.

**Meador:** In the whole time you were there?

**Barr:** Yes, at Justice. I talked to him about things like the rules, different conferences on rules, the state of the judiciary. I supported higher judicial salaries and that kind of stuff.

**Young:** We have about ten minutes left. Do you have thoughts on the Bush Presidency as a whole? What do you think it was best at, not so good at? How do you think history ought to look at this Presidency after everybody is away from the scene?

**Barr:** Well, first, in the wake of Clinton, the American people have been reminded—at least for the next couple of years until they forget it again—that there are certain attributes that they really do want in a President. People I talked to—even people who were upset with George Bush at the time and didn't vote for him—think very well of him now, because in retrospect they think he was a man of honor, and a man of character, and a man they were actually proud to have as President of the United States, as frustrated as some of them may have been with his policies at times. I think, in the wake of Clinton, Americans are reminded that that's not a bad thing to have in a President. Already, I think even in retrospect, the American people look at him well. They think he was a man of dignity and character and brought respect to the office.

I think, obviously, his greatest contribution will go down in history as dealing with the Vietnam syndrome in the sense that I think Americans had gotten themselves into the state of mind that they didn't want to see American military intervention, and they were always wringing their hands about it, and so forth. He used military power where it should be used, which is why we went over with a decisive force to achieve a clearly defined objective, and did it with just overwhelming force as quickly as possible, which is the only way you should use military power, in my opinion. But by doing that successfully and showing how it can be done, I think

Americans were a little more comfortable with using our power overseas. And I think ending the Vietnam syndrome was important for our psyche as a country.

**Young:** It was a good thing?

**Barr:** A very good thing, in my opinion. Restore a little bit of pride and a little bit of notion that America *is* a superpower, and we can use our military and use it well and achieve good objectives.

**Meador:** Following up on that just a second, there has been criticism in later times that he didn't go on and let our military forces wipe out the Iraqi Army. Was there any discussion about that at the time within the administration as to whether to keep going a little longer?

**Barr:** Well, there was discussion, but I wasn't a party to the real discussion. I'm sure it took place in the Oval Office with Cheney, Powell, and Baker. I think the big picture actually is that he was right in that decision. If you look at it from this standpoint: I think a big part of what he was doing was establishing a doctrine and an approach to using military power. You define your objectives in advance, you have the discipline to stick to them, use the force to achieve them at minimum cost to American lives. And then have the discipline to say when you've won, and declare victory. He never articulated the objective as overthrowing Saddam Hussein. It was always to liberate Kuwait.

Now, I do believe that part of the objective was to destroy the Iraqi war-making capability as much as we could, and we did. But I believe that a lot of the good of Desert Storm could have been undone if we had a protracted period of scurrying around fighting a guerilla war in Iraq, looking around for Saddam Hussein the way we spent two weeks looking around for Noriega in tiny Panama. I think we could have suffered more casualties. Our objective would have become more muddled.

What are we trying to do here? Replace a government? Replace it with what? Are we going to occupy this place? What's our objective once we start running around? Now, I don't think he was adverse to—in the context of the operation—trying to knock off Saddam Hussein. I think there were probably Cruise Missiles shot at places where they thought he was. But we weren't able to get him. Once the military objective was achieved, I think it was probably right to stop.

It's easy for armchair critics to say, "Oh, we should have finished the job." But you don't know what would have happened. A lot of what was good about Desert Storm could have been lost in a messy aftermath. So I personally don't criticize him for that decision. It's easy for people to—Iraq's not a small country and—

**Young:** There was not only what you call the turning around of the Vietnam syndrome, but there was also some historic work done—at least a precedent, perhaps—for international cooperation in that venture. It was really quite historic and important and very unusual, which probably would have not turned out as well as it did without Bush's personal imprimatur on that, because his papers and little notes that you see in the library on this show that he was constantly on the

phone negotiating the terms of that alliance for this purpose, and that was an extremely difficult—

**Barr:** He was masterful at it, and only he could have done it, I think. Reagan couldn't have done it, I don't think. Reagan could have done it with our military power, but not put together—But I think at the same time, Bush established a very important principle that Clinton has not observed, which is that despite the fact that we put together an international coalition and shared the cost of it, this whole thing, basically we broke even on the deal. The important thing was that America never subordinated our interests to a multinational organization. We didn't say, "Oh, only if you say—" We basically maintained our own national objectives and our own national command.

**Meador:** Why is it you say Reagan couldn't have put this thing together the way Bush did?

**Barr:** I don't think Reagan could have put together the international coalition the way Bush did.

**Meador:** Why not? Why do you say that?

**Barr:** I don't think he had the relationships or the stature—I mean, he had the stature as the President, but he didn't have the personal trust and relationships with international leaders that Bush did.

**Young:** And with some of them the old acquaintance.

**Barr:** Yes, long-time acquaintance. I think probably Reagan might have brought out more anti-American antibodies as well, than Bush did. Bush had a great team—Cheney and Baker and Powell, Bob Gates. Those were all great people. Part of the preparedness of American forces was obviously under Reagan. Bush continued those policies, but it was ending the Vietnam syndrome, and I think that will go down as a big achievement and could set the stage for a much better world, in my opinion.

More generally, other than his character, overall, I think the administration was an administration that was free from scandal. It was an administration that believed in good government and was not a highly partisan, politics-first kind of administration. It was actually an administration that cared about trying to do the right thing and was fairly competent in what it did. Maybe it wasn't politically successful, given the economic circumstances. But generally, across the board, I think that policies were fairly balanced, successful, reasonably conservative. Government wasn't viewed as the enemy, but by the same token, it wasn't a status approach to things. It was a decent administration. I don't know what other people say.

**Young:** Against some theories and expectations that when you have the White House in the hands of one party, and the Congress in the hand of the other, it's a formula for deadlock, stalemate, nothing can get accomplished. I think that cannot be said of the Bush years when measured against the expectation that nothing was going to happen. If you look at it that way, at the obstacle in getting anything through, and also the very judicious use of the veto power, I think it was used to help balance a partisan, unbalanced situation. And it worked out with not a

lot of acrimony that became public except some from the Republicans themselves who felt betrayed.

**Barr:** I think that's fair. I mean it is one that certainly I was acutely aware of at the time. I reminded people that it was trench warfare with the Hill, to some extent. It was very hard being in an administration where you had very partisan Democrats, and they were always dumping on you. And I reminded people that Reagan at least wasn't behind the eight ball all his eight years like that. A lot of what he accomplished proactively, he accomplished when he had working control of Congress, which Bush never had.

**Meador:** I had a feeling in the Carter years that Carter had more trouble almost with Democrats than he did with Republicans. Can you say anything about George Bush? Did he have more problems with some of the Republicans than he did with Democrats?

**Barr:** I don't know what he would say. I guess I wouldn't go that far. That's pretty extreme, because Democrats were a hell of a big problem. With friends like some of our Republican friends you don't need enemies. They're always the ones who will get you. Take this guy [James] Jeffords right now on the tax package. He's really hurting George W. Bush, one guy from Vermont. So they're always the worst enemy.

**Young:** Newt Gingrich did a few things to George Bush, didn't he? Things that didn't help him.

**Barr:** I said I think one of the real villains is Pat Buchanan. I think Pat Buchanan is an example of someone in history who—regardless of the merits of his ideas at any given point—is such a vain individual that he would sacrifice—Ultimately he rationalizes it in the name of principle, but, in fact, what drives him is rank personal vanity. He has been very destructive to the body politic, in my opinion, and it's basically ego.

**Young:** Ross Perot.

**Meador:** Yes, somebody we haven't mentioned today is Perot. Do you have anything to say about his role in the campaign there?

**Barr:** I think Perot is another example of ego. It was a very unfortunate situation.

**Meador:** Do you think he cost Bush the election?

**Barr:** I don't know. It was very hard for Bush to win, once he was in. I think there's no doubt that with him being in, it was almost impossible for Bush to win. The question is, if he was not there, would Bush have won? And I don't know the answer.

**Young:** I think we're obliged to get Bill Barr to his car in a very few minutes. I want to thank you very much for—