RONALD REAGAN ORAL HISTORY PROJECT

FINAL EDITED TRANSCRIPT

INTERVIEW WITH A. B. CULVAHOUSE

April 1, 2004
Charlottesville, Virginia

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April 2, 2004

Knott: This is a Ronald Reagan Oral History interview with A. B. Culvahouse. We’re pleased that you’re with us today. Whatever is said in this room will remain in this room until you’ve cleared your transcript and all the Reagan materials are open. Thank you for coming. It helps the transcriptionist if we do a voice check so she can put a voice with a name. My name is Stephen Knott. I’m an associate professor at the Miller Center.

Morrisroe: I’m Darby Morrisroe, a graduate student at the University and a chief researcher for the program.

Chidester: I’m Jeff Chidester, project assistant at the Miller Center.

Hult: I’m Karen Hult, professor of political science at Virginia Tech.

Knott: Perhaps the best place to start is to ask you about your relationship with Howard Baker and how that began. We notice that you were part of his staff when he was a Senator, during the Watergate period.

Culvahouse: Yes. I’m a native Tennessean. I met Howard through Lamar Alexander. Lamar was Howard’s first chief legislative assistant when Howard was elected to the Senate in ’66. I met Lamar when I was a junior or a senior at the University of Tennessee. He had just left Howard’s staff and was working for the [Richard] Nixon White House. He asked me where I was going to law school, and I basically said wherever I could get the most scholarship money. He put me in touch with New York University School of Law, where he had gone. I had a Root-Tilden scholarship—full tuition, room and board, and a stipend. It was the best that was offered to me.

When I was a third year at NYU, I had agreed to clerk for a federal judge. Lamar called up and said that Howard Baker was looking for a bright young lawyer from Tennessee to work with him during the Senate Watergate Committee investigation. They couldn’t find a bright one, so they were asking me. I went down to Washington and met Howard. We connected, and I went to work for him instead. I took my last exam—I think on June 3, 1973—and the next day I was on
Howard’s staff. One of the first things I did was sit behind him when he questioned John Dean. It was really great for a young lawyer.

**Knott:** I can imagine. Do you have any other particular recollections or observations from your experience with the Watergate Committee?

**Culvahouse:** I wasn’t on the investigation side as much as I was researching things like executive privilege. I was doing a fair amount of work on things like recommendations of proposed amendments to the federal election laws and the creation of an independent counsel. I focused on the recommendations side, the legal side, the writing side, and really did not do that much investigatory work. I worked with Howard a bit on the [Frank] Church Committee investigation of the Central Intelligence Agency [CIA].

During the three years I was with him, Howard was considered for Vice President twice. When Nixon resigned and [Gerald] Ford replaced him, Howard was on the short list when [Nelson] Rockefeller was picked as Ford’s Vice President. And then when Rockefeller was not a candidate for the Republican Vice Presidential nomination, Howard was definitely on the short list. So I wound up staying a little longer than I thought.

I always wanted to practice law, and Howard’s advice to me was you could stay too long on the Senate staff and become a staff lifer. So I left. That sounds a little arrogant. I guess it’s fair to say that even though I was no longer on his staff, I continued to be his counsel, so to speak. This was just a kind of legal brain trust position, and I stayed in close touch.

**Knott:** I didn’t realize he was part of the Church Committee. Do you have any particular memories from that experience? It was such an important—

**Culvahouse:** Howard was always interested in Deep Throat and who Deep Throat was. There was a theory at the time that maybe someone at the Central Intelligence Agency was Deep Throat, someone who had access to the Watergate tapes and the CIA’s knowledge of Watergate. So we looked into that at the same time the committee looked at assassinations and those sorts of things. It was a real exposure to that world, what was done well and what was done less well. My view at the time was that there wasn’t a lot of accountability at the Agency. But on the other hand, they’d done a lot of valuable work. I guess it’s the same tension we’re still dealing with today.

**Knott:** You were fairly young at that point. What was your initial impression of life on Capitol Hill, working for a Senator? Did it live up to preconceived notions you had, or was there something about it that really surprised you?

**Culvahouse:** Working for Howard was always interesting because of his nimble, facile mind. All the staffs were smaller then. Now, comparatively speaking, there’s much more of a bureaucracy. People didn’t have chiefs of staff; they didn’t have legislative directors. They had an administrative assistant, a couple of legislative assistants—one of whom was designated chief—and a press secretary. That was the staff, along with some secretaries and correspondents. It was a fascinating time to be there because there were a lot of stresses and strains on the
Republic. It was a great time, a steep learning curve. I enjoyed it a lot. It was addictive. It was hard to leave.

**Knott:** You got Potomac fever?

**Culvahouse:** Yes.

**Knott:** Did Senator Baker strike you as someone who was probably going to run for President some day? Was there ever talk of that?

**Culvahouse:** At the time I left him—which was right after the ’76 elections—I knew he was going to run in ’80.

**Knott:** You knew.

**Culvahouse:** I had already committed to work for him.

**Knott:** Could you tell us a little about that experience, serving as general counsel for the Presidential campaign?

**Culvahouse:** It’s not something I’d recommend. It’s a lot of compliance work, setting up systems and procedures to make sure that all the election law limits and procedures are complied with. At that time, there were state-by-state expenditure limits, calculated by arcane accounting procedures, that were honored with great effort. You could spend millions of dollars around New Hampshire but try to stay under—I think it was $510,000—“in New Hampshire.” You’d run ads on a Vermont TV station, and because 20% of the audience was in New Hampshire, only 20% of the ad budget counted. I didn’t enjoy it all that much, frankly, compared to other political jobs I’ve had. It was probably the least satisfying.

**Knott:** Did you take a leave from your law firm?

**Culvahouse:** I took a leave of absence from my law firm.

**Knott:** You were in the Baker headquarters?

**Culvahouse:** I was in the Baker headquarters on K Street, near Capitol Hill, behind Union Station.

**Knott:** Was Ronald Reagan viewed as Howard Baker’s principal opponent?

**Culvahouse:** Reagan and [George H.W.] Bush. [Robert] Dole was considered not as threatening. Reagan and Bush.

**Knott:** After Senator Baker was defeated in his race, you returned to the law firm with the Senator?
Culvahouse: No, I returned to O’Melveny & Myers, the firm I’m with today. I made partner in late ’81, effective ’82. Howard, of course—thanks to the Reagan landslide—had become the first Senate Republican majority leader in a long time, but he had determined to leave the Senate in ’84. My firm tried to recruit him to join us, part of the allure being that I was there. But Howard determined to take another offer and then turned the tables on us and started recruiting me to go with him.

Knott: What was that like?

Culvahouse: It was hard because I was and am very loyal to my law firm. But for lots of reasons—loyalty to Howard, and the belief that it would be a more interesting experience with him almost certainly going to run for President (we thought at the time, in ’88)—I decided to go with him.

Knott: Is it fair to say that you were friends with Howard Baker by this point?

Culvahouse: Oh, yes.

Knott: Even though you had really not known him until ’73?

Culvahouse: Right, that’s correct.

Morrisroe: As a Washington lawyer during the early years of the Reagan administration and as someone close to the majority leader at the time, what were your early impressions of Reagan?

Knott: Most of it was derivative of Howard. He was always very respectful of the President. Howard Baker is a sort of old fashioned person who would always be respectful of the President regardless of who was President. But he respected President Reagan’s skill and liked him. I think that’s why he took a fair number of what I know Howard’s political advisors believed to be risks in supporting Reagan’s economic policy—going to the mat for some of his nominees, that sort of thing.

Hult: How much substantive contact did you and Senator Baker have while he was majority leader? Were you still kind of an outside counsel?

Culvahouse: Yes, but basically on his personal ethics, financial affairs, his investments, his Ethics in Government Act compliance.

Chidester: Can you give us some more insight into the personality of Senator Baker? He was a key individual in the administration, especially the last couple of years. What were his good qualities? What was his personality like?

Culvahouse: Howard Baker is very bright. He was a great lawyer in his own right. At the time he was elected to the Senate, he was probably one of the most successful, and one of the best-known, lawyers in Tennessee. He had won a huge verdict against the Mine Workers Union for an unlawful strike, and was the corporate counsel of choice for number of major clients—the
railroads, the coal companies, the gas pipeline, and so forth. As the son of two Congressmen (both his father and his stepmother), and the son-in-law of Everett Dirksen, he knew Washington well. He was a close personal friend of people like Justice [Potter] Stewart from Justice Stewart’s days on the Sixth Circuit Court of Appeals before he was appointed to the Supreme Court. Howard had Washington in his blood.

My instinct was that he was one of the few members of the Senate who had studied the Constitution and understood the balance of powers and how the three branches are supposed to relate. So he was very much a “good government” type. On the other hand, he was also very much a partisan and ambitious. Melvin Laird famously said that the problem with Baker is that he doesn’t have enough fire in his belly to be elected President, in terms of retail politics. That was fairly apt. In the ’80 campaign, if you gave Howard a choice between doing something as minority leader—he was then minority leader of the Senate—or going to Iowa to do a fundraiser, he would do the Senate thing every time.

Chidester: It says a lot about his character.

Culvahouse: I don’t think he enjoyed the politics side of the job nearly as much as the policy and the legislative part. He was not a great administrator. People in Tennessee always compared him to Bill [William Emerson III] Brock. Brock had a well-oiled machine. The mail always got answered, the phone calls always got returned. Baker was much more cerebral. He would get angry, but those of his staff who were renowned for allowing correspondence to pile up on their desk (and then in the dark of night throw it away) never got punished. Howard had a much higher-level view of his job and the world.

Knott: It doesn’t sound like a particularly good choice for a White House Chief of Staff.

Culvahouse: But Howard was self aware. Where it was really very important to get the job done, he made a number of choices that complemented his strengths and his weaknesses.

Knott: You’ve kept in touch with him over the years?

Culvahouse: Yes.

Knott: You visited him in Japan?

Culvahouse: I visited him in Japan in October and will be seeing him again in May. He remains one of my closest friends.

Knott: Has he enjoyed his stint as the U.S. Ambassador to Japan?

Culvahouse: I think so. He was always fascinated by Japan. He and I in the ’84 to ’86 period probably went over there five times representing a major U.S. investment bank. This was at a time when the Japanese were not allowing non-Japanese to be members of the Tokyo Stock Exchange. Howard and I were representing one of the major banks and also were representing Federal Express, which was trying to get service routes to Japan. Howard was always fascinated
by Japan, the Japanese. During the ’80s, he got to know a lot of the leadership, including the
father of one of the current bright up-and-coming Japanese officials, Foreign Minister [Shinzo]
Abe, or as they call him, the “young” Abe. Abe’s father was the foreign minister during the ’84
to ’86 period. So I think Howard’s having a lot of fun.

Knott: Let’s get back to the point where you were selected to be counsel to the President. Could
you tell us the circumstances?

Culvahouse: Howard and I were practicing law together. He had gone to Florida with Joy
[Baker], his wife. Four of my law school classmates and I and our spouses had gotten together in
Cancun, Mexico, for a quasi-reunion. It was a Friday, and we had been out touring one of the
ruins or something, and come back, and finally a maid came up to us on the tennis court. There
were four urgent messages from Senator Baker, and the last one was to call him back through
“White House operator two,” or something like that, which kind of baffled me. But being in
Cancun, I was removed from what was going on in Washington.

I called him back through the White House. They put me in touch with Howard, who told me
that Don Regan had resigned and President Reagan had offered him the job of Chief of Staff.
Howard had accepted it but had exacted a commitment from President Reagan that I would be
named White House counsel. Howard had advised the head of our law firm that he would be
leaving and he expected that I would be leaving. He hoped I would take the job.

He probably didn’t actually say it at the time, but we both now remember it as him saying, “Now
that you’re out of a job, I hope you’ll take the one that’s been offered.” He was a little less
overbearing than that, but he made it very clear that it was very important to him. I, of course,
accepted.

Knott: You accepted right there?

Culvahouse: Yes.

Hult: Did he outline any specifics at that point about why it was so important for you to join him
and what he expected you to do?

Culvahouse: No, not at the time. Howard and I had spent a fair amount of time together through
Watergate, and later watching how the [Jimmy] Carter administration handled Bert Lance and
what was called “Billygate,” and then watching Iran-Contra. We had spent a lot of time
critiquing how that had been handled—or mishandled, as the case may be. I knew and he knew
why he wanted to go and why he wanted me to come with him. It had to do with Iran-Contra, but
that did not need to be said.

Knott: How quickly did you show up at the White House for work? Did you cut your vacation
short?

Culvahouse: No, we were leaving the next morning anyway, so we flew back. I spoke to
Howard as soon as I got on the ground. That’s when we had the first conversation when he said
he wanted me to focus heavily on Iran-Contra. As best he could tell, it was not being handled with the intensity and the velocity it deserved. He thought that the current White House arrangement was dysfunctional. I asked and received his permission to reach out to Bill Lytton that Saturday night. Then, of course, we had the meeting—which I think has been written up in the press—at his residence the next day, which is where I saw Howard Baker, probably, at his finest.

Chidester: Did you have any discussions with Senator Baker before you took the job about access to the President?

Culvahouse: No.

Chidester: What was the reaction from conservative groups about your appointment?

Culvahouse: I think they were too worried about Baker to focus on me.

Hult: When did you first meet with the President after you became counsel?

Culvahouse: That Monday morning.

Knott: How did that go?

Culvahouse: It went well. Howard had gone in for the 8:30 and then the 9 with the President and the Vice President, and then asked me to come in and introduced me to both of them. I have photos on my wall. We really didn’t talk at great length about what I would be doing, but Howard had a little bit of a prepared speech. He said that we had agreed that I would spend all my initial time on Iran-Contra, that that would be my priority, and that the President would see a lot of me.

Hult: Was that the first time you met both the President and the Vice President?

Culvahouse: No, I’d met the Vice President before, several different times other than in a receiving line. It was the first time I had a substantive conversation with Ronald Reagan.

Chidester: What were your impressions of Reagan? This was a pretty difficult time in the administration. Did any of this show on him?

Culvahouse: Oh, not at the time. The Sunday meeting the day before was the meeting at Baker’s residence. Jim Cannon and Tommy Griscom had been over at the White House meeting with people like my soon-to-be-predecessor, Peter Wallison, and Dennis Thomas and others. One or more of this group had confided—I think this was written up in the Jane Mayer book [Landslide: The Unmaking of a President]—that they thought the President was really out of it, and they suggested he might be incapable of performing the functions of his office, and we would have to think about those issues.
Every time Howard was trying to talk about what we were going to do the following week, Jim would bring it up. He brought it up at least twice, and finally Howard said, “Well, that’s not the Ronald Reagan I met with on Friday and Saturday,” and—I think just to get that issue off the table—said, “We will watch the President carefully, and if any of us think that that is an issue, then we’ll get together.” That was reported—at least in that book—as a serious suggestion by Baker. I think it was just to get Jim off that subject and get on to what Howard viewed as the priorities.

Howard was really determined. He had three priorities. He looked at me and said, “Our first priority is to represent the President and to get him through Iran-Contra—if he deserves to get through it.” Then he looked at me very pointedly and said, “You don’t want to be the first White House counsel to have his client convicted in an impeachment trial.” Then he said, “Then we’re going to get an arms agreement with the Soviet Union, because President Reagan told me that was one of his priorities”—which to me didn’t sound like someone who was distracted and off his game—“and we’re going to elect a Republican President in ’88.” Those were Baker’s three priorities, and I never knew another one.

Chidester: When he said “a Republican President,” did you have any indication that he was heading toward that?

Culvahouse: My every assumption was that it was not him.

Knott: You mentioned Peter Wallison. Did you have any contact with him in these early days?

Culvahouse: I did. I met with Peter on Monday. Peter was fighting a bit of a rear-guard action. I think it was reported, but I don’t know if it was. Jim Cannon had known him well. Jim even proposed that Peter continue, and that I be special counsel or something like that. I basically said, “That’s not the deal. That’s not acceptable.” We had about a three-week transition, in part, I think, to allow Peter an easier letdown, but also for me to just get my arms around the job and get staffed up. As you know, there are a lot of day-to-day functions of the White House counsel that needed to be performed while I was trying to understand why the White House was so dysfunctional on Iran-Contra.

Hurt: At the outset, however, did you not pledge to keep the rest of the counsel staff in place?

Culvahouse: No, I pledged, at the First Lady’s request, to keep Chris [Charles Christopher] Cox.

Hurt: Who was an associate counsel?

Culvahouse: He was senior associate counsel. He had given up a law firm partnership in California and had just joined. Chris had impeccable credentials. I may be answering a different question. That was the only suggestion I received from anyone that anyone was off limits. But I learned pretty quickly that Dean McGrath and Alan Raul had been doing most of the document production on Iran-Contra. We needed to keep them. Jay Stephens had a solid reputation. I don’t know if it was the first day or the second day when I said that I didn’t anticipate making any
changes. I anticipated adding to the staff because I had pretty quickly decided that we were going
to create a separate task force to handle Iran-Contra.

Morrisroe: Could you talk a little bit about the selection of Bill Lytton and who you brought in? Were they detailed from other departments and agencies, and how was that set up?

Culvahouse: We probably don’t have enough time for that. I’m really going to come off as terribly cynical and arrogant about how that was done. It was basically through extortion. Bill Lytton had been a very good college friend of my law school roommate. I’m telling you more than you want to know. Jim Clark, my law school roommate, and Bill had both gone to Georgetown undergrad with Jim. I met Bill socially in that connection.

When I went to work for Howard, in ’73, Bill was working on Chuck [Charles] Percy’s Senate staff—on the permanent subcommittee on investigations, the minority staff. Percy and Baker were both very interested in the Watergate reforms. There was the Percy-Baker Independent Counsel Bill, which proposed Presidential appointment of an independent counsel, as opposed to judicial appointment, which was the principal alternative to the Independent Counsel Act that was ultimately passed.

I got to know Bill very well through that legislative endeavor. Bill left Percy’s staff before I left Howard’s. He went off to Chicago to become an assistant United States Attorney, first for Jim Thompson and then for Sam Skinner. Then he was hired to be the first assistant United States Attorney in Philadelphia, under Peter Vaira, the United States Attorney in Philadelphia who was appointed by Carter. Then Bill had gone into private practice. He and I stayed in close contact; he had a number of big trials.

In the MOVE incident, the Philadelphia police attacked a house occupied by African-Americans, all with the last name Africa. A lot of people, women and children, were killed, and a city block burned down. Bill was appointed staff director to run that investigation and did a fabulous job—it was an independent commission. I had watched him through that endeavor, and in the short period I had between the call in Cancun and getting back to Washington Saturday night, I knew that I had no criminal defense or prosecutorial experience and that I needed someone who did. I needed someone I had confidence in, and Bill was the perfect person. That’s why I asked to call him. So Bill was my first choice—really my only choice.

Morrisroe: What was your conversation with him about how you would like the task force, or the Iran-Contra work, in your office handled?

Culvahouse: I told him that I would like for him to come down and be my principal deputy responsible for it. That was the extent of the conversation. The notion was he would come down, we’d both take a look at it, and we would wrestle it to the ground. It was complicated at the time because we also had David Abshire and Charles Brower. David’s title was “Special Counselor to the President.” Brower was “Deputy Special Counselor to the President.” They were the liaison with [E. Lawrence] Walsh and liaison with the Hill committees, but they were not “representing the President” personally or institutionally. They were there to further the President’s pledge of cooperation.
Then there were the two members of counsel’s office who—in a kind of dotted-line relationship with Abshire and Brower—were producing documents. But we didn’t have any record of what documents they had produced, and there was no one else running it like it should have been run. Bill and I sometime—Monday, Tuesday, Wednesday—decided we had to have a separate task force, separate lawyers, separate everything.

Hult: What did you get—there were some dozen, at least, lawyers in that group of sixty in addition to—

Culvahouse: All the subject matter was highly classified, so we had to start with people who had security clearances because it just took too long to get cleared. You had to have top secret code word clearances. You had very sensitive National Security Agency product. [Oliver] North’s files, [John] Poindexter’s files, were full of the most sensitive stuff, ranging from continuity of government to NSA sources and methods to our sources in Latin America, Iran, and in other places in the Middle East.

So Bill and I went on a circuit through the national security agencies—from the CIA to the NSA to State, to Treasury, to Defense—begging, borrowing, stealing lawyers and analysts, the equivalent of paralegals or legal assistants—of which at that time in government there really weren’t many—and then secretaries with security clearances. The basic thrust was, It’s going to be impossible for us to protect your work product and your sources and your methods without help. Some were more cooperative than others, but I think we got two or three out of Defense—including a woman who’s now general counsel of Starbucks and used to be deputy general counsel of Dell. We got some enlisted men who were office-manager types. We got two out of State, one out of Treasury, three out of NSA. Then we found a couple at Justice who had security clearances. I’d have to talk to Bill about whether we brought anyone in from the outside.

Secretaries we got from various and sundry places. We got a number of analysts from NSA, people to help us index documents. Ultimately we were stymied on legal assistants. But we had a woman who’d been seconded from the National Archives to the Justice Department with high clearances, Patti Aronson, who noted that the Archives had groups of archivists with high security clearances. So I had Howard invite the National Archivist over to the White House for lunch, which was probably the first time he had ever been invited to the White House. After the lunch, and after introducing him to the President, we asked him for some archivists and got ten. They were a godsend, they really were.

So we begged, borrowed, stole, extorted. The security clearance issue was really confining. It limited where we could get people.

Hult: What did that mean in terms of your security clearance and Lytton’s? Were both of you already cleared?

Culvahouse: We had to be updated. When I worked for Howard, the Watergate stuff was not that highly classified, although we did have some CIA documents. But he was also on a Joint Committee on Atomic Energy—
Hult: The Church Committee, presumably.

Culvahouse: But even before that, I got a Q clearance when I joined him, which was atomic, nuclear weapons clearance. I had not had a clearance since I left Howard’s staff in ’76. It took about two weeks to get it done, but I was presumptively pre-cleared, because the initial background already had been done. Bill had had clearance as an AUSA [Assistant United States Attorney].

Knott: You mentioned earlier that Senator Baker during that Sunday meeting had referred to a kind of dysfunctional lack of vigor in the White House in terms of trying to get to the bottom of Iran-Contra. Was the perception that things were still being covered up, or just sloppy? It was just not being done properly?

Culvahouse: If you talked to the [John] Tower Commission people, the people who worked on the Tower Board, they thought that Don Regan (I’m probably being more honest than I should) and Peter Wallison were very defensive about what had transpired. They were out of the loop. They were embarrassed that this had happened on their watch.

Regan himself had a very definite recollection of how the arms sales to Iran were handled—which was different from the President’s—and he was confusing the President. And people on the Hill and the independent counsel were not yet convinced that Peter and Regan were not involved somehow. That’s why Abshire and Brower were brought in. But Abshire and Brower had told Howard already that they were not representing the President. They were just facilitators.

So Howard was trying to figure out who was representing the President, and there was nobody. That was what he was saying. Not that anyone was covering it up. He was absolutely convinced that people were cooperating fully, but there was no one watching out for the President’s interests. Everybody thought it was their job to produce documents, full stop.

Knott: There was a sense that the President wanted to get to the bottom of this.

Culvahouse: Oh yes, absolutely, from day one.

Knott: You mentioned that the First Lady asked you to keep Christopher Cox on the staff. Did she call you about this? How did you find out about this?

Culvahouse: She mentioned it to Baker.

Knott: What was the reason for that?

Culvahouse: I think her Chief of Staff liked Chris a lot and felt responsible for recruiting him to give up his law firm and partnership and move 3,000 miles. Chris is a very good lawyer, nothing mysterious about that. He had been there a month, I think.
**Knott:** Should we continue to pursue Iran-Contra, or do you want to go to some of these other counsel issues?

**Morrisroe:** I’m happy to defer to the group. I do have a couple of questions more about the task force, just because it’s such an unusual arrangement for a counsel’s office. This group of people working for you and Lytton, were they over in the OEOB [Old Executive Office Building] at the time?

**Culvahouse:** Both at the OEOB, and we had some in the new EOB [Executive Office Building].

**Morrisroe:** Were they mostly working on responses to document production requests either from Walsh or the congressional committees, or were they engaged in investigation or further fact-finding about Iran-Contra?

**Culvahouse:** All of the above. In the first circuit that Bill and I did with Judge Walsh and his people—and with Warren Rudman, Daniel Inouye, Arthur Liman, Mark Belnick, Lee Hamilton, Dick Cheney, and their people—everybody complained about the pace of document production. No one thought we were hiding anything. It was just too slow, and nothing was getting declassified. They were going to have to start issuing subpoenas just to put pressure on.

There was not only the *pace* of document production—the White House was producing documents, they’d be checked for relevancy, they’d be checked for classification and whether they could be declassified. Then they’d be produced. We didn’t even have a very good record of what had been produced, and no one was putting them in context. So you had a huge joint committee on the Hill knowing a lot more about White House documents than the White House knew about them because they’d never been evaluated or placed in context.

Then you had all sorts of talking heads and press and others interpreting the Boland Amendment and other laws, events, and documents in ways that were the least advantageous to the President. They were winning the “fault” war that way. So, one, we had to produce documents. Two, it was very important that we be able to understand the full picture from not only the White House documents but also from State, Defense, Treasury documents, and that we be able to do chronologies.

Looking forward to the day when the President would be interviewed or have to submit interrogatories, and looking forward to the day when we were going to interview the President, we needed to have the relevant documents. And we needed to do the legal research on the Boland Amendment, the Arms Export Control Act, and a number of other things. So we created a mini law firm that no one really knew existed for a long time.

**Hult:** That in some ways is not fully unprecedented. There was at least an analog, I believe, in the Nixon White House in the Watergate.

**Culvahouse:** With [James] St. Clair.
Hult: Exactly. Did you talk with anyone who had been involved in that operation? Or did you know anything about it that you drew on for your own Iran-Contra task force?

Culvahouse: No. Using Nixon as a precedent was not something that we wanted—

Hult: Understandably.

Culvahouse: It just seemed to be the only solution. President Reagan had told Howard—and he reaffirmed to me in one of the very first substantive conversations I had with him—that he did not want personal counsel, that it would look like he had something to hide. He had nothing to hide; he’d done nothing wrong. He did not want personal counsel. He made that clear.

On the other hand, someone—I don’t know whether it was one of the President’s old friends—had recommended that he consult with Jack Miller, a very famous white collar criminal defense lawyer in Washington, which he’d done in December, January, long before I got there. That had been known or publicized. Someone—maybe Miller—who knew about the conversation put that in the press. So immediately Walsh wanted to talk to Miller. Miller asserted attorney-client privilege. Walsh viewed that as very unfriendly, and so we had to get the President to waive any privilege and say, “Jack, you’re not my lawyer, but to the extent that you are, there is no privilege.”

The President did not want personal counsel, but on the other hand, I walked him through with Bill and Howard what we were going to do. So he knew what we were going to do. He knew the constraints that we had as government lawyers, that if he confided in us that he had violated a law, we had an obligation as officers of the United States to tell the Justice Department. That was an awkward situation, but—given the fact that he did not want personal counsel at that time—it made sense to Howard and me. Although that was a very difficult call, it was the only way to go, given the magnitude and the highly classified nature of the subject matter. You just couldn’t bring people in and get them up to speed fast enough. They wouldn’t have been cleared by the time the hearings began. That was the best we could do.

The agencies had been ordered to cooperate, but they understood it was in their vested interest that everything be put in the proper context and that people who did not wish us well not be allowed to run riot with the facts without us pushing back in the same news cycle.

Knott: I know you weren’t involved in this, but what was the nature of the conversation between Reagan and Jack Miller? Do you know what came out of it?

Culvahouse: I don’t think it was very substantive at all. There was not much done or said. This was during a period when the President was trying to find a way to get North and Poindexter to testify, and that may have been part of the discussion. How can North and Poindexter be encouraged to testify, short of giving them a pardon?

Knott: Did you ever hear him express an opinion about North and Poindexter? Did he feel betrayed by them?
Culvahouse: [Bob] Woodward in Shadow got it pretty accurately. The President had great reverence and respect for war heroes and people who’d been in combat and so forth, but he really didn’t know North. From time to time he would say, “The problem with this job is that you never know how many people out there you don’t know are giving orders in your name.”

At the time when that Washingtonian magazine article came out describing a relationship between the President and North that had no basis in fact, he was angry. If that was where North was coming from, we were going to push back, and push back hard. Of course, I was encouraging that strategy because we had this big “Oliver North is a liar” file ready to go if North testified that he told the President about the diversion of funds. North did not testify to any of those facts, but the Washingtonian article said, “Sources close to North said this is the story.” We knew how many times North had met with the President. We knew that there were never fewer than four people in the room, and we had personally talked to at least one of the people in every one of those meetings, even if all of those people were gone from the government.

There were six or seven times when Poindexter was alone with the President. You could look at the events of the day and figure out why that might have been, such as the day the Korean airliner was shot down by the Soviets. We were in pretty good shape there, because Don Regan did not want anyone in the room with the President without him being there. So he was always there most of the time. We felt pretty good about Poindexter. I think the President was fond of Poindexter. [Robert/Bud] McFarlane, George Shultz, and [Caspar] Weinberger were probably involved in most of those critical conversations with the President. I think he probably felt more affection for them. Again, I don’t think he knew Poindexter nearly as well as he did Bud. He felt bad about McFarlane’s health issues.

Knott: You mentioned Lawrence Walsh. Would give us your assessment of him?

Culvahouse: He’s a mystery to me. Bill and I had been told that he was a person who was very prideful. I knew that he had been President of the ABA [American Bar Association], or maybe he was head of the ABA committee that evaluates judges. He had given Tom Meskill a really hard time, a former Governor of Connecticut who had been nominated to the second circuit. So I knew from that that he was quite hardheaded. Bill and I went to see him often, called him “judge,” were very deferential. He early on said—and I believed—he had respect for the President, did not wish him ill. In my own view, he was so burned by the results of North and Poindexter being immunized, the Kastigar [Kastigar v. United State] problem—

Knott: What problem?

Culvahouse: A court decision that said basically that you cannot use the fruits of immunized testimony for an indictment. Then essentially the D.C. Circuit Court of Appeals determined that North and Poindexter’s indictments were flawed as a result of congressional grants of immunity. He also was upset at the ultimate determination by the Reagan administration not to declassify documents that the judge in the [Joseph] Fernandez case had decided were relevant to Fernandez’s testimony. He just fundamentally disagreed with that decision.
And, in the end, I think he felt mistreated or disrespected by the people who were assigned to cooperate with him, liaison with him, in the Bush administration. He turned and was bitter, particularly about the North and Poindexter court decisions. All of us saw that issue coming, and I’m not sure how he or anyone could have stopped the Senate and the House from granting immunity to North and Poindexter. They were determined to have those hearings and determined to have them testify in public.

Knott: What was your assessment of his staff? Did you have the feeling that there were people on his staff gunning for the President?

Culvahouse: Not initially. I never knew the people who replaced them. The first group of people—basically Guy Struve of Davis Polk, one of Walsh’s partners, a very good lawyer; Paul Friedman; Chris Todd, and others, all former AUSAs—they were professionals there to find the facts. The people who came after them, I think their backgrounds probably had less prosecutorial experience. I never dealt with them. I think I dealt with one of them who had some questions about whether I knew President Bush ever kept a diary. We had a very good and professional relationship with Walsh’s original staff.

Knott: He clearly trusted you, because he allowed you to go through the diary. What was that experience like?

Culvahouse: We didn’t propose it, and I couldn’t tell you today who did. I think it was because they expected us to say, “No way, we can’t produce the diary.” But of course diary excerpts had already been given to the Tower Board, and those were excerpts that the President had identified. I knew we had to find a way out of that box, because I didn’t want the President to be responsible for diary excerpts produced to Congress. He had told me they were mostly verbatim, but that in some cases he had taken out stuff that he felt would be embarrassing to other people. As a compromise, Congress and Walsh proposed that I review the diary.

I think it was in part because Warren Rudman knew me really well. And Howard and Inouye had been on the Senate Watergate Committee together and Inouye knew me somewhat. At the time we negotiated that I would review the diaries, I said, “Okay, fine.” Then when I was handed these leather-bound volumes in Ronald Reagan’s handwriting, with the Presidential seal, it got to be a little more awe-inspiring.

Bill Lytton was frustrated because I would not jump ahead. He had to be there with me to confirm the integrity of my review. We decided to do it in the President’s study where they were kept. They were never taken any other place. We would go down, take them out of the safe, put them on the desk. I didn’t go back, which Ted Olson and others couldn’t believe. I never went back and looked at any earlier dates. I started with the date we said we’d start with and read it in order. The diary primarily recorded his official day. The President had a daily schedule card, and he’d make notes on the card. At the end of the day, the President would use his official schedule to prod his recollection for his diary, and he would also have notes on the back. It was mostly his day. It started with the Chief of Staff meeting. He would have a couple of entries about that, and he’d have a couple of items about the national security briefing. Then he’d walk through the rest
of the day. If there were major world events or major calls with heads of state or meetings, he would record some things about that.

There were a few personal entries, mostly about the First Lady and family, but it was not a personal diary. It was more of a “what happened on that day” diary. There was a fair amount of relevant stuff that was sensitive—his meeting with the King of Saudi Arabia where the King said he would support the Contras financially and so forth. The President was embarrassed about entries where he was frustrated at [Thomas] Tip O’Neill, whom he mostly liked—two affable Irish-Americans—but once in a while when O’Neill frustrated the aid to the Nicaraguan resistance, the President had a couple of choice words to say about him. That’s the stuff he didn’t really want to produce, but I finally convinced him that that wouldn’t hurt O’Neill.

**Knott:** Are these going to make interesting reading someday? Or are they just generally “At 9 o’clock I met with so-and-so”?

**Culvahouse:** I think they’ll make interesting reading, and Fred Ryan tells me that Mrs. [Nancy] Reagan and the Reagan Library are talking about having them published soon. I think they’ll be quite interesting in the sense of dispelling any notion that Ronald Reagan did not have a first-rate mind. He was very insightful.

The initiative with [Mikhail] Gorbachev was not suggested by someone else. It was basically his view of the opportunity to achieve things he cared about deeply. Otherwise, I don’t think it’s going to surprise anyone. The handwriting sounds a lot like Ronald Reagan. There are not two Ronald Reagans.

**Chidester:** Is there anything you can add about the diaries? Any insight? I know you can’t say exactly what you read, but you’re talking about common misperceptions about Reagan, maybe his intelligence or his grasp of world affairs. Can you add any general insights or maybe describe surprises you found about Reagan’s personality or the intellect that we might not know?

**Culvahouse:** I don’t think so. Without violating privilege or anything, it was very clear to me—mostly from talking to the President, but also from a couple of diary excerpts—that intellectually he understood that the Iranian arms sales had turned into trading arms for hostages. But much of the motivation was that [William] Casey—and to a certain extent, Poindexter—had exposed the President to meetings with the hostages’ families and other information about the hostages, like the tapes of the CIA station chief in Beirut being beaten to death by the terrorists—three hours of that. I think that was probably done with the view toward influencing the President’s decision in ways that should never have happened. I was trying to figure out, how is it that a President—who was advised by Shultz and Weinberger and others not to proceed with the arms sales to Iran—did it anyway. I think it was out of deep concern for the hostages and what he knew Hamas and the Islamic Jihad could do to them. Just the little portion of that tape that I heard was horrific.

**Chidester:** Shortly after you become counsel, the end of May, you begin the first of thirteen meetings with Reagan about Iran-Contra. Is there anything you can tell us about those meetings that we’re allowed to know?
Culvahouse: I don’t think there’s anything explosive. I guess those will come out in twenty-five years or something. They were straight up. We’d go in with an agenda, things we wanted to talk about, show him documents. I found the President without guile. At times he would be a little worried, trying to figure out where we were coming from, but I never thought I was being misled. He would cooperate with us. When we handed him the draft finding that was interpreted as an arms-for-hostage finding, his immediate reaction was, “Well, I don’t remember whether I signed it, but if someone had given it to me, I would have.”

I said, “Mr. President, this will be interpreted as arms for hostages.” And he pushed back and he finally said, “Yes, but if John had given it to me I would have signed it for the following reasons.” He was not a lawyer, and for all he knew he was admitting a crime. He knew that it would be used against him. He was very cooperative. At times we wanted to get him when he was fresh because it was tiring on him, it was frustrating. I must have heard three or four times in those sessions, “Well, you never know who’s out there doing what in your name. It’s part of my job, people I never met saying ‘the President wants,’ ‘the President says,’ ‘the President asked.’”

I asked him if he ever destroyed documents. He said yes, on one occasion, and then talked about throwing Casey’s letter in the fireplace. He had a long impassioned letter, apparently, where Casey recommended that George Shultz be fired for disloyalty and stuff like that.

Knott: He tossed the letter in the fireplace?

Culvahouse: Um-hum.

Knott: Because? Any idea?

Culvahouse: Oh, just the internecine warfare stuff he hated. Casey saying Shultz ought to be fired because of disloyalty. President Reagan basically saying in defense of Shultz that, “George told me not to do it.” In one of the President’s speeches, Weinberger just insisted this exculpatory phrase be put in saying that Weinberger and Shultz had argued against the arms sales and the President overruled them. None of us wanted that phrase in the speech, and I got assigned to talk Weinberger out of it. Weinberger was having none of it.

Knott: Who assigned you to talk to Weinberger?

Culvahouse: Baker, [Marlin] Fitzwater, [Colin] Powell, because everyone else had already taken a run at it. So finally I just went to the President and said, “Mr. President, this is not a good idea.” He looked at me and said, “Yes, but it’s true. George and Cap did not want me to do this.” I said, “Yes, but they’re doing you a disservice by having you say this nationwide.” He said, “Well, it’s fair.” That’s the Ronald Reagan I saw.

Knott: You had a face-to-face meeting with Weinberger?

Culvahouse: In the Cabinet Room.

Knott: How did he react?
Culvahouse: He was determined. I frankly felt that he was more concerned about his reputation than the President’s.

Chidester: I think this is an important question for history. There’s been a lot of speculation that towards the end of the Reagan Presidency he was starting to become forgetful, and the early stages of Alzheimer’s were beginning to appear. It’s important that we get your insight on that. Did you notice any effects in your meetings with him during his last year or two?

Culvahouse: No. Because of Iran-Contra and then [Robert] Bork, and then [Douglas] Ginsburg, and then [Anthony] Kennedy—I don’t remember when the [Manuel] Noriega indictment was—the Kuwaiti tanker escort operation, I saw him a lot during that period. I think the run-up to the Moscow summit was a time I didn’t see him that much. But I saw him an awful lot after the ’88 election, because there were tons of things coming in over the transom. People wanted an executive order signed to prohibit the sale of Penthouses and Playboys in PX’s—military stores—anti-pornography executive orders, pardons, proposals that appear all the time at the end of administrations. Dick Cheney forewarned me this was going to come, based on his experience with the Ford administration. I was with the President consistently until the end, and I really didn’t see any effects.

I spent a lot of time with him when Ed Meese left and we picked [Richard] Thornburgh, and he was engaged. He knew Dick, talked about how he’d like to have another Governor in the administration—he was very fond of Governors. It perhaps was reduced physical endurance more than anything else. I think he was cutting back on his schedule. But I really didn’t see any symptoms.

On the other hand, I did go out and help him prepare for the deposition in LA [Los Angeles] and it was clear—

Knott: That was 1990 or so?

Culvahouse: Yes, I think so. I can’t tell you the date.

Knott: He had slipped?

Culvahouse: He had slipped. I saw a marked contrast.

Knott: He was notorious, in some reports, for not recalling names, details. Is that accurate?

Culvahouse: That was one of the frustrations in Iran-Contra. Between the passage of time and the fact that others, Regan and McFarlane and whoever, had different recollections (probably inaccurate recollections) of things, what he remembered about when and how he approved the arms sales was forever confused. He just could not retrieve his memory, even though I was sitting there looking at the diary, pretty sure (and I told him) that what he recollected was not accurate in terms of sequencing. It was legally unimportant, other than you didn’t want him to
say, “I did this in November” when he really did it in August. But it was really cloudy in his mind.

Knott: There are a lot of reports that when people would meet with him, they would be frustrated because he would often start telling some anecdote, or a joke, or a story about Hollywood or whatever. Did you get a lot of that, or was it all business?

Culvahouse: Often.

Knott: You heard the same stories over and over? We’ve heard this as well.

Culvahouse: Same stories, but he usually would have a new lawyers joke.

Knott: Where was he getting these?

Culvahouse: I have no idea.

Knott: Were they good?

Culvahouse: It depends how thick-skinned you are. I don’t have copies, but obviously Bob Woodward saw those memos of our meetings with him. The one that’s mentioned is one I remember. We walked in, he said, what do you have when you have a lawyer up to his neck in sand? Not enough sand. I heard that one twice. He really liked it.

Knott: Did you ever try to throw a joke back at him?

Culvahouse: No.

Knott: Did you personally interview Don Regan at any point? Did you try to?

Culvahouse: I don’t remember. I think we might have and wound up talking to his lawyers.

Knott: He just did not want to?

Chidester: You did interview Mrs. Reagan, though?

Culvahouse: Yes, I did.

Chidester: What were your impressions of her? Was there anything that stood out about her personality?

Culvahouse: I didn’t have that much interaction with her. Ken Duberstein primarily dealt with the First Lady. I talked almost exclusively to the President. That was probably my longest session with her.

Knott: Was she helpful in any way, or had she been pretty much out of the loop?
**Culvahouse:** She was helpful in providing background. Lots of people thought, *If Reagan didn’t know North, why did he call North when North was let go?* She confirmed that the President felt like he had to call him because he had really worked hard. North was a Vietnam War veteran and a hero, and the President felt bad that things were not going to go well for him. No one else wanted him to call him.

Then she had had a meeting with Prince Bandar [Bandar bin Sultan bin Abd al-Aziz Al Saud], the Saudi ambassador.

**Knott:** Had she discussed assistance to the Contras in this meeting with Bandar?

**Culvahouse:** The question was whether it had come up. This was, I think, not too long before the King was to have a discussion with the President. That was the two principal topics, plus the open-ended questions.

**Knott:** What is your perception of what went wrong? Why did Iran-Contra happen? How was this apparent rogue operation able to function with a Chief of Staff who was supposedly hands-on and detail-oriented?

**Culvahouse:** Well, one, the President didn’t know about the diversion. So if you have North and Poindexter and others assuming that if the President were told, he would have approved it, then Don Regan being out of the loop makes sense, because it was never taken in to the President. That may have been one reason they didn’t present it to the President. Would he have approved it with Don Regan in the room? I don’t think so.

Secondly, it was the arms sales that created the opportunity to divert funds to the Contras. Two reasons I think the arms sales were approved: one I’ve already talked about was his concern for the hostages, which was fueled by many meetings with the hostage families. The diary is full of that, how meeting with the hostage families tugged at his heartstrings. Casey used that horrific tape and other information about how the hostages were treated.

**Knott:** Can I stop you for a second? Reagan sat and watched this tape?

**Culvahouse:** It’s an audio. It’s not a video.

**Knott:** He listened to this tape for the entire duration?

**Culvahouse:** I have no idea, but it was for a very long period.

**Hult:** And no one else was present at that meeting other than Director Casey?

**Culvahouse:** I don’t know. I can’t tell you that.

This is my own view of the President. President Reagan would read everything you gave him, but he was totally dependent on the integrity of the staffing process. He was not a man who
would pick up a piece of paper and say, “This doesn’t look right.” Or maybe—I’m trying to think of someone who served him early on—when Jim Baker was over at Treasury: “Even though Jim’s over at Treasury, he might have a view on this,” or, “Bill Smith (his first Attorney General, long-time lawyer) might have had a view,” or “Henry Kissinger might have a thought about this,” or some other smart person, like Jerry Ford. He would never do that.

He would make a decision within the four corners of what was given him—which is one reason why Howard, and Colin Powell and others, took care to present all the facts to the President. They’d bring in others and make sure that the process was very inclusive government-wide and that you brought in experts, particularly in the run-up to the INF [Intermediate-range Nuclear Forces] treaty, which was fundamentally important.

In the Iranian arms sales, if you look at the paper trail, they really started freezing State and Defense out. And I think to a certain extent they were okay with being frozen out, seeing which way it was going. So the staffing process was way too limited, the options were all pointed in a particular direction. I think that’s what went wrong.

The President’s frustration about the Boland Amendment and not funding the Contras was palpable. But I believed then, and I believe now, that if the diversion of funds was presented to him, he would not have approved it. He was playing by the rules.

**Knott:** You mentioned the Boland Amendment. What was your take on that? I know some officials in the administration argued that it really did not apply to the National Security Council.

**Culvahouse:** It didn’t apply to the President.

**Hult:** We haven’t heard the name George Bush for a while. Did you interview the Vice President as part of your Iran-Contra reconstruction or detect his involvement in much of what went on?

**Culvahouse:** We interviewed him—it wasn’t a long interview—and got a download from Boyden Gray, and John Schmitz, and Craig Fuller—who was the Vice President’s Chief of Staff. He was in some important meetings, but was out of the loop, or so I think, concerning the arms sales. Was he out of the loop? He was more out of the loop than in, I think.

**Morrisroe:** One of the recommendations of the Tower Commission was that the counsels review covert actions findings from the NSC. You, I think, were the first counsel who had the opportunity to avail himself of that recommendation. Can you talk about that process, the relationship with the NSC and the NSC counsel of the counsel’s office?

**Culvahouse:** I think most counsels to the President—Lloyd Cutler, Boyden Gray, me—felt that the counsel of the National Security Advisor should be part of the counsel’s office. Paul Stevens and I—and then ultimately Nick Rostow—had a good relationship. They tended to want to bring the findings to me and walk me through them. There were a couple where I wanted more information and I brought other people in, but I believe I saw all the findings. I’m pretty convinced I did.
Morrisroe: Did the national security legal officer report to you during your period or were they still under the NSC?

Culvahouse: They were under the NSC.

Morrisroe: Rostow came in during your tenure. Did you have a say in that with the NSC at all? Were you consulted about his selection?

Culvahouse: I was totally consulted. Colin Powell and I had a very close relationship.

Morrisroe: Did you participate at all in National Security Council meetings?

Culvahouse: Depended—on Noriega, the Fernandez decision, whether to declassify documents for Walsh—just depended on what it was, such as the INF treaty interpretation.

Hult: And that would be at the invitation of the President or Vice President? Or could you go whenever you thought the topics on the agenda would warrant your presence?

Culvahouse: A little of both. There were times Colin would call and say, “You ought to go, you need to be there.” There were times I would take a look and say, “I’d like to be there.” I had absolute freedom to go. My job was so big that I felt that if I spent all my time going to all the meetings it would be nice to go to, I would never get my work done, understanding full well that that was considered odd by some people. I tried to figure out the best use of my time.

Hult: Did you, like some other counsels, divide meetings to attend with your deputy counsel? That goes back to a larger question I had. As you think over the first several months you were in the White House, you started out with the expectation that about 100% of your time would be spent on Iran-Contra. For how long, roughly speaking, was that true in the time you were in the White House? Until, for example, Justice Powell retires?

Culvahouse: I think, probably, until after Poindexter testified.

Knott: Where he basically absolved the President.

Culvahouse: At the same time, we had initiated a policy program to show that the President had re-engaged, called the Economic Bill of Rights, plus a number of speeches, foreign policy initiatives, things like that. There was a lot more suddenly going on in terms of the clearance process.

Knott: Were people holding their breath in the White House as that day approached when Poindexter testified? Or was it assumed that he was probably not going to involve the President?

Culvahouse: We had known what Poindexter testified in his deposition. So the holding-the-breath piece was how emphatic Poindexter would be, and whether there were any curve balls that were not anticipated. But really, I think the day we were holding our breath, certainly, was on the day of his deposition.
Knott: And you had no idea? Or you had some idea?

Culvahouse: We had some idea of what he should say. We had a big file on him, too. The one thing about the White House is that it’s pretty well documented who the President sees, when he sees them, who he talks to. It’s not a foolproof net, of course, it’s not audio or visual proof, but you have this diarist who says, “At 2:12 p.m. Culvahouse and Lytton walked in. They walked out at 3:17 p.m.” The President’s whole day is like that. You can get the phone calls log from the White House communications office. You have the President’s schedule. In terms of big meetings, you have the attendance list going in, which the President’s special assistant would annotate in terms of who actually was there. So we felt pretty good about Poindexter too, on the diversion.

Knott: Less so on the—

Culvahouse: As a lawyer, I worried that those who did not wish the President well would get off on other legal issues, thinking that diversion was a dry hole—theories like whether it’s against the law not to send the Hughes-Ryan notifications to Congress on covert actions; whether some of these initiatives were really covert actions that should have gone through that process; whether the Tow missiles were correctly priced under the Arms Export Control Act exceptions. That was because, instead of looking at the actual prices paid for the particular shipped missiles, Defense did a FIFO [first in, first out] pricing or something similar. The fact was the missiles that were sent were the more modern missiles—it was “last in first out” delivery—but they used a FIFO pricing.

I worried about those issues almost as much as the diversion, which is one reason why Fitzwater and I and others had determined that Marlin would find a way, every day at the press briefing, to say that the President did not know about the diversion of funds—to try to keep people focused on that issue and not on these other issues. That’s what I was holding my breath about.

But Poindexter was the one guy who really had access to President Reagan who might have theoretically talked to him about the diversion. Casey just wasn’t there with the President that much, and that surprised everybody, just how little interaction there was with Casey during that time. McFarlane was gone, and North just didn’t have the access.

Knott: North did, I believe, point the finger at Casey. I’m not sure if he did this under oath or in a book or whatever. What’s your take on that?

Culvahouse: I don’t know. I met Casey when he was chairman of the SEC [Securities and Exchange Commission], but I didn’t know him as DCI [Director of Central Intelligence].

Knott: There are people to this day who believe that Poindexter fell on his sword for the President.

Culvahouse: Maybe I’m putting too much faith in it, but Bill Lytton and I just didn’t see the opportunity. Could he have briefed the President in a knowing, intelligent way, in a six-minute
segment of time when he was alone with the President? That’s a little hard to imagine. There weren’t periods of time when he was alone with the President where it made any sense that he could have knowingly and intelligently briefed the President on the diversion of funds.

Knott: Is it correct that the President approved the arms sales while he was ill, in the hospital? That was, I thought, one of the defenses.

Culvahouse: I don’t remember. In August ’85 to November ’85, there were three or four sales, there were two Tows and one or two Hawks, but I can’t remember any more.

Knott: Again, this is prior to your time, but I’m wondering if you uncovered any evidence that there were people in the White House who tried to convince the President that he needed to stop meeting with the families of the hostages, that it was warping his perspective, perhaps.

Culvahouse: I don’t know. It’s my outlook, certainly shared by a couple of others, including people on the Tower Board, that these meetings could have been the large part of the problem.

Knott: He delivered a speech shortly after you arrived in which he finally conceded that—

Culvahouse: He would not go down that path again. [laughter]

Knott: There were reports that later on he still was sticking to the old story that—

Culvahouse: It was not arms for hostages.

Knott: Exactly.

Culvahouse: I think in his mind, it was never that. Getting him to say that it became trading arms for hostages, getting a formulation that would work for him, was really difficult. Howard and I—and Colin, in particular—spent a lot of time working on it with him. That phrasing was his, something he—I can’t remember what other formulations we had. But that was his phrasing.

Knott: Something like “I know in my heart, I know in my mind that I did this—”

Culvahouse: “—and I would not go down that path again,” which is saying what he would do now. He despised the rulers of Iran so much that it was very, very hard for him to acknowledge that it was arms for hostages. He despised the Hamas and the Islamic Jihad so much that it just, it was really hard to admit. We had legal conversations with him, we’d talk to him as lawyers, and he would say he was resigned that arms for hostages was the right interpretation, but it’s true that even after that speech, privately, he pushed back on whether it was trading arms for hostages—or whether it was strategic outreach to people who had influence over the hostage-takers.

Knott: It’s fair to say that he was a fairly stubborn person? Once he seized on a particular position he—

Culvahouse: Determined.
Knott: This is both a strength and a weakness, I guess.

[BREAK]

Knott: I believe at a certain point, North and Poindexter’s attorneys requested—I don’t even know what the correct term would be—the issue of a pardon was raised. Could you talk about your involvement in that situation?

Culvahouse: I’m happy to talk about it. The chronology I don’t remember. I heard a lot more from Poindexter’s attorneys—Dick Beckler and Joe Small—than we did from North’s. Poindexter’s attorneys took an early run at us. They wanted to get documents from us to help prepare for Poindexter’s defense. We took the position that Judge Walsh was just like the Justice Department, and that in the normal course, a former government official who was under investigation and wanted documents to defend himself or herself would have to get them from the Justice Department, not from his agency. So we followed that policy. But then each of Poindexter’s and North’s attorneys came in and suggested that the way to cut through all this and have them testify early was for the President to issue a pardon. Neither suggested what the testimony would be—no hints. And we didn’t ask.

I told the President and Howard before the meetings that we were having the meetings and what my recommendation would be, but that I felt we should have the meetings. Afterwards, the President followed my advice that if he gave them a pardon, no one would ever give credit to their testimony as being honest.

Knott: Was there anybody else lobbying on their behalf?

Culvahouse: There were always various members of Congress. Henry Hyde was one. But there were a number of people who said, “Yes, you ought to pardon them and cut through all this and get it over with. It’s taking too long.” That was really frustrating to us. Instead of starting with [Richard] Secord, and [Albert] Hakim, Carl Channell, and all these people, if Congress and Walsh really wanted to get to the core issue of “What did the President know and when did he know it?” the investigators needed to be talking only to North and Poindexter and McFarlane. So why not talk to them?

That was the principal theory for a pardon. People thought if we were going to pardon them, just pardon them so we could put an end to these months and months of delay and distraction and loss of momentum. But I felt—and Howard felt, particularly after watching, to this day, the suspicion about Ford’s pardon of Nixon—to just wait until their testimony and not taint their testimony with pardons.

Knott: President Reagan wasn’t moved by these appeals?

Culvahouse: He was taking advice. We had a thorough discussion, the pros and the cons, and then a strong recommendation. Howard was with us in those meetings.
Chidester: Did Vice President Bush have any advice?

Culvahouse: He may have been in the room during one of those conversations, now that I think about it. I’m not certain of that, but I think he was there.

Knott: Of course, years later he does pardon some other figures. I’m sure you’re aware that the Weinberger indictment came down, I think, four or five days prior to the ’92 election.

Culvahouse: Um-hum.

Knott: Christmas Eve or so, President Bush decides to pardon these folks. Is that a retaliatory gesture? I know I’m asking you to go way out on a limb here.

Culvahouse: Well, I thought you’d want to go there anyway. I think Walsh’s view of the world, his open-mindedness, shifted after a while. There are probably many reasons for that. I don’t know whether he was too easily persuaded by his staff, but the Weinberger indictment was something that the Justice Department would not have done, something I think most of the other independent counsel I know would not have done, and I don’t think Walsh would have done it in ’88. So Walsh struck first.

Knott: Were you surprised when Weinberger was indicted?

Culvahouse: A lot.

Knott: The presumption was that this was a man who had opposed all of this.

Culvahouse: It seemed to be a kind of abuse of prosecutorial discretion. Weinberger had opposed all of it. The Defense Department had been quite cooperative throughout. As I understand it, there was nothing in his notes that would add anything to the mix in terms of who knew what. There was not anything material in his notes. At some point, I was asked whether I knew whether Weinberger had any notes. I certainly was asked whether I knew Vice President Bush kept a diary, by Walsh. But I was surprised by the Weinberger indictment—and more so by its timing. I was not surprised by the pardons.

Knott: Were they trying to turn somebody way up top? What was that about, in your view?

Culvahouse: Frustration. Judge Walsh shifted course two or three times. He had that interview with President Reagan where he wanted to come in and interview the President when everyone had told him that the President was no longer there mentally. I understand they wanted to go back and look at the diary and make sure that all the diary excerpts had been produced by us. It’s like they were really, really trying hard for something to indict after losing North and Poindexter. A lot of the mature adults—experienced prosecutors who were working for him—left, and the quality and experience level, and the nonpartisanship of his staff, changed over time. It went from well-respected former prosecutors and major law firm partners, people who did not have any identifiable political affiliation or bias and were respected members of the Bar, and became staffed by people who were either partisan or less experienced.
Knott: You mentioned that you traveled out to California after President Reagan left the White House. Was it to help him prepare for his—was it a videotaped testimony for the Poindexter trial? And he had slipped?

Culvahouse: In my view.

Knott: Did you basically just run him through what he could expect, the kind of questions he—

Culvahouse: No, I was there more as a resource for what we did in the White House to cooperate. I really could not represent the President personally, because I’d been involved in the representation of him as President. It was basically to make sure that his recollection of the White House timeframe was refreshed and he had the benefit of all the facts since I was much more conversant with all of the work that had been done by my office than was his private counsel.

Knott: You’ve mentioned the Fernandez case a couple of times. Could you tell us a little bit more about that?

Culvahouse: Again, I’m not quite certain of the chronology. Fernandez was a CIA station chief in Costa Rica, I believe. I think his prosecution was going to be for perjury or obstruction, lying to investigators. The judge in that case, under the Classified Information Procedures Act, had deemed certain classified information [to be] relevant material to Fernandez’s defense, which included some sensitive methods and sources and identities of people that were classified. Judge Walsh had petitioned for declassification so that he could meet that judge’s order, so he could proceed with the prosecution of Fernandez—on some particular counts, as I recall.

The national security community felt that we would be jeopardizing national security and jeopardizing some sources to declassify that information. Walsh was really pushing hard. So I— along with the CIA general counsel, Russell Bruemmer—went to Powell and laid it out. Powell had what he called a “come to Jesus meeting” on a Sunday morning in the White House situation room. He had Bill Webster, the DCI, me. Shultz was not there. He sent Mike Armacost, the number three at State. Weinberger. Meese was recused, so the Associate Attorney General was there. Bill Odom from the NSA. I think Bill was still there. If not, then it was [William] Studeman. I don’t know who else.

We all went through the information, the sources that would be exposed, because Colin said, “This has to be done at the principals’ level. We’re all going to have to defend it, if this is our decision.” [Frank] Carlucci was there because Cap was gone, and so it was Frank who participated. We all said, “Yes, we will not declassify,” and we asked Bill Webster to go tell Walsh, Bill being not only the DCI, but a former FBI [Federal Bureau of Investigation] director and judge—someone we thought Judge Walsh might view as an equal, as a peer.

Knott: Did he?

Culvahouse: No. You’re trying to get me in trouble. I won’t go there. [laughter]
Morrisroe: There’s an inter-agency review panel for the declassification of documents. Was that created just for Iran-Contra, or had that existed before?

Culvahouse: I don’t know the answer to that question. Probably just for Iran-Contra. People at each agency worked day and night declassifying, but the process was going on too long. Yes, I think it was created just for Iran-Contra. The individual agency process was taking much too long. The documents would be sent over to the CIA and then to Defense. Defense would disagree, and it would go back and forth between agencies. We finally said, “We have to get people from each agency with authority in the same room—in an SCF, a secured facility—so decisions can be made on the spot.” It was taking way too long.

Morrisroe: Were those agency counsels on the task force?

Culvahouse: Each agency had a lawyer and an expert, I guess. Lawyers at most national security agencies are not viewed as substantive experts, on substantive questions.

Morrisroe: Did that task force evolve into something? Were you all in the same room? Or was that replaced with what you’re describing in terms of getting all the principals together?

Culvahouse: It was not replaced. The task force was a much different function, a day-to-day function. These are different decisions. The group you’re talking about would handle day-to-day declassification of thousands of documents. I doubt whether they looked at the Fernandez information, because there were a couple of pieces of that information that were really, really sensitive, that we would not even have given to the Hill in hard copy form. It was “you can come down and look at it” stuff, and “please only send members and senior staff. This is not stuff that everyone should look at.” So I don’t think that the original Fernandez case decision came out of that group; it was a senior level issue from day one. There were a couple of pieces of information that were really sensitive. There was no disagreement on whether to declassify. Everyone agreed that protecting the information was the best way.

Morrisroe: And the only time that kind of a principals meeting took place for declassification was in the Fernandez case?

Culvahouse: Yes.

Knott: And you basically won that case?

Culvahouse: We weren’t interested in whether we won or lost. I never met the station chief, none of us had any brief for the merits of whether he was guilty. It was really protecting the information—So that part of the indictment was dismissed, as I recall. I don’t think the whole case was dismissed, but my recollection could be wrong on that.

Morrisroe: Did the Iran-Contra task force extend at all beyond the Reagan administration? Did the Bush administration keep any of the people together?
Culvahouse: I don’t think so. We started winding it down. I remember when the archivists left, we had a little ceremony for them, had a picture of them with the President. We had worked these poor people to the bones. They were really wonderful people, but I thought I had to apologize to them for the long hours and weekends. But they said, oh no, it was the most interesting documents they’d ever seen. To a certain extent that had to be true, if you think about it—when anything that mentions Nicaragua, anything that mentions Iran, anything that mentions arms sales and the Contras is producible, or mentions a bunch of certain people’s names. They saw an awful lot of national security history at that point in the Reagan administration.

Morrisroe: At what point of your time in the White House did Lytton leave? At least according to the organization charts I was reviewing, he was not there in 1988.

Culvahouse: That’s probably right. He was back and forth a little bit on special assignment, but by the time the committee shut down, the report came out the fall of ’87, Bill was gone.

Morrisroe: The task force at that point would have been disbanded as well?

Culvahouse: Fundamentally, yes. There might have been one or two people who stayed on for a while, but yes. It went down from sixty-something people. It got scaled back pretty dramatically. The declassification work was shut down.

Knott: Executive privilege is very much in the news these days. I’d like to hear your thoughts on executive privilege. For someone who’s not an expert, it seems it’s been a pretty battered doctrine now for the last thirty years or so. Do you have any thoughts on executive privilege?

Culvahouse: Well, it’s been a battered doctrine. You’ve gone from President [Woodrow] Wilson, who got some questions propounded by Congress and just sent them back—to the Nixon era, where a lot of highly sensitive documents were produced, transcripts of the tapes, to President Ford meeting informally with Congress to answer questions, to President Carter’s diaries, and so forth. Executive privilege was confirmed by the Supreme Court in U.S. v. Nixon. The Senate Watergate Committee, which most people forget, lost its tapes case. In Nixon, the Supreme Court said that executive privilege is a very important privilege, but it’s trumped by legitimate law enforcement needs. The D.C. Circuit Court of Appeals stated that executive privilege trumps legislative oversight inquiry, which is why the Senate Watergate committee investigation could not enforce its tapes subpoena. What no one really knows is whether the House impeachment inquiry of President Nixon would have trumped executive privilege. I think it probably would under the theory of U.S. v. Nixon.

We waived executive privilege in Iran-Contra, did not assert it. There was an episode, which is mentioned in the congressional report, where a part of the Iran-Contra committee had wanted us to go back and try to retrieve erased PROF notes, a rudimentary form of electronic mail. They sent their experts down, and their experts couldn’t get it done. We were willing to let them try. They then wanted us to let them keep doing things like that, including getting copies of the hard drives. We said, “You have no right to get these discs and take them back to the Hill”—an executive privilege argument—“because there’s a lot of highly sensitive information on them
and a lot of information that has nothing to do with Iran, nothing to do with Nicaragua, nothing to do with anything you’re interested in.”

That’s probably the only time in Iran-Contra that we asserted executive privilege. It finally got solved by us spending more than a million dollars to get IBM [International Business Machines] to come in and retrieve the deleted mail. I’d been told over and over again there was nothing to retrieve because it would just be gibberish. You’d get random letters and numerals. But as it turns out, that was wrong, because Bud McFarlane and Poindexter had much more memory on their computers than people realized. So whereas Oliver North would be writing over and over and over deleted material again on the same disc, McFarlane and Poindexter’s work was pretty easy to retrieve since deleted material had not been written over. No one had realized that.

So we retrieved a bunch of PROF notes, a couple of which embarrassed the Vice President. That was the one time we mentioned executive privilege. We asserted it a couple of other times in other contexts.

The Senate wanted the GAO [U.S. General Accounting Office] to audit the confirmation process at the White House. This was when a couple of assistant secretaries of the Air Force were indicted in the Ill Wind investigation, a Pentagon procurement scandal. They wanted the GAO to come down and look at how those people got confirmed and see the files. We just said “No, executive privilege, core Constitutional power.” Whether the President goes through a thorough process or merely picks their names out of a hat, it’s his Constitutional power. That was the primary time I recall asserting executive privilege. There may have been others.

I’ve thought about writing an article. I thought a mistake the early Reagan administration made was casting too broad a net. If you look at the EPA [Environmental Protection Agency] situation, which resulted in Ted Olson being investigated—that being the Morrison v. Olson case. Trying to defend the integrity of the EPA decision-making process by asserting executive privilege made no sense to me. My view was that we needed to defend State, Justice, Defense, Treasury, the national security agencies. Those agencies sit at the core of the President’s power, where executive privilege makes the most sense. Today it looks like the White House has given up on the Cabinet departments and is about to give up on the NSC before the 9-11 Commission. With the Clinton White House having lost the attorney-client privilege case, in the context of the First Lady, in the eighth circuit, I’m not sure where executive privilege is. I think a court would defend it in the right context. I don’t think waiving the privilege in the [Condoleezza] Rice case or waiving it by Reagan in Iran-Contra, waives it in any other case as a matter of law. But politically, it’s going to be hard to take the heat when one asserts executive privilege after so many waivers.

**Hurt:** Was waiving it in Iran-Contra at all controversial within the White House?

**Culvahouse:** It had already been done before I got there, but no one ever thought it was anything but the right decision.
Knott: I want to stick for a while with some other foreign policy and national security related matters before we get into judicial selection. You mentioned the Noriega indictments. Could you tell us a little bit about what the issues were there and your involvement?

Culvahouse: Well, it was a couple, three different issues. One is a legitimate foreign policy issue. Can or should the United States indict foreign leaders for violations of U.S. law? There’s a flip side to that coin. We’ve seen some Spanish and French prosecutors pursuing Henry Kissinger and others. So we had that foreign policy issue.

Second, should we be indicting people in other countries when we’re not sure how we compel them to show up? How do you arrest them?

Then there was the fact that, as I recall, that particular U.S. Attorney had determined to go forward without a lot of consultation with the Justice Department. Or, alternatively, the Justice Department hadn’t thought through the consequences in consultation with the State Department and Defense Department. It was that whole group of issues. There was no dispute that Noriega was a bad guy. Noriega had been involved in drugs and other things. [interruption/phone].

Culvahouse: Those were the issues as I remember them. It seems that there was a period during which we had Rudy Giuliani, who was then the U.S. Attorney in the southern district of New York, wanting to indict—and did indict—Ferdinand Marcos and his wife. Then there was another U.S. Attorney in Florida who was thinking about indicting the leader of one of the Caribbean countries. So there were several intersections of foreign policy and law enforcement. It was not clear as it needed to be in the minds of some U.S. Attorneys that the President had any role in those decisions. Prosecutors get the bit in their mouth and want to go forward. Those were the issues we talked about.

Knott: Do you know what prompted this at this time? This was unprecedented, wasn’t it?

Culvahouse: The Justice Department was thinly staffed. You had Bill Weld and Arnie Burns gone, and Ed Meese focusing on his own issues. In part that’s what was going on there. The U.S. Attorneys were not adequately supervised, and so they developed their own agenda areas where, in a normal time, there would be a lot more consultation with Washington. Had they consulted with Washington, I think there would have been more consultation by the Justice Department within the national security apparatus. People like Weld and Burns were very sensitive to that.

Knott: You mentioned the issue of the reflagging of the Kuwaiti tankers. Could you tell us a little bit about that, the issues you were focusing on?

Culvahouse: Well, the usual range. One, is it lawful to reflag? That issue was worked primarily outside the White House, but we were involved. Then the issue of the U.S. Navy escorting the tankers. Then it seemed like every night there was a firefight or hostilities. So the war powers committee, which I chaired, would convene and talk about sending a letter up the Hill. A typical war powers letter—without conceding the constitutionality of the notice provision of the War Powers Resolution: in the spirit of comity, we’re sending you this letter that looks just like a notice.
Since we anticipated that the tanker escort operation was going to last more than the sixty-days period following commencement of hostilities for receiving congressional approval, we determined to treat each incident as its own separate discrete incident. So we would say, “Hostilities began at such-and-such, and hostilities ceased whenever they ceased,” so that arguably, you would keep the sixty-day clock from running.

Then there was the incident where the Navy captured the Iranian mine-laying ship. Colin called me at home and said I needed to get down to the White House because the Navy had captured the ship, and Navy lawyers said they had to give the ship back. But the President was not inclined to give the ship back to the Iranians, so we had to work that issue through.

**Knott:** As somebody who had served on the Hill—and now you’re down the erroneous other end of Pennsylvania Avenue serving in the executive branch—would you say that you had a certain sympathy for the kinds of congressional demands for information and restricting executive power in certain instances? Did your Hill experience influence your response to these issues?

**Culvahouse:** One of the great wise lobbyists in town met with us when we had been at the White House about two weeks, and he turned to Baker and asked, “Howard, have you learned how to talk about those SOBs on the Hill yet?” You know, there’s a healthy tension between the two political branches. To a certain extent, to me, it depended on who was on the other side, whether we felt they were responsible. We had a good relationship with the Senate Intelligence Committee, with [David] Boren and [William] Cohen, less good with the House Intelligence Committee. That was part of the puzzle.

The most frustrating part of dealing with Congress involved the INF treaty, the [Joseph] Biden condition, and the thousand questions that were propounded on the Hill, which was an aftermath, obviously, of the “broad versus narrow” debate. Our answers to those thousand questions were going to be authoritatively binding, as a matter of treaty interpretation, so we had this inter-agency committee that reviewed every response to every question no matter how ridiculous. That didn’t engender a lot of respect.

**Knott:** This was a committee composed of people in your office?

**Culvahouse:** A member of my office—One of the directors at the NSC ran it, an Air Force Brigadier General. He had a heart attack and died a few years ago. It was a committee sort of like the declassification committee—people who would review the answers that were going to be given to the Senate Foreign Relations Committee and the Senate Armed Services Committee and Intelligence Committees because—to the extent that they were going to be considered binding—we wanted to make sure that they were really well thought-through.

**Morrisroe:** Was this a White House group? Or were there people from the departments?

**Culvahouse:** It was people from all the departments.
**Hult:** I know that both you and Chief of Staff Baker came in after the Senate had gone back to Democratic control. Did you have any sense that that was affecting the relationships you had with committee chairs on the Hill?

**Culvahouse:** The Democrats’ control?

**Hult:** Yes, and the change back. Can you elaborate on what difference it made in terms of quality of interactions, nature of interactions, kinds of demands, ease of communication?

**Culvahouse:** Even though you can look at the Iran-Contra Joint Committee Report and complain about how begrudging their conclusion that there was no evidence that the President knew of the diversion of funds (and we had other issues), in the main, I thought that Rudman, Inouye, Hamilton, Dick Cheney, and their principal lawyers (with one exception) were really, really trying to get it right, and were good people to work with. Again, the Senate Intelligence Committee in dealing with subsequent issues was really pretty terrific. Others we got along with less well.

Howard Baker was much respected in Congress, and a lot of his political capital was spent. We tried to spend it wisely. On the other hand, I think there were some bruised feelings about issues that preceded our arrival at the White House, particularly over the “broad versus narrow” debate. There was a lot of payback by Congress going on that created a lot of extra work. I’m not sure, looking back, what kind of difference it made on either side. Both sides believed that they stood on principle, and looking back, it all seems kind of irrelevant.

**Knott:** Anything else to add to the INF treaty situation?

**Culvahouse:** It’s a wonderful lawyers’ argument, because who’s going to arbitrate or interpret the arms control treaty between the United States and the Soviet Union other than the United States and the Soviet Union, and probably in an adversarial way? There’s not going to be some World Court arbiter saying, “No, the right interpretation is this class of missile is covered, and this other is not.” I think basically it’s going to be resolved or not resolved, as the case may be, in bilateral negotiations.

But it’s a wonderful lawyers’ argument about treaty interpretation as a matter of international law. This could come up clearly in treaties like the Law of the Sea or whatever, that would be binding on the United States as a signatory. But the [Joseph] Biden condition would say that any authoritative representation—which meant any administration witness, before any Senate committee (and there were three committees on the Senate side), who made a representation—would be binding on the executive branch. In our view, that gave the other party to the treaty a free shot. If the Soviet Union liked one of those representations, if they felt it worked to their advantage, they could say, “That’s what the treaty means.”

Let’s say the deputy director of intelligence for the CIA testified on the INF treaty. The Biden condition says that his testimony binds the executive branch on what the treaty means even though that person might have been talking about something that he or she really didn’t know about or could have just been flat wrong. Since all three Senate committees were voracious in
their appetite for information, we had many different witnesses going up to testify. We had more than a thousand written questions propounded to us by the Senate. The Biden condition said all the written and spoken answers were binding. That’s what that issue was all about. It just made no sense in terms of the interest of the United States for us to be in that position.

People who wanted the treaty—the Secretary of State of course, Max Kampelman (who had helped negotiate it), and, frankly, Powell and Carlucci and Howard and Jim Baker—all thought this lawyers’ argument was nonsense. It was really baffling to me why the Senate would not accept our solution that there were senior witnesses who we will deem to be authoritative: Secretary of State, Secretary of Defense, Director of Central Intelligence, Kampelman. We would negotiate whether anyone else who testifies is authoritative, but if you’re calling up the Pershing Missile expert at the Pentagon to testify in the Senate, he should not be binding the Executive Branch. It was really frustrating to me. But in most recent treaty situations, the Senate apparently is not trying to go to that extreme. That condition has not reared its ugly head again. That was a one-time payback.

**Morrisroe:** Were you in the counsel’s office negotiating this with the Senate and their staffers, or was this congressional liaison?

**Culvahouse:** I was involved in discussions—most unpleasant discussions—with a number of Senators. The INF treaty was negotiated at pretty high levels, so it was going back and forth between principals. All of us were trying to solve it. Powell was involved, as were State Department and NSC congressional liaison types. We all knew that at the end of the day we would blink and the Senate would win because the President wanted the treaty. But it was pretty frustrating, as was the inter-agency clearance process—we had more than a thousand written questions from the Hill. The answers were vetted by the inter-agency committee to make sure we got the answers right to questions like, “What if a missile were developed that would fly 50 miles and land, touch down, and then take off again and go a thousand miles—is that a short range missile?” [laughter]

**Knott:** That’s a very imaginative question.

**Morrisroe:** In your speech at the Smithsonian, there was a brief mention that the Presidential authority to close the stock market after the crash was an interesting insight into your service as counsel. Could you elaborate on that?

**Culvahouse:** I remember it well. We had the stock market crash in October ’87. Monday was a bad day, but really the problem came Tuesday when John Phelan, the chairman of the New York Stock Exchange, wanted to close the market and wanted the President’s blessing to do it. If you look at the President’s authority in this area, the President has the authority under the ’33 and ’34 Securities Acts to close the market, but not to order that the markets be kept open. The strong belief of Howard Baker, of John Whitehead—the deputy Secretary of State who’d been head of Goldman, Sachs—of [Alan] Greenspan, of George Gould, the undersecretary of the Treasury who had been the head of one of the other investment banks, and my intuition, all of us agreed, if you close the market, you’ll never get it back open.
So the issue was what could we do? We knew we could not order Phelan to keep the markets open because someone would quickly figure out that we had no authority. So we were careful to say—and I briefed the President—“It’s the President’s opinion that the market should not close”—hoping that Phelan would not close the markets in the face of the belief, or the opinion, of the President of the United States.

At the same time, all of us got on the phone and called the people we knew on Wall Street to try to get them back in the market, to start buying, so that the confidence of the people who ran the Big Board would be restored. I called John Gutfreund, the head of Solomon; Baker called [William A.] Schreyer at Merrill Lynch. John Whitehead called his friends at Goldman, and [Alan] Ace Greenberg at Bear Stearns. We all called everybody on Wall Street and asked them to go, go, go, get back in the market. Then we worked with Phelan—because the back offices were overwhelmed with paperwork that hadn’t been done—to close it on Wednesday an hour early but to tell everyone we were doing it just to get the paperwork caught up.

At the same time, Greenspan decided that the Fed window would be open to provide liquidity to the major Wall Street houses. So it was not really legal policy, it was financial, and it was handled very well. I was proud to be part of that small group. What was interesting, though, is that the one power we needed—the power to open the markets—was the power we didn’t have. We could close it, but it shouldn’t have been closed.

**Knott:** I think maybe we could talk now about the Independent Counsel Statute.

**Morrisroe:** In the first year, that was a major issue—the Justice Department announcing their opposition to extending the Independent Counsel Statute, but the President ultimately signed the legislation. Could you take us through that year and the considerations early on for the Justice Department to announce their opposition and what eventually led to the decision to sign it?

**Culvahouse:** I’ve seen the write-up. I don’t remember the extent to which I was directly involved in the statement of administration policy issued by the Justice Department. I believed firmly that the Independent Counsel Act was unconstitutional. I had ghostwritten a Howard Baker Law Review article for *Southwestern Law Review* and had done a lot of research back in the Watergate era over judicial appointment of inferior officers under *Myers v. U.S.* and all those other cases. It just didn’t seem to me that the Act would pass constitutional muster.

Looking at the total array of independent counsel conducting investigations at the time—Walsh wasn’t the only one. We had Jim McKay, we had Whitney North Seymour, we had Alexia Morrison, maybe one other. Some of them had accepted independent appointments from the Justice Department, some had not. So if the Act was allowed to lapse, we had independent counsel out there whose authority would lapse. And we had some hard-won gains in terms of the President’s public posture as someone who genuinely cooperated with the investigations and had done the right thing. Ultimately, since the constitutional issue was going to be answered by the Supreme Court—I think I was the driver on the strategy—we thought that the right thing to do was for the President to sign the bill, but say at the same time that he had grave constitutional concerns, and he was going to instruct the Justice Department to continue to oppose the Act.
Morrisroe: That was in the signing statement?

Culvahouse: That was in the signing statement. And before we did this, we consulted with Charles Fried, the Solicitor General. Was that a compromise? Was that being a wimp, as people said? Maybe. On the other hand, justices read the papers too—and notwithstanding that the folks at the Justice Department were highly convinced the Supreme Court decision would be 6-3 overturning the constitutionality of the Act, it was 7-1 the other way, with Kennedy abstaining. So, in retrospect, signing the Act was the right thing to do. The Act has lots of problems, as we all know, but I thought a veto would undermine the confidence of the American people in the President’s willingness to cooperate.

People in favor of a veto were saying Walsh had a backup appointment from DOJ [Department of Justice], and people in favor of signing said, “But he would be working for Ed Meese who he is investigating.” The response to that is, “Well, Ed Meese is recused.” It just got to be way too complicated. To a large extent, I think the President’s responsibility as the leader of the country indicated that he ought to go ahead and sign it but make it clear—as he did—to all the independent counsel that we were going to continue to litigate it.

Hult: Who else, if anyone, in the White House was recommending that the President sign it?

Culvahouse: Sign it?

Hult: Yes.

Culvahouse: What was the time period?

Hult: He signed it on December 14, 1987.

Culvahouse: Howard was gone—

Hult: So would Chief of Staff Duberstein—

Culvahouse: No, no, Howard was not gone. Howard pretty much deferred to me on this one. It was probably Baker and me and no one else. It was just not something the national security people were interested in. The domestic policy people—Ken Cribb and others—were arguing that it be vetoed. The legislative affairs people were with us, now that I think about it, because they thought we could not sustain the veto anyway. So it looked very much like a veto would be overridden and thus to what effect. Just as they did on many things, the Justice Department conservatives were arguing that a veto was the principled decision.

Morrisroe: That was actually my question, a similar one. Presumably Meese and the Justice Department still opposed signing it. Did Meese go directly to the President on that, or was it handled among you, Baker, and Meese, and a final recommendation given to the President?

Culvahouse: I took the position that Ed Meese was recused since he was under investigation. He did not participate to my knowledge.
Hult: On the signing statement that was associated with that statute, as I read the academic literature, the Reagan administration was really the first administration that had a systematic strategy of using signing statements to provide materials for courts to look at to come up with an interpretation of legislative intent. My question is a global question as well as a more specific one. First, was that what you were attempting to do with the signing statement in this case? Secondly, what do you think of that strategy more generally?

Culvahouse: Well, I inherited the strategy. I thought it was a good process. To the extent that judges would look at far-flung legislative history and congressional committee reports on acts that had changed substantially for statutory interpretation, they might look at signing statements. It was a good process. It certainly did no harm, and I think it did some good. To the extent that the President’s not vetoing the Independent Counsel Act would be viewed as inconsistent with the Justice Department’s opposing the constitutionality of the Act, I felt that was the right way to handle it, just to say, “express great constitutional concerns,” but also to say, as we did, that vetoing it might undermine the confidence of the American people in the ongoing independent counsel investigations, and we’ll let the courts resolve it.

We worked hard on signing statements in other contexts. It was also, frankly, a good outlet to deal with executive branch issues where you might have someone saying, “This provision is really problematic and ought to be vetoed for this reason,” or where there was some provision that was unclear and ambiguous, but one interpretation was preferable to another. So it’s a good device; it was a good device. Whether courts will ever pay much attention to them, I don’t know.

Morrisroe: Well, it makes for interesting [Antonin] Scalia commentary and opinions.

So other than signing statements, could you talk of any specific instances that stand out in your mind about the types of things that the counsel’s office would normally review: speeches, signing statements? Are there any executive orders that stand out in your memory that you and the counsel’s office played a particular role in?

Culvahouse: We did a lot of that work, as you know. One executive order that we crafted along with the Fed was creation of the [Nicholas] Brady Commission on the October ’87 stock crash. That work was done in-house by my office. We pretty much drafted the executive order on Seabrook—the nuclear power plant evacuation plan—that instructed FEMA [Federal Emergency Management Agency] to prepare the evacuation plan because the state of Massachusetts would not. Frankly, we did not trust the confidentiality of the rest of the executive branch. So we wrote the order and then called in the relevant agencies and cleared it in very short order after the November ’88 election.

I’m reminded of some other issues, but it seems the one thing about the counsel’s office is that there’s something interesting and difficult on your desk every week, if not every day.

Knott: When you’re looking at speeches, what is it you’re looking for?
Culvahouse: All of the above: legal issues, quality control. What is the support for this statement by the President?

Knott: But you’re not fact-checking, are you? Or are you?

Culvahouse: At a high level, yes.

Knott: Isn’t that supposed to be done in the speechwriting shop?

Culvahouse: No. Well, I mean yes, but also by counsel’s office and others. I can tell you that the reactions of the former White House staff secretaries and alumni from counsel’s office on the “yellow cake” reference in President [George W.] Bush’s speech were all the same: How could that have gotten through? We would have been all over that. It’s a quality control function. It’s looking out for the President’s interest, it’s correctly describing, it’s accuracy and probity and judgment and protecting the office and being Presidential. The President’s word is part of his political capital.

Also, there are no bright lines in clearing speeches. Sometimes the speechwriters wanted to use some verbiage which we thought was not Presidential but they thought was provocative and appropriate to the circumstances. Ronald Reagan was the ultimate arbiter of that.

I suspect if one ever looked at the staffing debate on the Brandenburg Gate speech—I remember that that one line was a matter of some internal debate until President Reagan decided it—there was a staff concern that there would be people in the future who would look back and say, “There goes Reagan again, making a statement that’s just totally unrealistic.”

Knott: “Tear down this wall.”

Chidester: A lot of people didn’t know about it until he gave it, isn’t that right? I think I heard a story that it kept going back and forth, they kept taking it out—

Culvahouse: Oh yes, that’s true. It was a matter of some debate within the White House. But the President decided it. At the end of the day, he wanted to say it.

Chidester: Are there any cases of his adding something during the speech, maybe ad-libbing something that was not approved, that didn’t make the counsel’s office very happy?

Culvahouse: Not that I remember. People would give him drafts, we’d get his write-up, it was back and forth. There was great, great, deference paid to his comments, don’t get me wrong. But I felt empowered—and I know the other senior staff felt empowered—if we thought he was wrong, to push back.

Hult: Now, that’s clearly what the counsel’s office would have been involved in on the more major speeches. What about the so-called “Rose Garden rubbish”? Would that go through the level of the counsel’s office—remarks made not only in the Rose Garden but in any kind of minor ceremonial situations?
Culvahouse: Yes.

Hult: Was there a member of your staff who would be more likely to look at those as opposed to, let’s say, States of the Union or major policy addresses?

Culvahouse: I think the answer is yes. Dianna Holland and Nancy Scott Finan would get drafts from the staff secretary’s office, and they would staff it out with the turnaround deadline and be all over the associate counsel to turn it around. Sometimes it was a question of who has time? Who’s in the office? But the State of the Union—Dean McGrath, who had the major national security portfolio—and probably two or three of us would take a look at it. Then I would have signed off on “counsel’s office comments.”

Morrisroe: Did you in the counsel’s office feel free to make substantive observations on policy questions?

Culvahouse: We felt free, but I discouraged us being a policy shop. Chris Cox was deeply involved in market issues, securities issues, and obviously we got involved in things like the Independent Counsel Statute, legal issues. The rest of the White House—and to a certain extent other parts of the administration—looked at us as an honest broker, and if we were a policy shop, I thought that that would impede our ability to be an honest broker.

Morrisroe: How involved were you in crafting legislation proposed by the administration in terms of proposing language?

Culvahouse: Personally, me, not much at all. My sense is my office not that much. I was out of the day-to-day blocking and tackling for so long because of Iran-Contra. Then once we moved into the ’88 election season, sending up legislation to Congress ended.

Chidester: One more question about the speechwriting. There have been stories that sometimes Reagan would have this image in his head, this metaphor, this point that he wanted to get across, and sometimes the metaphor that he used wasn’t quite factually correct. Were there any times when you would get into a conflict with Reagan over a point that he wanted to make but it had to be framed in a certain way that was more accurate?

Culvahouse: Not that I remember.

Chidester: Was there usually a fight with the speechwriting team rather than the counsel’s office?

Culvahouse: It was usually with the speechwriters. I can’t remember. I know some of the examples you’re talking about, but I just can’t recall any that I got involved with about some of the stories that people have suggested were apocryphal and not accurate. I just don’t remember. I remember talking about law enforcement issues where the President would talk about the case that he remembered where the drugs were put in the baby’s diaper. My people were saying, “I can’t find that case.” He sure remembered it, but I don’t think it ever found its way into a speech.
I’m sure I’m probably remembering some stuff, some matters (perhaps some I’ve recited today) that are not historically accurate. People’s memories fade.

**Knott:** Who did handle the day-to-day blocking and tackling?

**Culvahouse:** The counsel’s office invested a lot of authority in our executive assistant and the administrative assistant. Our office would get something from the staff secretary’s office with a cover note saying, “Here’s a statement of administration policy,” “Here’s a signing statement,” “Here’s some Rose Garden remarks. You’ve got two hours.” They would staff it out to an associate counsel and ask for the response by the time designated. Then they would indicate whether it needed to go through the deputy or me or would go directly back in to the staff secretary. That’s how it would work. I think we all trusted Dianna and Nancy to get it right, and they were really good. They were immensely respected by the rest of the White House.

**Knott:** With whom in the White House did you work most closely? Obviously Howard Baker. Were there others you were in pretty steady contact with?

**Culvahouse:** Powell, Duberstein, staff secretary Rhett Dawson, legislative affairs, of course, first Will Ball and then Alan Kranowitz, and obviously the White House personnel office on background issues, Bob Tuttle.

**Knott:** Any Cabinet officers in particular? Wouldn’t normally the Attorney General be a—

**Culvahouse:** More so with the deputy Attorney General and OLC [Office of Legal Counsel] than with Ed. I always had a good relationship with Bill Webster, both when he was at the FBI and at the Agency, and with Jim Baker, but usually not with the other Cabinet members themselves. They felt perfectly free to call me, but I usually didn’t call them.

**Knott:** What was your relationship with Meese like?

**Culvahouse:** It was awkward because when Ed was Attorney General, he was the target of the McKay investigation and a subject of Walsh’s investigation. So a lot of what I did—such as Iran-Contra and Independent Counsel Act issues—were matters where the Justice Department was recused and we really couldn’t talk to them. There were whole big chunks of what I did that I never spoke to Ed about. On judicial selection, I talked to Ed a fair amount. Supreme Court, for sure. On other issues between our office and Justice, they tended to get assigned down to the level in the Justice Department of the Solicitor General or the Assistant Attorney General for criminal or OLC. I think Ed did a fine job as Attorney General, but he tended to be much more involved with me in the policy issues and judicial selection. On other things like the [Fawaz] Yunis case, the guy we snatched off the coast of Cyprus, we didn’t really deal with Ed. I dealt with [Charles] Cooper and Bill Weld directly on that matter. That was the level at which that matter was being handled in the Justice Department.
Morrisroe: Can you talk a little bit about the relationship between your office and OLC? They’re often times referred to as institutional competitors in terms of providing legal advice. Can you talk about how regularly you would communicate and the nature of the advisory roles?

Culvahouse: We’d communicate often, and it was a good, close, cooperative relationship. I’m sure at some levels there was pushing, but Cooper and I and then Doug Kmiec and I, would work closely together on matters like treaty interpretation. There was this guy who about every three months would publish another op-ed piece saying that the President had an inherent line-item veto in the Presentment Clause. Someone would send that to President Reagan—line-item veto was a big policy initiative of his—and he’d want another analysis done. So Cooper and I would go through another analysis. But I have a lot of respect for OLC, they call it straight. Quite frankly, I wished we could have used them on some of the things (like Iran-Contra) we could not use them for because they’re a very smart group of people. So I didn’t think it was competitive at all.

Morrisroe: Did you have any involvement, any input in crafting their opinions before they were published? Or was it simply requesting of them an opinion on a particular legal question?

Culvahouse: No. It was my belief that the appropriate relationship was if I asked for their opinion, I ought to be prepared to accept whatever I got. I did not ask for it in draft. There were other times when we’d get in a room and try to figure it out, but if I were asking for an OLC opinion, whatever came in was what I used. We did not try to shape what they were saying.

Morrisroe: Other than treaty interpretation, can you share any issues or instances that stand out in your mind where you worked closely with OLC?

Culvahouse: Well, the line-item veto, the Yunis case, obviously a lot of executive orders including the FEMA Seabrook order. Walsh, or one of the other independent counsel, had pursued in an indictment a legal theory that was something the Justice Department had never, ever thought was right or accurate or had approved as a legal interpretation, an issue that had been vetted at the highest levels repeatedly, and at the career levels, by Jack Keeney—the longtime professional deputy assistant Attorney General for the criminal division. We finally, at the Justice Department’s urging, approved filing an “information” with the court that said that this theory was not accurate and was not DOJ policy. We spent a lot of time with Kmiec and others at OLC on that issue. That was toward the end. I wish I could remember more.

It doesn’t sound like we spent very much time with OLC, but we did. We had many meetings on signing statements, veto messages, trying to figure things out.

Morrisroe: So they would be regularly consulted on those kinds of matters?

Culvahouse: Yes.

Morrisroe: What about staffing the Justice Department? The one issue that came up was that an assistant Attorney General for criminal division, the [James] Knapp appointment—it was
reported that the White House and you opposed the appointment. Can you talk about that incident and in general how involved you got in staffing issues with the Department of Justice?

**Culvahouse:** Any PAS [Presidentially appointed, Senate confirmed] personnel reviews I got involved in were really a core function of my office. It was part of my job to express my views about proposed nominees, so whether it was Justice or State or wherever, we expressed our views. I’d be violating people’s privacy interests to talk about any specific situation. But whether it was Frank Keating moving from Treasury to be associate Attorney General, or Arnie Burns’ replacement, or Weld’s replacement, or just someone in the ordinary course, because the Justice Department was an agency that we worked closely with, that was important to our function, I paid particular attention to it—as I would the general counsel of an agency. We had a thorough scrub of anybody Ronald Reagan was going to nominate or appoint. I think we were pretty rigorous, much to the dismay of the personnel office and their proponents from time to time. At times you just couldn’t disclose why you were opposing, and at times it would just be a suitability thing. I was very much involved in Thornburgh’s appointment, for example.

**Morrisroe:** That was my next question. Can you talk a little bit about his selection and what were some of the considerations on replacing Meese?

**Culvahouse:** Well, we wanted someone we could get confirmed [laughter] and quickly; we had a short window of time before the election. We wanted someone who inspired a great deal of confidence, someone who knew the criminal and prosecutorial world because of all the independent counsel, and Noriega and Marcos and other issues then pending. You’re sort of informed by yesterday’s issues and, frankly, I also thought we needed someone who would be a good counselor to the President as well. I didn’t know Dick Thornburgh, but he just kept coming up as someone who would be very good. Of course, he had been U.S. Attorney in Pittsburgh and had been in charge of the criminal division, assistant U.S. Attorney, criminal division, and a Governor. We’d done a little bit of discreet checking with the Senate Judiciary Committee and thought we could get him confirmed. So we went with Dick.

**Chidester:** What was Vice President Bush’s role in the pick?

**Culvahouse:** Thornburgh?

**Chidester:** Or his campaign people. It was obvious that Meese was a liability to the Bush campaign at that point. Did he have someone in line a) who had a better record and b) who could continue with the Bush administration?

**Culvahouse:** No, not really. Indeed, the Vice President made it clear—and I think it’s solely because we were bringing the person on board at a late point in time—that we were speaking only for Reagan and not for Bush. So he wasn’t involved in Dick’s selection, although we talked to him in advance, and he thought it was a good choice.

Nick Brady was different because Nick was one of the three people who were on the short list to replace Jim Baker. And of course Nick was a long-time friend of the Vice President. The
selection of Nick is a process that I didn’t spend a lot of time with, we just let it go on its normal course.

Knott: When Carlucci replaced Weinberger, did you play any role in that?

Culvahouse: No, no, I think it was pretty much Howard. Carlucci was a great Secretary of Defense, and Colin was a terrific National Security Advisor.

Knott: Could you talk a little bit about the role of you and your office in terms of Presidential pardons?

Culvahouse: We followed the process set forth in the Code of Federal Regulations, the Pardon Attorney process. Periodically we’d get reports from the Pardon Attorney about people who had gone through the Justice Department scrub, and my deputy and I would sit down and make a decision. Both my deputies—first Jay Stephens and then Phil Brady—had been at the Justice Department, so they had a very Justice Department bias. Both of them had been prosecutors, and had very prosecutorial bias, which was a good check. That’s what I’d call the ordinary course. Obviously you had North and Poindexter, which we turned down. That was not part of the process and really was a decision that I and the President, Lytton, and Baker made.

Dick Cheney had forewarned Ken Duberstein and me, based on his services as President Ford’s Chief of Staff, that after the election we were going to be inundated with requests. We got a lot of requests that had not come through the process, including some people who subsequently got pardons from other Presidents—Patricia Hearst, Armand Hammer, another round of people pushing McFarlane, North, Poindexter and company. Really, none of them got pardons from President Reagan.

The only people who got pardoned were people who went through the process. I guess the most famous was George Steinbrenner. He had gone through the process, and he was heavily supported by the Justice Department. Some people were really upset about his pardon and wanted my head. I had told the President that Steinbrenner was much loved by some and less loved by others. Thornburgh was really terrific during the pardon process—let me throw a bouquet to Dick—because there were a lot of the President’s old friends and others who were weighing for this person or that person. He felt bad—particularly for McFarlane—and he had known the Hearst family. He had other mutual friends pushing other people. Thornburgh and I basically convinced the President that while he had unfettered pardon power, and there was nothing to say that the Pardon Attorney process was the only process, nothing at all, we saw no one who was compelling enough to give a pardon to.

Knott: So he never overrode you—

Culvahouse: No. The only out of process pardons that I think he did do, which were before my time, were the two FBI guys—

Knott: Mark Felt.
Culvahouse: Yes, but I believe those may be the only pardons that he made that did not go through the process.

Morrisroe: Were you usually in concurrence with the Pardon Attorney’s recommendations?

Culvahouse: I really can’t answer that. We turned down some who had been recommended by parts of the Justice Department. But normally, if one came over who was unanimously recommended by the Justice Department, we tended to say yes. If the judge or the prosecutor or the criminal division opposed, but everybody else favored, we would take a look at it, a long, hard look at it, trying to figure out why it is that it’s a divided opinion there. We had a strong, strong bias against innocence pardons. I don’t know that we ever did one, but if we did, we didn’t do many, as opposed to forgiveness pardons.

Morrisroe: Did the counsel’s office have any role—either in advice or decision making—when it came to litigating decisions?

Culvahouse: There were a couple of cases. We were getting pounded on a position the Justice Department had taken in a labor case. It was going up to the Supreme Court, and I asked Charles Fried to come over just to explain—because I was getting asked by the President and others, “What’s going on here?” I did it with some temerity, but I just couldn’t figure out why what would seem to be the President’s position was not the position of the Solicitor General in court. It turned out to be an important justiciability issue. We did not want to say this case was ripe for decision, even though we thought it had been correctly decided.

I forgot the name of Scott Armstrong’s group—the National Security Archives, is that the name of the group?

Multiple: Yes.

Culvahouse: They had sued us under the Freedom of Information Act. The Tower Board, when it went out of existence, conveyed its materials to me as counsel to the President. After that, the National Security Archives filed a Freedom of Information Act case. The White House is exempt from FOIA, so that was our response. They said, “This is artifice, because the Tower Board is a Federal Advisory Commission, and we could have gotten their records.” So not only did they file a suit against the U.S., but they filed a suit against Arthur B. Culvahouse, Jr. That got my attention. I frankly did not like the original, lower level staffing that had been given the case by the Justice Department, and since those records were sensitive records related to Iran-Contra, including excerpts from the President’s diaries, rather than subject those materials to the FOIA review process, we really needed to win that case. So I did get the Justice Department’s attention on doing a better job litigating that case, for lots of different reasons. I’m probably being too candid.

Morrisroe: Can you talk about your relationship with agency counsels? You mentioned your special interest in them in terms of selection. What role did you play in their selection in terms of having a veto? Some counsels have sought and obtained a veto over appointment of counsels.
Did you have regular meetings with them? What was the nature of your relationship with those counsels?

*Culvahouse*: I did not seek or obtain a veto. That’s something I didn’t think to do. I had other things to focus on. I did have a close relationship—it really depended. Abe Sofaer—I’m having dinner with him tonight. Bob Kimmitt was a long-time friend before he was general counsel to the Treasury Department—I’ve known Bob forever. My daughter who went to UVa was in kindergarten with Bob’s daughter. Russ Bruemmer, first at FBI, then CIA, he’s a close friend today. DoD [Department of Defense]—I was consulted when there was a change over there. But typically, it was basically the mainstream agencies that I dealt most with. My office—and a very good office it was—would regularly remind me a couple times a year to bring the agency counsel in for lunches because they’re important parts of our eyes and ears. To a certain extent, we worked for them and they worked for us. But really, because of what I did mostly, it was a lot more focused on the law enforcement and national security agencies.

*Morrisroe*: So to the extent that you had regular meetings with agency counsels, it was more or less a kind of informal, periodic—

*Culvahouse*: Yes. There would be some issues of mutual overlapping responsibilities to discuss, but places like HUD [Housing and Urban Development] and Agriculture, I wouldn’t see them that often, although there would be something once a year that would be important.

*Hult*: Do you remember any change taking place in your office when Jay Stephens left and Phil Brady replaced him? How did you make the decision to hire Brady as his replacement?

*Culvahouse*: We had taken a couple of false stabs at picking a new United States Attorney for the District of Columbia, and Jay—who had been an assistant in that office—finally, after it had been open for a while and we really couldn’t find anyone we liked—asked if he might be considered. I don’t know the timing on that. I think we’re getting close to the end. I’d gotten to know Phil, who had worked in the Vice President’s office. Since the Vice President, I think, by then was our nominee, having someone in who had a relationship with people in that office made a lot of sense to me. Phil and Jay had worked for the deputy Attorney General together as associate deputy Attorneys General or those titles—lawyers who report directly. That was the reason. Since he’d worked for Carol Dinkens, the deputy Attorney General, Phil had seen the Justice Department side of the White House relationship, so that was a good choice.

A lot of the issues I knew we were going to face would be President Reagan campaigning for the Republican ticket and for Vice President Bush as the Presidential nominee. That was the thought process. I really did not want to go outside the White House, and Chris Cox, who might have been the only in-house choice, was running for Congress.

*Hult*: That’s right.

*Knott*: In the first Reagan administration, a kind of rift between the so-called pragmatists and the true believers was reported in the press, perhaps Meese on the true believing side, Bill Clark and others—James Baker, [Richard] Darman, maybe Michael Deaver—in the pragmatist camp. Was
there a similar sort of phenomenon when you were there? Did you sense any kind of resentment from perhaps people like Ed Meese (or people associated with Ed Meese) who were maybe more ideological, who certainly considered themselves Reaganites—whereas you were a Baker person, at least in the eyes of some. Did you ever pick up any of that in the second term, the time you were there?

Culvahouse: Well, when you talk to Howard, that’s a good question for him. He anticipated that going in, so that’s one reason we brought Ken Cribb—who was very close to Ed and had worked for Ed when Ed was at the White House—over from Justice to run the domestic policy shop. Gary Bauer was already there, and there were a lot of true believers in the speechwriting staff.

Knott: Tony Dolan.

Culvahouse: Tony Dolan, Clark Judge and so on. There was tension from time to time. Ken Cribb was terrific. I found Ed really good to deal with. He was always nice and respectful, a gentle person, he would listen. He had strongly held views. He and I disagreed from time to time, particularly after Bork didn’t make it. Tony and Clark and I got along. I think Howard and I had a lot of capital with the true believers. They knew that the Iran-Contra thing was going badly, and I think they saw us working heart and soul to turn that around. We got a lot of credit for that, and so I think we had a good working relationship with everyone except Gary. I’m not sure why, but my colleagues tended to consult with Ken Cribb but not Gary, and so that almost by definition became problematic.

There was tension, but we arrived toward the end, and we had helped the President survive Iran-Contra. Everyone knew that the President was committed to the INF treaty and the Moscow summit. It was the President’s decision, it wasn’t Howard Baker’s. It wasn’t something we put into his mind. There was big disagreement—although we fought as hard as we could for Bork—over whether we should have had the President give a national address in support of Bork. There was some friction, but not as much as probably occurred in the first term.

Chidester: Did you see a change in Reagan toward a more pragmatic approach after Iran-Contra and after the ’86 elections?

Culvahouse: The President Reagan I saw was quite conservative on a number of issues, but my sense is that some of the things, some of the issues, some of the positions people tend to associate him with were not his priorities. I found him to be very much more invested in national security issues than domestic issues generally and very much more invested in law enforcement issues than some other domestic issues. When I talked to him about judges and judicial policy, there was a real focus on not appointing people to the bench who would invent new ways to turn guilty criminals free. That’s almost a verbatim admonition. That’s the perspective I had of the President.

Knott: What’s your response to the notion that he was controlled by his staff, which existed then and persists to some extent to this day? People occasionally even use the word “puppet.”
**Culvahouse:** He was certainly not a puppet. My every instinct is that on the issues he cared about, he was in no way controlled by his staff. One observation that I mentioned before that might lead to the controlled by staff conclusion is when the staffing process gave him a narrow range of options, or only one option, his management style did not lead him to naturally reach out to solicit other opinions. That’s why I think most probably the original Jim Baker, Deaver, Meese, Clark process worked pretty well. You had lots of different points of view, and you’re going to have people who by definition are going to be disappointed.

Howard went to great lengths, as did Powell and others, to bring in lots of different points of view from Bill Bennett to Meese to devout pragmatists, and that worked well. But if you “cooked the books,” so to speak, in the staffing process, I think you might have manipulated some of the President’s decisions.

I don’t know if I’m making that last point very well, but given good options, you saw the real Reagan emerge.

[BREAK FOR LUNCH]

**Chidester:** We were talking about Reagan’s management style. Do you think he delegated too much? You were saying that he paid attention to issues that mattered to him most—national security, foreign policy, law enforcement. Do you think he delegated on areas that he didn’t care too much about?

**Culvahouse:** It’s a fair question. I wasn’t there at the beginning of the administration. When we were there, we had very focused priorities, and in terms of what we were focusing on, I think he was involved the right amount. I think he was pleased to delegate and really relied upon his staff, his aides, his Cabinet members to bring issues to him that they thought needed to be brought to him. I don’t think he delegated more than most Presidents, but I don’t have anything to compare.

**Knott:** Let’s shift gears a bit and talk about some of the political and philosophical concerns that guided President Reagan in terms of his judicial selections. Should we start with the Supreme Court with the high profile Bork nomination? Could you walk us through that process and talk about what went wrong and what went right, if anything?

**Culvahouse:** Not much went right. We had about 24 hours notice that Justice [Lewis] Powell was going to announce that he was stepping down. I think the notice came from the Chief, but we were scrambling. The White House had prepared a book, a write-up on nominees, which I don’t think had been updated since Scalia. It had the usual suspects. There was a meeting right after we learned of the Powell decision, with the President and Baker and me—and I want to say Brad Reynolds, because Ed Meese was out of town—where we said, “This is what we know, and we’re going to start a process between the White House and the Justice Department to make recommendations to you.” The President at that point indicated that Judge Bork had been a close second last time, so he assumed that he would be on the list. I don’t think he mentioned anyone else.
We went back and feverishly—both the Justice Department and the White House—updated the list and added people. Then, of course, it became public knowledge, and we got a lot of suggestions. But it was clear to me that the President was leaning toward Bork. I took some solace in the fact that Biden had made a couple of public statements that he would be likely to vote to confirm Bork. There were a number of people like Lloyd Cutler who publicly supported Bork, mainstream people in the Bar. I think there were some people—like Richard Willard, who was assistant Attorney General for the criminal division, and Alex [Alexis] Kozinski, who had just been appointed to the ninth circuit—who were pushing Tony Kennedy. There was a [Larry] Silberman movement. Warren Rudman called up, pushing David Souter. Warren was an old friend and also was the Republican vice chair on the Senate side of the Iran-Contra committee.

So we had about fifteen people we did write-ups on. The Senate was saying there ought to be consultation. I no longer recall—I think Howard may have met with Biden and [Orrin] Hatch, but I don’t remember. It was my feeling that unless we learned something more than we knew, it would probably go to Bork. He was clearly the President’s predisposition. I do remember that Will Ball came in, and he had the vote count. The Justice Department and others kept saying “Scalia was confirmed 99-1 or 99-0, we ought to be able to get Bork confirmed.”

Ball came in and said, “That’s not the vote you look at. Look at the vote for [William] Rehnquist for Chief Justice, which was 60 something to 30 something, and of the 60 something, there were a number of Republicans who are no longer in the Senate.” That fairly weak class of 1980 that got elected in the Reagan landslide in the south, primarily, had been defeated. And most of the 30 something, almost all, were still in the Senate.

Will said, “This is our problem. We’ve got a problem.” It turned out that Will was very prescient, because we lost all that 30 something, and almost all of the new class voted against Bork. And he lost a few others, [Arlen] Specter and [John] Warner being the two that I remember most.

But when we finally had the meeting, Howard and Meese and I told the President that there were other people on the list, but if he wanted to go with Bork, we saw no reason for him not to. We talked a little bit with the President about a couple of other people, but at the end of the day, we did not see coming what ultimately materialized. And we probably did not pay enough attention to Will Ball’s vote count. Also, one thing we didn’t anticipate—I frankly thought and expected that Judge Bork would be a better witness for himself than he was.

Morrisroe: In what sense?

Culvahouse: It was what I call “the human touch.” Scalia, Souter, Tony Kennedy, were engaging people. Judge Bork is very private. That’s not a forum that suits him well. I think his preparation was poorly handled. It seemed like every bright young lawyer in the administration wanted to prepare him and was present in the first murder board or mock hearing. It was too many people showing off, and Bork’s reaction was, “This is not what I want to do.” He spent all his time in private prep sessions with Lloyd and Brad Reynolds, and probably spent not enough
time—or any time—with people like Ball and others, the legislative types. The “Why do you want to be on the Supreme Court?” question was something that they would have seen coming.

Some people say that Bork shouldn’t have answered the privacy question. I don’t know if he could have gotten away with not answering, but that was a decision he made, I think, in consultation with the Justice Department and some of his outside advisors. I believe that he was more than qualified to be on the Supreme Court, and the judicial temperament issues were bogus and BS. His views were willfully mischaracterized. We tried to get the argument moved to grounds we thought we could win—on criminal law, on criminal procedure—and we had Hatch primed to go that way in his questioning. We thought we had Judge Bork (through Brad Reynolds and Lloyd) prepared to engage in that debate. Somewhat to our surprise, Hatch would ask him a criminal law question, and Bork would say, “Well, I really don’t know much about criminal law.”

**Knott:** That must have made you feel good.

**Culvahouse:** It was very frustrating. Everybody was performing for their audience. The one thing I regret most in the White House was not getting Bob Bork confirmed.

**Hult:** What happened between the period when his nomination was announced and the confirmation hearing, from the White House perspective? Of course there were the media stories that said things like, “Meese won the battle on pushing Bork as the nominee; Baker won the war over the strategy.” And part of that strategy was to tell the more conservative groups that wanted to mobilize and push Bork’s confirmation not to get so involved or so visibly supportive of Judge Bork. What’s your reaction to that explanation, that there was a strategic error on the administration’s part?

**Culvahouse:** Well, my reaction is, if you had the conservatives mobilized, what votes in the Senate would they have changed? You had all those southern Democratic Senators who had been elected with heavy African-American votes. Once that community mobilized, every conservative white evangelical in those states could have been pushing those Senators to vote for Bork, but I don’t think they would have changed any votes. Might they have changed [Howell] Heflin? The conservatives pushed back and say, “Well, we might have gotten Heflin.” I don’t know. But if we’d gotten Heflin, we still wouldn’t have won.

So to me the question is looking at the hundred votes in the Senate, where would that have made a difference? I don’t see where it would have made a difference. We didn’t lose any conservative conservatives. We didn’t lose any moderate conservatives. John Warner and Heflin were the most conservative people we lost, so I don’t see where the conservative mobilization would have made a difference. We might have gotten Heflin, but I sense not. I think Heflin, looking around and seeing all of his fellow southern Democrats going against Bork, still would have fallen in with them.

**Hult:** Who in the White House was involved, or between White House and Justice were involved, in guiding Bork’s confirmation from the time he was nominated all the way through the Senate process? Were you, for example, heavily involved?
**Culvahouse:** I was heavily involved, John Bolton, who was the assistant Attorney General for legislative affairs, Brad Reynolds, the White House legislative affairs people, [Patricia] Pat Bryan, one of the associate counsel who worked for me, was heavily involved. I should go back and say that you also must understand that the President was quite weak politically; we’d just gotten through the Iran-Contra hearings. I don’t know if the committee report was out yet, but his approval/disapproval ratings were at a very low ebb, so we didn’t have a lot of political capital to spend. The political and communications gurus thought that this battle had come at a most inopportune time, and they probably in their heart of hearts would have preferred someone other than Bork. So they were not very interested. That was my perception. But we were pushing hard, Howard was pushing hard. We went up there, met with a lot of people. We made the maximum effort. We did not unleash the hard right because we felt that we had to move Bork well into the mainstream. I think that was the right strategy.

We had a Justice Department blue book and a white paper. It probably did a little bit too much of “Bork is in the mainstream” rather than taking on and placing in context some of his opinions. But where I really think we made a mistake was in not seizing control of the confirmation process preparation and saying, “This ain’t a legal thing. This is not preparing for a Supreme Court argument. This is hand-to-hand political combat, and this is the way you’re going to do it.” Whether Bork would have agreed, I don’t know, but that’s the way Kennedy was prepared. I helped prepare Souter, I helped prepare Clarence Thomas. It was a political process, not a legal debate over the meaning of justiciability or the antitrust paradox or whatever. To me that was the real mistake.

**Knott:** Were you surprised at the ferocity of the response? Within hours of the White House announcement, Senator [Edward] Kennedy was painting a picture of Robert Bork’s America that was pretty much a nightmare.

**Culvahouse:** That was a surprise.

**Chidester:** Did you have any meetings with Senator Kennedy?

**Culvahouse:** No. I think Bork did courtesy calls with every member of the Senate. Whether he met with Kennedy—

**Knott:** He says in his book that he did. Kennedy assured him that it was nothing personal.

**Culvahouse:** Having the President respond to that straight up—in retrospect, that’s where we might have used Ronald Reagan effectively, to stand down Kennedy. We wondered if that might have been a missed opportunity. We were never going to get Kennedy, but we might have lowered the decibel level, and had people understand that they’re going to pay a price for taking unfair shots like that.

But again, President Reagan’s approval ratings were in the 30s, and the feeling of all his advisors, including me, was, one, we had to be sure if we used him, he had to make a difference. And two, we understood it wasn’t like there was going to be a huge outpouring of support with
his approval rating in the 30s. We had Dick Wirthlin polling every week, and we just didn’t see an opportunity that made sense to us. It may have made conservatives feel better, it may have made Bob Bork feel better, but what votes change by the President going on national TV and saying, “I support Bob Bork”—it wasn’t a Presidential election, it wasn’t a Senate seat election. It was a 100-vote election by the Senate.

**Chidester:** With Reagan’s approval rating so low after Iran-Contra, and the Democrats having now a ten-person advantage in the Senate, was there anyone in the administration pushing for someone who would be almost universally perceived as a moderate, a true heir to Justice Powell?

**Culvahouse:** No.

**Chidester:** Everyone was on board with Bork? Who were his biggest supporters?

**Culvahouse:** Certainly Ed. Looking back before Bork, I think it’s fair to say that the really conservative legal policy people in the administration would have preferred Bork over [Sandra Day] O’Connor, but O’Connor was teed up by William French Smith without them having any input. And the political people thought it was terrific, first woman. Then they felt totally outmaneuvered by Don Regan and Peter Wallison on Scalia. So there was a widespread feeling within the administration that it was Bork’s turn, and that’s where the President’s mind was. So most of us were prepared to salute and try to execute it. I don’t remember anyone of consequence in the administration pushing back on Bork.

**Chidester:** Did you get the feeling that anyone in the administration saw this as maybe a challenge to restore some of Reagan’s power in the wake of Iran-Contra?

**Culvahouse:** No. That’s over-thinking.

**Knott:** It’s been said that things were never quite the same after the Bork nomination in terms of judicial nominees, at least for the Supreme Court. Do you accept that? Did something significant happen in that confirmation process?

**Culvahouse:** Yes.

**Knott:** We’re still feeling the effects today, you might say, in terms of the deadlock that exists in the Senate?

**Culvahouse:** I think a lot of groups on the left, and now on the right, have determined that there’s a lot of money to be raised by emphasizing that issue, demonizing the other side’s people. Between that and the independent counsel—sic an independent counsel on one another, and so forth—it probably has contributed to the lowest quality of political debate in Washington that I’ve seen in a long time. There are even some Republicans who thought the independent counsel was just an abomination but are sorry to see it go because they thought Democrats were two ahead of the Republicans in terms of having the independent counsel convene to investigate members of the opposition, the Republicans being the targets of more independent counsel than the Democrats. I’m not sure how you count that way.
On judicial confirmations, I’ve heard clearly (I wasn’t involved in it), that Souter was probably selected because of the Bork experience. I’ve heard Steve Reinhardt, the very liberal chief judge of the Ninth Circuit Court of Appeals, publicly criticize the nominees who were selected by President Clinton as being not nearly as liberal as the people he should have appointed. The world has changed. I don’t think a William O. Douglas would make it again. Would a [Felix] Frankfurter? I don’t know, maybe, probably. Scalia? I don’t know that there are enough Italian-American votes in America to get him confirmed, although it depends on the composition of the Senate.

Morrisroe: What was your response to the ABA’s damning Bork’s nomination with faint praise? Was that expected?

Culvahouse: Outrage. Going in, was it expected? No. We knew later it was coming. Just total outrage.

Morrisroe: Was there any talk about not submitting subsequent—Ginsburg or Kennedy or other nominees—to the ABA at that time?

Culvahouse: There was some talk, but I think we had been assured that the ABA had its house in order finally. They’d had their fun, and it would never happen again. They sanctimoniously tried to justify it, but it was just a total hatchet job.

Knott: How did it happen?

Culvahouse: I don’t know. You’d have to ask members of that committee. But I think they totally discredited themselves. (Obviously, I don’t expect to be on the bench.) But I would say it anyway, it was just outrageous. Ace Tyler, Harold Tyler, was so upset. A very distinguished lawyer, judge, former deputy Attorney General, by any standards just a great person, was palpably upset, shaking at what he saw happen on his committee. He correctly saw the consequences, the ABA being totally discredited.

Morrisroe: Do you think it has reestablished its stature?

Culvahouse: No, not for Republicans. I’m not sure it will.

Morrisroe: Another thing that was unique, perhaps—or at least in the fact that it was a first—is the role of interest groups in the process, the People for the American Way. It seems quite obvious that they were well prepared in advance of the Bork nomination to make a move in opposition to it—if not Bork, then another comparable nominee. Do you have any thoughts on the role of interest groups in the Bork nomination or subsequent nominations?

Culvahouse: Their opposition was fierce, determined, and skilled. You take those interest groups and the basically liberal press—at that point you did not have Fox, you did not have the radio people, you did not have the other outlets—and it was really hard to overcome. The question is who got the civil rights community at the local level in Louisiana, Alabama, Florida,
and places like that energized? South Carolina with Fritz [Ernest Frederick] Hollings. I don’t
know. That’s where the difference was made. Whether it was the ads or People for the American
Way or Elaine Jones or whoever, that’s where the difference was made. I don’t know how that
was done. I wasn’t on that side. One of my current law partners and one of my former law
partners—a great client and a good friend—were on the other side, Tom Donilon and Ron Klain.
I’ve never asked them about it. We’ve agreed not to talk about it.

Knott: Did you say this was your worst setback in your time in the White House?

Culvahouse: It’s the thing I regret the most, not winning, because I think he’s a brilliant lawyer.
Here’s a guy who fought his law firm to a standstill because it looked like they were not going to
make a Mormon a partner. He has a raging intellect. I always thought that he would be more
liberal than Scalia on First Amendment and Bill of Rights kinds of issues because there’s a
strong libertarian strain running through Bob Bork. Free speech, no abridgment of free speech
means exactly that [pounding on table]. It really hurt. He’s bitter, and he should be. Should there
be nine Bob Borks on the Supreme Court who think like he does? Probably not. But Bork
deserved to be there.

Knott: Could you walk us through the Douglas Ginsburg brief scenario?

Culvahouse: When we saw Bork getting away from us, at some point I had my staff, and the
Justice Department had their people, primed for the next round. There were a lot more people
being pushed, from Larry Silberman, whom we all liked, to Tony Kennedy, to some people self-
promoting. We had a long list. We were thinking about some Senators, Hatch, I guess, being
really the only one.

But Howard and I ultimately decided Tony Kennedy was the way to go, for lots of reasons,
including his own persona and political skill. We thought he’d be a good witness, a really
compelling historian. The guy dressed up in Federalist garb when he taught Marbury [Marbury
v. Madison]. People were coming out of the woodwork like Bob Matsui and others, from the
Democratic Party, who knew him. Obviously Ed and Cooper and Brad and others were pushing
Ginsburg. They worked with him when Ginsburg was in the antitrust division. They also
thought—but they should never have said it in public, even if they believed it—he’d be more
conservative than Bork, or “just like Bork except twenty years younger,” whatever it was they
said. Someone said it, and it got printed. But when we went in to see the President, someone had
gotten to William French Smith, who had called the President and pushed Ginsburg. So he
decided to go with Ginsburg.

Morrisroe: So it was William French Smith more than Meese pushing him that tipped the
balance?

Culvahouse: Yes, I think he had calls from Bill Smith. Ed or Brad, one of them, called Ted
Olson, who called Smith, or they called Smith directly.

Knott: The President’s mind was made up probably before you even went into that room?
**Culvahouse:** Um-hum.

**Hult:** That’s another bit of evidence that there still were some end-runs going on, even when the Chief of Staff changed and everything else in the White House changed. Or would you not call that end-run?

**Culvahouse:** I don’t call that an end-run. Bill Smith had been the President’s lawyer for twenty-five years, and he might be for twenty more.

**Morrisroe:** But presumably the Department of Justice staff went through that venue as opposed to directly raising it because they thought it would be more successful.

**Culvahouse:** I think they saw that, yes.

**Hult:** The obvious question I’m sure you get asked all the time: How was the marijuana issue missed? Was it in the raw FBI files that people didn’t go back and revisit because he had just been confirmed to the appellate court bench?

**Culvahouse:** No, it just wasn’t in the files, and we hadn’t done an update—

**Hult:** Sure, eight months before, I think, he’d just been confirmed.

**Culvahouse:** The President announced his *intent* to nominate, it was not an actual nomination, so we were going to have the FBI go out and bring it current.

**Hult:** Got you.

**Culvahouse:** Frankly, the FBI may not have talked to anyone who knew about the marijuana thing. The question at that point was not “Have you ever used?”—which is the question now—but “Have you ever *abused* drugs or alcohol?” and then “Have you ever been treated by a medical professional for drugs or alcohol?” So you were able to self-define abuse. Now the question is, “Have you ever used since age 18?” It goes back and forth whether it’s 18 or 21 or “in the last ten years.” For something like the Supreme Court, it’s “Have you ever used?”

By anyone’s definition, he had accurately answered the question. He had never abused, and he had never been treated. The FBI did not pick up any evidence of the marijuana use.

**Chidester:** Before the marijuana issue surfaced, was the administration expecting another battle?

**Culvahouse:** Yes.

**Chidester:** Same as Bork? Worse?

**Culvahouse:** Same.

**Morrisroe:** Was there any reason to expect this would be more successful?
Culvahouse: I think Doug Ginsburg would have been a very coachable witness, very engaging guy. There was some debate back and forth whether he was Jewish enough to get Jewish support because there was no Jew on the Supreme Court at that time. That had been noted, and some of the Jewish interest groups had weighed in. It’s just crazy. It was one of the most distasteful parts of the process, whether he was observant and so forth. The fact that his wife wasn’t Jewish was considered. There was all of this calculus, but we never got to that level of detail.

Morrisroe: Was the fact that he did not have nearly as much of a written record as Bork had viewed as an advantage when he was going through the initial process? Or was that part of a post hoc reconstruction?

Culvahouse: I think it’s a post hoc reconstruction, I really do. He was considered very bright, very able, smart, young. There wasn’t a lot there, but I don’t know that anyone said, “There’s nothing in writing so they can’t toast him.” It was never said, on the other hand, that Tony Kennedy had been on the bench since the Ford administration and there’s however many opinions that can be dissected. People think we’re more subtle or smarter than we are.

Knott: I don’t remember people coming out swinging against Ginsburg like they did with Bork until the marijuana incident. So I wonder if he would have had a slightly easier—He was a Harvard law professor at this time, wasn’t he?

Culvahouse: He’d been a Harvard law professor before, and then he was assistant Attorney General for antitrust, and then he had gone to the D.C. circuit. The only issue that surfaced other than marijuana was he had some holdings in a cable company that might have been indirectly affected by some case he had considered when he was assistant Attorney General in some manner. But that was the only issue that had surfaced at all that we had seen.

Knott: How was it when the story broke? Did people think this was still salvageable at a certain point? Or was it pretty much considered to be dead once the news got out?

Culvahouse: Once Hatch expressed reservations publicly and opposition privately, it was dead. None of us saw it being retrievable.

Knott: Did he withdraw?

Culvahouse: The press was probably right. Bill Bennett talked to him and told him that he wasn’t speaking for the President, but he thought he ought to withdraw. Doug came over to the White House, and I think his mind was pretty much headed in that direction. We talked it through a little while, and he ultimately agreed that it just was not going to happen.

Morrisroe: Then he had a press conference at the White House. I remember the newspaper coverage.

Knott: So now it’s back to the drawing board. Or is it pretty well assumed it’s going to be Anthony Kennedy? Did you start the whole process up again?
Culvahouse: No. Ed called Howard and said, “We’re standing down.” [laughter] The other candidate would have been Larry Silberman, whom a lot of us liked a lot. But to this day it gets raised—even when Judge Silberman recently went on the WMD [weapons of mass destruction] Commission—about the 1980 October surprise and whether he did the right thing in October of ’80. I just didn’t see taking on that issue. That gets us right back into Iran. I’ve told Judge Silberman this. We just couldn’t get over that as a confirmation issue. So with Silberman out of the picture, Kennedy was the only serious candidate.

Hult: Legislative affairs was positive about him as a candidate?

Culvahouse: Before we went forward with him, we flew him back and put him through a very, very rigorous set of questions with Ed and Howard and me, with me doing all the questions. I mean, all of them, from drug use to was his wife pregnant when they got married?—stuff that you shouldn’t ask anybody. We had no margin for error. It was very distasteful, but it had to be done.

Knott: Was the same true for lower court appointees in terms of these very exhaustive questions about personal matters?

Culvahouse: Not at that point. Bork had changed the environment. By then, because of Presidential campaign issues and other things, we had the plagiarism question. We had all of the questions you could associate with names, which I’ll not do here. We asked about drugs, we asked about marital affairs. We asked, “Was your wife pregnant when you got married?” We asked about siblings, we asked about children.

Morrisroe: Wasn’t there a catch-all question—have you ever done anything that would be deemed as an embarrassment to the President?

Culvahouse: Yes, but there have been lots of people who had problems who said no to that question because—you negotiate with yourself. It was a three-hour session and a long, long list of questions I had my staff prepare, just every question they could think of. And then I added some more. Because someone at the White House told Time magazine about it, everyone said, “Are they asking the abortion question?” They wanted to see the list of questions, so we went through this Kabuki dance. Finally, Strom Thurmond and Hatch negotiated a compromise, and I took the questions up and showed them to Senator Biden, in Thurmond’s private office in the Senate side of the Capitol. There were no policy questions. It was all background questions.

Knott: This was the allegation that there was a litmus test?

Culvahouse: They were looking for the abortion question, which to my knowledge was never asked of anybody.

Knott: Was your office heavily involved in terms of the lower federal court appointees?
Culvahouse: Not really. The White House had been very much involved, as I understand it, when Ed and Ken Cribb and others were over there. Then they went to the Justice Department and the balance of power moved over there. We would get the nominees as recommended by the Justice Department. I chaired the committee upon which two or three Justice Department assistant Attorney General types would sit, as well as White House legislative affairs; my deputy and I; one of my associate counsel and Bob Tuttle; the personnel person; and Frank Donatelli, the assistant to the President for political affairs. That was the group.

Hult: And that group met roughly how often?

Culvahouse: As we had nominees ready to go. Often. But it was not in terms of alternatives—“Do you prefer Mary Jones or John Smith?” It was, “Is this the person we want?” Each of us would do our own vet, and we would be looking at background issues. Political affairs would be checking with the people in the state. Legislative affairs would be checking with Senators and Congressmen from that state, as the case may be. Some people got sent back, got disapproved.

Morrisroe: Were those usually for—

Culvahouse: Court of Appeals.

Morrisroe: Was it usually for things revealed during your vetting? Or was it on a policy basis, disagreement with their judicial views?

Culvahouse: Never—that I can remember—in terms of judicial views or anything like that. They would say, “Well, this person is okay with the two Senators.” And legislative affairs would check and get back, “Well, not really. He’s not one of my first three choices.” You have that. There’d be an abundance of factors. You might have the Court of Appeals deciding that even though this seat was historically Nebraska’s, the demographics have changed and it should go to Arkansas—of course, without talking with the two Republican Senators from Nebraska, who had other views, and who we needed for other votes. It was that kind of stuff.

Some background issues. You’d be looking at someone who’d made a mistake, and in that environment, and we weren’t sure we wanted to take on that battle. I never, ever saw anything that looked like someone was being put on to be groomed for the Supreme Court or what have you. Obviously there were some bright people who had gone on the bench, like Kozinski and others. I can think of one person who the Justice Department was so convinced would be a really terrific judge because of a lot of writing that he’d done in one particular area. But it just didn’t ring right to me. In retrospect, the person has been a huge disappointment, because he may have been good on this one issue (that probably has still not come before him), but he would disappoint President Reagan on everything else, as best I can tell. You can really outsmart yourself in this process.

Morrisroe: Early on, the administration was requesting Senators to provide between three and five names for nominees. Was that still the case at the end of the administration?

Culvahouse: I would have said three. I wouldn’t have said five.
Morrisroe: And was it mostly Office of Legal Policy in the Justice Department that was winnowing these down, doing the vetting at that early stage?

Culvahouse: Um-hum.

Morrisroe: And did the Office of Legal Policy and you in the counsel’s office have any interaction outside the President’s Commission or Committee on Judicial Selection, where you would have been involved in winnowing down that number?

Culvahouse: Typically not. But on the other hand, if the Senator or a person of influence who was interested called the White House, we would get involved.

Morrisroe: So it would be more in terms of the White House conveying certain priorities from members of Congress as opposed to the counsel’s office disagreeing with the criteria on which they were choosing?

Culvahouse: It just depends. People in the Justice Department work for the President just like everybody else. So if Dole called up Baker and said, “Your friends at the Justice Department are really making life difficult for me up here because Senator such-and-such is upset about the way this nomination is going,” we would drill down on it and figure out what was going on and why and what the problem was. Alan Raul, my associate counsel who did most of the staffing, would intervene at a pretty early level anyway, just because we didn’t want to waste the committee’s time if someone had a serious background or political issue.

Hult: Would it be fair to say that you don’t fully agree with some of the assessments of the Reagan lower court appointment process that characterize it as somehow Reaganizing the judiciary or pushing the judiciary in a particular way? Would you characterize things somewhat differently?

Culvahouse: I would say it was an iterative process. Left to their own devices, Senators would probably totally disregard judicial philosophy in terms of who they recommend, and the person—maybe because they’re of the same party—might, more often than not, have the same view of judging, and the same priorities in terms of strict interpretation as the President. But maybe not. So what I saw happening—which was very appropriate—was, we want to work with you. We understand your influence, but the President is looking for people who will not legislate from the bench, who are strong on law enforcement, and who have an appropriate and educated view of the court. I think in many respects what happened was Senators and other people involved would sit back and think a little more carefully about their nominees.

Now there are some fairly famous ones that I recall when I was there. People would say, “No, this is my guy, and the hell with you,” and it became a bit of a battle. At times, I think, our role was to figure out when people on the legal policy side really had a point or whether we were splitting hairs. Compared to probably the Ford administration or even Nixon, when there was total deference to Senators or Governors (or whoever was the leading Republican in the state if there were no Senators from the state), it was more of an iterative process, a brokered process.
Hult: What, if anything, did the counsel’s office do between the time a lower court judge was nominated and the time they went through the confirmation process? Was there any interaction with the nominee?

Culvahouse: Typically not.

Hult: So they would not have had maybe a murder board for even the circuit court nominees?

Culvahouse: No. Certainly I never participated in one. I don’t know if they ever asked one of our people to go. I don’t think so. I think we were much more inclined to get involved in murder boards and mock hearings for Cabinet level, deputy Cabinet level appointments, where there was a belief that people within the department or agency aren’t going to ask the tough questions, aren’t going to get in their face because they’re going to work for them. I can think of several occasions where I participated essentially to ask the offensive questions and to really get into it.

Hult: Did President Reagan ever get very involved with lower court judicial nominations?

Culvahouse: No.

Hult: You can’t even think of a single case where he looked at a name that came across his desk and said, “I’m not so sure about this person”?

Culvahouse: He would never say that. I can remember him asking, “Is such-and-such okay with this person?”—such-and-such being usually a member of the Senate or someone in the state or someone he believed would have something relevant to say. But he was not involved in that process at that level.

Morrisroe: We’ve become accustomed in the last few Presidential election cycles, when the Senate and the Presidents are of differing parties, to see the Senate Judiciary Committee begin to slow down on nominations. Since you were there during the final year and a half of the Reagan administration, I’m assuming that happened to some extent. Was it problematic, as problematic as it has become in the last few ends of term?

Culvahouse: It happened with Bork’s seat on the D.C. Circuit. I don’t know why it took so long to get someone ready, but we nominated Judy Hope, Judith Richards-Hope. She did not get a hearing, did not get confirmed. We nominated Pamela Rymer to the ninth circuit; she did not get a hearing, did not get confirmed. These were all December, January of 1988. I don’t know about Ferdinand Fernandez, whether he got confirmed—I want to say not. Since President Bush succeeded President Reagan, Rymer and Fernandez did go on the bench. Judy Hope did not. She wasn’t renominated, and I don’t think wanted to be. Those three I remember in particular. There may have been someone confirmed in other circuits, but those three were held up. Those were January, February nominations. That was considered unusual.

Morrisroe: Were those appellate court nominations?
Culvahouse: Yes.

Morrisroe: Did you notice a deliberate slowing down or the Judiciary Committee simply not holding hearings on district court nominations? These days it seems to start at least a year out, sometimes a year and a half out.

Culvahouse: My instinctive answer is yes, but I don’t remember that as vividly because those three people were so super qualified, and it seemed to be particularly difficult. I can’t answer about the district court. I want to say that some district court people got through because their Senators got them through. But some didn’t. Kimba Wood, whom we nominated, [Alfonse] D’Amato and [Daniel] Moynihan together got her through, and she was a late nomination.


Culvahouse: Yes.

Knott: Do you have any concluding comments on the administration’s overall impact on the federal courts? Any grand observations?

Culvahouse: Sum total, it does make a difference. You can see that in practicing the profession. Prosecutors and people in law enforcement will tell you absolutely it makes a difference. Particularly with the ongoing land war in Asia between the trial lawyers and the class action defense bar, increasingly the federal judiciary is being divided into plaintiff’s judges and defense judges. That’s probably not a good thing. But it’s worth fighting for because it makes a big difference, not on some of the hot-button issues that everyone uses—right to privacy, abortion and issues like that. It’s more in the commercial arena, law enforcement arena, but it’s worth fighting for. The sad part about it is that you spend all this time and effort getting good people to go on the bench, convincing them to put their name forward, then running through the process of getting them confirmed, and you pay them so darned little that they don’t stay on very long. We pay federal judges less now than major law firms pay first-year associates out of law school in places like New York and Washington. That’s a total aside.

Knott: We talked a lot about events and responsibilities related to your position as White House counsel, but I’m wondering if you have any memories of events completely unrelated to your office. In other words, for instance, the visit of Gorbachev to the White House in ’87, things of that sort. Were you a witness to some of these things?

Culvahouse: Not really. I was probably, at the time, amazingly incurious about it. What I remember about Gorbachev is about my daughter Sarah, who’s now a UVa grad. I don’t know if it was for her kindergarten or her first grade class that I’d arranged a visit to the White House welcoming ceremony, just a regular one for some other foreign leader. It got delayed or canceled because of bad weather, moved inside. They were in line, next in line was Gorbachev. The advance team—being the really smart people they are in terms of background pictures—moved them right up front next to the President and Gorbachev. I remember both of them coming over and shaking the hands of all these little people, one of whom was my daughter. That was pretty special.
You had to have a special pass to get into the Oval Office while Gorbachev was there, and as it turned out, I didn’t have one. The President sent for me, but they wouldn’t let me in, and he was getting increasingly irritated. The next thing I knew, I had that special pass, and I was in there. Those are two things I remember. But that was a time when there was important business to be done, and most of us tried to make sure we didn’t bother the President unless it was truly important.

**Knott:** Did he ever take an interest in your family situation? Was this somebody you felt any personal bond with? Or was it entirely professional?

**Culvahouse:** It was entirely professional. That tends to be my choice. The worst thing a lawyer can do is fall in love with his client.

**Knott:** So he didn’t win you over?

**Culvahouse:** Don’t get me wrong. I’m really fond of President Reagan. I admire him a lot. That is one reason why I wanted to stay removed and not have a lot of dealings with the First Lady. I felt that until Iran-Contra was over, I needed to keep my distance, keep my objectivity, keep my antenna up. When my daughter Sarah came in to have a birthday lunch with me—I hadn’t seen her in what seemed like weeks (Howard probably arranged this)—the head of the White House mess said, “The President wants to see you.” So I stood up—and he said, “and your daughter.” The President talked to Sarah for fifteen minutes, and I got this photo with a long inscription—“To Sarah, how you brighten my day. When you’re older you’ll understand why your father’s been working so hard.” It was much appreciated.

**Chidester:** Sometimes those stories are the ones that give us the best insight about who Reagan really was. Are there any other stories of that sort? You mentioned earlier about him telling the jokes about lawyers. Do any other stories pop up, just general Reagan stories that may not relate to your job *per se*?

**Culvahouse:** Well, one that relates to my job was when I found out what Poindexter had testified about the President’s knowledge of the diversion of funds—or in that case, the lack of knowledge of the diversion of funds. Bill Lytton and I went in to see the President. He was in with the Vice President and Howard Baker. There’s a photo, I think—one version of it is in the Woodward book—where I’m sitting there going through my notes. I bet you’ve never seen three more powerful people paying attention to me than George Bush and Ronald Reagan and Howard Baker, who were watching me very intently. But after we were through, I said, “Poindexter confirmed that he acted on his authority and you did not know.” I think Howard or someone, maybe the Vice President, said, “Well, that’s a relief. That’s good.” Ronald Reagan looked at us and said, “I told you that all along.” Like, *and you guys didn’t believe me? I want to be offended here*—which further confirmed to me that he really didn’t know.

The other thing that was interesting was that Judge Walsh sent his interrogatories for the President to respond to, and there were sixty, seventy questions. They had attached documents, and we had spent some time with the President on the questions. But they had to be notarized. He
was leaving for Camp David. I was in the Map Room having him look at them. One of the deputy executive clerks in the White House who was going to notarize it felt like he had to ask the questions since it’s such a big thick book.

He said, “Mr. President, are you familiar with what’s in this book? I have to verify that you’re submitting them under oath.” President Reagan said, “Boy, am I ever. I’ve been meeting with these people twice a day, five days a week, for months on end,” which of course was an exaggeration, but we all laughed because we knew those were not his favorite sessions.

Of course, he had complimented us on his answers being in his own words because of those extensive sessions we had. Those aren’t very good stories.

**Chidester:** They are.

**Culvahouse:** He always had a sense of humor.

**Knott:** Did you ever go to any state dinners or anything like that during your time?

**Culvahouse:** Not to any state dinners. I went to a number of dinners at the White House, but we didn’t have that many state dinners when I was there. It was a great time to be home with my children. It’s a good time to be away from the White House when there’s nothing going on. I guess the event I remember most was at the very end of the administration when the President had a luncheon for all the former Presidential Medal of Freedom winners. He was giving that award to George Shultz and I forget who else. Howard, of course, had already received the Medal of Freedom, as had a number of other people who were there. It was a great assemblage of people from astronauts to just very distinguished Americans. Warren Christopher was there.

They were still serving wine at White House lunches, and one of the guests at my table—I was the senior White House staffer table host—had too much to drink. I don’t know if this person had been drinking before she got there. She was getting louder and louder, and I could just feel myself being stared at. I turned around, and Mrs. Reagan was looking at me with this “you need to fix this” expression, and the President was laughing, knowing me well enough to know that I was totally flummoxed and did not know what to do.

**Knott:** You didn’t fix it.

**Culvahouse:** One of the other guests at the table suggested that this person maybe ought to go the ladies’ room.

**Knott:** When Howard Baker left the White House in May or June of ’88, did you consider leaving as well?

**Culvahouse:** No.

**Knott:** It didn’t bother you at all that there was going to be a new Chief of Staff, and the person who brought you in was departing?
Culvahouse: I understood why Howard was leaving. Joy, his wife, was not doing well medically. He had gotten through Iran-Contra and through the INF treaty. Howard encouraged me to stay. There was more work to be done, so I never thought otherwise.

Chidester: Did you get the same access to the President with Ken Duberstein?

Culvahouse: Probably more so. I probably saw the President more. I saw the President as I needed to see him, and in the run-up to the election there were a lot of legal issues. You get into this nether world of *Are you flying on the campaign's nickel? Are you flying on the Republican National Committee’s nickel? Are you flying on the government’s nickel?*

If it’s the campaign’s nickel, you can say whatever you want to about George Bush and ask everybody to vote for him; if the RNC’s [Republican National Committee], then you’ve got to talk about the party; and if the government’s, you can’t talk about any candidate. So I spent a lot of time with the President in that regard, and on other legal issues with Dick Thornburgh for sure. I probably saw him more in the fall than I did just before Howard left, because of the run-up to the INF treaty.

Knott: I wonder if I could run some names by you that you’ve mentioned throughout the course of the day. You may have already exhausted what you had to say about these individuals, but any observations you have about them would be welcome, starting with Colin Powell.

Culvahouse: I didn’t know Colin before we went in. He was in place as the deputy national security advisor. The President had mentioned Colin, Carlucci, and Fitzwater as the three people he hoped Howard would agree to keep, but otherwise Howard had unfettered authority to change out the White House staff. I was very impressed with Colin. He’s a friend now. His son Mike worked for us. Mike’s a friend. I’m very close to Colin and respect him immensely.

Knott: You’ve mentioned Marlin Fitzwater once or twice.

Culvahouse: I love Marlin. He’s thorough and he’s absolutely professional, knows what he doesn’t know, great client, consults extensively, great strategist. He’s a lot smarter than people think he is, just because of his style. He’s a very good press strategist.

Knott: Did you know Frank Carlucci well?

Culvahouse: I didn’t know him before, but I got to know Frank well.

Knott: Did he do a good job in terms of stabilizing the NSC?

Culvahouse: He did. He built a great staff because the NSC had been totally demoralized. He put it back together.

Knott: We just mentioned Ken Duberstein. I don’t know if there’s anything else to add there.
Culvahouse: I’d known Ken before but spent a lot more time with him, obviously, and see Ken a lot. I worked together with him a fair amount.

Knott: Did you have a significant amount of interaction with Craig Fuller?

Culvahouse: Not that much. Craig was already in the Vice President’s office. Every interaction I had with him was very friendly, very good.

Knott: Were there people you did not have good relationships with?

Culvahouse: Probably, yes. It’s a White House. Jim Cannon, who was domestic policy advisor to President Ford, as we were going in to the White House, took me aside and said, “You’ve got to remember, you’ve been brought up in the Senate where people do battle with words and phrases. You’re going into a White House where they do battle with guns and knives.” It wasn’t that bad, because I think we had an uncommonly collegial, cohesive, White House staff—in part because we had changed out a lot of people, and in part because everyone understood the importance of rallying around the President.

Knott: Overall, was it a positive experience?

Culvahouse: Absolutely.

Knott: Some people have told us it was the highlight of their lives. Would you—

Culvahouse: It was the professional highlight of my life, yes, but not the highlight.

Knott: Good answer. President Reagan gave you the President’s Citizen’s Medal at one point near the end. Was that a moving day for you?

Culvahouse: It was, because the White House staff had been polled on who ought to get a Citizen’s Medal and asked to submit recommendations. My staff had my name on the list, and I crossed it off. I had them take it off, and I sent it in, but I got recommended by others, I guess.

Chidester: I don’t know if you have any recollection of this, but there’s a lot said about the relationship between George Shultz and Caspar Weinberger. I’m wondering if you have any comments on their relationship, if you saw anything there?

Culvahouse: I really can’t add much to it. You probably ought to talk to the people who really had more first-hand knowledge. They were unified on the one reference I made to the line in the President’s speech. Obviously they saw the world identically in terms of whether the arms sales to Iran should go forward. They saw that clearly, and they were unified on that, but in terms of the many times they allegedly didn’t agree, I can’t really illuminate them.

Knott: Can you talk about the transition to the Bush administration? We’ve had some interviewees saying that it was not quite as peaceful or as smooth as might have been assumed by the outside. I’m interested in what you saw and your characterization of it.
Culvahouse: Since the two staffs had worked together in the same 18-acre complex, I think the assumption was that there would be a lot more interchange, and there wouldn’t be as separate a transition as occurred. But in retrospect, some of the people who had been appointed by President Bush had been with him for years, knew what they wanted to do, were ready to go, didn’t need any coaching from the old guys, the outgoing guys.

I think where there were hard feelings was the request that everybody submit their resignation letter, and the belief that there were some people on that list who really weren’t Reagan people. They were Reagan-Bush people who were really good at what they were doing and wanted to stay. I’m not talking about assistants to the President. I’m talking about people lower down in the departments and agencies who were changed out just because the Bush transition felt like they needed to make a lot of changes. That was where I saw most of the tension. But in terms of how the staffs interchanged at the senior level, that was fine. There wasn’t a lot of transition interaction.

Knott: There was not a lot.

Culvahouse: There was not.

Knott: How often did you meet with Boyden Gray during this period?

Culvahouse: Only a couple of times. Boyden had been in the White House eight years.

Knott: Oh he had? I didn’t realize that.

Culvahouse: It was certainly for a long time. He had been counsel to the Vice President, he had sat through the—he knew an awful lot of what he needed to do. We got together to talk a little bit about open agenda items. The North trial had not yet commenced but was about to. We talked to him about the precedents that we had left behind, and what else I couldn’t leave behind that I thought he might want to get from some other places, a fairly longish meeting, probably got together a couple of other times.

Morrisroe: Did you have a lot of interaction with him during the, during your time in—

Culvahouse: Yes.

Morrisroe: On what sorts of issues and activities?

Culvahouse: He was very insightful about how the Iran-Contra thing was being handled. I talked to him a bit about staffing decisions, his recommendations of people he knew. He was our contact on this whole issue of what we ultimately called the Bush counting rules. They wanted Ronald Reagan out on the road during the campaign but didn’t really have enough money in the campaign to fund him very often. So he traveled a lot at Republican Party expense, which meant that he really couldn’t say, “I’m here campaigning for George Bush.” He’d have to say, “I’m here campaigning for Republicans.” We had what we called Bush counting rules; he couldn’t
mention George Bush any more times than he mentioned anyone else. There’s a candidate for sheriff out there who was gratified that the President of the United States mentioned him three times so he could mention George Bush three times. We coordinated a lot on that kind of stuff because some of the people on his staff—not Boyden’s staff, the Vice President’s—were a little upset that the President was not campaigning for Bush but was really campaigning for the Party. Well, there was a reason for that. So he and I met a fair amount to tamp that down.

Knott: I think you mentioned earlier that you helped prepare Clarence Thomas. Did I hear that correctly?

Culvahouse: Yes.

Knott: Could you tell us about that? How that came about and what you did?

Culvahouse: It was after Souter. I talked with Warren Rudman. Warren had called me up, along with Fred McClure and Mike Luttig, and asked me to spend some time with David getting him ready. I was on another vacation, but I flew to New Hampshire and spent four days with Souter. I guess that was thought to have gone well, so I was asked to help prepare Clarence.

Knott: How did that go?

Culvahouse: Ultimately, well.

Knott: Did you see that firestorm coming?

Culvahouse: No, no.

Knott: Were you surprised again at the ferocity of it?

Culvahouse: I wasn’t surprised at the ferocity. They were looking for something. We anticipated an attack, just didn’t anticipate that.

Hult: Did the Bush counsel’s office ask you for other kinds of help or consultation during their term in office?

Culvahouse: No. I was over there when Phil Brady was staff secretary. I did spend a fair amount of time when then Secretary of Defense Cheney appointed me to a Nuclear Command and Control Commission, looking at the control of our nuclear weapons. When he called me up, I said, “I don’t know much about Trident submarines or MXes” [Missile, experimental] and he said, “Well, you know who’s supposed to order their deployment and who’s not.” So I spent a lot of time on that, along with Jeane Kirkpatrick and Steve Hadley and a couple of other people. I enjoyed it, and I think we rendered a public service. If you see the movie Crimson Tide, at the very end it says, “As the result of some changes in policies, this could not happen again.” That was a lot of what we did.
I spent a little bit of time with Al [Alberto] Gonzalez during his transition in terms of what I thought he should be involved in and what I thought he shouldn’t, things like judicial selection, covert action planning, things like that.

Morrisroe: As examples of things he should be involved in?

Culvahouse: Just giving my advice about the extent to which he should be involved in those matters. I really don’t want to get into it. When you’re coming in, you can say, “Yes, I want to be all over that.” There’s part of that you want to be all over, and there’s part that really is below your pay grade.

One piece of advice I did give him—and this is not a criticism of anyone else—I don’t think counsel’s office should be a policy shop except for legal policy. We got involved in securities, regulatory reform, because a couple of my colleagues had a very deep interest in it. In retrospect that was, I think, a mistake.

Morrisroe: Is it because you lose your ability to claim the status of an honest broker?

Culvahouse: Certainly on that issue. And you have such limited resources and so little time. You want people in there who are functioning as lawyers and are willing to make quick decisions and get it right about 95% of the time—and 100% of the time on things that are really important.

Knott: Would give us your assessment of Clarence Thomas and what you saw in the time you spent with him?

Culvahouse: I have immense respect for Clarence. He’s very bright, deeply motivated, very coachable in the sense of wanting to understand the process, just like David Souter. What is it I’m getting into? Very hurt, upset, stunned at the attacks. My immediate takeaway was that those were unfounded allegations. But he had to win that personally. There was nothing that people like me could do. That approach was very much his.

Knott: You appeared in the news again, I believe, at some point in the Clinton years. I’m taking you very far afield here, but your personal files circulated around the White House along with some other Republican appointees. I believe you even testified before a congressional committee.

Culvahouse: I did.

Knott: What was this like? Do you have any remembrances from that time? Why were they interested in you, do you think?

Culvahouse: At the end of the day, I probably accept at face value the conclusion that getting our files over there was a mistake, in part because when they came in, they fired the professionals, the many people who really weren’t partisans, people like Jane Dannenhauer who had been there forever, and a couple of other folks whom I don’t think anyone had ever asked who they supported for President. They were just very good at what they did, but they fired
them. I guess there’s a long convoluted explanation. They asked for a list of all Reagan and Bush files that went through those people who were there at the end. Howard’s file wasn’t in it, because he was gone. The start date picked me up, and Duberstein and a few others. It stopped somewhere in the top one-third of the alphabet. I was there in late ’88, and my name started with a C, so that was how I was picked up. But at the time none of us knew that.

What I did know, having never seen my file, but knowing what’s in those files, was that I had not consented to them having my file. I had not agreed to be appointed to anything by the Clinton White House. Therefore, they had information that could have been misinterpreted or misused without my consent, and the people who had it were absolutely unqualified to be performing the job they had. Worse yet, that’s really sensitive work. It’s work that has to be done so carefully.

I can remember talking to people—not so much Senate confirmed, but people who were going to work as confidential assistants, people who were going to work for the Interior Department or whatever. They would say, “I have this issue, this problem. This is going to show up on my FBI file, because I’m going to tell the truth. So I assume I shouldn’t go through this.” We would at times say, “Look, if that’s the only problem, the only people who are going to know about it are the FBI Washington field office, one person on my staff, the deputy counsel, and me. If that’s all there is, then you’ll be all right.” There were a couple of those people on that list, and that’s what really bothered me. And they were really upset.

At the hearing, a couple of Congressmen, [Tom] Lantos and [Howard] Berman, were basically saying, “You suffered no harm. No one ever leaked anything about you, so why are you complaining?” Well, that’s not the issue. The thing is I had not consented to those people having my file. I had consented to the Reagan White House having my file; I had consented to the Cheney Defense Department having my file; I had consented to the Senate Intelligence Committee having my file for some work I did on espionage laws on behalf of the Senate Intelligence Committee. But to me they were missing the point. I feel strongly about it, as you can tell, because you need good quality information, and if people think that those files are being misused—

The Clinton administration needs good quality information. I saw John Podesta a couple of weeks later, and he was laughing. He said, “You really roasted us.” I said, “John, you deserved it.” He said, “You’re right.”

There’s an assumption that the White House is 100% composed of partisans. And even though they’re not civil servants, there’s a core institutional staff that ought to be kept, the clerk’s office, that function and a number of other functions.

Knott: Could we ask you some general questions about Ronald Reagan to conclude things? Did you read the Edmund Morris book, Dutch?

Culvahouse: I tried to read it. I put it down after about a third, halfway into it.

Knott: Do you remember him being around in the White House?
Culvahouse: I do. I really, really admired TR, the biography of [Theodore] Roosevelt. It was one of the two best biographies I’ve read.

Morrisroe: Out of curiosity, what was the other?


Knott: So you felt that Morris did not capture the President accurately?

Culvahouse: Totally off base.

Knott: Did you think Morris was looking for a complexity in Reagan that simply wasn’t there?

Culvahouse: Maybe. As I told Lou Cannon, some of the President’s enemies dismiss him as—I forget who called him “amiable dunce.”

Knott: Clark Clifford.

Culvahouse: Clark Clifford. Which is not the case. If and when his diaries are published, you’ll see a fairly insightful mind, a person who sees the matters he chooses to focus on very clearly. One of his great strengths is that not everything is negotiable. We have too many national leaders where everything is negotiable. For him, there were some things that were totally not negotiable. You could agree or disagree with his position, but you knew what it was. But what was amazing to me about Reagan is he was without guile. I never, ever, felt that he was shading, misspeaking, covering up. He was pretty much guileless once he trusted you. And that can be misunderstood.

There’s probably not enough of a paper record, but when you see some of the staffing decisions and the various options that he was given, you’ll see a fairly unpredictable big-picture thinker. This notion that somehow there was a constant struggle between the true believers and the pragmatists—

I don’t know what happened in Iceland. I wasn’t there. But I do know what happened with the INF treaty, and I know that Ronald Reagan was the driving force. It wasn’t Baker, it wasn’t Powell, it wasn’t Carlucci, it wasn’t Shultz, it wasn’t Max Kampelman. Reagan seized control of that and pushed it forward and broke the bureaucratic logjam because he believed in it. He instinctively believed that he knew more about the Soviet Union than the work product he had been given.

Knott: Why do you say that? That last statement intrigues me.

Culvahouse: You can see it to this day. You get assessments about Iraq, assessments about any country: What is their strength? Do they have WMD? Do they have this capability? What’s really happening there? You’ll get an awful lot of “on the one hand, on the other hand,” “we believe,” “there’s 80% possibility,” and so forth. There’s still a lot of that. If you look at the intelligence product that came in at the time we were doing the INF treaty, there was still a big
segment of the national security community that said that the Soviets are liars and cheats and they’re just using this as an opportunity to sucker-punch us, and they cannot be trusted.

There are others—the rosy scenario people—who wanted to believe good things about everybody. You have other people, certainly in my profession, who fall in love with the deal, fall in love with the treaty, fall in love with the negotiation, and don’t keep perspective. I think the President really was the driving force. He was the person who felt that Gorbachev could be trusted and that Gorbachev was more desperate than anyone realized and that we should trust ourselves to be able to verify.

I’m sure there are lots of people who deserve a lot of credit for negotiating a good treaty. It was a huge effort to get it ratified and so forth, but the President made the deal. He didn’t make the deal sitting down with Gorbachev and negotiating. He made the deal in terms of making the decision that we’re going forward, we’re going to do this, it’s a risk worth taking.

Knott: What do you consider to be your most significant contribution during your time in the White House?

Culvahouse: It has to be Iran-Contra. More organization than anything. One, minimizing the political damage by being able to ultimately execute the President’s pledge to cooperate. More importantly, I think we had the staff and the resources to place documents in context. If a Senator (as happened on more than one occasion)—or a member of a House committee—said, “This document shows that the President knew this or that,” we were able to pull it up, put it in context, show four other documents. We could indicate, “This is page 10 of a document that was attached to a transmittal letter that may or may not have been shown to Ronald Reagan.”

We pushed back on the Boland Amendment interpretation. I don’t think anyone thought we won, but we fought that to a standstill, and you didn’t see anything about “Ronald Reagan violated the Boland Amendment” in the report. It has to be Iran-Contra. We got through that difficult time.

I think North and Poindexter would have said what they said regardless of what we did, but between late February and when they ultimately testified, the President could have lost a lot more political capital than he did. I think we would have given those who don’t wish him well a free shot at characterizing a lot of things in the worst possible way.

Knott: Not to take you back, but when you entered the White House in February, March ’87, was the possibility in the back of your mind that you might be dealing with an impeachment?

Culvahouse: Yes.

Knott: Did you take any steps to prepare for that?

Culvahouse: No. I’d done a lot of reading about impeachment back in the Watergate years when we thought there might be one on the Senate side and Howard wanted me to make sure that we had the files and were good to go. So I pretty much knew the procedure. But we didn’t have time
to look that far down the road. If he had known about the diversion—or if someone had said he’d known about the diversion—I think it would have gone there, definitely would have gone there.

I was convinced then—and am now—that he did not know about the diversion. I’m not that partisan, but even had North said he knew, and we had been able to demonstrate beyond a shadow of a doubt that North never had a one-on-one conversation with him, I still think that Peter Rodino, who was chair of the House Judiciary Committee, would have convened an impeachment hearing.

**Knott:** So you never pulled somebody aside on your staff and said, “Could you start—”?  

**Culvahouse:** No.

**Knott:** When you went out to meet with President Reagan after he left the Presidency to prepare him for his testimony, was that the last time you ever saw him?

**Culvahouse:** Substantively, yes. I think I saw him one other time. I’m really fond of Kathy Osborne, who was his long-time special assistant. She’s now Warren Christopher’s assistant. I put her together with Chris. I went by to say hello to Kathy because our office is in West LA—we have two Los Angeles offices—we’re just two blocks away from the President’s office. So I went by to see Kathy. I think I probably saw him maybe a year after that.

**Knott:** Kathy strongly recommended that we speak to you.

**Culvahouse:** Kathy’s a good person.

**Knott:** Do you have any final thoughts about Ronald Reagan or your time in the White House? Have we exhausted everything? Is there anything we missed that, if you were in our shoes, you would ask?

**Culvahouse:** That’s not fair to ask. No, I think that does it. This has not much to do with President Reagan, but I find interesting today the Yunis case. This was a terrorist who killed a Navy diver on the steps of an airliner in Beirut. It was ascertained that he was also a drug dealer and we might be able to lure him into international waters and arrest him. The legal question was could we keep him if we got him? It was one of the most interesting, difficult issues at the time. You had Sofaer, Weld, Russ Bruemmer from the CIA (I forgot who at the FBI and DoD) and Cooper from OLC. It was a tough issue. We weren’t sure we could keep him at the time. Now we’ve got Guantanamo full of people like that whom we grabbed in Afghanistan and other places.

**Knott:** He was convicted and sent away?

**Culvahouse:** He was convicted and sent away. We lured him to a yacht where he thought he was going to do a drug deal. Our conclusion was—and this was based on Supreme Court dicta—that we could keep him if the manner of his detention did not offend sensibilities. He was detained
and put in a straightjacket and put in the back seat of a Navy jet, which was refueled all the way across the Atlantic, and brought into Andrews. We drew a good judge.

Which goes back to another question you asked, because there might have been a judge someplace who would have disagreed with how he was arrested. That case has been cited a lot now. It was really a great group of lawyers and colleagues. That was one of my favorite non-Iran-Contra stories, matters that we worked on, because it was just so much of an uncharted sea. None of us really knew what the right answer was.

**Morrisroe:** Did you end up deciding by consensus, or were you all in agreement at the end?

**Culvahouse:** I don’t remember. Knowing that group, I doubt that everybody agreed.

**Knott:** Well, we want to thank you very much. This has been very enlightening. If you have a chance to speak to Howard Baker, put in a good word for us. Thank you so much for coming down. We know you’re a very busy man, and we’re very grateful.

**Culvahouse:** Thank you. It’s important work, and it’s important to me that Ronald Reagan be remembered appropriately.