

An Interview with Stuart H. Shiffman

Illinois Supreme Court Historic Preservation Commission

Stuart H. Shiffman worked in the Attorney General's office, opinions division, from 1974-75, the Sangamon County State's Attorney's office from 1975-79, returned to the Attorney General's office, this time in the criminal division, from 1979-80, and then returned to the State's Attorney's office from 1980-83. In 1983, he was appointed an Associate Circuit Judge in the 7th Judicial Circuit and served in that capacity until 2006. After his retirement from the judiciary Judge Shiffman worked for the State Appellate Defender and in private practice with the law firm Feldman Wasser.

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Abstract

Stuart H. Shiffman

Biographical:

Stuart H. Shiffman was born in Chicago, Illinois on March 4, 1948 and spent his early life in Chicago, and later Skokie, Illinois. After graduating from Evanston High School in 1966, he attended and received a degree from Northwestern University in 1970. After working in Chicago for a year, he attended and graduated from DePaul University Law School in 1974. From 1974-75, he worked in the Attorney General's office, opinions division, in Springfield, Illinois. In 1975, he joined the Sangamon County State's Attorney's office, working as an assistant state's attorney, and served in that position until his return to the Attorney General's office, this time in the criminal division, in 1979. In 1980, he returned to the State's Attorney's office, serving until 1983, when he was appointed an Associate Circuit Judge. From 1983-2006, Shiffman served as an Associate Circuit Judge in the 7th Judicial Circuit. Upon his retirement from the bench, Judge Shiffman served in the State Appellate Defender's office and in private practice with the law firm Feldman Wasser in Springfield, Illinois. Shiffman, and his wife Merle, are the parents of three children: Sara, Jessica, and Anthony.

Topics Covered:

Parents and family history; early life in Chicago and Skokie, Illinois; Cold War; Cuban Missile Crisis; 1960 election; teenage years; reading and books; early jobs; influential teachers; Vietnam war; the draft; Northwestern University and undergraduate education; conception of his generation; political and social views as a young man; decision to study law; DePaul University Law School and legal education; finding a job in Springfield; Springfield, Illinois; nature of the local bar; Jewish community in Springfield; meeting Merle, and family; Attorney General's office; finding a job with the State's Attorney's office; prominent attorneys; work with State's Attorney's office; memories of cases and judges; *People v. Aldridge*; *People v. McCarty*; returning to Attorney General's office; appellate work; *People v. Brownell*; Attorney General William Scott; return to State's Attorney's office; memories of cases and judges; change in legal work over time; decision to become a judge; getting a judgeship; politics of the judiciary; assignments and work as a judge; domestic relations; criminal and civil cases; reappointment; changes in legal work over time; running for circuit judge; judicial elections; memories of cases; work in Chicago; criminal justice system; death penalty and change over time; letter to the editor; the judiciary and the media; enhancing the public's awareness of what the judiciary does; bar associations and the judiciary; politics of the judiciary; role of judiciary and lawyers in society; pro bono and philanthropic work; civic engagement; future of the profession; legacy; and activities after retirement from the bench.

Note:

Readers of this oral history should note that this is a transcript of the spoken word, and that it has been edited for clarity and elaboration. The interviewer, interviewee, and editors attempted to preserve the informal, conversational style that is inherent in such historical sources while also editing for clarity and elaboration. The Illinois Supreme Court Historic Preservation Commission is not responsible for the factual accuracy of the oral history, nor for the views expressed therein.

Judge Stuart Shiffman: An Oral History

LAW: [This is an oral history interview with] Judge Stuart Shiffman, today's date is May the 29th, 2015, we're in his law offices here in Springfield, Illinois. Judge Shiffman I thought we would start with, when and where were you born?

SHIFFMAN: I was born March 4th, 1948, in Chicago, Illinois, at Michael Reese Hospital. I am the second child of the marriage. My brother Stephen is four-and-a-half years older, and he was born, also, in Chicago. My parents were married in Winnipeg, Canada, June, I believe it was June 15th, 1941. I know the year because my mother always had on her license plate, her Illinois license plate, was Winnipeg 1941, WPG 1941. They were married, when they were married my father lived in Chicago, he'd come to Chicago in the [19] '30's and she moved, she always used to talk about how it was really somewhat traumatic for her because she got married in June and then moved to Chicago and spent the rest of their lives in the Chicago area until my dad passed away in 2001 and my mother passed away in 2012 [2013], both in January.

LAW: Now tell me a little bit more about your dad, Max, and his background?

SHIFFMAN: Well my dad came to the states, as I said, in the early [19] '30's. His family moved – both my families, both my mother's and father's families lived in Winnipeg, they came, when they came to this country, both came from Russia or what would be parts of Russia around the turn of the century. We have documents, we've seen some of the books from Ellis Island, where they signed in and they came, but they didn't come together but they just ended up in Winnipeg, they ended up in Canada. I'm pretty sure back in those days it was not quite as easy to get into the United States as it's been at

other times. So they came and they went to Canada which was a haven for immigrants at that time. It was always kind of interesting because both my mother's family and my father's family – obviously my father's family are the Shiffmans and my mother's maiden name was Zipursky, and both families came to Canada. Most of the Shiffmans moved eventually from Canada to the United States, many came to Chicago, both my mother and father were parts of large families, I believe both had nine or even perhaps, nine brothers and sisters. But most of the Shiffmans moved to the United States, they came to Chicago, a few came and went to the west coast. My mother's family stayed in Canada, but moved across Canada, some stayed in Winnipeg, a couple moved to Calgary, a couple others moved to Vancouver, and as I grew up it was really kind of interesting having these large families. We had the Shiffmans here in Chicago and we were a very close family, not just my brother and I, but, I remember doing all kinds of activities with all members of the family, we actually had, the family would get together once a month for dinner, poker, the women would visit, and then we had my mother's family spread all across Canada and we would go to a lot of family functions and events across Canada, everywhere just about but Quebec, they were in Alberta, they were in Manitoba, still are, some, right now.

LAW: Did you ever know your dad's father?¹

SHIFFMAN: I did, my dad's father, he was in Chicago, both my grandparents, I never knew my mother's parents because I believe they actually passed away before I was born but my father's parents both lived in Chicago and my grandfather, he had a newsstand at one point and I never really remember, he died when I was, I think, twelve or thirteen years

¹ Moses Shiffman.

old and he was not like a modern grandfather, by that I mean he never came to my Little League games, he never came to school events or anything, he was a very quiet man, he was somewhat scholarly, in a religious way, I don't know exactly what he did and of course I never asked, he was kind of the leader of the family for Jewish holidays and things he was always the man in charge, and I would talk to him every once in a while but his English was not the best, he spoke English but as they used to say, my mother would say, "He spoke English with a broken hand-writing," but he spoke English. On the other hand, my grandmother did not speak English, she spoke mostly Yiddish and growing up I remember my parents spoke Yiddish as well, and that was of course the time when you were sitting down if you were having dinner at home you knew they were going to talk about something they didn't want you to hear because they immediately started speaking in Yiddish. Now I don't speak very much, just a little bit that I picked up, but of course my grandmother spoke no English but I remember somehow we were always able to communicate with her, there was one time when my parents had to leave town and the person who would normally stay with my brother and I was unavailable so my mother said, "You're gonna stay with," she was referred to as Bubby, "You're gonna stay with Bubby for the weekend," and I said, "But Bubby doesn't speak any English," and they said, "Don't worry, she'll know what to do," and of course she knew what to do, she fed us and we ate and we communicated somehow. We didn't learn very much from our grandparents at that time just because they didn't communicate very well, you know, you didn't sit down and talk as much with your parents, with your grandparents as much, you weren't as actively involved as the modern generation.

LAW: Did they ever tell you about why they immigrated to Canada and then the U.S.?

SHIFFMAN: (Chuckles) I have a feeling that they immigrated because, obviously, in Russia because Jewish people were not treated the best. There is a picture someplace that I have seen, that I remember seeing, of my grandfather, my mother's father in a Russian soldier's uniform and then, sometime shortly after that picture, the next thing there's a gap and he, and they, end up in Canada. Well I would assume they came to Canada, both Canada and the United States for the same reason that most people were coming in the early 1900's, they wanted to leave Russia, this was, North America was the land of opportunity and this is where they wanted to come.

LAW: Okay. Now I didn't know that they lived in Winnipeg and this may not be the case but did they ever have or share any memories of the Winnipeg General Strike during the WWI era?

SHIFFMAN: No, they did not, and it's interesting, we have in recent years our family the Shiffmans, through activities of one of my older cousins, has really become very actively, has been very much involved in searching the family history and the family background, but that was never discussed and I wish it had been because I've learned quite a bit about Winnipeg history over the years. I'll have to ask him if he has any information about that but I have nothing about that at all, I wish that I had, I don't even know, to be honest with you, I don't know what my grandfather, the one who came to Chicago, I don't know what he would have been doing in Winnipeg. My mother's family, I do know, my mother's family in Winnipeg owned a general store, it was a small town outside of Winnipeg called Kildonin and they had a store and actually had a small farm. One of the great stories that my mother always told was about the time that they had to go out and milk the cows because something had happened, so the sisters would go out and milk the cows

so my mother was very proud of the fact that she at least knew how to milk a cow, and years later, (chuckles) years later here in Springfield I participated in a cow milking event in one of my unsuccessful runs for higher judicial office there was an event out at Lanphier Ball Park and it involved, there were teams that were milking cows and so after doing that I remember calling her and saying, “The family has now gone full-circle because I have at least attempted to milk a cow,” I did get milk out of that cow but I don’t think we won.

LAW: They end up in Chicago and then your dad ended up in the service during WWII?

SHIFFMAN: Yes, actually when my dad, as I said they came here in [19] ’41, they were married in [19] ’41, prior to that time I believe, I’m pretty sure when my dad graduated from high school, of course in the Depression, and although he was a very good student, my dad was a very intelligent man, he could not afford to go to college at that point in time, I believe he took some junior college classes but he became a draftsman, that was his first job, and as a draftsman his first actual job was working in Chicago for a company that was called, I think still exists called, Link-Belt [Construction Equipment Company] and Link-Belt manufactured, at that time manufactured, tank treads among other things. So when the war broke out my dad actually had an occupational deferment for a few years and then he went in to the service, I think, in [19] ’42 or [19] ’43, he got as far as Fort Knox, Kentucky, [United States Army post]. I remember, of course when you’re a young kid you always want your parents to be far more important than perhaps they really are and as a young boy I wanted my dad to, of course, be a war hero, to have done something in the war of great importance and I went to ask him, I said, “Did you ever get a purple heart, did you ever get wounded during the war?” And he looked at me and he

said, "One day in Fort Knox when I was shaving the air-raid sirens went off and I got frightened and I cut myself." So he never got outside of Fort Knox, he did meet a lot of people actually who remained friends because they came back but he did not serve, but interestingly, this is another interesting aspect of that war, a lot of the participants, a lot of the men who fought in World War II really didn't speak about it very much. I had a cousin, also from Winnipeg but who came to Chicago, ironically enough, his name was Max Shiffman, he was referred to, the family had Big Max, that was my father, and Little Maxie, he was my first cousin, I never knew, he passed away a few years ago, he lived to be into his nineties and I never knew until I read his obituary that he had actually gone overseas, he was living in Canada at the time in the late [19] '30's when the war broke out, he went overseas as part of the Canadian forces that fought before we got into the war, he was in the artillery in Europe and then fought in that war. I had a cousin, first cousin, here in Chicago who fought in Italy during the war and I never knew about it until the movie *Patton* came out and I remember we were at a family function talking about the movie and everybody was saying, "Oh it's really so great," and this and that and he didn't like [U.S. General George Smith] Patton [Jr.], he had fought under Patton of course and many of Patton's soldiers were not that enamored with the legend of Patton, but he had done that. We had another family friend during the war. I remember my parents took a trip to Italy

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and they went overseas with these friends of ours and my dad was telling me that this gentleman had fought, had been a bomber pilot, he was a bombardier in the [U.S.] Air Force and his plane had been shot down over Italy and he was able to survive and got out

and he had actually been hidden by an Italian family from the Germans for a brief period of time and they were going back to Italy to see if they could locate that family, of course they were unsuccessful. My dad never got beyond Fort Knox, they were in a unit that was probably scheduled to go to Japan but after the [atomic] bomb and the Japanese surrendered he left, you know, he was finished, and in fact when he came home, now, he came home at the end of the war in [19] '45 and again I remember having this discussion years later, but my mother said, "When he came home I wanted him to go to college," the G.I. Bill [the Servicemen's Readjustment Act of 1944] had been passed and, "I wanted , him to go to college, we would sacrifice so that he could go to college," everyone thought he was a very intelligent person but he didn't want to do that so he started his own business which was the – his first gas station that I remember, I think there may have been one before, but his first gas station was located at Central Park [Avenue] and Foster [Avenue] in Chicago, it was a Texaco gas station, I remember going there all the time when I was a little boy, I can actually picture it now, I can remember what it looked like, and there was one of those old-fashioned soda machines in the front, you know the kind you put a dime in and you slide the bottle all the way to the end and you lift the bottle up and I would get my bottle of Kayo, that was chocolate pop back in those days, but he had that gas station and we lived in Chicago. My first recollection, the first place I remember was we lived in a building, I think it was on Harding Avenue and it was a large apartment complex that had a kind of common area in the center and there were apartment buildings all around and we lived in one apartment, my aunt and uncle, it would be my father's sister, lived in an apartment across the way, there was another sister who lived about three apartments down the complex, and I remember when I was growing up on Sundays

waking up and my mother would say, “What do you want for breakfast?” And she would offer me what there was in the house and I would say, “I don’t want that,” and I would walk down the stairs and walk to my aunt’s house ‘cause she always had better breakfast on Sunday mornings and I’d go down there and have breakfast sometimes; but we had family all the way around, just everywhere. Then, so I started, we lived there and then we moved as a family from Chicago to Skokie, [Illinois] I would have been in third grade, so I was eight years old. I remember starting school in Chicago at Volta [Elementary] School, attending there, and then we moved out to Skokie and my first school in Skokie was College Hill [Elementary School] which is no longer in existence. Although we lived in Skokie we lived in an area that was part of the Evanston schools so it was kind of a, school districts don’t always, the borders don’t always coincide with the village districts so we were there and I went to College Hill for third grade, fourth grade, and then they built, because of the population booming in that area they were building schools, they built another elementary school that was Timber Ridge Elementary School and I transferred, I went to Timber Ridge for fifth grade and sixth grade and then we went to junior high school, Skiles Junior High School, seventh and eighth, and then finally Evanston High School and I graduated from Evanston in 1966.

LAW: What do you think the motivation was for your parents to move out of the city to – was Skokie considered a suburb at the time?

SHIFFMAN: Skokie was a suburb, obviously it was, for my parents it was the motivation, number one, to have their own house, they moved out, we built, we lived in a nice Georgian house, I still remember 8725 Springfield [Avenue], still there, every once in a while when I go back up there I do drive by, it was the American Dream to live in the

suburbs, I think my dad of course, he had his gas station at Central Park and Foster but he wanted to move, perhaps, out of the city and he, actually, when he came out he had a gas station then at Main [Street] and McCormick [Boulevard] in Skokie and then, actually, took over a gas station that was at Dempster [Street] and Crawford [Avenue] in Skokie which was about three blocks from our house. Obviously the desire to own a home, the desire, still in those days I think there was the belief that the suburbs offered a little bit more, the education, whatever, I was never privy to the discussions, I'm sure that the reputation of the Evanston school district in those days was very good, it still is – everybody was moving out, everybody was moving to the suburbs and I think it was the era of that desire in your lives.

LAW: Tell me about growing up in Skokie in the [19] '50s, what was a young person doing at the time?

SHIFFMAN: Well, of course the first thing I remember was, I remember when we joined our synagogue, there were synagogues sprouting up in Skokie, Skokie had a very large, although not a majority, very large Jewish population and my family – growing up a great deal of my life was spent with activities related to both Jewish and traditional holidays, the family always was together for every Jewish holiday, and I mean the big family, and for every Thanksgiving, for Fourth of July, for every holiday even, we didn't celebrate Christmas but on Christmas day we were always together with other family members just for a dinner or to get-together and spend time. But growing up was quite a bit different than it is today. I have two grandchildren, well I know, I've raised my children and now I have two grandchildren and I see the things they do and it was much different. We grew up, I had, I don't know, a lot of friends in the neighborhood so we would always go and

from our house to school was probably five minutes or ten minutes riding your bicycle, we would go back over to school and we'd play baseball and we'd play just all kinds of things outside. Growing up, in my neighborhood, when we moved to Skokie there was, I think there were three houses on our block, there were a lot of houses under construction and one of the great events that we had as boys growing up was to go to the houses that they were building and when they weren't working on them, to play, now you would never do these things now days, parents would never allow us, but we would go into these houses that had just been framed out and we'd be climbin' all over inside, we played soldier, we'd play cowboys, we played those kinds of games; growing up was just a lot of unstructured activities, we'd play, as I say there were probably five or six boys of my age. Interestingly enough, now that I think about it, there were a few, but of course boys never played with girls back then and vice-versa but the boys would, we would do all kinds of things and I would go to their houses and they would come to my house and we would just do the normal things that, the normal unstructured things that kids would do. The only organized activity that I participated in as a boy, of course I had to go to Hebrew School, and that was a couple of days a week, and then I played little league baseball, we would play football but nowadays they have all of these youth teams for every sport, if we wanted to play football we would just call up everybody we could find and we would get as many kids as we could find and we would go to the park and we would put on our helmets and our shoulder pads and we'd play tackle football, sometimes we'd play touch football but we always played self-structured individual sports was probably the biggest thing that I did. They didn't have the kinds of activities back then that, even when my kids grew up they played – well, my daughter, I have a daughter who

was involved in dance, I have a daughter who was involved in other activities, my son was involved in baseball which he didn't like but he played the organized football starting when he was in, I believe, sixth grade; so the kids had much more structured activities, we didn't have those kinds of structured activities.

LAW: Now the [19] '50s is also kind of the early years of the Cold War.

SHIFFMAN: (Laughing) yes, yes.

LAW: Do you have any, what are your earliest memories of the Cold War?

SHIFFMAN: My earliest memories of the Cold War, that's interesting, well I have a memory, believe it or not, of being someplace on vacation with my parents, this must have been 1952 'cause I was born in 1948 and I have a memory of being some place where there was a television, and you know we had a television, of watching, I believe, the convention, one of the party conventions, I think it was the Democratic Convention because I have this very vague memory of seeing [Illinois Governor] Adlai Stevenson [II] on TV, then of course I have memories from the [19] '56 convention, we would, we had, our next door neighbors, we were very very close with our next-door neighbors, close to the extent that we had back doors that faced each other and we never had them locked, we would go to their house, they would go to our house, almost every night of the week I remember my parents and my next-door neighbors, now their name was Edinson, they would sit down and they would just talk. My father was a very active person when it came to current events, he taught me many things and one of them was we read four newspapers every day, in those days it was the *Chicago Tribune*, the *Chicago Sun-Times*, the *Chicago Daily News* and the *Chicago American* and from the time I could read a

newspaper until the papers started to fold, even when I was in law school I was reading, when there were four newspapers I would be reading them every day. But we would always discuss current events. Now Cold War, the one thing I remember of course was, I guess it would have been probably maybe in the late [19] '50s early [19] '60s I remember actually the Chicago, the Sunday *Chicago Sun-Times* actually put out an edition where one of the things they included was a little pamphlet on how to build a fall-out shelter. I remember when I was in junior high school and doing a science project, one of the science projects that I chose was about the impact of an atomic bomb and I remember taking maps and drawing, with a compass, drawing circles for how, if a bomb landed in Chicago, if a bomb exploded in Chicago, what would be the impact in the areas in the suburbs. I remember, now this was a little bit later, I guess the biggest recollection I have would have been the Cuban Missile Crisis, I would have been, I'm pretty certain I was a freshman in high school, a freshman at Evanston, and one of my classes, I think your freshman year you took a class and I think it was called History of Civilization, and I remember going to that class, I think it was first class that I had in the morning, I remember going to that class the day that the Russian ships were headed towards Cuba and the blockade had been imposed

[00:30]

and I remember our teacher essentially telling us that morning that, "We could be at war by four o'clock this afternoon," and, there was a lot of discussion about that, there was a lot of worry but it was just one of many things, I'm jumping around here a little bit, but I remember the election of 1960 was the first election that I really paid attention to and my family is a, my father was a very progressive, liberal man and we were traditional

democrats and I remember that election, I recall staying up very late at night to watch the election and watching [U.S. President John Fitzgerald] Kennedy being elected. That was a generation, he was a very inspirational leader at that time and history teaches us a lot of things, you know, now people are starting to re-examine the [U. S. President Dwight David “Ike”] Eisenhower years but I remember everybody kind of thought, “Eisenhower is this old man and he’s worn out his welcome and Kennedy is this young vibrant person,” so it’s more of those political recollections. I can remember growing up some very spirited family discussions about all kinds of topics, now we never really talked about the Cold War very much, in fact it wasn’t until years later that we discovered that we still had relatives in Russia, in fact, I was already grown, and I think I was living in Springfield when my mother told us that they had discovered that they had a relative from Russia who was actually coming over, this would be the immigration waves of the probably [19] ‘70s or the [19] ‘80s, but they came, we had a family who came over that we became friendly with in Chicago, they’re still there I think; but we had spirited family discussions always. In 1964 my brother, my older brother, announced one night at a family event that he really thought, let’s see, he would have been old enough to vote in 1964, no maybe not, he was born in [19] ’44, no he would not have been, but anyway he announced that he was supporting [U. S. Senator Barry Morris] Goldwater.

LAW: Interesting.

SHIFFMAN: Interesting! Almost led to a fistfight at the family, because that was a terrible thing, but he’s since has come back to the fold, he was kind of the political outsider a little bit. I remember one time and this would have been later [19] ’68/[19] ’69, and now we’re all grown, at the house where we had a huge argument about the Chicago [Seven]

Conspiracy Trial and I remember arguing with my uncles very much about Judge Hoffman and the things that he had been doing during the trial, now I was only, that would have been [19] '69 so I was still in college, and I think by that time I had pretty much decided I was going to law school and I was keeping up on legal issues as well but I remember just a very spirited debate and discussion with my uncles essentially taking the law and order position and I was a little more liberal even at that time. But there were often political discussions, we would discuss politics, we would discuss sports, there would be friendly arguments, you know, it was just a different time I guess then, a different view of politics.

LAW: But how did you view communism in the Soviet Union?

SHIFFMAN: Well, I viewed it the same way everyone else did at that time, I viewed it as the enemy and I viewed it as an evil empire, they were out to destroy America and we had to fight them at every avenue at every opportunity; I don't think I was much different than most people with their view at that time.

LAW: Tell me what it was like to be a teenager in the early [19] '60s, how did your life change, what was your first job, what were your extracurricular activities?

SHIFFMAN: Well let's see, when I was in high school I didn't have a lot of extracurricular activities, I played football, I believe, one year, but I was very small and I was very bad. I participated in other, the typical activities in high school of the chess club and other types of activities, a lot of times not organized things, I didn't write for the paper or anything of that nature but I was still very active and I did a lot of sporting events and I did participate in a lot of sporting events and I remember all the time in high school we

would come home many times and there would be a bunch of us, we'd still go out, and we'd play touch-football or we'd play baseball, we were still playing sports all the time we were in high school. I was studying and reading, I've always been a very, very avid reader.

LAW: What were some of your important books you were reading when you were young?

SHIFFMAN: Well, I'm one of the generation, I remember reading *To Kill A Mocking Bird* in, I guess it would be 1961, actually I remember reading it, by that time my brother had started college, my brother was at Bradley University and I remember going down for a Parents' Weekend and I had that book and I remember reading it at that time and of course I remember the movie and, gosh, I can't remember, that book had such an impact on my generation, I can't think, I read a lot. I'm also, I suppose this is a good time to confess this vice, I had a unique opportunity growing up to read a lot of comic books, now this is kind of – one of my uncles owned a newsstand, back in that era when the comic books would come out every week, now when the comic books came out at the end of the week the ones that were not sold could be returned for credit but they didn't have to return the entire comic book, they would rip off the front cover, they could keep the rest of the comic book but they would get their credit by just sending back the front cover, well my uncle, uncle Dave, had this newsstand and every couple of weeks he would pack up all these comic books without their covers on them and he would let me and other nieces and nephews could pick out comic books and I remember getting these boxes of comic books and the first thing that I would do is I would go through them and I would sort them from best to worst and I'd start by reading the worst ones, the ones I didn't like, then I'd finish up by reading the good ones, *Superman*, *Batman*, *Blackhawk*,

there was a character called Blackhawk, I read comic books voraciously and to this day, in fact, I read comic books voraciously and I remember in high school doing a paper on comic book censorship and to this day I defend the reading of comic books because, I said, I grew up reading comic books, it taught me how to read. I used to read a lot of, I read the typical things I think that kids read growing up, you know, I read a lot of the sport's books, you know, the Chip Hilton books, there was an author, his name was John Tunis and I remember reading him in fifth, sixth and seventh grades and in fact I still search for his books now and I have collected a bunch and I have kept them for my grandson, but John [Roberts] Tunis wrote baseball books, he actually wrote a book, I recommend it to anybody, it was called *The Kid Comes Back* and I remember reading this book in sixth or seventh grade and it was a story, this was a book well ahead of its time because it was a story of a baseball, a character in his book, who had played baseball for the Brooklyn Dodgers and then went off to serve in WWII and after serving in WWII he came back to Brooklyn and the book was essentially about his adjustment in coming back from the war and now going back to play professional baseball. The book was well ahead of its time because people didn't write about those things, you never heard about the issues involved in returning men from WWII, you would hear about it later on, you know, Vietnam [War], the Iraq War, and now you talk to people but back then this book, and this was a book for children, and I still have, I think I have two copies of it, and I read the sport's books and I still am; reading is a great pass time. And in my age now I've gotten to the point, actually, I do a lot of reading and I do a lot of writing, well it's not great writing but I write a lot of book reviews, I write book reviews here for *Illinois Times* and for a website, it's called *Book Reporter*, you can find my stuff if you go on

there. And I will say reading was a habit, reading was something that I learned from my dad, my dad read, we had books in our house always, he read quite a bit and back in those days growing up of course the public library in Skokie was a wonderful library, still is I believe, and of course the schools had libraries, you were always, you could always get books so there were books available. But *To Kill A Mockingbird* and the rest of the books of, I can't think of any others, really, it wasn't until years later that, when I finally had the time, when you're not bound, when you're not forced to read books because of academics that you really can expand your horizons and start reading. But I would read books, I would – well there was another, gosh this is great, there was another series of books when I was growing up called Landmark Books, Landmark Books were a series of history books actually written by very well-known authors but written for children, written for young people and so they would have *Washington: The Father Of Our Country*, *Abraham Lincoln*, they were biographies or historical things, I still have one from *Custer's Last Stand* (chuckles) and it's probably the most biased book about, [U. S. General George Armstrong] Custer was the hero and Custer, they were massacred by the evil Indians, but reading these books you learned about events but you perhaps didn't learn all the facts, they were very slanted but still they were wonderful books to read and to learn a lot about history.

LAW: Tell me about your first job.

SHIFFMAN: Well my first job, of course, was at Dempster [Street] Texaco, from the time I was, probably from the time I was fourteen or fifteen years old I could walk there, actually I should say my first job probably was babysitting, as I said we had these next door neighbors who were very close, they had three children and many times I would go

there and babysit for the kids and it wasn't really much of a job because the kids were, you know we grew up together, they were younger so I was kind of, it was easy for me to just take care of them and then it was great because if they were gonna be late I didn't have to worry, you know, they'd come home and I'd just walk across the, take ten steps and I was back home. But my first, I guess, real job was working for my dad at the gas station. In those days gas stations were different than they are now, people did not pump their own gas, so when you came up you parked your car and somebody would run out, 'cause they had little bells that went off, and you'd run out and I remember I had this Texaco shirt and, "Yes", "Fill it up with regular," "Fill it up with ethyl/high-test," whatever they called it and, you know, as the gasoline was going in you would wash the windows, you would check the oil, sometimes you'd have to check the tires and you would do that. And since that didn't require very much that was my first job and I would work there and sometimes I'd usually go in on Sunday mornings and then as I got older and was able to drive I was there and I would work and I actually worked at various times in my dad's gas station all the way up until probably

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the year I started law school. Now it wasn't full-time, I had other jobs besides the baby-sitting, I remember one year I worked at Social Security Administration downtown, when I was in college I worked at a liquor store in Skokie, growing up, that was Murphy's liquor store which was a great job, I actually worked there for a full year, I took off a whole year between college and law school. Gosh there were other jobs, oh I remember working one summer at Rand McNally [Education company] and Rand McNally had a factory, again not far from where we lived, where they would make maps and they had

these giant machines, you'd load these maps, they were huge, into these machines and the machines would fold these maps and then when they would come out the other end and they'd be all folded nicely as maps were supposed to be and then you'd pack them and put them into boxes and load them up. I worked for a couple of years at a company called Shure Brothers which was an electronics company also not far from where we lived, and Shure Brothers made microphones and they may still be in existence, they made microphones and they made audio equipment and, again, I was working there packing boxes, doing all kinds of odd jobs. So I had the basic standard jobs that most kids have growing up. I would always have my dad's place but, I think, I said to you once before we got there, I was always kind of perturbed by my dad because I would work and I learned how to do a few basic things, I still know how to do the basic things that people are supposed to do for their cars and in fact my children get very, kind of, upset with me because I always ask them if they're taking care of their cars, I always lecture them about taking care of their cars, they don't really, they don't care about that stuff. But, I would work and I learned some basic things but I never learned the things, you know, the real good skills, I never learned very many of the good mechanical skills, how to put brakes on a car, how to tune up a car, things of course we don't even have to worry about now. But I remember once asking my dad, I was probably now getting ready to graduate from college, and I said to him, "How come you never taught me?" 'Cause kids would come to work for my dad and he would take them into the back room and he'd say, "This is how you tune up a car, this is how you put brakes on a car," and I would say to him, "How come you teach Johnny how to do that but you would never teach me how to do any of that stuff?" And he'd say, "Because I don't want you to get

too interested in this business, you know, there are better things you can do with your life than having to work in this business,” so he never taught me a lot of the things, I picked them up but I didn’t pick up nearly as many skills as a lot of other people and of course now it’s all done by the computers anyways, I mean, you know, because people would come in and they would have a problem with their cars and you’d have to troubleshoot it.

LAW: Now you just plug it in.

SHIFFMAN: Now you just plug it in, yeah, back then you had to – I mean, my dad was very good, people would come in and say, “My car is going cathunk, cathunk, cathunk, cathunk,” and he’d say, “Oh that’s probably this, this or something,” and he would know and they would troubleshoot and they would fix cars just by, kind of, experience.

LAW: But you learned basic maintenance?

SHIFFMAN: I learned basic maintenance and I learned, still, and as I say I learned what I think is important, my kids come to visit and I look at their car and I say, “When is the last time you washed this car?” “Wash it? It rains.” I try to get my kids to keep their cars clean, I try to get them to keep their cars neat but they don’t listen to me, I’m the father, you never listen to your father until after you learn what you’re supposed to do.

LAW: Now besides your dad, did you have any influential teachers or mentors or influential classes as a young man?

SHIFFMAN: I remember some of my teachers, I remember one who maybe, perhaps, has been my most inspirational in a negative way, actually, at Evanston High School I took a lot of high level science classes and I remember Mr. Anspaugh who taught physics and he was a great teacher but he wasn’t a great teacher for me. So, as a result of the fact that

I did not do very well in physics or chemistry, that was one of the factors that led me to decide that I would become a lawyer. I wasn't very good at science but Mr. Anspaugh was a lot of fun, he was a great teacher, I wish that I had been a better student, I was not as good of a student as he was a teacher, and many of my friends who went on to careers in science and medicine, they had Mr. Anspaugh. One teacher, actually two teachers, who I recall very fondly, one was, and still is, Michael Bakalis who I had for history at Evanston High School, who left Evanston, he obtained his PhD and he became a professor at Northern Illinois University and then became a well-known politician in Illinois back in the [19] '60s and [19] '70s. We used to elect a person who was known as the superintendent of public instruction, he was the teacher, head of the education system, and Michael Bakalis won that office and then ran for governor against Jim Thompson unsuccessfully, but actually I saw him, by that time now, this was years later, he was here and I went to one of his fundraisers and we reminisced a little bit about high school.

LAW: Was it his teaching method or the material?

SHIFFMAN: Oh he was a great teacher, he was a wonderful teacher, you know, it was U. S. History, in fact I remember the paper I did for his class, I did my paper on [U. S. President] John Kennedy's senatorial election in [19] '52, the first time he ran for the [U. S.] Senate, and I got an A. He was just a very good teacher, he had a great sense of humor, he was young, I mean, he was working on his PhD probably at that time and he was, his class was very, in American History we spent a lot of time talking about politics and about elections and things and it was a very good class; so he was one of my good teachers in high school. Let's see, well this is kind of a sad, but I also remember the high school football coach was guy named Murney Lazier, it was a man named Murney

Lazier, and he was a very successful coach, we had very good football teams back then but this was before the days when high school football became the kind of industry that it was. There were no high school football playoffs, the high school football season was all of eight games and Murney Lazier was the football coach, very successful and a wonderful guy, very gruff, very typical I guess, coach, unemotional, he was actually the man, I remember the day that [U. S. President John Fitzgerald] Kennedy was assassinated in November, we were actually in homeroom and they came in homeroom and all they said was, "We've just been informed that the president has been shot, we're just gonna go about our business at this time as we normally do," and my next class after homeroom of course was gym and Murney Lazier was the gym teacher, was my gym teacher at that time. And I remember going to the classroom, I remember we all got dressed in our uniforms and going getting ready and as we were just getting ready to start class somebody came in and whispered in his ear and then he was the one who told us that the president was dead, and I cannot remember the details specifically but he then spoke for probably fifteen or twenty minutes, we never even had class that day but he spoke and he talked about evil in the world and he talked about things that happen and, remember this is a pretty traumatic even then for older people because we'd never had, [U. S. President Abraham] Lincoln of course and others, but it hadn't happened for a very long time and it hadn't happened with television and everything. He spoke very eloquently, he was a very, he was a very smart man and actually one of his sons was in my class, Mike, and I was kind of friendly with him and, you know, unfortunately he passed away a few years ago but, I mean Murney Lazier, he was just an interesting fellow and the athletic coaches we had, the basketball coach was Jack Burmaster, he was the one who taught me how to

drive, we had driver's education and he was an interesting fellow too. Well I did have also, and this is kind of ironic, I had an English teacher at Evanston named Peter Gillies and, this is actually what happened, after, as I said, years later Michael Bakalis was elected superintendent of public instruction, when I came to Springfield I think he was holding that position and he brought Peter Gillies down here to Springfield to be one of his top assistants and Peter Gillies was married to a woman named Ann Gillies who was on the news here, the local news, for years and he was an English teacher. I had some very good English teachers too, unfortunately you read a lot of things in high school, again, because they required, every year we had to read one [William] Shakespeare play, let's see, I think freshman year it was the *The Merchant of Venice* which they probably don't even allow them to read anymore, [*The Tragedy of*] *Julius Caesar*, I think we did [*The Tragedy of*] *Hamlet* [,*Prince of Denmark*], and maybe it was [*The Tragedy of*] *Macbeth*, but I remember, I just remember reading those plays and just thinking how bad they were and how boring they were and now, now I read – well, high school is bad, back then, high school is bad because you had to read the plays, now you can watch the plays, there's the video's available, and Shakespeare should not, Shakespeare is very difficult to read on a cold page but it's wonderful to watch. Let's see, I can't remember, well I remember Mr. Gillies was part of a group, we had a large – back when I was in high school they had what they called team teaching, it was a big thing, you'd have a big classroom for English, for example, and there'd be eighty kids in the class and you'd kind of do your, well this is what you'd end up doin' in college, you'd have a lecture and then you'd break up into smaller groups and things but he was one of my English teachers. I can't remember any of the others, well I can kind of remember the others, I can picture

them but I can't remember their names. Now, when I get off to college I will tell you that a professor who I had at Northwestern [University] who was probably, I had two professors at Northwestern that I still remember and I think very fondly of to these days, one was a history professor named Richard Leopold and he had a class at Northwestern, it was called The Diplomatic History of the United States, very poorly titled class because essentially it was about the United States' foreign policy from 1790 all the way up to the 1960s, and Dr. Leopold ran his class very differently from any professor I've ever had, first of all his class was limited to about, I would say, thirty-five and forty, I remember 'cause we sat around in a big U, Dr. Leopold would write questions on the board each class session, those were for the next class session, and there would be assigned reading and usually there would be these three questions and those three questions would be the basis for the discussion that would happen in the next class and in his class you were truly graded on discussion and class participation, it was a big part of your grade, probably fifty percent, 'cause he would tell you how you were doing, and I still remember, it's almost, it was a great preparation for law school, for the Socratic dialogue and method and I still remember, there's the movie called [The] *Paper Chase* there's a wonderful scene there where the Timothy Bottoms character goes to contracts class and Kingsfield starts interrogating him and Bottoms just nails it, you know, and after he nails and he does this great answer he leans back and smiles with that satisfaction, I actually had that moment I remember in Dr. Leopold's class because it was one day when he asked a question and I still remember the question, the question was, we were talking about the Spanish-American War and we're talkin' about whether the United States after the Spanish American War was a great power and I remember

answering and I said, “Well, there are actually two different ways to look at it. They were a great power, they were a powerful country, but they didn’t want to be an active participant in the rest of the world,” and, the answer went on for a little bit longer and I remember after giving that answer Dr. Leopold had his book out and he started making some notes and I thought man I’ve finally done it, I finally have accomplished it; but he was, he prepared me a lot for law school.²

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The other professor at Northwestern who, I just happened to luck into this, was a literature professor named Meno Spann, Dr. Spann, actually Heir Spann, he may have been German, but he taught a class in twentieth century European literature, you had to take literature classes, you had to take a class or two, I signed up for that one and truth be told I probably signed up for it because it met at a time that fit into my schedule, I don’t know, I hate to think that, but it was modern literature and I liked to read modern literature, I never liked any of the stuff from the 17 [‘00s] and 1800’s, but I remember listening to him and he talked about [Franz] Kafka, and he got me interested and started reading Kafka, Kafka, Kafka and he was a wonderful, he would lecture and he read and then he would stop and he would open the book and he would start reading and, there are ways to read literature, most people just kind of read it but he would read it with feeling and he was a great professor, I think he instilled a lot of reading experiences in my life, so that’s about it. Now of course law school.

LAW: Hold on before we get there.

² *The Paper Chase* (Twentieth Century Fox, 1973).

SHIFFMAN: Not getting' to law school yet.

LAW: Hold on, hold on, so this is the 1960s, I wanted to ask you what your earliest memories of the Vietnam War are and what your thoughts were at the time on the war?

SHIFFMAN: I will confess to you, I think the first discussion I remember having on the Vietnam War, of course, was probably in 1965 or 1966 and I remember, again, in the English class that we were taking they brought in a person to speak to the class who was.

LAW: From the [U. S.] State Department?

SHIFFMAN: No, no, he was a local, I would just call him an anti-war person, I can't remember what the organization but he was anti-war of course and it was in the context of something that we were reading, but I remember having this very heated discussion and I remember probably to my dismay that I was very supportive of the war at that point, at the early point in that time, like many people, and I remember there was a back and forth between other people and, so, in [19] '64 I was in favor of the war but I will tell you by the time I got into college and by the time, [19] '67, [19] '68 I was, let's see, I remember the [19] '68 election of course, I remember being in college watching the famous [U. S. President Lyndon Baines Johnson] LBJ speech when he announced he wasn't going to run. I was actually in college back then in Indiana and I remember the Indiana primary where [U. S. Senator Eugene Joseph] Gene McCarthy and [U. S. Senator Robert Francis] Bobby Kennedy came and campaigned in Indiana, they both came to Indiana University to speak. And so by that time I would probably say that I had turned and I was probably, against, I was hoping that he war would end as quickly as possible, I remember.

LAW: What caused that change?

SHIFFMAN: Gee, I think just the recognition that we were not making, that we were not accomplishing anything, that we were not making any headway, and, again, by that time I had become, I was studying a lot of history, I was reading a lot of history and I just think that history would teach you that that was a war that was that other countries had tried to fight. Now with the benefit of several more wars of that nature – I think Americans always like to think that they can do better than any other country, but they need to realize that sometimes the countries that have failed in some of these war efforts haven't failed because they're dumber than the Americans, they've failed because they are not wars that can be won, the French, the British as well. I just think it became a very– I had friends who were drafted, friends who went off, again, I remember now, by the time of the draft, the famous draft lottery, my first years in college I was at Indiana University then I transferred up to Northwestern and I was at Northwestern, probably my junior year, when the first draft lottery occurred and the draft lottery to equalize the people who were actually getting drafted, they were taking away student deferments, actually I remember at Indiana you had to take a test, to maintain your student deferment they had a national test that you had to go to, it was like the SATs or something, it was just a general knowledge.

LAW: Talk about pressure.

SHIFFMAN: (Chuckles) well, people had varying pressures, I remember taking the test and I thought there were some pressures but there were a lot of others who just, they figured well if they get drafted, they get drafted, I think everybody had a different attitude but there was some pressure. The bigger pressure was the night of this draft lottery which

they televised and by your date of birth you were given a number between one and three [hundred and] sixty-five, one was the worst, three sixty-five was the best, and I think my number was like three twenty something, I don't know, I got a very high number so I knew I wasn't going to be drafted and so I started to make alternative, not alternative plans, but I started to plan things a little bit differently. But I knew lots of people who were drafted, a couple of the people who worked for my dad at his gas station, a couple of the young guys, ended up going into the service. There were people who, in those days, would essentially avoid going into the regular [U. S.] Army by enlisting in the [U. S. Army] Reserves which was something, you know, back then. You know, you don't wake up one day and say, "This is a bad war," I think you, I was influenced by, I still was reading a lot and I was still thinking about it, I just think after some point you just realize that we're not gonna win this war and we should bring as many troops home as quickly as possible.

LAW: So why Northwestern?

SHIFFMAN: I wanted to come home, I started off, I was at Indiana, I loved Indiana, it was a wonderful school but I was a big city person, I loved Chicago, I just wanted to be closer to where, you know, I thought the action was. I mean, Bloomington, Indiana, was not quite as grown up as it is now, I know people who have gone back there and there's a lot more activity going on, but remember this is the 1960s, there's no internet, there's no cable television, there are none of the technological, there's no email. I remember, in the 1960s you actually used to call people and you used to devise systems whereby you could send messages by long distance calls but not get charged for the calls, you know, like I would call home, I'd make a collect call home to ask for myself and my mother would

say, "He's not here," and I would say, "Alright, I will call tomorrow morning at eleven o'clock," that meant that I was going to take the train the next day at eleven o'clock, you know, you just did things, I mean, it was crazy. And I wanted to be closer to, I guess, the action, where the action was, so I came back and I went to Northwestern and started a different aspect of my life.

LAW: Now, what was your major?

SHIFFMAN: My major was history and political science. History I just enjoyed, I had some interesting career thoughts. When I graduated from Northwestern in [19] '70 my first thought was that I, I thought very much about a career in political advertising, believe it or not.

LAW: Where did that come from?

SHIFFMAN: Just my interest in politics, and I wanted to do something in politics, I thought, "Well that'd be great, commercials, political commercials," because there were political, a lot going on. But in order to get a master's in advertising, since I didn't take very many advertising classes in undergrad, I was going to have to go back and take a lot of extra classes, so I thought, "No, I won't do that," but I did decide I did want to go to law school, finally, but, I decided I wanted to take a year off, I really didn't, wasn't quite certain what I wanted to do. And my last year at Northwestern I had been working at the Murphy's liquor store and I remember talking to them and I was telling them, "What do you want to do when you graduate because it's getting close to graduation," I said, "Well, I've been accepted to a couple law schools but I don't know what I want to do and I'm just not quite sure," so Mr. Murphy said, "Well if you wanna work here we'll keep you

workin' for a year, you can work here as long as you want," so I remember going home and telling my dad, "Mr. Murphy said I could stay here, I could work," and he was very concerned, he said, "If you stop going to school you'll never go back," I said, "No dad, I promise you I'll go back." There were two times in my life when my father expressed concern about career decisions I was making, this was the first one, and he said, "I'm just worried that you won't keep going," I said, "I promise you I will," and actually it was great because I worked at Murphy's liquor store and I earned enough money, essentially, to pay for a whole year of law school, things were a lot less costly then. But, after a year, and I was ready to go back and I started law school then in the fall of [19] '71.

LAW: Now back to Northwestern, there were some pretty lively protests.

SHIFFMAN: Oh gosh yes.

LAW: In your last year there, I think even some buildings were occupied at one time.

SHIFFMAN: There were a couple of buildings that were occupied, as a matter of fact we were talking about this recently, you know, technology being what it is I have reconnected with many of my Northwestern friends via Facebook and we were just reminiscing about some of this. The leader of the student movement at that time was a woman, a young girl, named Eva Jefferson [Paterson] and I think that she may have passed away, but anyway, but there were occupations and in fact they barricaded Sheridan Road. I was not on the ramparts so-to-speak, I was a student, I was concerned but I didn't lead the charge. And I remember, as a matter of fact, that Northwestern was on the quarter system at that time and the last quarter of my senior year would have been when the demonstrations reached their peak, that would have been, that was right after

Kent State [University shooting] and all of that and the President of the university announced for the last quarter that students could continue to attend classes but if they did not continue to attend classes they would all receive passing grades, you know, they wouldn't have to get a grade for the last quarter and I was taking, I think, four classes which was the standard for law, I continued to go to I think three of them but one, one I could, if I skipped taking one class I could work a lot more hours at Murphy's and I think I did that. But I remember that last quarter and I remember, also, graduation, everybody was gonna go to graduation, you go to graduation for your parents, my parents had sacrificed quite a bit to get me through, to send me to college, and we went to graduation, of course, they were there and they were very excited. I remember, before the march of the senior class in, everybody was in their caps and gowns, people were putting tape on the mortar boards, is that what you call the top thing that you wear, the hat that everybody, people were taping peace symbols, signs, and people would take tape and they would put on there, "No War," all kinds. Everybody marched in with something on their cap and gown to demonstrate, well not everybody, to demonstrate their opposition to the war, their opposition to the actions at Kent State. And I don't remember who our graduation speaker was but he made some reference to how difficult it was just because all across the country there were things going on at college graduations that year that were quite, you know, there were demonstrations all over; they were tumultuous times.

LAW: What was your conception of your generation? Did you have one at that time?

SHIFFMAN: (Chuckles) If you make a conception of your generation, at the time, it's obviously going to be changed by the passage of years. I thought about my friends, I

worried about my friends, I had, I worried about my friends who were getting drafted who were going to Vietnam,

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who were getting called into the service, we would talk about the concerns that everybody had. I think though, in retrospect, going back, the people who were devoted, the people who were committed, many of them followed through after college to do things to better everybody's lot in life. I had friends who became journalists and I had others who went into teaching, lawyers, doctors, I mean, at the time, your friends are your friends and you support them and usually they become your friends because you share common views and everything.

LAW: But was there any kind of generational divide?

SHIFFMAN: Not between my friends, there was generational divide, there was very large generational divide between parents, older people and younger people, as I said, the [Chicago Seven] Conspiracy trial was a big topic of conversation, remember also in [19] '68, I guess that would be between my, yeah, between my junior and senior year, yeah, there was the Chicago [Democratic] Convention and I had friends and acquaintances who were downtown, getting tear-gassed and everything in the city of Chicago and, I just remember, really, at that point one of the things I remember was what an embarrassment it was to actually be, kind of, a Chicagoan. I was embarrassed for the city, I think other people were embarrassed for the city, but, then again, many people of my parent's generation, they thought the first Mayor [Richard J.] Daley had done exactly what should have been done, they thought that we were, that young people were hippies and freaks

and were disloyal to the country and deserved to get some of the punishments that they got. I mean, it was not really, I don't think, I cannot think, to be honest with you, that with any of my friends, that we ever had any knock-down, drag-out political arguments that resulted in the loss of a friendship or something of those lines; but we just had a different view of the world than our parents. But I think your friends are your friends because you have a lot of things and views in common so I didn't have any friends who were off, you know, who were outside of that view.

LAW: How would you define your political and social outlook as a young man?

SHIFFMAN: (Chuckles) I've always been a liberal, I mean, I've always been just a progressive person. My politics have always been the same, pretty much always the same. I think there was a time in Illinois, for example, when there were some more progressive republican politicians, I don't think there are that many anymore and I still have, I mean, I remember coming here, when I came here in the [19] '70's and meeting, because I grew up in Chicago where people, a lot of democrats, now I come to Springfield where there are a lot of republicans, but I'm meeting a lot of republicans, when I came here I met a lot of people who were much more progressive or equally progressive. When I came to Springfield a lot of republican friends who I knew, for example, I met many of them at Planned Parenthood functions. Well you don't find very many republicans at Planned Parenthood anymore. There were progressive people, [Illinois Governor] Jim Thompson was a very progressive governor, I met a lot of more progressive people but that's changed, I think, over the years. But my politics have always been, depending upon what some of my friend's perspectives, I'm either

progressive, a socialist, a lefty, there are just various ways; but I've always been a progressive person.

LAW: Do you think you inherited those views or did you develop them yourself, or a combination?

SHIFFMAN: Well I like to think I inherited them quite a bit from my dad, he was a very progressive, he was a very, he was a liberal guy, now, as I say, even though he was a progressive liberal person, in the [19] '60s at the height of the Vietnam War at the height of that era he was not quite as progressive as he might have been. It's interesting, many people of his age group I think struggled more with some of these issues than the younger people, but he was always a very progressive, he was a politically astute person and he was very well read and he was, I got a lot from him, he was a very important impact on my life as a student and in my later life as a lawyer because he was just a progressive kind of guy.

LAW: If you had to put it into words, why did you decide to study law?

SHIFFMAN: Well as I said before, I started off, you know, I was inspired by the *To Kill A Mockingbird* generation, the Civil Rights era, I, also, the field of law and the field of advocacy always intrigued me. I always wanted to be, I just didn't want to be a lawyer, I mean, I didn't want to be a person who sits in an office and writes wills and writes contracts, I wanted to be, I thought that the art of advocacy, the art of being in a courtroom was really kind of an exciting area and I always knew from the very beginning, from my first day of law school, even before my first day of law school, that I wanted to be a courtroom lawyer. We talked about, earlier, about books that inspired

you, there was a book, I'm pretty sure I read it before I started law school or right when I started law school, it was a biography of a famous lawyer – well first of all, before that, I guess, I remember reading these books in high school definitely, there was a lawyer from New York named Louis Nizer who had written books about his famous cases, *My Life In Court* was, in fact I think it's behind that thing there is a copy of that book, behind the camera, but anyway that was one of the first books I ever read about the law and it's a fantastic book, it's about his cases and it inspired me, that was one. But then there was a book that I read, I'm pretty sure in college, maybe last year of college, first year of law school, but it was called *Lawyer's Lawyer*, it's a biography of [U. S. Representative] John W. Davis who ran for [U. S.] President in 1928 but also may still hold the record for most, well, he's top two or three, cases argued in front of the U. S. Supreme Court, Davis was a great appellate lawyer and he was a very fascinating character and his legal work and the type of work he did, that was the type of things that I wanted to be able to do.³ I guess every lawyer aspires to argue a case before the United States Supreme Court but that's almost becoming a closed shop these days. My greatest thrills as a lawyer, still, are some of the appellate cases that I argued in the Illinois Supreme Court and even in the appellate courts, have been a lot of fun.

LAW: What was your family's reaction to your choice to study law?

SHIFFMAN: Oh they were very happy, I was one of the first people of my generation to become a, you know, there was one lawyer in the family before me but he never practiced law, he went into the Peace Corps and then served in the foreign service for years and years and years, we had no doctors, my parents were very proud that I was going to

³ William H. Harbaugh, *Lawyer's Lawyer: The Life of John W. Davis* (New York: Oxford University Press, 1973). Davis was the Democratic nominee for President in 1924.

become a lawyer because, and my dad was very excited about it, I mean, lawyers are different, people, if you're a doctor, people, it's hard to understand sometimes what doctors do but everybody understands, because of the nature of the television industry and things everybody understands what lawyers do, I think everybody thinks that they can be a lawyer and everybody thinks that they can go into a courtroom and fight and argue cases.

LAW: Why DePaul University?

SHIFFMAN: Because I wanted to stay close to Chicago, I wanted to be in the city, because they took me, they had a good reputation, I actually had met a couple of people who'd been there, went there and spoke very highly of it. Law school in those days, one of the great things about going to a law school in the city of Chicago was after you worked, after you got through your first year of law school, you could start working in law offices, there were so many law offices and so many agencies, that, places to work, so I was just, and we used to joke – DePaul of course was a Jesuit law school but the makeup of the student body was somewhat unique, there were, it's the only institution I've ever attended, educational institution I've ever attended where WASPs [White Anglo-Saxon Protestants] are a distinct minority. DePaul Law School, I would estimate, when I was there, this was the law school, the undergraduate school is different but the law school was probably thirty percent Irish Catholic, thirty percent Italian Catholic, thirty percent Jewish, really, the WASPs were a very small group and the other thing was, when I started attending, when I first attended law school, when I went to DePaul, in my section, in my class of two hundred and fifty students there were probably five or six women, so we were just on the cutting edge of some changes in legal education.

LAW: What about by race and ethnicity?

SHIFFMAN: We had some African Americans but by-and-large it was white male, still white male, but it was a good, faculty was the same way but it was a very, I got a very, I received a very good education there, I truly enjoyed it and I learned a lot about to become a lawyer.

LAW: So I want to get a better idea of the DePaul University Law School in the early [19] '70s. So, my first question would be, what strands of legal philosophy were you encountering at DePaul, if any?

SHIFFMAN: That's a great question but I'm gonna preface it by giving you a little bit of history. Just before my class entered DePaul had had kind of a traumatic event, you know, kind of, everything was happening the late [19] 60s and [19] '70s, there had been, many of the students were disgruntled by the administration, the administration I think, had hired or selected a new dean, I can't remember exactly the details but there was a dispute about a dean and the new dean and a lot of students were upset and I think there may have been some, I don't want to say, there were some actions taken by the students and including, one of the things that occurred was, they went to this anonymous grading system, there were things going on at the law school. Now, and in fact, there was a temporary dean and they were in the process of hiring a new dean and they ended up hiring Richard [Curtis] Groll, was the dean, and he was on the faculty at the time and he became the new dean of the law school. They began making changes, in fact one of the changes, when I was in law school they actually changed the grading system two-thirds of the way through my law school career; there were some changes going on. The law school was trying to expand its outreach to include minorities and women and there was

just some things going on in legal education. At DePaul, when I was there, I will tell you that the great emphasis of many of the students was on doing two things, passing the bar and getting a job, I think that may still be the goal for most law schools. There wasn't a philosophy that I could, again, I don't even know if while I was there I could recognize a legal philosophy, you know, there wasn't any, there weren't any legal realists, well I guess they were all legal realists, we still had a few faculty members who were practicing lawyers, one of my professors was a contracts professor, [J. Sterling] Mortimer was his name, we used to call him Mort, great professor, great teacher, practiced law, his class met at eight o'clock in the morning and then at nine o'clock he was down in his office in downtown Chicago. But we had, you know, we had a good mix of faculty members, young and old, some of whom actually I still have contact with through other avenues but we weren't like

[01:30]

Yale [Law School] or Harvard [Law School], we weren't like those types of law schools.

LAW: You were learning what the law was, not necessarily how to apply it?

SHIFFMAN: No, we were learning nuts and bolts, for example, we had a professor, gosh, I think his name was [Thomas J.] Russell, he taught wills and estates and I remember one of his greatest lectures was teaching you how to prepare, not to prepare, not what to put into a will but how to have a will signed so it will always be admitted to probate and there were, you know, there were little tips, you get the person in, what kinds of questions do you ask the person, now in those days they didn't videotape sessions, nowadays when you have a will signed, many times, they'll videotape the will signing so they'll have a

record that the person was competent and things of that nature. But in those days, DePaul, the law school itself was three floors of a downtown building and we had a library, we had a good library, and we had, classrooms, but it was different than the law schools today, I mean I visited quite a few law schools in recent years and the changes are just phenomenal. But DePaul was a place, in fact I always tell this joke sometimes when I teach my classes, when I teach classes to people in general, I remember we had one student in our class, whenever we would veer off of nuts and bolts and start talking about some more esoteric legal philosophies and everything he would raise his hand and he would say, "Is this gonna be on the bar exam?" And the professor would say, "Probably not," and he'd would say, "Okay," and he would just zone out, but people were interested, people wanted to make certain that they would pass the bar exam, from the first day of law school class people were getting bar review materials and things, but there was enough of the non-bar exam material that you could take, I mean, you took the basic classes, they taught all the typical classes but there were a few other things, I remember taking a class in jurisprudence that was kind of interesting, you know, I learned a little about legal philosophy and I received a very good education there.

LAW: What were some of the big constitutional issues at that particular time?

SHIFFMAN: Wow, wow, let's see.

LAW: That you were learning about or discussing in general?

SHIFFMAN: Ok, let me see here, I think that we had, well of course the criminal law revolution was still kind of in its waning days, some *Miranda* [*v. Arizona*, 384 U.S. 436 (1966)], search and seizure, criminal law was, you know, was a big topic and

constitutional law, well let's see, we talked about, of course, the basics from the [19] '60's, one man, one vote [*Gray v. Sanders*, 372 U.S. 368 (1963)], I think the abortion case [*Roe v. Wade*, 410 U.S. 113 (1973)] had been decided because, gosh let's see, I was in law school, well I think I was in law school when [U. S. President Richard Milhous] Nixon first started to fill, the first attempts to, fill the [U. S.] Supreme Court vacancies of [Abe] Fortas and Justice [William O.] Douglas and Justice [Hugo] Black, that was kind of in the mix, that was kind of a debate then and I remember that discussion going on at law school about the President's nominees and were they qualified and were they not qualified and all of that kinds of things. *Roe vs. Wade* had just been decided in like the early [19] '70s and it was still kind of in its formative stages but I honestly think search and seizure, criminal law cases still kind of dominated, at least, my time in law school. The constitutional concepts of, in those days there were some welfare rights cases and things of that nature, you know, the strict scrutiny argument was still something that we were just talking about, I think they now call it, they call it heightened scrutiny but when I was in law school they called in strict scrutiny, same thing, but those basics were just really just being formulated, it was the end of the [Earl] Warren court and the beginning of the [Warren Earl] Burger court.

LAW: And did the wider world ever impact your law school education or experience, speaking of which would be, for example would be, the Vietnam War or Watergate a little bit later on?

SHIFFMAN: Watergate, Watergate was a big subject for us, the Vietnam War now kind of had winded down, now were in the [19] '70s. I remember, let's see, the big events when I was in law school, the big things I remember, first of all, this one actually, gosh, again I

can't remember exactly when it occurred but in Chicago there was the famous Black Panther [Party] shooting, Fred Hampton and someone else [Mark Clark], you know, and [Edward] Hanrahan was the State's Attorney, that was kind of in its waning days.⁴ In 1972, that was of course the Nixon landslide and Dan Walker was elected governor, which actually had some impact on my life, but later on, but the big election in Chicago in 1972 was that Ed Hanrahan who was the State's Attorney, lost the State's Attorney's race to Bernie [Bernard] Carey and I still remember the day after the election the [Chicago] *Sun-Times* had a headline that said, I think the headline was, "Carey In," and I had a very good friend who was working as a law student in the State's Attorney's office, his name is Frank DeBoni, he and I, from our class, were two of the people from that class who became judges, I think there may be a couple more, but Frank is a judge in Chicago, he may be retired now but he was a judge, he was working in the State's Attorney's office as a law student, I think, his second year, so they had this big headline in the *Sun-Times* that said, "Carey In," and Frank had the paper and somebody wrote on the paper, "DeBoni Out," because they thought he was gonna lose his job because he was associated with the democrats but of course he didn't and he stayed there for many, many years.⁵ But that was a big event in our law school history because the change in

⁴ The Chairman of the Illinois Chapter of the Black Panther Party, Fred Hampton, and Peoria Black Panther leader Mark Clark, were killed during a raid of Hampton's apartment on the west side of Chicago in the early morning hours of December 4, 1969. The policemen engaged in the raid were under the authority of State's Attorney Edward Hanrahan. The State's Attorney, and the policemen, claimed that the deaths came about because of a "shoot out," while the Panthers, and others, claimed it was premeditated murder. Following the killings there were several investigations, and a trial of Hanrahan and others for conspiracy to obstruct justice (they were acquitted), but no one was ultimately held responsible for the deaths. However, a thirteen year long civil lawsuit did result in the awarding of a \$1.8 million dollars to the families of the victims-the largest civil rights settlement of its kind to that time.

⁵ Frank DeBoni spent his entire legal career with the Cook County State's Attorney's Office, 1974-1988, and then was appointed an Associate Circuit Judge. He was retained in that position and retired in 2010.

administration. Of course every law school in the city of Chicago was associated with the Democratic Party.

LAW: What did the law students, did they think Hanrahan should be tried?

SHIFFMAN: I think some did, I was kind of, I don't wanna say ambivalent, that's not the right word, I thought that Hanrahan, I thought that they had done wrong, I thought that somebody should be responsible. But, I will confess to you that, in my first days in law school, my early days of law school and actually the first part of my legal career I was a little more prosecution oriented than I am perhaps now. I think Hanrahan, obviously it was a terrible thing, and I don't know that we still have all of the facts but Hanrahan, I'll just say it, Hanrahan deserved to lose, he deserved to lose the State's Attorney's Office for that and perhaps for some other things; but it was just something that we discussed. The gubernatorial election was kind of a big thing.

LAW: Walker's?

SHIFFMAN: Walker's election.

LAW: "Walk Across the State".

SHIFFMAN: Yeah "Walk Across the State" and then, you know, when I came to Springfield he was the governor and there was a lot of things goin' on back in those days.

LAW: Now was he running against the Chicago Democrats?⁶

SHIFFMAN: Yes, well here's what happened, he ran, that time yes, I can't remember, oh, no wait, ain't that terrible, no he ran in the primary in 1972 against, I think he ran against

⁶ See, <http://www.uis.edu/archives/memoirs/WALKERD.pdf> for the views of Walker on the 72' election. Also see, Paul Simon, *P.S., The Autobiography of Paul Simon* (Chicago: Bonus Books, Inc., 1999) for Simon's views.

Paul Simon, ok, yeah he did run against Paul Simon and then he beat Paul Simon in the primary and he ran against [Illinois Governor Richard Buell] Ogilvie, Richard Ogilvie, in the general election and I think most people thought that Ogilvie was gonna win, Ogilvie had been a very good governor and still remained a very good governor but he did one thing that even then was a bad thing for politicians to do, he implemented the state income tax and that obviously cost him the election. So Walker was in for four years and then he lost in the primary in [19] '76 to Michael Howlett but Michael Howlett lost to Jim Thompson so, you know, now, gosh you're really, you've got my brain really going here because another big event in our law school lives was the trial and conviction of [Illinois Governor] Otto Kerner, [Jr.], ok, now, I'm in law school and one of the things I used to love to do when class was over was – DePaul Law School is on East Jackson, still is, two blocks west of the law school is the federal courthouse, the Dirksen Building, what we call the Dirksen Building, I used to love to go down to the Dirksen Building and find trials going on. I remember going a couple of times to watch the Kerner trial and I remember being in class when my friend Nate Faulk, still a lawyer in Chicago, came into class one day in the afternoon and announced that Kerner had been convicted on everything, we were all very surprised, we didn't think that he would be convicted, but that Kerner had been convicted. And I remember, actually, being in the courthouse one day watching that trial, I guess the trial broke and I left to go back down and who comes walking to the elevator but Otto Kerner and his son and they were complaining about something that had been testified to in the trial, I kind of had no idea because I didn't have the whole picture, but, that was the biggest trial, probably, in the time that I was, that was the big event, of course by that time he was on the Seventh Circuit, he was on

the Seventh Circuit Court of Appeals; that was a big event in legal history.⁷ The Supreme Court shake-ups and things that were going on, I think that was about it when I was in law school and of course Watergate. Now Watergate started and I remember watching Watergate hearings, I think, when we were studying for the bar exam, that would have been [19] '74. I think, didn't Nixon resign in August of [19] '74? So of course we were discussing it and while we're preparing for the bar exam we're watching it over at, we studied for the bar exam at Northwestern's undergraduate campus in Evanston because a lot of us lived in that area so we would meet together and study over there and I remember in the student union they actually had the Watergate hearings on television in the union and guys were, we were watching it and, you know, just kind of commenting on, we were commenting on the specifics of the investigation but we were also commenting on the legal aspects as we were preparing for the bar exam, you know they would be talking about criminal issues and things and guys would always pipe in with their observation. So that was a pretty, but by the time, let's see, if he resigned in August of [19] '74 I had already taken the bar exam 'cause the bar exam was in July, the end of July, so by the time he resigned I was waiting for bar exam results.

LAW: If you had to distill it down, what were the principles and legal skills you were learning?

SHIFFMAN: Well, first of all, I learned how to be an advocate, I mean, I learned how to – there were many times in law school, in the various classes, when there would be, the Socratic method would be involved where you would have to answer questions and you would often sometimes engage in debate and discussion with the professors but also there was what I would call role-playing, you know, where sometimes professors would have

⁷ See, Bill Barnhart and Gene Schlickman, *Kerner: The Conflict of Intangible Rights* (Urbana: University of Illinois Press, 1999) for more on Kerner and his trial.

exercises where you would have to take the position of a client and make an argument and of course we took trial technique classes that taught you the basics of trial law and also appellate advocacy, I did, the one activity I did in law school was moot court and that was, you know, we actually, you did your moot court competitions in front of real judges, and then by the time I was in my third year of law school I was working, for, after my second year I went to work for a group of lawyers, they were all independent but they shared office space and somebody I knew knew somebody and I went to work for these lawyers and I was doing the typical things that law students do, I was running a lot of errands and writing a lot, doing a lot of legal research and things and then I stayed there through my third year of law school and actually, did a lot of things in the courthouse, probably that young law students aren't supposed to do, in Chicago it was considered standard practice.

[01:45]

LAW: You've told me about a few professors but I wanted to give you the opportunity to talk about if you had any influential professors and classes.

SHIFFMAN: Oh yeah, I mean, your law school, I think your law school professors stay with you quite a bit. Well there was Dean Groll who taught property law who was just very, he was the quintessential law school professor, very, exactly what you'd expect, very, controlled the class and people feared him but in a good way. There was Professor Mortimer who was the practicing lawyer who was outstanding, he taught contracts law. Let's see, for criminal law I had a professor who's still there, [Emeritus Professor of Law, Mahmoud] Cherif Bassiouni, who had immigrated to this country from Egypt and he's very well known in criminal law, he's written several books, he was just very structured

and, I think, very nuts and bolts for the criminal law, especially procedure and things of that nature. I had Richard Conviser who taught conflict of law which to me, of course I had no idea what conflicts of law was until I started this class and it's a very fascinating subject, you know, which law governs and things of that nature and he, again, was very well organized and he taught, he was the person in those days ran what they called the bar review program, in those days it started out as the "Groll-Conviser Bar Review," he and Professor Groll, but when Professor Groll became the Dean he had to give up his interest in the bar review program but Conviser was good. I had a professor for income tax, Professor [William H.] Baker, and it was, he was a very good professor but I was not very good on income tax matters. I took the class because everybody, it was something you needed to have, especially for the bar exam, he was very good. I had a professor named, who I think is also still there, [Professor] Elliot Goldstein who taught evidence and he, again, he taught me, I'm still using a lot of the concepts that he taught in that class, I mean, that was the kind of class that, evidence law is something that you can teach on a theoretical basis or you can teach on a real life basis and he taught more on a real life basis, he was very good. Professor, his name was Harry Aron, he was also another practicing lawyer who taught trial technique and he was very good, another person who to this day I still know how to get evidence, how the foundation for evidence has to be presented because Harry Aron taught it to me in law school, I haven't forgotten it.

LAW: Okay, do you feel like law school prepared you for the practice of law?

SHIFFMAN: You know I do in a lot of ways, I don't think it prepares you as much as, it doesn't prepare you for everything, for example, one thing that law school doesn't really

prepare you for is how to deal with clients, I think people pick that up on their own, they pick that up by working in offices, but I think law school is a very good preparation for, especially those people who want to spend their time as advocates in a courtroom or in a trial court or in an appellate court, it's not so much for people who want to be in, you know, draftsmen and whatever. Again, when I went to law school, things are different, when I went to law school one of the things they never really taught you was how to write. We had a class first semester freshman year, a class in legal research, and it really wasn't much of a class, they gave us something to do, they gave us a few exercises along the way but they were not very, they didn't have legal writing professors as they do now in law school which is a huge development. And again, we also had a different era, we did our research by going to the library, they don't do that anymore.

LAW: Back when they still printed the *Illinois Reports*.

SHIFFMAN: Yes, yes, I do some teaching, now I'm teaching at Illinois State [University] occasionally, but I always feel very old when I try to explain to my students, and I tell them, "I only tell you this because I think you should have a sense of history, that at one time when you did legal research you went to the bookshelves, you pulled the book down and you read it, now you do everything online, it's just, I guess maybe you should just appreciate how much easier it is but it's not always easier but there's a methodology for research and you need to be aware of it," of course they don't want to hear that, you know, they're kids.

LAW: So after graduating from DePaul you came to Springfield. How did that happen?

SHIFFMAN: How did that happen, well now it gets interesting, after I graduated from law school I'm interviewing for jobs and I kind of thought, as I said, I really wanted to be a prosecutor, be in court, and one of the jobs that I interviewed, you know you do standard interviewing, there were some law firm jobs, things of that nature, one of the jobs I interviewed for and was really kind of was very interested in was the Attorney General's office in what they called the Criminal Justice Division. The person I interviewed with at that time was [James Block] Jim Zagel who is now a federal judge in Chicago and I had interviewed for this job and after I had interviewed with Zagel then I had another interview with a guy, with a gentleman, who was the head of the Chicago office of the attorney general, his name was Bob O'Rourke and I went into my interview with Bob O'Rourke and we chatted for a while and he said, "Well I'll tell you one thing, there aren't that many jobs, necessarily, in Chicago but," he said, "if you're interested in working for the Attorney General we have jobs in Springfield," and he actually had a little brochure and he handed it to me and everything and we talked about it. Now, I had been married, this was now August, September of 1974 and I had been married in January and we were living in Des Plaines, [Illinois] my wife was working for Shure Brothers, I had not met her when I worked there but she was working for Shure Brothers, and we got married in January. So now it's October, November of [19] '74 and the Criminal Justice job at the Attorney General's office does not come to pass so I said, "The job market is really kind of tight so maybe we should think about going to Springfield," she says, "If that's what you wanna do," "Okay, well just let me go down there first." So I took a train down from Chicago down to Springfield, met with, gosh I can't even remember his name, met with a guy from the Attorney General's office who

would ultimately be my boss there, Cal Bostian was his name, he ran what they called the Opinions Division of the Attorney General's Office, where the Attorney General answered legal questions, and it was mostly a research and writing job it was not exactly what I wanted but it was a job. So we talked for a while and I walked around Springfield, I took the train back up to Chicago and I said to my wife, "Should we take this job?" And I said, "We'll go to Springfield for a year or two and then we'll come back to Chicago," she said, "If that's what you wanna do," that's what I did. So I came here and I started working December 1st, 1974, I moved down here Thanksgiving weekend, and I was there for well a few months, I was there for five or six months and while I enjoyed the job and I enjoyed the people in the office and I still have, this office, Howard Feldman, was one of the first people I met, he was working in the Attorney General's office as well, I decided I really wanted to do some courtroom work and I was meeting people here in town and somebody said, "Well if you wanna do that you should work in the State's Attorney's office." So I applied for a job in the State's Attorney's office, the State's Attorney at that time was Joe Cavanagh, unfortunately who passed away earlier this year, so I went over there and I interviewed a couple of times and I had a friend, there was a nice lady at the Attorney General's Office who was the law librarian, her name was Pat Coughlin, Pat Coughlin knew everybody in Springfield, and I remember when I came back over to the AG's office she said, "How was your interview?" I said, "I think it was pretty good, you know, I hope I can get the job," she said, "Well I'm gonna call over there 'cause I know," she knew Bill Roberts who was the first assistant and I guess she knew Joe as well, but anyway, so she called over to give me a plug and I started working there June 1st of [19] '75. I worked there for four or five years and I actually came back

to the Attorney General's office to the Criminal Division for a very brief period of time because at that time Don Mackay was running the office in Springfield and he and I had met and he was impressed with my abilities I guess so he asked me if I'd come to work there for a while and I did that for several months, that's where I got my Illinois Supreme Court experience, but then I went back to the State's Attorney's office until 1983 when I went on the bench, and there was a lot of things going on in between there, I tried a lot of cases and did a lot of courtroom work.

LAW: Looking back, why did you decide to go into public service? Was it just because the opportunity was there?

SHIFFMAN: Well I think the opportunity was there, but also, I hate to say this but I think I'm a little bit, back in those days I was a little bit, I was not very aggressive, ok, this is the best way to say it, part of this involves my dad, you know my dad had his own business and I saw how difficult it was to run your own business and while I was here there were occasions when the opportunity for private practice was discussed and I have to tell you that a lot of the time I was a little chicken, because you know, private practice, the private practice of law is no different than running a business, you have to be nice to clients, you have to make a payroll, you have to hire and fire all these people, I didn't have to do any of that when I was in government work, that was done by others for me and it was something, maybe I was just a little afraid to strike out on my own, I was happy doing what I was doing, I wasn't getting a huge salary but I was doin' alright, we did everything we wanted to do so I guess maybe I was just a little cautious. And I also, you didn't get the opportunities that you did, for example, I came to the State's Attorney's office in 1975, I remember going back to Chicago, we'd still go back to Chicago on

occasion, I'd see my friends who are practicing law in Chicago and we'd compare notes. I remember going back one time in [19] '76 and I'd already second-chaired my first murder case, and I had friends who were workin' in the Cook County State's Attorney's Office who graduated from law school the same time as I did and they were still workin' in traffic court so, you know, the advancement down here was more rapid and it was more interesting work.

LAW: Tell me about your first impressions of Springfield and how it compared to Chicago and Evanston and Skokie.

SHIFFMAN: Well when I first came here I remember walking around downtown but Springfield was different back in [19] '74, the downtown area was much more vibrant, there were men's clothing stores, there were women's clothing stores, there was Myers Brothers, there was a department store, there was a much more active community, there was a more active legal community and also there was a more active Jewish community. I remember when we came here we were welcomed very quickly into the Jewish community, there were a lot of people our age, there were people a few years older, there was a bigger community, it's declined over the years just because – in Springfield now, back then, alright when I came here there were Sangamo Electric [Company], there was Fiat-Allis [Manufacturing Company], there was, it wasn't called Pillsbury Mills, [Inc.] maybe was called Pillsbury Mills, there were factories, there was, you know, it was a vibrant community, it's not that way anymore unfortunately but it was fun, it was great to come here, and we enjoyed it, I mean we still enjoy it, there were lots of things to do and we would also, we would get in the car and drive to St. Louis, [Missouri] or we'd get in

the car and go back up to Chicago, so it was a very nice community and in part that's why we ended up staying as long as we have.

LAW: Now, were most of the lawyers, did most of them have their offices downtown?

SHIFFMAN: Oh yeah, yeah, I mean everybody had, first we were at the old courthouse which is now City Hall, I would say most lawyers were,

[02:00]

clearly most lawyers would walk to the courthouse, I can't think, I'm trying to think, I can't think of any law firm that was outside of maybe a mile from the courthouse. The big law firms back then were, well Brown, Hay & Stephens, was always in the First National Bank building, Heyl-Royster were always in what was at that time the INB building, I'm not sure which building that is anymore, I don't know the various incantations of the banks, Sorling was down there. The one thing about Springfield in [19] '74 there were not a lot of large law firms, when I came here there were a lot of sole practitioners, sometimes who shared space, maybe two man, three man offices but there were not very big firms, but everybody was downtown, in fact on Monroe Street, I guess just off Seventh [Street] and Monroe there was a restaurant back then called Conn's Cafeteria and almost every day for lunch you could walk down to Kahn's and there was a table in the back populated with just lawyers, you'd go to the food line, you'd get your food then you'd come in a sit down, the legal community was very, I think, close-knit, people would talk and people would visit, usually on Fridays after work or sometimes if there were, if you had a jury out you would go across from the courthouse to Saputo's and Saputo's had a back room, there was a table where all the lawyers would sit and have

a few drinks, after work and then a few years later D H Brown's opened and then people would start to migrate down there. But the legal community was fairly close back in those days, especially the people who were in the courthouse, who you'd see on a regular basis and in those days a lot more people I think went over to the courthouse than do nowadays.

LAW: Okay, and you said it was a much more active community and a much, I think you said, larger Jewish community?

SHIFFMAN: Yes, yes.

LAW: Can we talk about each one of those, I guess?

SHIFFMAN: Sure, the active community, when I say active I mean there were businesses here, there were factories, there were people here just those types things, so there was a lot more, there were movie theaters, there seemed to be a few more things to do. The Jewish community was a larger community, when I first came to Springfield I know there were two synagogues that probably had at their peak, in total, perhaps, like three hundred and fifty families and there was a very active, what we call, the Jewish Federation which is just the whole Jewish community and a lot of those people, interestingly enough, a lot of those people came to Springfield, I shouldn't say a lot, many came to Springfield during the Walker Administration, many also came when Thompson was elected in the Thompson Administration, the state of Illinois had many more people working for it here in Springfield. Jim Thompson, built that big state office building in downtown Chicago, The Thompson Center, and it ended up that there's now a lot more, the balance has shifted and there are a lot more people working in Chicago. Here's the best example that

I can think of that kind of describes the whole situation, I came here in [19] '74 and there were a lot of people, a lot of lawyers my age, I can think of ten, twelve just lawyers, Jewish lawyers that were here plus other people, we all had children during the, born in the [19] '70s, I had three, not one of them lives in Springfield, two live in Chicago, one lives in Clarksville, Tennessee. Howard [Feldman] had two, one lives in North Carolina, one lives in Minneapolis, [Minnesota]. Stan Wasser had two, I think they both live in Washington D. C., in my head I'm just thinking about, I cannot think, of all the people who came here in the [19] '70s and who had children and who are still here as adults, I think maybe one or two of them have children who are still here in Springfield, so the community, people just go other places, Springfield's no different than many other cities in that respect, kids don't wanna live in a, I mean, you live here but you have a job here, I don't know, there's not an explanation for it. A lot of the jobs, there's a few more now that I'm thinking about it, there's a few who are second generation lawyers who are practicing law here, but the biggest employers now in Springfield are the medical community, state government is probably second, there aren't a lot of employers here.

LAW: So we've gotten you through college and law school and you are practicing law. Would you say your political and social outlooks changed at all during this time period, once you were in Springfield?

SHIFFMAN: Well yes, in a way that I kind of mentioned and in a way it was good, you know, I grew up where everybody was a Democrat, then I came to Springfield and I started meeting, ok, not only was everybody a Democrat but almost, when I grew up in Chicago a majority of my friends were Jewish, it was part of the Jewish culture. I come to Springfield and first of all I'm starting to meet all these people who are Republicans,

God, and I have a lot of friends who are, of course, not Jewish, which is great, I mean I've expanded to the better, I've expanded my horizons, I'm a much different person now, you know, some forty years later and I think I'm a different person for the better, I mean I've had a much different experience, my God, I've gone to Catholic weddings, I've gone to Catholic funerals, I've gone to Protestant weddings, I mean my life has expanded quite a bit and I think for the better, so, but it was an adjustment at many times. I still remember the first time I had to go into Joe Cavanagh's office and I said, "Joe, I'm not gonna be here Monday and Tuesday, it's the Jewish New Year and I go to synagogue," and he said, "Okay," and then, you know, the following week there's Yom Kippur, I said, "I go to the synagogue," he says, you know, Joe was a very devout Catholic so he was tolerant, he was very tolerant, he understood that kind of thing but, you know, I would sometimes have to explain to people, "No I can't do that, I can't play in the softball game on Monday night 'cause it's a Jewish holiday or whatever," so you adjust to those things, you explain things to people. I think, also, that many of my friends, I will say this, I know that I have become very friendly with people here that probably that I may have been the first Jewish person they ever met, but, you know, Springfield has always had, there are some very, there are some families here that have been here for a very, very long time. Springfield's kind of an interesting town, I always say to people you have to be careful in Springfield, even now, forty years that I've lived here, you have to kind of be careful sometimes when you talk to people in Springfield about other people in Springfield because it turns out that they're related, that they're third cousins, second cousins, they just know each other, it's a small town, Springfield is both small town, big town.

LAW: I wanna end with kind of, talk to you a little bit about your family.

SHIFFMAN: Okay.

LAW: You talked a little bit about getting married, now does your wife go by, is it Merle or Merlie?

SHIFFMAN: Merle.

LAW: Merle, when did you meet your wife Merle?

SHIFFMAN: I met my wife in, I think it was [19] '71 or [19] '72, believe it or not, I met her at a wedding. A friend of mine who I grew up with from early on, Mitchell Cooper is his name, Mitchell Cooper got married to a woman that he met at University of Illinois who lived in Memphis, Tennessee, and I was of course invited to the wedding in Memphis and I went down to the wedding and I met Merle at the wedding, Merle was friends with the bride, and we met and of course it took a while 'cause I was kind of slow on the uptake but the following year, I went to law school, she was still at U of I, but the following year she came back to Chicago, she was working and we started going out and then, I think we went out for maybe a year or a little more and then we, got engaged and got married. I was still a devoted law student because I told her that we couldn't get married until, it had to be semester break of my last year of law school which was January of 1974, so it was kind of cold but we got married then and we've been together ever since. And the ironic thing about that is, I don't know if these things actually happen, the way it works, but my father had met my mother at a wedding.

LAW: Okay, interesting.

SHIFFMAN: It's real interesting because, as I told you, there were the Shiffmans and there were the Zipurskys, they were both very, very large families. My father's aunt married my mother's brother, so there was another family relationship that was, you know, there was another Shiffman, Zipursky wedding and my father was at the wedding and my mother was at the wedding and they met. I don't know how they courted because at that time my father was living in Chicago, my mother was living in Winnipeg, but they courted long distance and they courted also by some visits because he would come to Winnipeg quite a bit, and then they got married. So the traditions goes on, I think.

LAW: So how did becoming a husband and later a father affect your work life?

SHIFFMAN: (Laughs) Well, in a lot of ways, first of all I'll tell you in one way that I never thought would happen, I have seen more performances of The Nutcracker than I care to even think about. I've worked backstage many times, to this day, if I ever hear, at Christmas time when I hear Nutcracker music I can tell you precisely what's happening. My middle daughter, I never thought that I would have a dancer because, God, I can't dance and I'm kind of uncoordinated, but my middle daughter, having a daughter who is a dancer was quite an experience and I ended up being a dance father. My oldest daughter, she was in some stage plays and stuff at Springfield High [School], she did other things and my son played sports so I had, I was a typical, I was a tee-ball coach and I did all those things. Being a father, first of all, the first thing you have to worry about is providing for your kids and there's an expression I guess, "A parent is only as happy as his most unhappy child," or something like that, so, having my kids made me more, I was responsible anyway but, it was a very good experience and in some respects, you know, having kids and having to dealing with their friends as well is always kind of interesting.

LAW: Well Judge Shiffman I think that covers what we wanted to cover for today.

SHIFFMAN: Okay.

LAW: Unless there's anything else you'd like to add?

SHIFFMAN: God I can't think of anything, I've added quite a bit, but no, it's good.

LAW: Okay.

[Total Running Time: 02:14:09]

END OF INTERVIEW ONE

BEGINNING OF INTERVIEW TWO

LAW: This is an oral history interview with Judge Stuart Shiffman. Today's date is January the 19th, 2016. We are in his law office here in Springfield, Illinois. This is our second interview. Today we are going to talk about his legal career. Judge Shiffman, I thought I would start with sort of a general question about the local bar in the mid seventies. So, when you first arrived in Springfield in December 1974, what do you remember being the composition of the local bar in terms of race, ethnicity, gender, and age?

SHIFFMAN: Well first of all, when I first arrived in 1974, since my first job was at the Attorney General's office, I have to tell you that I was really not very connected to the local bar. The Attorney General's office was kind of its own little cloistered place. At that time, I will tell you this, our office was white, male, relatively young. There were a few attorneys who had been there for awhile. Most attorneys did not stay around. I believe that there was one woman in the office at that time, Madalyn Maxwell, who worked in, she may have worked in the child support division. But she was in the office. And I also believe, I think we had one African American, Theodis Lewis, was in the office for a short period, and I think we overlapped.⁸ But generally we were just, as I say, we were an office that did not have a lot of contact with the rest of the Springfield bar. Because, well, my first job in the office was in the division that was known as the opinions division. And what we did was we wrote the opinions of the Attorney General. He would be requested to issue legal opinions, non binding, but we would, we wrote those. And Bill Scott was the Attorney General at that time. I was here from, I started December 1st, from December 1st until I left the office at the end of May, I never ever got

⁸ Judge Theodis Lewis was an Associate Judge from 1991-2007.

out of the office. I never went to a courthouse, I never did anything other than research and writing. And we didn't socialize with the rest of the legal community very much, we were just kind of in our own little world. And that was one of the reasons why I wanted to leave, to be perfectly honest with you. I wanted to get into a courtroom. I wanted to get into litigation. And I checked around and started talking to people and everybody said, "Well if you want to do that, you should go to the States Attorney's office."

So after I'd been in the Attorney General's office for five or six months, not even quite that long, I wrote a letter over to the State's Attorney's Office and had an interview and actually, talking about the office itself. There was a woman in the Attorney General's office who was the librarian of the office. We of course we had a full law library with, almost as large as the Supreme Court, but we had a full law library. And there was a woman there named Pat Coughlin. And Pat, I remember, she knew people in Springfield, she knew lawyers. She had been here for a long time. And I know that she called over to the State's Attorney's Office to put in a good word for me. I interviewed and then so I started at the State's Attorney's Office the end of May. And at that point, I will tell you, all of a sudden things changed quite a bit. Because now, I was part of the legal community.

In those days, the lawyers, the legal community would get together almost every day for lunch. There was a restaurant on Monroe Street, Conn's Cafeteria. And the lawyers would all go down there. And it was a cafeteria, you'd go through and get your food and there was in the back, well actually it was in the front by the window, there was a large table and whoever was having lunch that day would sit down, I can just, visualizing in my head, of course Joe Cavanagh who was the States Attorney, was always

usually there.⁹ There would be public defenders. There was a lawyer here in town, John Casey, who practiced law with his brother, Ed Casey. John would usually show up. There was an attorney who is still practicing law in town, Mike Costello, he would usually show up. He'd usually show up late, but he always showed up for lunch. Other people in the State's Attorney's Office would be there and it would just be a place where we would discuss things in general and have lunch. Another thing we would do on a regular basis, was, the courthouse at that time was located at what is now City Hall, Ninth and Monroe. And we would usually walk across the street after work on Fridays to go to Saputo's to have a drink. There weren't very many bars in downtown Springfield. There was Saputo's and there was Two Brothers. DH Browns had not yet even been built, this was in 1974. But usually we'd go over there, and many times we would go over there on Fridays because Friday afternoons and evenings, there might have been a jury trial that just ended or there might have been a jury trial that the jury was still out. And we'd go across to Saputo's, same crew of people who worked in the building, sometimes the judges, sometimes the court reporters, all of the assistants, some of the public defenders, some of the lawyers in private practice. And that is where I really started to meet lawyers.

But, again, in the seventies, we were a white male dominated profession. Jeanne Scott, who was in the State's Attorney's Office at that time, was one of the female attorneys.¹⁰ I'm trying to think, there were a few others in town. They started to come in the mid seventies. Ellen Schanzle-Haskins came about the same time as I did, and I think

⁹ Judge C. Joseph Cavanagh was State's Attorney from 1972-78. He became an Associate Circuit Judge in 1979, and was elected a Circuit Judge in 1982. He retired in 1993.

¹⁰ Judge Jeanne Scott became an Associate Circuit Judge in 1979, was elected a Circuit Judge in 1988, and was appointed a Federal District Court Judge in 1998. She retired in 2010.

she was working in the U.S. Attorney's office at that time. Beth, she was Beth Collins, then she became Beth Collins-McGill, she was in the State's Attorney's Office with me, I think she came a few years after I did. Again, the only African American lawyer in town for several years was Ted Lewis, Theodis Lewis, who became a judge shortly after I did. But we were a male dominated profession. I think as I mentioned to you, when I graduated from law school there were only probably a half a dozen women in my class out of two hundred and fifty. It started of course after, in the later seventies, early eighties, then it began to expand very much. But up until that time, we were still pretty much a male group.

LAW: Who were some of the more prominent lawyers in Springfield at that time?

SHIFFMAN: Well, let's see. Joe Cavanagh was the States Attorney. I don't know if that makes him prominent or not but he was a States Attorney. Of course Bill Roberts who was the first assistant. They were the local prosecutors. I'm trying to remember...the U.S. Attorney may have been Don Mackay, who I went to work for later.¹¹ I think he was the U.S. Attorney at the time but I can't be certain. Of course the attorneys in private practice. There were George and Bob Gillespie, who at that time their firm was Gillespie, Cadigan, and Burke. And Pat Cadigan was the Cadigan in that firm. Mike Costello had done a lot of criminal work. When I first came to town, one of the lawyers who I met was Jack Weiner. Jack was a lawyer in private practice who did everything. He did divorce, he did civil, he did criminal. He was kind of one of the legends of Springfield at that time. Tom Londrigan was just starting his practice and developing a practice in plaintiff's work. Gosh, Dick Hollis had been the States Attorney and was now

¹¹ Donald Mackay served as U.S. Attorney from 1971-77.

in private practice.¹² Bob Scott, who has since passed away, his two sons Steve and Greg are Scott & Scott here in town. He didn't do a lot of courtroom work, he did more of a business and probate practice. Let's see, the big firms when I came to town, they weren't really big firms. Sorling, the Sorling law office which probably now has perhaps thirty five or forty lawyers may have had about five or six lawyers back then. Brown, Hay & Stephens had four or five lawyers. Let's see, who else, oh well, [Charles] "Chick" Delano did a very large criminal practice and a civil practice and I think he had one or two lawyers who worked for him. So there were not actually a huge amount of lawyers, I mentioned the Caseys. It always struck me as unique that Springfield was a town where lawyers were more; you know there weren't very many large offices, they were sole practitioners and sometimes they would have two or three sole practitioners would be in one office but they would be separate. They might share secretaries, they might share some other activities and things of that nature. They were not really firms. So, and they were all of course concentrated downtown. That's why on an occasion we would get together for lunch or for drinks after work.

LAW: What about the States Attorney's office? How was that office organized? Who was in it when you first came in?

SHIFFMAN: The State's Attorney's Office had about, I want to say, maybe ten lawyers, and the office was divided in this respect: we had an office on the second floor and we had an office on the fourth floor of the courthouse. You started on the second floor, you did misdemeanors, you did what we called, the job was called the warrant desk. You were the intake officer. The police would come, the city police, and the county sheriff's office, they did ninety five percent of the work in so far as criminal work would go. They would

¹² Richard Hollis was State's Attorney from 1968-72.

come in and they would request complaints. People had been arrested, usually a very simple process. You were arrested on say Monday, Tuesday morning all the police reports were on the warrant officer's desk. He or she would review them and decide if there would be charges filed and what charges would be filed. And then by two o'clock in the afternoon, that person would be brought down before a judge and would have their first appearance. In those days, back in the seventies, there was still the city jail. So the city prisoners would be at the city jail and then they would be brought over here, usually at two o'clock in the afternoon in a van. They would come to the back door of the old county building, they'd go up the elevator to the second floor and they would be walked in to the court room, I think it was courtroom D or E, I can't even remember. And of course, if there was a big case, and there weren't that many big cases. I think back in the seventies we may have had two or three murder cases a year. I think when I first came to the office we had about five hundred felony cases a year. But anyway, on the second floor were about four attorneys, one who, and you would rotate each week. One, the one assignment was to be the warrant officer, to prepare the complaints. Then two assistants would be down at what they called the traffic and misdemeanor call, which were driving under the influence of alcohol, retail theft, batteries, just all the misdemeanor cases. We had probably about ten or twelve cases set for trial each day, Monday through Thursday. They never set cases on Friday. Actually on those days, on Fridays, the City Attorney handled cases because the city was separately prosecuting traffic cases from the State. And then, so two lawyers were on that call Monday through Thursday. And I can't remember what the fourth person did, maybe nothing. But anyway, just be unassigned I guess is the better way to do it.

[15:00]

And that's where you started in the office. As I said, I wanted to come to an office like this because I wanted to get in to a courtroom. I came in on a Monday of Memorial Day week, I came just before Memorial Day and the following Monday I had my first jury trial. A driving under the influence of alcohol case. So you know, I got my wish and you didn't spend a lot of time in those days on learning how to do things, you kind of were just thrown into the water and hopefully you could swim.

On the fourth floor, there were about another four or five assistants who were the felony assistants. And of course, that was everybody's goal once they came to the State's Attorney's Office was you wanted to get to the fourth floor because that's where the real action was. That's where the felony cases were handled. And we had one lawyer; his name was Walt Farrand, one lawyer who was the civil attorney for the State's Attorney's Office in those days. He advised the county board and handled certain other cases. So in total we have probably, I don't think we had a dozen people in the office. We had a receptionist and we had about five or six secretaries in total and that was the whole office. We were busy. But we, you know, we didn't have nearly the case load I think that they have now, but I guess your work always expands. We spent a lot of time, we would have our files, and I remember the assistant's job was of course to tell the secretary who to notify for trial and to just look at the files and get them ready. We didn't spend a lot of time because we'd have probably ten or twelve cases every morning and we never knew which ones were going to go to trial. Of course we pled out a lot of cases, as always. Everything was kind of done at the last minute but that was how you learned.

We didn't have, at that time, we did not have a formal public defender's office. What we had was public defenders who were all actually part time attorneys who were appointed on a rotating basis by the court, but they all worked someplace else. They usually worked in other offices, so they would come over here and we would work on, they'd work on their cases, and we'd get those cases pled out, the felony cases. There were misdemeanor public defenders and there were felony public defenders. They would work on the cases that they had but then again, I'm trying to remember when it occurred, at some point in the seventies, there was a Supreme Court case involving the right to counsel in jail offenses or non jailable offenses and they didn't, the Supreme Court refused, actually it was an Illinois case, *Scott vs. Illinois*, I'm not sure, but the Supreme Court said if you're not going to ask for jail time, you don't have to provide people with public defenders.¹³ So we would have a lot of cases where there would be misdemeanor cases but there wouldn't be any jail time involved. We had a lot of drunk driving cases where people did not have attorneys appointed for them as they do now because of the jail time requirement in many cases.

We had a slightly, we were less structured in many ways. And things were just done, in fact, many times you would, if a public defender or an attorney in private practice was there and negotiating a case and reach an agreement, the lawyer would say, "Well let's do it now." "Okay, is your client here?" "Yeah, my client is here, let's go do it now." And we would walk them down across the hall and find a judge and say, "Judge we've got an agreement on this case, can we take care of it now?" And if the judge was available, we would sometimes in misdemeanor cases, there wasn't a lot of structure, essentially the judge would bring the defendant in and say, "You understand what your

¹³ 440 U.S. 367 (1979).

rights are?” He’d briefly explain them. “Yes, and this is what you want to do?” “Yes,” and give them a plea of guilty and he’d sign it and then the case would be sent back to the clerk’s office. Felony cases it took a little bit longer but the judges were often in the afternoon. If we had a felony case to resolve, the judge would just, you’d go down to the judges’ office and you’d knock on his door and you say, “Judge [Harvey] Beam, can you do a plea for us?”¹⁴ And he’d say, “Yeah I’ll do it for you right now,” and you’d walk into the court room and you get the plea done. So it was a very less formal than I know it is now, in this courtroom and in courtrooms all across Illinois.

LAW: Okay, let’s talk about that first stint as an Assistant State’s Attorney. The first article I found was, and you may not remember it, but I just wanted to mention it because it was the first one I found with your name in it, was involving a guy by the name of Thomas Lanham and he got, he basically shot his father with a shot gun. It was in front of Judge Imy Feuer.¹⁵

SHIFFMAN: Yes, I.J. Feuer.

LAW: Any memories of him or of that case ?

SHIFFMAN: Of Imy? Yes. Imy Feuer was a very interesting fellow who actually, well one of things I remember about Imy, I want to put this in the right way, Imy would be in his office many times, Imy was not from the workers. Imy would be in his office, he would do of course what he was assigned to do and he was very thorough and very conscientious but usually every day around three thirty or four o’clock in the afternoon Imy’s wife, Ruth, would come to the courthouse, she’d be sitting in his office and you knew that once Ruth came, Imy was just about finished for the day. He was not one of the

¹⁴ Judge Harvey Beam was first elected a Circuit Judge in 1970. He served in that position until he retired in 1982.

¹⁵ Judge Imy J. Feuer became an Associate Circuit Judge in 1971, and served in that position until 1979. See, *State Journal Register*, August 30, 1975, pg. 28.

social members of the judiciary. Imy never went across the street to Saputo's to have a drink. Actually, and this is kind of an aside. Imy and I shared the fact that we were Jewish. But I never knew that till many many years later because Imy was not even a very active member of the Jewish community. The Feuer family was very active here in town and I knew Imy's relatives, who belonged to my synagogue, but Imy did not belong and he was just not a very outgoing person.

But, having said that, Imy was responsible one time for one of the great moments that I will never forget. In those days we used to at least publicly, prosecute prostitution cases very vigorously. It was never very successful because of the fact that in order to get a prostitution case actually prosecuted the police officers often had to go undercover because the men who procured the prostitutes would never come to court and testify. They would never want to come to court and testify and they would always just disappear. Well we had these prostitution cases and the supposed office policy was we were going to be very tough on prostitution cases and always seek jail time if there was a prostitution conviction and things of that nature. Well, some of the prostitutes in this town were not very, they're not very glamorous, and it wasn't a very glamorous profession. But anyway, one day there was a prostitution case that had been dragging on for several, for you know a long time, several continuances. The attorney on the other side, this woman had hired an attorney, private practice, John Long was his name. John was a wonderful guy, a very bright and very good trial lawyer. We had this prostitution case and it was the day for trial and John says to me, "I'm going to ask for a continuance." I said, "John, I can't agree to continue this case." I think in that case I had a police officer who was the witness, I said, "I can't agree to continue this case, you know

how the office is, but we are not going to agree to continue it. If you want to go and speak to the judge, if you want me to come and we can speak to the judge, that's, you can ask him, but I'm going to object to a continuance." So we actually back into, this is the way many times things were done, we walk back into Judge Feuer's chambers which was a very, very small, little office. And he was sitting there, and John Long says to him, "Judge on this case," I can't even remember the woman's name, "I'm going to be asking for a continuance." Judge Feuer looked at him, he was not very happy. Said, "Well why are you asking for a continuance?" And John said, "Because I have philosophical differences with my client." And Judge Feuer said, "And what are those?" He said, "It," cause he was getting testy and John said, "Well my client thinks I should handle this case for free and I don't agree with her." Well Judge Feuer started to laugh and I started to laugh and I knew he was going to get his continuance, and he did. And I can't remember what happened to that case. But Judge Feuer was very stern, he was not, he was very strict, very formal. But he was a good judge, I mean he, I think as I recall he had worked in the city attorney's office, he practiced, he was on the bench for a long time. I remember of course when he retired. But he was, and he stayed here in town. He passed away I think maybe in the last three or four years. He was very, he was one example of how judges behave and he was very, very formal in his ways. But I can't remember very much about that specific case to be honest with you except for, well I don't, I remember very little about that one.

LAW: Okay, another judge now, I thought this was interesting, his name was Charles Ryan, but he was from Morgan county.¹⁶

¹⁶ Judge Charles J. Ryan became an Associate Circuit Judge in 1971, and continued to serve in that position until his retirement in 1983. Prior to becoming a judge he was State's Attorney of Morgan County from 1956-1970.

SHIFFMAN: Well first of all I should tell your this, when I became a judge I succeeded

Judge Ryan. Judge Ryan was kind of, well, a sad figure in certain respects. Judge Ryan had been the State's Attorney in Morgan county. And remember since the seventh circuit includes Morgan, Scott, Sangamon, and you know. I think that, I'm not, he had been on the bench of course by the time I got here, in fact I tried my first jury trial in front of Judge Ryan, actually tried my first case in the State's Attorney's Office, a speeding case, in front of Judge Ryan. He had been the State's Attorney in Morgan county and I guess he left that position and he came over here. Judge Ryan had a drinking problem. He was an alcoholic. But the thing I remember is, the first thing I remember about Judge Ryan is I would go into his office and he had a great collection of legal books. We were just talking about that. But he had a great collection of legal books, he had a lot of books he brought over. And you know they weren't torts, contracts. He had a lot of biographies and a lot of good legal books. And I would always go in there and I'd be looking at them and he'd say, "You want to borrow anything?" I said, "Yeah." He said, "Okay take what you want," and I would borrow books from Judge Ryan. Now, he was, it's very funny, he was the exact opposite of Judge Feuer. He was very unstructured, very unorganized. He would come into his office, Judge Feuer's desk looked beautiful, nothing out of place. Judge Ryan's desk looked like a tornado had hit it. Many times he would forget about cases that he had. He would forget sometimes to rule in cases, you had to remind him. So he was totally disorganized. But he was one of our judges, he came here almost every day and then sadly he went, then after awhile he went back to Morgan county to sit in Morgan county. One of the problems when he became a judge of course I think they had him come to Springfield because Morgan County is a smaller county. In those days he

probably knew everybody, he'd been State's Attorney, so it was easier for him to come here so he didn't have to be conflicted on many cases. He went back to Morgan county several years later but his problem with drinking got to the point where they actually, he, retired about three or four months before the end of his term which would have been June 30th of 1983. So we were short a judge for, we in the circuit were short a judge, actually short a judge in Sangamon county, but they just waited till the end of his term to fill his spot which was the spot that actually that I got. But he was a, you know, for all of his disorganization, for all of his, sometimes he couldn't, he had trouble deciding cases.

[00:30]

He was very well read, he was very knowledgeable about the law, and we would have some great discussions just about the law in general. He was, he was, I liked him.

LAW: Okay, another case, another judge. Early case, this was from '76. Involved Judge Simon Friedman. It was a rape case involving a fellow by the name of Mark Steven Allen.¹⁷

SHIFFMAN: Before you get to that. I don't want you to pass up my, the greatest, one of my favorite cases of all time, was my first really big case was Lester Aldridge

LAW: I've got, I've got that one

SHIFFMAN: Good! Okay let's talk about Mark Allen. Mark Allen is kind of a case that kind of helps explain the way things went on in the States Attorney's office in those days. I was still, I think, if it was '76, I was still probably a second floor assistant. Now Mark Allen was a person who was a vicious criminal. But, he looked like an angel. When this case first came in and you know, it came in the way they used to always come in, I got the police reports you know and I saw Mark Allen. I knew Mark Allen's name because

¹⁷ Judge Simon Friedman was appointed a Circuit Judge in 1972, and elected to that position in 1974. He served in that position until 1990 when he retired. See, *State Journal Register*, June 9, 1976, pg. 24, and June 10, pg. 14.

he had been previously tried for rape in a different case. In those days we called it rape, we didn't call it sexual assault. He had been tried in a rape case before where the victim was hurt badly, she had been beaten. But, again he looked very angelic and this first case he had been tried by an assistant who was no longer in the office who was named Dennis Sheehan. He had been acquitted, he had been found not guilty. And I think they had talked to some of the jurors afterward and the jurors said they just couldn't believe he was a guy you know, who would commit a rape.

Anyways, so I knew who Mark Allen was and as soon as I saw this report I started doing things that you didn't normally do with cases. I called the sheriff's office; he had been arrested by the sheriff's office. And I said, "I want you to go back and make sure you check the car, make sure you check the car, you know for any physical evidence, things of that nature. We've got to talk to the victim," and we started doing all kinds of things. And at that time Jeanne Scott who was on the fourth floor who was a felony assistant on the fourth floor. I called her, I called her, I buzzed her on the intercom upstairs, I said, "You know we've got Mark Allen in custody," and we started working and as a result of that she, when we actually filed the charges, she would, she said to me since I had done a lot of work on the case, that I would second chair. That meant I was the second person. Like in you know *Law in Order*, you know one lawyer sits next to, but we got to do more than the ones they do on TV. Walter Kasten represented Mark Allen. Walter was the public defender. And Walter was the best public defender in Sangamon County.

And this was a very interesting case again. Because the victim, Mark Allen, as I said, was angelic and he was very small. The victim actually was bigger, the woman,

was larger than Mark Allen. They had gone out to a road, a rural place in Sangamon County. I think they met at a bar or something. And he drove her out there and he raped her. She said he raped her and I believe that he did. Then they couldn't, it was her car, and they couldn't get the car to start. They actually went, they had to get out of the car and go to a farm house. The girl didn't remember where the farm house was. No one could remember where the farm house was. We went out, we drove out, I remember Jeanne and I drove out in my car through some farm areas in Sangamon County, we couldn't find this house. Case went to trial and Walter Kasten, and I never knew how he did it, he found the house. He called, I think it was the husband from this farm house. They said, "Yes these people came to our house at one o'clock in the morning, they knocked on the door," this and this and this, and they explained the whole thing." And I remember the farmer, I think it was the man, I don't know if it was the farmer or the farmer's wife, but whoever it was that testified said, "We called for a tow truck. She didn't to be upset. She didn't seem to be nervous or anything, and as they left the farm house I remember they were holding hands. And I thought, how nice it was to be so young and in love." That was the last witness. That didn't help our case obviously.

What also I still remember about that case was that, we would divide up the work, and the way it worked was, I did the first half of the closing argument for the state and then Walter would get to speak, he would give closing argument for the defendant. Then Jeanne Scott was going to do the rebuttal. While I did the closing argument and Walter Casten did what, in those days they called, dropping the pigeon. Dropping the pigeon meant Walter didn't, Judge Freedman was the judge, so I gave my closing argument and then the Judge Freedman said to Walter, "Mr. Kasten, you may give your argument on

behalf of Mr. Allen.” And Walter stood up and said, “Judge, I think the jury heard all they need to hear. I’m not going to say anything.” The reason he did that was would keep Jeanne, who was really very good, for making her rebuttal closing argument. So Walter dropped the pigeon and we didn’t think we were going to get a conviction. But the jury was out for several hours. They were out for probably five, six, seven hours. And then they did come back and found him not guilty but we considered it a moral victory. And I guess the end result of this was, several years later, Mark Allen was arrested again and was finally convicted in a sexual assault case. So he’s finally in prison. And I think probably, he may be out by now. It’s been, this was you know, I think I was already a judge by the time he was finally arrested and convicted. And it didn’t have anything to do with that case. But that was one of my, you know, that was a very interesting case. Judge Friedman was the judge; I remember Judge Friedman had a little problem with some of the instructions. We had an instruction in there that he didn’t mean to read and he read it and it got a little bit confusing for the jury. But It was a, you know in those years, it was very difficult to win rape cases. They’re still difficult.

LAW: Why so?

SHIFFMAN: Well, I think in part one of the reasons was because, first of all, we didn’t have the physical evidence issues, the things that we have now. This was before DNA, the only way you could sometimes match by blood. I think the general consensus in the community, in most communities was back then, that women, I hate to say it, nice women did not get raped. This young woman had been at a bar, she had gone out with Mark Allen after drinking. She acknowledged that she had been drinking, and in many instances, jurors just did not believe that women could really be raped. I mean it was just

a different attitude, a different era when it came to sex crimes. In all aspects, you know we first started trying sex cases involving children back in the seventies and the way those cases have evolved over the years is just incredible. So that was one of my, as a friend of mine once said years later, “That was a case where I came in second.” So.

LAW: Another judge I wanted to ask you about before we get to the Aldridge one, who later became a Supreme Court Justice, Ben Miller.¹⁸

SHIFFMAN: Ah yes, now you’ve kind of got things, I will say this; and don’t take this wrong, you’ve got these things a little bit out of order because Ben came to the courthouse I think maybe in the, I want to say late seventies, maybe early eighties. Ben was on the, was he already on the Supreme Court when I became a judge, I think he was. But Ben Miller came and Ben was a very interesting fellow. Again, you’ve talked about the legal community. Ben was an active member of the legal community but Ben had a practice I think, Ben did some insurance defense work and some civil cases but Ben was also very political, in a good way. I mean he wanted, I think he wanted to be a judge, there was no doubt about it. He was very active in doing the things that one needed to become a judge. He was appointed, gosh I think, I can’t remember, he may have been appointed when Wally Ackerman became a federal judge.¹⁹ I think Ben became, took his spot on the circuit court bench. Ben, by his own admission, came to the courthouse having never been involved in a criminal case. And this is something that I think you learn about and that I experienced as well. When you become a judge, your area of expertise is not where you get to be a judge right away. Because of problems with

¹⁸ Justice Ben Miller was appointed a Circuit Court Judge in 1976, and elected to that position in 1978. In 1982, he was elected an Appellate Court Justice, and in 1984 he was elected a Supreme Court Justice. He retired in 2001.

¹⁹ Judge J. Waldo Ackerman was appointed a Circuit Court Judge in 1971, and elected to that position in 1972. In 1976 he became a U.S. District Court Judge.

conflicts. For example, I was an Assistant State's Attorney and I became a judge. Well immediately I couldn't hear any criminal cases because I had been involved in many, in those criminal cases. So for six or seven months I couldn't hear a criminal case. So I ended up doing divorce cases. But Ben had never done a criminal case. He came to the court house and he immediately was thrown in to the criminal law area. And I remember he told me once that the first thing he did after he became a judge and he got his criminal assignment was he read the criminal code which really wasn't very thick back then. He read it from beginning to end, you know, from front to back. So he could understand it. And he was a very, very; he was the best, probably one of the best trial judges I ever appeared in front of. He was always quick with his rulings on evidence, he ran a very good court room, and in fact, again, I've got a good story about him in just a second here, but he was very good. He and I, I truly liked him, and he and I had just a lot of contact back in those early days. He was, mentor is not the right word, but we just a very good relationship but I cannot tell you my, the story that I still tell to people because it just kind of gives you an inkling about the way things were.

I was trying a case in front of Ben, it was an armed robbery case, actually I remember it very well because it was, it involved Springfield Furniture which is still in existence down here, but the Kesslers at that time, Springfield Furniture was a furniture store, it wasn't the record and you know whatever they call it now, I can't remember what they're calling it now, Recycled Records. It was still a furniture store. The senior Kesslers were the owners, and a man came into the store, a man by the name of Charles Strickland, who had been previously convicted of a crime, I can't think it was robbery, he had a gun and he held up the Kesslers and took money from them and he actually pistol

whipped Mr. Kessler and then fled from the place.²⁰ They had a burglar alarm or they called the police, the police were quickly on the scene and they chased Charles Strickland all through downtown Springfield and caught him and he was in custody. It was a pretty good case, it was a very strong case, but it was the kind of case that we knew there was going to be a trial because Strickland would not plead guilty because he was going to go away for a very long time if he was convicted. So we are trying the case in front of Judge Miller. Judge Miller ran a very, very tight courtroom, a very tight ship. And this was a case, sometimes this doesn't happen, but I was very, things were going great, my witnesses were going smoothly, there wasn't a lot of cross examination, and everything was going well, and on the second morning of the trial, I had two witnesses ready and I think they're going to take about an hour and a half. As I say, Ben was very organized. You knew in Ben Miller's courtroom, you started at nine o'clock precisely. And he took his first break at ten thirty and then you know, took a break for lunch. But you moved along. So I had two witnesses, I thought they'll take an hour and a half. And I put them on, and low and behold, they each take less than twenty minutes. So now at twenty minutes till ten, I don't have a witness. So Ben says, "Call your next witness." I said, "Judge, may we approach the bench?" "Yes." I think Bruce Beeman was the lawyer on the other side.

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And I said, "Judge, I've kind of run out of witnesses. Now my next witness is over at the police department and he'll be here but can I have like ten minutes to call him?" He said, "Yes." So he says to the jury, "Ladies and gentlemen, we're going to have to take a little recess right now while we wait for our next witness." So I call over and I'm calling

²⁰ See, *State Journal Register*, February 5, 1982, pg. 7, and March 16, pg. 3.

and you know, they say, “Well, he’s not here right now, he had to go away but he knew that he had to be at the courthouse at ten thirty.” I said, “Well we’re ahead of schedule, we could use him right now.” “We’ll find him, we’ll find him.” So now I go back into Judge Miller’s chambers and Bruce is there and I said, “Okay, he’s on his way but I’m not quite sure when he’s going to get here.” Ben Miller says, “Well you better get him here because we’re starting at ten minutes of ten.” And I didn’t know what to do and finally I said, “Judge, you’re not being very fair to me. You know, you were a lawyer in private practice for a long time, and you know sometimes when you schedule these things that you can’t be precise. Sometimes witnesses are here and sometimes witnesses are not here. Cut me a little slack, be a little bit, you know, don’t be so.” I can’t even remember what I said I was getting angrier and angrier. And he could see that I was getting angrier. And so finally he got this kind of little grin on his face and he looked and he says, “Yes, I was a lawyer in private practice, but now I have a much different perspective on how things should be handled.” So I’ve always used that line. But anyway, we got our witness finally, we finished the case.

But Ben was very good and then I remember Ben took on the Pontiac prison case.²¹ It had a bad, you know, it was a tough case for him because he was kind of, he had some help, but it was just a very difficult case, I think it kind of, it was kind of tough, and then he was gone. He wasn’t in the courthouse as much because he was working on the Pontiac case. Then he ran for the Appellate Court and he was successful. And then he ran for the Supreme Court. I still remember that race when he ran for the Supreme

²¹ On July 22, 1978, a riot took place at the Pontiac Correctional Center. Three guards were killed, and two were wounded. Seventeen inmates were eventually indicted on a variety of charges, some of which could have led to the death penalty. After an eleven week trial in 1981, ten of the inmates were acquitted. Charges were later dropped against the remaining defendants.

Court. It was, it started off as a three way race between three members of the Appellate Court, Fred Green from Champaign, Judge Miller, and Judge [Richard] Mills.²² Judge Mills dropped out of the race and he ultimately became a federal judge of course, and where he still is. Judge Miller won the primary and then won the election and Judge Miller presided over my swearing in so he was here. Now I know he's retired and he's in Chicago. Now I have not seen him for a long time but he was, I would, I still have to say if he wasn't the best trial judge I ever appeared in front of, he was pretty good. And I watched him conduct other trials and whether they were civil trials or criminal trials, he was just, he was a judge you wanted to model yourself as for the way he conducted himself in the courtroom.

LAW: The next judge and case, it's another armed robbery case and attempted murder. But it involved Judge Harvey Beam. And this was the Sheila Hamilton case.²³

SHIFFMAN: Yes, yes. You've come up with a few that I had kind of forgotten about. Judge Beam, another very good judge. Also very organized, but sometimes Judge Beam would let the defense lawyers get away with a little bit more than other judges. Maybe that was because of his experience in practice, I don't know. But he was, I remember once, I remember that case because Theodis Lewis represented Sheila Hamilton, who was kind of a difficult case. I think as I recall, that there may have been some things going on in that case that both the police and the defense didn't want to talk about. And that may have been, there was some drug issues going on. It was a drug case that kind of went sour. The first thing I remember about that case that created difficulty was that Sheila

²² Justice Frederick S. Green was elected a County Judge in 1955 for Champaign County, a Circuit Judge in 1964 for the Sixth Circuit, and an Appellate Court Justice in 1974. He retired in 1998. Judge Richard Mills was elected a Circuit Judge for the Eight Judicial Circuit in 1966, and then elected an Appellate Court Justice in 1976. He was appointed a Federal District Judge in 1985, where he continues to serve.

²³ See, *State Journal Register*, March 28, 1977, pg. 3.

Hamilton was arrested and they wanted to conduct a line up to see if the victim could identify her in the lineup. Sheila Hamilton was a black woman. And the Springfield police department didn't have very many black women who they could place in the lineup. They ended up, I think, only having three people in the lineup. I remember I had to; there was a motion to suppress the lineup as being suggestive because there were only three people in it. And I actually remember going over to the Supreme Court library back in the old days when this is how you do legal research. Going over there and finding some cases about how many people you needed to have in a lineup and things of that nature. Judge Beam let the evidence in and left the lineup and identification come in. I also remember that back in those days, the chief of detectives with the Springfield police department was also a black officer named Jim Dickerson, fantastic. He was another great guy. I remember him calling me, I'm getting the case ready for trial and I think he called me on a Thursday, the trial was scheduled for the following Monday. He called me and he said, "Are we going to win this case?" I said, "Well I hope so, I think so." He was a little bit, for some reason he was a little bit antsy about this case. We tried it, it came, the witnesses came across very well, and then, it was the afternoon and the case was just about over and I'm ready to give my closing argument and Theodis filed, at the end of all the evidence, it was just normal that what happened, at the end of all the evidence, the defense lawyer stands up and says, "I want to make a motion to dismiss the close of all the evidence." That drew a finding of not guilty. So I thought, well, it was very perfunctory, it was always perfunctory I thought, the judge will say, "Well your motion is denied." Usually that's what happened. For some reason Judge Beam decided he was going to go through all the evidence in the case. We'd had a couple days worth of

testimony. He proceeded to talk for the next forty five minutes about the evidence in the case. The more he's talking, the ansier I'm getting because I want to give my closing argument. I'm ready to go, I'm ready to go, I'm ready to go. He keeps talking and talking and talking and finally he says, "The motion is denied." So then we started closing arguments and I remember after we're waiting for the jury to go out and for some reason, Jeanne Scott and Jim Grohne, who I still play golf with, they wanted to go play racquetball and I had this jury out. I said, "No I don't want to." "Come on with us, the jury will be out for awhile, come on with us. Come play racquetball." So we went and we played racquetball. If you had three people you played with you called it cutthroat racquetball where one played against two. Well I had my mind on this jury and I'm playing, after about tem minutes of playing racquetball with the other two, I'm hitting the ball when I'm not supposed to hit the ball and I'm not paying attention. Finally they kicked me out and said, "You go back to the courthouse." So I got cleaned up and went back to the courthouse, waited for the jury to come in and the jury came in late. In those days, and that's another thing, we didn't send juries home. They changed, the Supreme Court changed the rules to allow you to send juries home if they were deliberating, say for example six or seven o'clock at night. In those days we didn't send them home, we'd take them out to dinner. We didn't want to put them up in hotels, we'd never do that. But we had juries that would deliberate till one or two in the morning. And this is one that was out pretty late. And they came back and found her guilty. I think it was one of the first cases that I ever tried, one of the first felony cases, I tried it by myself. Which was always a little, I don't know, it's always a little dicer because if you try a case by yourself you don't have anybody to help you do some of the things that you need to do. But it was

a good case, it was a case that you know, when you when a case like that you get a lot of, you're a big man in the office, at least for twenty four or forty eight hours. Or big woman you know. That's the kind of case where the boss walks in your office and knocks on your door and says, "Good job." And you really feel it.

LAW: Ok, now this Aldridge case.²⁴

SHIFFMAN: Ahh! Finally...

LAW: My first question is it was in front of Judge..

SHIFFMAN: Judge Koval, Joseph Koval.²⁵

LAW: Now he was from Macoupin County?

SHIFFMAN: Yes, some of the back-story on that, you could be a great straight man, because there is another great story about Judge Kovall which I will tell you in just a second. The Lester Aldridge case was kind of a interesting case for several reasons. It was a very brutal murder. The young girls name was Vickie [Jo] Leka and she was probably seventeen, sixteen or seventeen, I can't remember exactly. But she was taken out onto a road in rural Sangamon County and she was, four or five shots. And it was a big you know, high publicity, high profile case at that time. Also the Sheriff of Sangamon County back in those days was, his name was Martin Gutsehnitter.²⁶ Martin Gutsehnitter was a Democrat who had been elected, who had defeated the incumbent Democrat Sheriff in a primary.²⁷ Martin Gutsehnitter, when he came to Springfield, he was not from around here. He came actually to be an instructor of criminal law at Lincoln Land. He was a very

²⁴ See, *State Journal Register*, May 20, 1977, pg. 2, May 21, pg. 3, June 10, pg. 17, and July 15, pg. 13. Also see, *People v. Aldridge*, 68 Ill. App. 3d 181 (4th Dist. App. Court, 1979) and *People v. Aldridge*, 79 Ill. 2d 87 (1980).

²⁵ Judge Joseph Koval was appointed a Circuit Court Judge in 1976, and then elected to that position that same year. He retired in 2006.

²⁶ Sheriff from 1975-79.

²⁷ Hugh A. Campbell, Sheriff from 1958-62, and 1970-74.

political guy and he and Joe Cavanagh, who was still the State's Attorney, did not get along. They had political fights. And Gutschenritter was in his office, he was very, he ran a very political office back in those days. And the two of them certainly did not get along. This was a big case for Gutschenritter. It may have been one of the first murder cases he was ever involved in. And he played it for everything that he could. But they could not find anything to you know, they could not find the defendant in this case.

But I actually again, I, my first involvement in this case was that I had a misdemeanor case and the misdemeanor case was for defacing a firearm. And Lester Aldridge was the defendant. What he had done was, he had taken a gun and he had cut off the barrel of the gun, it was a revolver, and he had somehow taken the barrel of the revolver off and he had placed it on another gun, I don't know how people did that kind of stuff. Well he was arrested because he was shooting after he done this, he took the gun out in rural Sangamon County to make sure it would fire. They didn't have firing ranges in town. He's out in the woods someplace, firing this gun and a Sangamon County Deputy Sheriff named George Schultz was driving by and he hears this gunfire going off and he goes out. Hey what's going on? He sees this guy firing a gun and says, "Let me look at this gun." George Schultz was young, now George has since become one of my very good friends, at that time George was young and George was Mr. by the book police officer. And he was probably the only person in Sangamon County who even knew there was a crime called defacing a firearm. And he said to Lester Aldridge, "I'm placing you under arrest," he took him down to the county building they booked him in, it was a misdemeanor, I think it was a class C misdemeanor. So he posted fifty dollars or a hundred dollars in bond, but now George Schultz had this gun and he sent this gun off to

the crime lab. The crime lab comes back a month later and says this is the gun that shot Vickie Leka. We are about ready to take this case to trial you know on the misdemeanor case. And probably what would have happened was he would have plead guilty and he would have paid a fine and whatever, it wasn't a very big case. George calls me a couple days before and says, "We can't let this case go to trial." I said, "Why not?" He said, "This is the gun that killed Vickie Leka," I said, "Okay," so I think we continued the case. So now they really start doing their investigation and focusing on Aldridge. They bring him in a couple of times for questioning, he has a lawyer, then he fires his lawyer then he goes on and on. Finally they arrest him and I think he fired the lawyer while he was in jail, but ultimately he confesses to the crime. Because again, because I had done some work on it. Bill Roberts was going to be the trial, was going to try the case. He was the first assistant, Joe Cavanaugh wouldn't have anything to do with it. So Bill comes to me and said, "Would you like to second chair this case with me," and this is my first murder case and I said, "Yes, yes, yes." So we tried that case together, but because of the fact that again, because of all this local stuff that was going on, none of the judges in Springfield really wanted to get involved in this case. I think actually one of the problems was that at one point when they were investigating him, Walter Kasten had actually filed for a civil injunction against the Sheriff to prohibit him from questioning Aldridge. And Harvey Beam heard that motion or heard that request so Harvey said, "I'm not going to hear the case."

[01:00]

And a couple other people didn't want to hear it so they brought in Judge Koval from Macoupin County. Judge Koval had been the Macoupin County State's Attorney, and I

remember when the assigned the case I heard it from the court administrator and I came down to Bill Roberts and I said, “Well I think that’s good news, we got Judge Koval from Macoupin County to hear this case and he was just the Macoupin, the former prosecutor or Macoupin County.” And Bill looked at me and said, “Earl Warren was a former prosecutor too.” So anyway we tried in front of Judge Koval who was very good, very thorough. We argued motions and you know, the motion is suppress and we won our motions and George Ray was finally representing Lester.²⁸ He didn’t have much of a defense you know because Lester had confessed and had confessed repeatedly and we tried it and he was convicted and the sentencing rules in those days were a little bit different than they are now. But Lester was sentenced to ninety to a hundred and twenty years in prison. And last time I looked, because I do look on occasion, he is still incarcerated.

And there is even a little bit more to the story because Lester’s case goes up on appeal, it’s affirmed by the Appellate Court and then the Illinois Supreme Court grants leave to appeal. So they grant leave to appeal so we have to jump ahead here. So Don Mackay who was head of the criminal division in the Attorney General’s office who had met me at a seminar and a couple other things, calls me and asks me if I would be interested in working in the Attorney General’s office, I said, “Yes I think I would.” I said, “By the way you have this case that’s pending, that’s going up to the Illinois Supreme Court, Lester Aldridge, I tried that case, can I handle that case in the Illinois Supreme Court?” He says, “Sure no problem.” So that was one of the, I don’t know if it was the first or second case I got to argue in the Illinois Supreme Court. It was quite the

²⁸ Judge George Ray became an Associate Circuit Judge in 1987 and served in that position until his retirement in 2007.

experience and we can get to that when we talk about my days in the Attorney General's office. What else have you got for me?

LAW: Well I don't move on quite yet. I did read the opinion and it seemed that the major issue was the confession.

SHIFFMAN: Yes, Yes.

LAW: Let's go ahead and talk about it.

SHIFFMAN: Well you know it's very interesting because I think you can learn a lot about how the law has changed quite a bit. Lester had an attorney, at one time he had Walter Kasten, he fired Walter. There was never, ever, any videotaping of that confession. There was never any, I don't even, never any tape recording of that confession, cause we never played it or anything. It was just, did they use, and I think Lester wanted to talk. And I think they had police officers who recognized that and eventually they gave him the opportunity. The confession was the case. Although you know, we did have the gun, he did have the gun, and the criminal, the ballistics testimony in this case was very well done. I still remember the expert who testified was a fellow by the name of, I want to say his name was Roger Thompson, but he worked at the crime lab and you know he was a great expert to confirm that the bullets that killed her came from this gun and from no other gun. So would that have been enough? I don't know. But we did have the confession and the confession obviously helped quite a bit. But we did fight about the confession. We had to argue the motion to suppress, we had all the witnesses who testified. But we didn't have any of the technology that we have nowadays. In a case such as this they probably today would video tape that confession. And they would have a much better record of that confession. The confession was the whole issue. In fact if

you read the appellate court opinion, I think Jim Craven wrote that opinion, that's my recollection. If you read it at first it's almost reads like they're going to toss the confession out, but they for some reason decided not to. So then it went up and I remember arguing it and you know the Illinois Supreme Court and again they don't have transcripts of those arguments back in those days. But I think I did say to the Illinois Supreme Court the question was whether or not Aldridge had waived his right to an attorney, whether he had done so voluntarily. And I think at one point I did say to them this is a man that's had more attorneys than Mickey Rooney had wives. That was a long, long time ago. People don't even know who Mickey Rooney is anymore. But anyway I mean it was a, to my mind clearly he had waived his right to an attorney. I think it was a seven to nothing opinion in the Supreme Court. But that confession was the big, we argued that, we argued several issues because I remember again going to the Supreme Court because there was a second, I can't remember, it wasn't just whether he could waive his right to an a attorney, because clearly he could. But there was a question about some of the things, whether he was unwaiving his right at some point in time. And I can't remember, there wasn't any case law necessarily at that point. We fought about that one for quite awhile. But once we had the confession in we knew we had a pretty strong case.

LAW: Okay, another judge who I wanted to ask you about was Judge James T. Londrigan. And this [Julian P.] "Babe" Gabriel case.²⁹

SHIFFMAN: Okay, yes, well first you have to remember this. Babe Gabriel is a legend in

²⁹ Justice James T. Londrigan was elected a Circuit Court Judge in 1976, and served in that position until his appointment to the Appellate Court in 1981. He returned to private practice in 1982. See, *State Journal Register*, January 11, 1978, pg. 20.

Springfield. One of the most legendary criminals that we ever had in this town. If you want to, if you go, we were just talking about him the other day, we were trying to remember where he, what happened to him, whether he's still alive. I think he's dead.

LAW: He died, he died in prison.

SHIFFMAN: He died in prison yes, and he probably killed a few other people. Had been I think involved in a murder case here where an attorney was murdered, and I can't remember what Babe, this was before I came here to town. It was the [Fred] Pefferle murder, and I can't remember, if he was in fact involved, I'm not quite for certain on that.³⁰ But anyway he was involved with this cocaine case. In those days we had an agency here, still is in existence, but the State of Illinois Department of Law Enforcement was called the IBI, the Illinois Bureau of Investigations. And they used to work all over the state and one of the things they would do, is they were very much into drug cases. And sadly one of the things they would do is they would get people who they would arrest on drug cases and they would get them to become snitches and they would get them out and they would get them to do more drug buys. Babe had done a drug buy, or a drug sale and he was charged as my recollection. And this was at a time, I can't remember exactly what years it was, but there was a ongoing debate about whether cocaine was a narcotic or a non-narcotic drug. And in fact, Judge Mills had gone to the Appellate Court, and Judge Mills had written an opinion, or had concurred an opinion in the fourth district that reversed convictions for cocaine, that declared the cocaine section of the controlled substances act unconstitutional.³¹

³⁰ Gabriel testified on behalf of the defendant in the case. See, *State Journal Register*, October 31, 1973, pg. 1, 2.

³¹ See, *People v. McCarty*, 93 Ill. App. 3d 898 (4th Dist. App. Court, 1981) and *People v. McCarty*, 86 Ill. 2d 247 (1981). Also see, *State Journal Register*, March 14, 1980, pg. 49, May 13, 1980, pg. 13, March 4, 1981, pg. 116, and May 13, 1981, pgs. 1,2.

LAW: The *McCarty* case?

SHIFFMAN: The *McCarty* case which I will get to in seconds, as a result Judge Mills later on when he went to the senate for confirmation actually had a little problem with his involvement in this drug case and concurring in this decision. So now the *McCarty* case I think it's actually going, I don't know if it's still pending in front of the Supreme Court, but we have this Gabriel case.³² Gabriel, who had money, Chick Delano was his local council, but Gabriel hires as his lead counsel, Charlie Bellows from Chicago. Now Charlie Bellows may not mean much to you but I will tell you this that Charlie Bellows was essentially, this was like the 1970's, Charlie Bellows was like the Clarence Darrow of Chicago in the fifties and the sixties, one of the most well known criminal defense lawyers ever. When he came down here it was like Elvis Presley walking into the office, I mean this man was a legend.

We had this case we were getting ready to try it, again I was going to try it with Jeanne Scott. I can't remember why, oh because Jean Scott was going to try it with Jim Grohne, my friend. But Jim decides to go into private practice so he leaves so Jeanne says, "Ok, you'll do it with me." So we prepared it, there wasn't much to it. There was the informant, a couple other people, this is you know a not very difficult case. Then they finally came in and they plead it out, because they had this whole question about the whole constitutionality of the statute hanging around, they finally plead it out to possession of cocaine. He went away, he was already on parole, so he was going to do some time anyway, but he went away for a relatively short sentence because everybody thought that was the thing to do.

³² The *McCarty* case took place after the Gabriel case was settled.

Judge Londrigan was the judge, and in those days what we used to do, when you did a plea of guilty, it was a process that took about twenty five or thirty minutes. You had actually, the judges had what they called the script and you know the script had the exact words that they would say. Some judges didn't follow the script verbatim, some judges did. Judge Londrigan was one who followed the script word for word. So we went to do this plea and Charlie Bellows who was from Chicago, was not used to these lengthy pleas of guilty, because in Chicago, in Cook county they don't do long pleas of guilty, they had way too many cases and way too many defendants and not enough time. So Judge Londrigan starts into this script and he's in it for maybe three or four minutes and finally Charlie Bellows stands up and says, "Judge all Mr. Gabriel wants to do is plead guilty, can we not move this along?" Judge Londrigan looks at him and says, "Mr. Bellows, we do things differently down here in central Illinois than they do in Chicago." And we went through the whole process. Bellows was very engaged. Babe Gabriel was, I hate to say this, Babe Gabriel was a very engaging fellow. If you did not know he was a mean criminal, you would have thought he was a very nice guy. So you know that was, my work in that case, I can't say I did anything very good, it was just prepping a couple witnesses and then getting ready. Jeanne did all the heavy lifting there for sure.

But that now, I guess this is a good time, I did get to go back to the McCarty case, they had declared the controlled substances act as related to cocaine, unconstitutional. In those days we had a process in Sangamon county, that we still have it now. Our cases were handled on appeal by the Illinois States Attorney's Association. They lost that case and I remember when they lost that case because my friend Michael Metnick was Mr. McCarty's attorney and Michael got really a lot of publicity out of that case. In fact if I

recall I think he got an invite to go to *Good Morning America* and he flew out to New York and he got a lot of publicity about the case. But the Illinois Supreme Court took it on leave to appeal. And so Bill was the State's Attorney. And he said, "I want you to go over and argue that case," even though I had not written the brief, the State's Attorney Association wrote the brief, he said, "I want you to go over and argue that case." So I go over to argue it and Michael is arguing it for the other side. Michael was very excited, in fact I think his wife came to the oral argument at the Illinois Supreme Court, I think even his mother may have even come down from Chicago, who I knew. I knew Michael from the time he came to Springfield, and we were very good friends, and are still very good friends. So he argued the case. I remember the argument was over and Michael's wife at that time, her name was Phyllis came up to me afterwards, we're outside the courtroom. She looked at me and said, "Sorry, you kicked his ass." It was a very one-sided argument and I knew we were going to win. In fact the case was won you know, seven to nothing.

But I also remember going that afternoon, I argued the case in the morning, going out to the airport here. I was going to Chicago for a meeting and in those days there was a airline here in Chicago called Air Illinois, here in Springfield, they used to fly between Chicago to Springfield. They would fly both ways in the morning and in the afternoon, for the state workers, and people who worked in various places. They would fly to Meigs Field. So we get to the airport and were getting ready to fly on the plane and Justice [Seymour] Simon, who was on the court at that time, Justice [Daniel] Ward I think was on the court, oh and Justice [William] Clark. But the three Supreme Court Justices were all at the airport

[01:15]

waiting to fly to Chicago. I had you know just been there in the morning and I see them and they see me. Justice Simon starts to walk over to me, and I thought, Oh wow, this is going to be good, he's going to say something really nice. He comes over and he says, "Shiffman?" I said, "Yeah?" "Are you any relation to Dave Shiffman, who is a lawyer in Chicago?" I said, "No Justice Simon, I'm not." He says, "Okay," and turns around, that was my conversation. Now his son John is on the Appellate Court in Chicago, and another very good lawyer. But anyway it was a nice experience and good case, although my involvement wasn't, I didn't get as much to do on that case as I would have probably, you know very minimal involvement but it was interesting none the less.

LAW: The Gabriel case?

SHIFFMAN: Yeah, the Gabriel case and the McCarty case were kind of intertwined.

LAW: Okay, because I also noticed that prior to the Gabriel case, Judge [George] Coutrakon had thrown out some cocaine charges kind of for the same reasons as Mills.³³

SHIFFMAN: You see the way the law was at that time, once the fourth district issued their ruling, since it was the only ruling in the state, they were bound to follow it for as long as it, at least till the Supreme Court granted leave to appeal. I think that there were a few cases that were thrown out but I think that some of them were ultimately reinstated. It wasn't much, it didn't last very long.

LAW: Do you have any memories of Judge Coutrakon?³⁴

SHIFFMAN: Oh yeah. Judge Coutrakon again, Judge Coutrakon had been a former State's

³³ In March of 1977, in the initial hearings in Gabriel's case, Judge Coutrakon declared the Illinois laws in regards to cocaine unconstitutional. In April of 1977, the Third District Illinois Appellate Court upheld the Illinois Controlled Substances Act in regards to cocaine. Judge Coutrakon then set aside his ruling, and Gabriel later agreed to the plea deal in front of Judge Londrigan. See, *People v. Villanueva*, 46 Ill. App. 3d 826 (3rd Dist. App. Court, 1977).

³⁴ Judge George Coutrakon, was State's Attorney of Sangamon County from 1948-1956, a State Representative from 1956-1964, an Associate Circuit Judge from 1964-1970, and a Circuit Judge from 1970-77.

Attorney in Sangamon county and in fact Judge Coutrakon I learned again, later on, from reading about Adlai Stevenson, Judge Coutrakon had been the State's Attorney in late 1948 in Sangamon County and he had gone on a crusade against illegal gambling and prostitution and drugs. He'd been pretty vicious, pretty active for a few years, but then he came, he went on the bench. Judge Coutrakon, I can't remember exactly, he might have had cancer, but he had cancer up in the facial area. Judge Coutrakon actually had a false, prosthetic nose, which made him look very, very evil. Very evil, and he talked with a, because of his cancer his voice you know he couldn't, he had some mouth issues as well and he talked kind of, it was almost Darth Vader before Darth Vader, but he was a very tough Judge. I didn't try a lot of cases in front of Judge Coutrakon, cause I think he may have retired you know shortly after I came to the State's Attorney's office. I tried a few but he was a good, I was actually one time a witness in a case in one of Judge Coutrakon's cases. A rebuttal witness in an armed robbery case. You know he was a good, again, he was very, he gave a very stern look and people thought he was, because of just the way he looked, people thought he was much meaner than what he really was. But he was also not one of the big socializers. Now he had a brother, Basil Coutrakon, who was a bankruptcy judge here.³⁵ And Basil Coutrakon, among other things, Basil Coutrakon was probably one of the best dressed lawyers and judges in Sangamon county, always looked wonderful. Always looked very nice, always very nicely dressed. And a very nice gentleman as well.

LAW: Now earlier you mentioned some cases, some criminal cases you had with Judge Miller.

³⁵ Judge Basil Coutrakon was appointed a referee in bankruptcy (later judge) in 1946, and served in that position until 2001.

And one of them was this Albert Gaines, a murder case.³⁶

SHIFFMAN: Oh, oh, gosh, I had kind of forgotten about that one. Yes, now let me tell you how that case, about that case because it never went to trial. Okay, it's February and when the case first gets started, let's see, I think we had one child, I think Sarah had been born, I can't remember if Jessica, she was my second child, if she had been born yet. But anyway we're going to go to Chicago, my anniversary is in January, actually my anniversary is today, but that's okay. My birthday is in March, and we're going to go to Chicago for some, I don't know what was going on, for some function or something. My wife decides she wants to go up a few days early, take the kids with her. So she goes up on the train to Chicago and she leaves me here by myself. And I'm working and you know well I said, "I'm going to drive up on Thursday."

So all of the, you know I'm in the office, it's late in the afternoon on Friday, no, not Friday, on Tuesday I think, I can't remember what day it was. It was late in the afternoon. Joe, yeah, Joe Cavanaugh comes in to me and says, "There's just been a shooting, there's been a double homicide some place in Springfield. Bill DeMarco," who was the Chief of Detectives at that time, "is here, and we need to get a couple of search warrants for the house." So I said, "Okay," and so I'm sitting there and in those days I used to do the search warrants, I did some search warrants but I was able to do search warrants unlike some of the other assistants because believe it or not I could type. We didn't have computers yet, but I could type. So I could type out the affidavits and type all the other stuff so I do a couple of search warrants for Bill and we take them actually down, I don't even know, it was probably Ben Miller because he was always around and he was the criminal guy, we took the search warrants down and we get these search

³⁶ See, *State Journal Register*, June 2, 1978, pg. 17, and June 10, pg. 36.

warrants issued. Bill goes off, Bill DeMarco, and in those days assistants did not do some of the things that assistant State's Attorneys and State's Attorneys do now. They didn't really go to crime scenes, they didn't get involved, they tried to keep themselves separate, out of the mix. So Bill goes off to do these search warrants and Albert Gaines is in a, unbeknownst to us, nobody knows where he is, but he's in a van driving around central Illinois.

So I go home, two o'clock, two thirty in the morning my phone rings, and I pick it up and it's Bill DeMarco. "Stuart?" "Yeah?" "We have found Albert Gaines in Champaign." He says, "I want you to come with us because we are going to question him." Also he says, "We need to have an assistant here because we are getting into a fight with the Illinois Bureau of Investigation because they have arrested this guy in Champaign, and it's our case and we want to make sure that they don't mess it up." "Okay." So he says, "I will pick you up in ten minutes." So I wake myself up, and it's cold, and I get into the, Bill's squad car, first time in my life I'd ever been in a police car, and we're off to Champaign. We are in one car and Gordon Anderson, who was the evidence technician for the Springfield Police Department, who was in charge of evidence. And the other office, I want to say Bob Shipman, S-H-I-P-M-A-N, who we always had to tell people we weren't related, he may have been the fourth person, but any way the four of us are off to Champaign. We get to I-72 and we stop and the van is there on the side of the road. There was a agent from the Department of Law Enforcement there, and "What are we going to do?, what are we going to do?" Finally I said, "We," first thing I said was, "We take this van out of here, we're going to move it, we're going to impound it, take it to a garage and then we'll see about getting a search warrant." I

think we actually did get a search warrant. I was trying to be very cautious, and I still wasn't even awake and I was having trouble maybe resolving some of these things in my mind. But we get this search warrant and we start searching through the van and everything and they found some other evidence.

And Gaines is in custody, and now remember he's at the jail. And we go to the jail, and I talked to you before about not participating in confessions and again this was a case because they had just changed the law, the death penalty law had just gone into effect, the new death penalty law. Had this case happened now we would have been videotaping this confession, but we didn't videotape the confession but we did tape record it. I participated in the confession, I don't know what possessed me to do that, I think it was because of the fact that we had these two agencies involved and essentially the two agencies said you know rather than, I want to do it, I want to do it. And I said, "I'm going to do it." So anyways I sat down with Byron Skinner and myself and we started taking a confession from Albert Gaines who confessed to the entire crime.

Let's see, okay, now its early morning, seven o'clock, seven thirty in the morning and of course this case was fairly big news and I remember we're at the Champaign county jail and who comes driving up in his little Volkswagen Karmann Ghia but Lee Aschoff, who was the reporter for the *State Journal Register*. He wasn't supposed to know, nobody was supposed to know we were over here, but anyway he comes up and he shows up.

Then I remember going back and I called the office you know, finally eight thirty, the office opens up. And I call the office and we're dictating complaints over the phone. This is you know, prehistoric times, we're dictating complaints over the phone for them

to put into the system and to send over by teletype so we can take Gaines back from, you know Springfield, I mean Champaign to Springfield. I say to the secretary, who was Carrie Whitehead, I say to Carrie, "Carrie I'm supposed to be driving up to Chicago this morning to you know, go see my family," I said, "I need you to call," we didn't don't have cell phones, "I need you to call Merle, my wife and tell her that I'm not going to be there for a while." Merle tells me this later on, Carrie calls, calls her long distance up in Chicago and Merle picks up the phone and the first thing Carrie says to Merle, "Merle, I'm calling to tell you there's been a shooting." And I guess Merle's first thought is that I got shot, and then Carrie says to her, "No, no, no. He's working on this case and he 's not coming so he won't be there till tomorrow."

So now we, we're there we take Gaines back to Springfield, he appears before a judge. Two things happen; first thing is Joe, Joe Cavanagh and Bill are the State's Attorneys, their probably, their prime responsibility for the case, the first question is, are we going to ask for the death penalty? So we're talking about that and the next thing happens and Joe says, "You'll try the case with us." And I said, "Joe, I don't think I can try the case because I'm a witness to the confession." "Yeah, I think you're right, we better call somebody and ask." So I, I think actually we called somebody over at the ARDC, I don't know who, we called several people to ask whether or not it would be appropriate for me to be trying the case when I had taken the confession and the consensus was no. So I said, "Okay that's fine, you two guys can do it and I might have to be a witness."

And the final thing that happens is I get the transcript of the confession and I'm reading over it and nowhere in the transcript of the confession do they show where I've

advised him of his Miranda warnings and I am literally dying a thousand deaths. So I call Byron Skinner and I say, "I want you to bring that tape over here right away and I want you to check the tape against the transcript that you guys have made." And they check and they say, "Yeah we missed a couple of pages." I say, "Well you only missed the most important pages that there are."

So that happened okay, so this again was another one of these cases where Albert and his girlfriend had gotten into a fight or a dispute or something and he ended up shooting her and there was another person there who was a witness and he ended up getting shot, two bodies in the car. Albert takes the bodies and he's driving all over in central Illinois. He buries the bodies in Peoria where they were, we did find them and everything. But he ended up pleading out. He plead out for I think it was sixty years which would have meant thirty in those days. I think the feeling was he wasn't a guy who, this was a crime of passion. He wasn't, I don't think he had any record which would warrant it. It was always difficult back in those days, death penalty, you know, the decision about going for the death penalty or not going for the death penalty. I will say that very much Joe and both Joe and Bill's favor, they were not people who just you know, as a matter of fact sought the death penalty in every case. This was, in some counties for example in Champaign County, whenever a defendant was eligible for the death penalty, they went for it. We didn't do that here, we exercised a little bit more discretion and this was a case I think where discretion was properly exercised.

LAW: Two minutes, why don't we just stop and switch tapes.

SHIFFMAN: Okay.

LAW: Another case involving Judge Miller was the Szerletich case.³⁷

SHIFFMAN: That was a very, very sad case.

[01:30]

Because, and again I recently have thought about that case because we, there's now new scientific data and suggestions about shaken baby syndrome and things of that nature. This was a tough case because of the circumstances. Szerletich was charged with murdering, I don't even think it was his son, it was his girlfriend's little baby, he had been left to watch the baby. The allegations were that he shook the baby and you know, caused the baby to be injured, skull injuries. He was the only person in the room, the only person there at the time that it happened. I remember that case again, Bruce Beeman was on the other side of that case as well.

The first thing that I remember about it was that we had a preliminary hearing and Bruce, I still don't know what possessed him to do this, but he called Phil Bornstein, who was a psychiatrist, a very well known psychiatrist here in Springfield. He called him at the preliminary hearing and he got into evidence, Ben Miller allowed it in because it was a preliminary hearing, he allowed Phil Bornstein to testify about whether or not that this, the injuries were consistent with shaken, they didn't even call it shaken baby syndrome in those days I don't think. But he allowed Phil Bornstein to offer medical opinions on an area outside of his expertise. I think it was because it was a preliminary hearing, and he wasn't going to worry about it. But any way they did find probable cause, but by Bruce doing that he kind of gave me an inkling into what the defense was going to be. So I prepared to rebut any suggestion that the injuries were not consistent with that. Again,

³⁷ See, *People v. Szerletich*, 86 Ill. App. 3d 1121 (4th Dist. App. Court, 1980). Also see, *State Journal Register*, March 2, 1979, pg. 14, December 18, 1980, pg. 15, and November 10, 1981, pg. 20.

Szerletich had finally given a very brief confession, he was the only person there, it wasn't much of a case.

The thing I remember about that case is that I kind of went nuts in my closing arguments. In fact when the case went up on appeal there were a couple of instances of the Fourth District, well this is what I did again, sometimes you do things you're not necessarily proud of, but Bruce put on testimony, character testimony that Szerletich was a, you know, had good character. I don't think he had ever been in trouble, maybe minor things. He put on good character testimony, which is something that happens in trials somewhat. This was at the time, just after the arrest of John Wayne Gacy, and so I got up and rebuttal, Bruce testified about that David had good character and everything. And I got up and rebuttal and I said, "Ladies and gentleman whenever there's a serious, vicious crime, what always happens? The newspaper people come out to the neighborhood and they start interviewing the neighbors. What do the neighbors always say? I can't believe that so and so would commit this crime he was such a good person. He was a very fine person." Then I said, "He used to dress up like a clown," and Bruce of course objects. And we go up to the bench and then Miller says, "No, no, no." He sustains the objection. In fact I think he even said to the jury, "Ladies and gentleman we are just trying this case." Or he may have said that at the bench, I don't remember. But that was a point that they raised in closing argument and they said it didn't matter because the evidence was very strong but this case got to me for a couple of reasons.

First of all, it was the death of a baby and I was a father, it was a case, again, I tried this case by myself. Because it wasn't very complicated and I always thought I could do things that other people hadn't done, so I tried it by myself which was a bad

thing because I really didn't have anybody to bounce anything off of. And I still remember the jury found him guilty and I went back into my office and I just closed the door and I just kind of sat there just, you know, I didn't know what to do. I was very upset about the whole thing.

And I do remember that we went back for sentencing and Ben Miller had a reputation for being a very tough sentencer and I didn't want to put him in a situation. I didn't want to put the judge in the situation where it made it look like I was asking for something outrageous. So I can't even remember, I think at the sentencing hearing I didn't even ask for a specific number of years, because you know, the newspapers would always play the years off. If the prosecutor asked for twenty or twenty five and the judge gave twenty three, well the judge was lenient. If the prosecutors asked for thirty and the judge gave forty, the prosecutors were lenient, so, I didn't even ask for a specific number of years. I think he gave him the minimum which I thought was fine under the circumstances.

I remember years later, not years later, a couple years later, being out at Sears and think his father waited on me. And you know, introduced himself by I didn't remember him from the trial. It was just, this was the kind of case that you thought about for a long time. I mean it wasn't, he wasn't an evil person, he was, you know, he was just, the circumstances were such that, you know, he got himself in the situation. But I thought about this case because, as I said, there was, I know last year there was a book out about the fact that they're now starting, and in fact, there's actually other cases, well they just had a case in Springfield where they had a shaken baby syndrome kind of case and there, you know, there was a lot of expert testimony as to what it is and what it isn't. But I still

remember that one. I remember a lot of them unfortunately, but I don't remember them, you've reminded me of quite a few.

LAW: One other judge I wanted to ask you about before we get in to the, back in the Attorney General's office, was Jerry Rhodes.³⁸

SHIFFMAN: Okay, Jerry Rhodes was, you know I've mentioned to you before about formal and informal, Jerry Rhodes was the most informal person ever. First of all, I can never ever remember in all the times I was with him or met him that Jerry ever referred to himself or had people refer to him as judge or your honor. He was Jerry. He was always Jerry. He was, for Jerry Rhodes, there was the law and there was common sense. And common sense generally ruled; which sometimes got him in trouble, and sometimes, you know, got him in bad situations.

But Jerry Rhodes also, may have, in some respects, be responsible for the greater part, some of the greater success I had in my life because when I came to the States Attorney's office, Jerry was the judge on the second floor, one of the judges on the second floor. And I was in front of Jerry almost every day, on a regular basis. I'd been there for about a year, maybe a little, yeah about a year, and people used to move around in those days quite a bit more than they do now. I'd been there about a year and I came into his office, an office where eventually I would sit, several years later. I said, "Jerry, will you do me a favor?" "What's that?" I said, "I'm thinking about looking for a new job, you know, I need to get a little bit more money, I've got a baby and a baby on the way," I don't remember, "but I'm thinking maybe it's time for me to maybe move on. Will you be a reference on my resume?" He says, "Yes, I'll be a reference on your

³⁸ Jerry Rhodes was a Magistrate Judge from 1965-71, and an Associate Judge from 1971-81. In 1981 he was appointed a Circuit Judge, and elected to that position in 1982. He retired from the bench in 1987.

resume but I don't want you to leave. You do very good work, I like having you around, some of the other people are not very good. I really don't want you to leave." I said, "Well I have to at least see what's going on." I walked out of his office, I walked out of his office, and I took the stairs from the second floor to the fourth floor. I get to the fourth floor and I'm walking into my office on the fourth floor, I don't even get in to my office and sit down and Joe Cavanagh is right behind me and comes in and sits down and says "Jerry Rhodes just called me." Now I don't know what... "You're thinking about leaving?" I said, "Well Joe, I've got to have a little more money." He says, "How much more do you need?" I said something. He said, "Okay." And he gave me a raise and he walked out. So Jerry was, you know, if I hadn't gotten that raise I don't know what would of happened.

But Jerry was, I mean, you just, Jerry was the epitome of common sense judicial wisdom. Sometimes it got him in trouble and also Jerry never married, he was always around. He had a very good sense of humor, sometimes, his temper could sometimes, his temper would flare on the bench sometimes. Some lawyers would get under his skin because of the fact that he wasn't always, you know, he wasn't always Mr. legal wisdom but he was a great guy.

And then, well, later, finally Jerry never really took care of himself. I remember, Jerry used to smoke, Jerry used to drink, he only drank beer but used to smoke quite a bit and then, I don't know, in the maybe mid-eighties, Jerry decided to become healthy. He stopped smoking and he started running. And he ran, and I think that Jerry ended up running maybe thirty five or forty marathons. He became Mr., you know, he went from a guy who, the only exercise he ever had was lifting a glass of beer, to being a very healthy

fit guy. And he lived well into his eighties, I'm pretty sure. But he was a very, I liked Jerry quite a bit, everybody did. We all liked him.

LAW: Okay. Back to the Attorney General's office. So I guess my first question would be, why did you decide to go back?³⁹

SHIFFMAN: Okay, well, I can't, okay, I think part of it was flattery, to be perfectly honest with you. I had, I was in the States Attorney's office, and Joe and Bill were still here. Joe had run for circuit judge and lost in a very, very close race. People were wondering what exactly he was, what his next step was going to be. I had been at a seminar put on by the Illinois States Attorney's Association and Don Mackay, who was the chief of the criminal division in the Attorney General's office, who had been the U.S. Attorney, was at that seminar. I guess he had seen me and you know, watched me and whatever. I kind of, out the clear blue sky, one day got a phone call from him asking if I'd be interested in coming to work, essentially I was going to be the downstate head of the criminal division in the Attorney General's office. And I thought about it, and I talked it over with my wife. It was obviously a substantial, a good raise and this kind of goes back way full circle to when I first got out of law school. When I got out of law school I was working, I was interviewing for jobs and one of the jobs I had interviewed with was to be in the criminal division of the Attorney General's office which was run at that time by Jim Zagel, who is now a federal judge in Chicago.⁴⁰ I got through one interview, I got through two interviews and it was at the second interview when I interviewed with a fellow by the name of Bob O'Rourke who was the second in command in the AG's office. He was the one who said to me "If we don't get a job for you in Chicago, there are

³⁹ See, *State Journal Register*, May 29, 1979, pg. 7.

⁴⁰ Judge James Zagel has been a Federal District Court Judge since 1987.

jobs, plenty of jobs in Springfield,” and that’s kind of how I ended up down here. But anyway, I thought it was a good job and I thought it would give me the opportunity, of course as I said, we tried cases all over the state of Illinois, but also it would give me the chance to do some appellate litigation in front of the Illinois Supreme Court, which was something I really wanted to do and which I didn’t really get the chance to do in the States Attorney’s office. I thought it would help me round out my career a little bit. So I went over, and I was there, I was really only there for six months.

LAW: Let me ask you a couple questions. That close election in ’78, that was Joe Cavanagh versus Richard Cadigin. Did Cavanagh step down then from the State’s Attorney’s [Office]?⁴¹

SHIFFMAN: No

LAW: So he was still State’s Attorney in ’79?

SHIFFMAN: Yes, he was still State’s Attorney in ’79. And you know I didn’t know what was going to happen, I mean it wasn’t, that really wasn’t an important factor as far as I was concerned. I just thought this was an opportunity for me to do some other things and I really wanted to do them so I was very, I didn’t want to leave but you know I thought well, you this is as good a time as any. So I did it and I left and I was there for six months, this is exactly what happened. Joe Cavanagh becomes an Associate Judge, Circuit Judge, I think, I can’t remember he may have taken Imy Feuer’s spot that he took, I can’t even remember.

LAW: Yep, yes.

⁴¹ Judge Richard Cadigin became a Magistrate Judge in 1970, an Associate Circuit Judge in 1971, and was elected a Circuit Judge in 1978. He retired in 1995. Judge C. Joseph Cavanagh became an Associate Circuit Judge in 1979, and was elected a Circuit Judge in 1982. He retired in 1993. In the 1978 election, Cadigin defeated Cavanagh by 121 votes.

SHIFFMAN: Okay, Bill Roberts is now going to be the State's Attorney. He calls me and says "I want you to come back, will you come back?" So I came back and I went back to the States Attorney's office. And I will tell you this, in the back of my mind there was this, something that I learned while I was gone was I thought I'll go to work in the Attorney General's office but I'll still keep all of my connections with people here in the courthouse and everyone.

[01:45]

I never saw anybody ever again. Now I'm at the Attorney General's office, it's a different world. And it was fine, it was a great job. Professionally it was wonderful. Don Mackay was a very good boss. I had a lot of authority and a lot of responsibilities. But I go on, now I'm not seeing my friends again, not seeing the people who I had practiced with or been with for several years and I'm kind of missing them. So when Bill called and said will you come back, and I also thought to myself at this time I'd already even started to think a little bit, well maybe in a few years down the road maybe there's judgeship for me if I play my cards right. But I knew this, I knew that you wouldn't become a judge in Sangamon County if you were away from the courthouse because the judges there generally picked people who they were familiar with and who they knew. So I decided to go back and started trying cases again with Bill. But before I did, I had done my, I had done my cases we had talked about, Aldridge and McCarty and well actually McCarty was one where I was in the States Attorney's office, but I had done Aldridge and the other big case that I did when I was in the Attorney General's office was one of the first death penalty cases, Curtis Brownell.⁴² Were you going to ask me about that?

LAW: Yeah, yeah, go ahead.

⁴² See, *People v. Brownell*, 79 Ill. 2d 508 (1980). Also see, *People v. Brownell*, 96 Ill. 2d 167 (1983).

SHIFFMAN: Well I will say it was a very interesting time. The death penalty law had gone into effect probably a year before and now cases were starting to filter their way up to the Illinois Supreme Court. They were coming from Cook county, they were coming from other parts of the state. Brownell was a very interesting case, he had strangled and raped and murdered a woman in, I want to say it was near Rockford, Rock Island or Winnebago, I can't remember which county, it was up in the northwest part of the state.⁴³ Now every death penalty case that was going to the Supreme Court at this point in time, because the court had not yet declared the statute constitutional or unconstitutional. The first issue that was being argued in each case was whether or not the statute was constitutional. So, I think that Brownell may have been the third or fourth case that was argued in the Illinois Supreme Court that involved this issue.

And I will say this about it. We don't have the transcripts, we don't have, they didn't record the oral arguments in those days but, the atmosphere in that court room when they were arguing death penalty cases was very heightened. It was really, you, first of all the judges were all involved. I mean, I since have learned, and I think this is still how they do cases in front of the Illinois Supreme Court. When a case comes before the Illinois Supreme Court it's already been assigned to a judge for ruling. Justice Simon, he let the cat out of the bag and said that was the way it worked. And that meant, that means that sometimes when you watch an oral argument in front of the Illinois Supreme Court, one justice is asking more questions than anybody else. Usually that's the justice who's been assigned the case. What happens then, assuming that the case is finished, that justice decides, gets a majority, he writes the opinion. But if he doesn't then somebody else has to write the decision. But that doesn't happen very often.

⁴³ Boone County.

In the death penalty cases it was different. You had, Bill Clark who was a former Attorney General, who was very active in the arguments. You had Justice Simon who was very opposed to the death penalty, who was also very active.⁴⁴ And you had, let's see, I think you had [Justice Thomas] Moran and I can't remember, well you had Justice [Robert] Underwood from the fourth district. Everybody was involved, everybody was asking questions. And the arguments were just very, they were extraordinary. I still remember, you know doing my argument and I think it was Justice Clark who said, "Well isn't death different?" I said, "Yes, Justice Clark death is different but it doesn't mean that we have to change all of the rules for criminal jurisprudence that we've had for all these years." I was, in those days, as an advocate for my client but I also firmly believe in the death penalty. Now that was in 1975 or 1976, I don't believe it, I'm not that way anymore. But in that time I was very passionate and very you know, very vigorous in defending the argument. I still remember that the chief of the appeals division in those days was a guy named Mel Noel, who was a very great appellate lawyer. He came up to me after the argument and said "This was just really good. It was a very good argument". All the arguments were good on death penalty cases.

My case, as I said, one of the aggravating factors that had been used in the, to give Curtis Brownell the death penalty was the fact that he had killed a witness to his crime. And nobody even talked about that. We never even argued that, we never even thought about that. But then when the case was decided the Supreme Court vacated his death sentence because they said theoretically anyone who gets killed is a witness to the crime so that cannot be an aggravating factor. So his death sentence was vacated. It went back

⁴⁴ Justice Simon was elected to the Court in 1980. The first appeal of Brownell to the Court occurred prior to his election. Justice Simon would have been present in Brownell's second appeal to the Court.

to trial up in Rockford or wherever it was, Winnebago. I think he got the death penalty again, but then he was on death row and he was, he's probably still there because he wasn't that old. But I'm sure his was one of the cases that was ultimately vacated when George Ryan commuted all of the death sentences.⁴⁵ But it was still a very, very, intense and it was, you do a lot of oral arguments in front of the Illinois Supreme Court. It's a very knowledgeable, wise bench. But they don't always ask a lot of questions and sometimes the cases go very, very quickly. This was a case, these cases were just really, I would say it's part of my legal career that I will never really forget, just the intensity of it, and the high quality of legal arguments that were involved.

LAW: So what were your thoughts then and now about the Attorney General, William Scott?⁴⁶

SHIFFMAN: Well, Bill Scott was a very interesting fellow. It's kind of interesting, first of all, he ran a very professional non-partisan office. He hired democrats, he hired republicans. He had, obviously he had republicans in some of the high positions. But politics never influenced anything that he did, at least during the times that I was there. I was there for a total of a year, I never saw anything political. Bill Scott was interestingly enough, was a very environmentally, a very progressive man when it came to the environment. Bill Scott's office handled some of the first environmental pollution cases, clean up cases, he was in many respects, in today's world where republicans are denying climate change, I don't know where Bill Scott would be in that respect.

⁴⁵ Brownell's sentence of death was vacated in his second appeal to the Court, and he was later sentenced to between a hundred and three hundred years by the trial court. Because Brownell was sentenced under Illinois' old indeterminate sentencing law, he periodically comes up for parole.

⁴⁶ Attorney General William J. Scott served as Attorney General from 1969-1980. See, Robert Kieckhefer, "Doing Justice to William J. Scott," *Illinois Issues* (October, 1978), pgs. 4-5, and, Steve Slack, "Scott's Justice," *Illinois Issues* (December, 1980), pgs. 4-8.

You know he had his problems obviously, he had his income tax issues which came to light of course because the fact that he was divorced and his wife was claiming that he had more money than he really did. He was a little bit, he was legendary for being thrifty and frugal.

He was a very professional boss. He ran, and even though he was elected in partisan elections, he ran his office the way you would expect a professional prosecutor and attorney to run his office. He gave his assistants authority and he stood by them and he was a very conscientious man. Now when I was back there the second time, the first time you know I was there six months, but I was back the second time the troubles had kind of started. The investigation had started. You know he was defending himself and he ran for the senate and the primary in March, what would that be, '76? '78?⁴⁷ I can't remember, but he was running for the U.S. Senate in a four way primary at the same time that he was defending these criminal charges. But I remember when he was convicted, I remember when he was found guilty, essentially only on one count, two counts maybe.⁴⁸ You know I know he did six months. He had a lot of friends in Springfield he had a lot of close people here. You know a lot of people who admired him very much. I think he was a good attorney general. I enjoyed working for him.

I never, ever felt the, I'll just tell you this one story I guess. The kind that expresses the way he was. We had this whole death penalty argument, and fight going on. Because of the way this state is situated the Attorney General is handling death penalty cases in a hundred and one counties and the Cook County State's Attorney is handling the death penalty cases out of Cook County. Well there's a case that comes in

⁴⁷ 1980.

⁴⁸ Scott was convicted on one count of tax fraud and served seven months in prison.

from someplace in southern Illinois. It involved somebody getting the death penalty, I cannot remember the case or very much about it, but there was a legal issue involved and Bill Scott's criminal division is handling this case and those cases remember, when they first came up, the cases would go directly from the circuit court to the Illinois Supreme Court. So this case is in the Illinois Supreme Court and the people in Bill Scott's criminal division say this case is a loser. From a legal proposition this judge did not properly apply the law in the trial court. We have to confess error. Which is the state has to say yes, we were wrong. The conviction needs to be reversed and something needs to be done. But we were wrong and we had to confess error. Well some of the political people in Bill Scott's office said, "You can't do that. It's a death penalty, its crime. People will say we are soft on crime." Bill Scott said, "If we are wrong on the law, we have to confess error." And I always thought that kind of thing says something about the type of Attorney General he was. He did have fidelity to the law.

LAW: Okay, so you return to the States Attorney's office. Now just generally, did Roberts change the office in any big ways? Organizationally?⁴⁹

SHIFFMAN: Organizationally, no. He did change the office in a couple of ways and one of the things I was very much involved with. We really tried to keep an in-house continuing legal education for the assistants. We would get together usually once a month, sometimes not as much. But we kind of talked about things. We tried to get lawyers, we would talk about issues that were coming up repeatedly in cases and how to deal with them, new cases, new developments and things of that nature. He was a little bit more, I think Bill was a little bit more hands on than Joe. Joe would usually, Joe would try maybe one, maybe one case a year. Maybe two cases a year. Bill wanted to be in the courtroom.

⁴⁹ See, *State Journal Register*, January 11, 1980, pg. 46.

Bill was a better courtroom lawyer than Joe, which I mean is nothing bad against Joe, but Bill liked to be in the courtroom. So he would try cases more often. One of the things about Joe, he would try cases and he would very rarely have anybody but Bill with him, second chairing the case. I think we had a case once involving a juvenile and so the juvenile assistant tried the case with Joe. But Bill would try cases with different people in the office. He enjoyed trying cases. He was very good, and I tried a lot of cases with him. I mean I tried probably three or four a year with him and he was always very hardworking and very thorough. He was, he enjoyed being in the courtroom a little bit more than many State's Attorney's do. But the office was, later on actually, after I left, I came back in '76 [80'] so I was there for seven years. There were some changes you know. We incorporated, Bill brought in the first victim witness person in our State's Attorney's office, who actually worked with victims quite a bit more. Before we had a victim witness person that was a job that the assistants had to really handle, and they didn't have time to handle. So Bill brought that kind of a person, that person in. There were other things, he professionalized the office as it was just moving through an era when prosecutors were getting more assistants and more help and more training. He was active in all of that. He was active in the Illinois State's Attorney's Association

[02:00]

and he wanted, he made the office far more professional.

LAW: Okay, so you're involved in a lot of cases in that four year period of time, a lot of murder trials. But before we get to those I wanted to ask you about this ERA bribe trial.⁵⁰

SHIFFMAN: Oh yes! It was a...

⁵⁰ See, *People v. Brandstetter*, 103 Ill. App. 3d 259 (4th Dist. App. Court, 1982). Also see, *State Journal Register*, August 2, 1980, pg. 13, August 20, pg. 16, August 23, pgs. 1,2, November 6, pg. 16, November 7, pgs. 13, 15, and November 8, pg. 15.

LAW: A unique case.

SHIFFMAN: A very unique case. You know it was not, as I think about it, in fact it's kind of funny because just last month in December, I was up in Chicago for the ISBA meeting and I was talking to a friend of mine a judge, Judge Mike Hyman who sits on the appellate court in Chicago and who comes walking up but Sheila Murphy. "Hi, how are you?" And Michael says to Sheila, "This is Stuart Shiffman, do you know him?" and she says "Do I know him!?" So we chatted and we visited all about that.

And you know it was once again a kind of a situation, very, how you get caught up in the entire moment you know? It's hard to remind people now about what was going on with the entire, ERA and how it was a huge fight in the legislature and how they were voting and it was a huge fight across the country. This woman just decides, she writes down on her card, the offer is supporting your re-election campaign and five hundred dollar donation, five hundred dollar campaign contribution. Five hundred dollars now doesn't get you a ticket into a cocktail party. But she put it down there, and it was like what could you do, it was like she thought, she's begging, I don't believe this is what she was thinking, but she's almost begging. I will be a martyr for the cause. You can prosecute me and I will be a, not a Carry Nation, but the woman who fought for the right to vote and who would get arrested. I can't remember, you're the historian, you should know. But anyway it was just, we were swept up in this thing.

I remember this, I remember the first thing was it happens, and first it's on the news. And I think Bill says to me, "I just got a phone call," you know somebody called him from over in the legislature. And I said "I don't even know, is that bribery?" So we

start hitting the law books and everything and so we decide I guess that it is. So we charge her.

I remember a couple of things. The next thing I remember is now we've charged her and we started to interview witnesses. So Bill says "We got to talk to George Ryan," he was the Speaker of the House. So we call over there and we finally get through. Bill says, "We would like to come over there and talk to you." He says, "I'll come to you." So he comes over to the county building by himself, nobody else. And he sits in the office and we interview him for a couple of hours. I can't remember, I think he said at one point, he said, "I just want to ask you one question." "Okay." "If the situation had been reversed, if I had said to her, to Wanda Brandstetter," I don't think he used her name, but he said, "If I'd said to her, 'If you give me five hundred dollars I will vote for the ERA,' would I have been prosecuted?" He didn't even wait for an answer. He said, "You bet your ass I would have been prosecuted." And actually I think we used that line in closing arguments.

Everybody, it almost seemed like, how could we not? How could we not? And then of course we have this prosecution and we have this trial. I have tried as you've said a lot of murder cases, a lot of very serious cases. I never thought, we never thought, there was a reporter *New York Times*. The *New York* freaking *Times* you know? Everything was just unbelievable. It only lasted about two or three days. Sheila and Mike Costello was local counsel. Jeanne Scott was the trial judge and Bill and I, tried it and you know it was one of those things I guess you know, I've told you about Szerletich and that's a far different kind of situation. But this is one of the cases where if I had to do it all over again, I think I would just, but again it's time that, times change you know. People don't

even think about things like this, I mean I know they do think about it but you know. In the scheme of things there is a great irony here, George Ryan, who made a big deal about this five hundred dollars, he had some issues that cropped up obviously when he became governor. I don't know. I guess my greatest, two things about that case that I will remember. Of course I did get quoted in the *New York Times*, and that made me feel very proud. But also there was a book that came out years later by a federal judge who sits in the ninth circuit, John Noonan is his name. He wrote a book called *Bribery*.⁵¹ And we actually got a footnote, we, I shouldn't say we, but the Wanda Brandstetter case is mentioned in the book as a footnote. But you know I mean, not very many people probably remember that case. She's passed away, Sheila Murphy had her brother John who was a lawyer in Colorado, he came and tried the case with her. He died several years later of cancer. The representative, the state representative was a guy named Nord Swanstrom, and he's long gone from the legislature. So Jeanne and Bill and I are, I guess Sheila, and Costello, we are the only ones who probably still remember it, and you.

LAW: Okay, so let's get into some of these murder cases. Well actually you know what, I want to ask you if you remember, I found an article in here that said you were the first, you handled the first trial in absentia in Sangamon county. Do you remember that?⁵²

SHIFFMAN: No, I remember, now that you've mention, I can't remember the defendants name. But I remember, again, this is one of those things where the criminal law, every time they had a problem with the criminal law in some respect, they passed another law to undo the problem. This was not a problem, this was not a very serious problem in downstate Illinois, defendants not showing up for trial. Obviously this was a huge

⁵¹ John T. Noonan Jr., *Bribes* (Berkeley: University of California Press, 1987).

⁵² See, *State Journal Register*, April 18, 1980, pg. 13, June 6, pg. 6, June 7, pg. 6, and July 11, pg. 9,.

problem in Cook County. And what they did was they passed a law that allowed you to be tried in absentia. Now what did you have to do? Well the first thing you had to do was you had to make sure that the defendants were notified that they could be tried in absentia. And I remember that the judges had little thing at the time of their preliminary hearing which said, "Under the law your trial date is January 19, 2016, under the law you must appear on that date. If you fail to appear you could be tried, convicted, and sentenced in absentia. You'd give up the right to participate in your defense, you'd give up other valuable constitutional rights as well, do you understand that?" "Yes." So the defendant would be admonished, if the defendant didn't show up, you could move to try him in absentia. Most times we didn't even do that because, you know, what was the sense, most times what we did was, we just said, "Judge we want a bench warrant and a bond forfeiture," sometimes they had money posted. If they posted money, the county would rather get the money than do it. And I can't even remember why it was we decided to try this guy in absentia, what the reason was, the whole thing, but he was tried in absentia. You know I also had another trial.

LAW: Silas Powell.

SHIFFMAN: Silas Powell. Okay, well then, now that you'd told me that name. Probably because Silas Powell was a notorious Springfield bad person. The Powell family, his father was as I recall it now, his father was one of the most well know safe crackers in Springfield. Apparently at one time was actually opening a safe while driving down the road in the back of a pickup truck. They had gotten the safe out of this building, put it in a pickup truck. The police are chasing him and the father is actually doing it. So that probably helps to explain just a little bit. But I also was, I think trying one of the first

cases under the guilty but mentally ill law. Shirley Marshall, do you have Shirley Marshall in your list?

LAW: Yes, but a little bit later. I wanted to ask you about one more.

SHIFFMAN: Go ahead.

LAW: It's a judge I haven't asked you about. This was just a manslaughter, it was a manslaughter plea was accepted, involving James Gatschenberger.⁵³

SHIFFMAN: Oh yeah.

LAW: And it was in front of Judge John Russell.⁵⁴

SHIFFMAN: John Russell was another Macoupin County judge. Tom Londrigan was the lawyer in that case. Actually that was not really my case. I was second chairing that case. I was working with Bill Trapp, my good friend Bill Trapp, unfortunately who has passed away. I was helping him on that case. I had just come out of another murder trial where the defendant had been found not guilty. And I remember, Gatschenberger was one of these cases, the problem was, again I feel bad because I can't remember the victim's name in this case. You've probably got it there. But it was a case where Gatschenberger was not even arrested until probably a year after the crime had occurred.

LAW: Richard Lolling.

SHIFFMAN: Richard Lolling. Okay. Gatschenberger, Lolling had been killed, I think actually he had been killed with a fence post or something. The details are very sketchy in my mind. They played, Tom Londrigan was representing Gatschenberger and he played it very, very close to the vest and didn't tell us anything and perhaps this was part of his strategy. The day before trial is supposed to start, now he comes in and he's telling

⁵³ See, State Journal Register, July 1, 1980, pg. 17.

⁵⁴ Judge John Russell was appointed a Circuit Judge in 1977, elected to that position in 1978. He retired in 1990.

us that it was really a case of self defense and this and that. And so we decided, we talked about it because we talked over with Bill and in fact I remember, you know, that there was some discussion, it was not really a good case. Probably had we thought about it from the very beginning or had we known some of the things that they told us at the very end, we might not have even charged him initially but then it was decided to take a plea in the case and allowing the plead for probation. It really, you know, Bill was the guy, Bill Trapp was the one who was really in charge. Bill Roberts and Bill kind of, I was along, you know, and I offered my advice, it was not really my case primarily.

LAW: You mentioned a murder case where the, I think the one you're alluding to was this Johnson murder case.⁵⁵

SHIFFMAN: "Auggie" Johnson. Yes. Another case I was second chair with John Mehlik, who became a judge.⁵⁶ Auggie Johnson was one of three, okay, the victim in that case was a guy named, I think Ted Glickman. Okay. There were three defendants, two were convicted. Auggie Johnson essentially, his defense was that he didn't have anything to do with it, he didn't know that they were going to try to kill him, he was just an innocent bystander in the whole thing. We had some evidence that linked him and under the theory of accountability he was prosecuted. He was represented by Jack Weiner. That was one of Jack's probably, towards the end. Jack, you know, practiced law well into his probably into his eighties. And he was still a very vigorous, very good lawyer. And, but Auggie Johnson was convicted and then I don't know, Auggie was another one of these people who was always in trouble and, you know, he had a criminal record and I'm sure

⁵⁵ See, State Journal Register, June 12, 1980, pg. 13, June 19, pg. 9, June 20, pg. 12, June 21, pg. 13

⁵⁶ Judge John Mehlik became an Associate Circuit Judge in 1989, and served in that position until his retirement in 2010.

after this case he had some other criminal issues and he was probably convicted later on.

But that was, again, I was second chair on that case.⁵⁷

LAW: And it involved Judge Howard Lee White.⁵⁸

SHIFFMAN: Howard Lee White, yes, from Jersey County.

LAW: Yeah.

SHIFFMAN: Howard Lee White was the judge in several, couple, several cases I had.

Including the Kochman case, I don't know if you got the Kochman case in there. Howard Lee was very folksy, down home fellow who always was very good with jurors; you know he was very courteous to jurors, courteous to the lawyers. He was another one who, very good to try cases in front of but still somewhat of a, you know, seat of the pants lawyer, seat of the pants judge, in fact he would always say in his trials, he would say, "I'm always going to make one mistake that the Appellate Court will tell me I did wrong, so this might be it."

[02:15]

But he was a good judge. Actually after I came on the bench, I went, I would go down there several times, he was still, I would go down to Jersey County and see him sometimes, he was a, he loved being in Springfield. He loved to come to Springfield. Some of the judges, some of the judges who weren't from Springfield didn't like to come to the courthouse but some of the judges from out of the county loved to come here because, they just, it was like coming to the big city.

LAW: Was it unusual for him to be in Sangamon County? Why did he hear the case is my

⁵⁷ Johnson was acquitted in the case by the jury.

⁵⁸ Judge Howard Lee White was elected the County Judge of Jersey County in 1962, became an Associate Circuit Judge under the new Judicial Article in 1964, and then was elected a Circuit Judge in 1966. He was retained in 1972 and 1978 and retired in 1984.

question?

SHIFFMAN: Well there were a couple of reason of why judges from outside of the, outside of Sangamon County, would come here. Sometimes there would be some conflicts, I mean first, judges were assigned, you know, judges we would have two judges assigned to hear criminal cases, we'd have one judge assigned to hear civil cases, we'd have one judge to hear kind of everything else, chancery, probate, whatever. As I say, some of the judges wanted to come up here because it got them, it was a little change of pace. In Jersey County, there may only have been like ten or twelve felony cases in a year so they wanted to hear some other types of cases. There would also be situations where there would be conflicts between judges here, not, you know, hearing cases. There might just be inappropriate for them to hear some of them. And I think they just wanted, it was also a way kind of to spread the work load around just a little bit more. Now, we would, judges from Sangamon County would also go other places. For example, Judge White was the only judge in Jersey County. Well if somebody who was related to Judge White was a witness or was a party in a case, he couldn't hear the case. So they would look for, they would get, sometimes I remember once going after I was on the bench, you know, we would get a little memo, this case is pending in Jersey County, Judge White cannot hear it, would anybody like to volunteer and, you know, whoever was the chief judge who say if no one volunteers, I will assign somebody. Well people would volunteer. You know, you could volunteer, you could hear cases, I heard cases after I was on the bench, I probably heard cases in twenty five or thirty difference counties in Illinois. There were always places where you could go if you were looking for work. So it was

not unusual, every judge from outside of the circuit, outside of Sangamon County, eventually would come here. Maybe, you know, once or twice a year.

LAW: Now, he also handled the Kochman case.⁵⁹

SHIFFMAN: The Kochman case. Yes.

LAW: Kochman. Yeah.

SHIFFMAN: Yes. That was really, that was a very, very hard case for several reasons. The victim of the case was a man named [Vincent] Selvaggio. And the Selvaggios were a well known family here in Springfield. Not the, the Selvaggios have a store downtown, a record store in downtown Springfield, The Platter. And the Selvaggios were just a well known family. They were actively involved in the decisions that went in to the case and the case had a, Mr. Selvaggio, again this was being in the late seventies, early eighties, well, no, yeah, late seventies, early eighties. Mr. Selvaggio was homosexual. That was a kind of thing that people didn't talk about back then. Although it didn't have any involvement, well it did have an involvement in the case to this respect, I think the boys who were involved in burglarizing his house and, you know, then being discovered, thought that they could get in to his house and he wouldn't be any kind of, because he was homosexual, he wasn't going to be any kind of a threat to them, or whatever. But, unfortunately, his defense lawyer who was Bob Weiner, I think tried to take advantage of that and create this vast conspiracy theory that Mr. Selvaggio had been accosting these boys and they acted in self defense. And, you know, we had to fight that. We had to fight that. And I remember Howard Lee was, Judge White was very stern and strict about not allowing them to put evidence in that they didn't have anything to support and so, but it was still, some of it was kind of getting in sideways a little bit. But it was a very, very

⁵⁹ See, *State Journal Register*, March 6, 1980, pg. 1, and April 26, pg. 17.

tough case. He was convicted and as things happen in towns and cities like Springfield, years later, he was convicted and this was a case I think Judge White gave him thirty to something and I think Bill, the Selvaggios, and I were all disappointed that we thought he gave him a very lenient sentence. Because in those days if you got thirty years you only did fifteen years, you did day for day good time. Now if you get thirty years in a murder case, you do thirty years. But then you only got fifteen. Years later I was picking a jury in a criminal case and Bill Kochman was called as a perspective juror and I remember saying to him, he got up and took the jury box and I said, "I got to get him out of here," and I got to be very careful because I don't any other people know what is going on. People will just go crazy if they discover they are sitting next to a convicted murderer. I said, "Mr. Kochman, you and I have been involved in a previous criminal case, is that correct?" "Yes." "Yes." And I said, "Now, would it be hard for you to sit as a juror in this case knowing that I was involved in that case and I'm involved in this case as the judge?" And he said, "Yes." I said, "You're excused." And he was gone. I just, you know, it was just kind of unique, I never had that happen before.

LAW: Okay. Another murder case. This one involved [Vernon] Hicks and [Francis Kevin] Cody.⁶⁰

SHIFFMAN: Oh yes. Yes. I tried that case with Ron Stone. And I don't know, sometimes I tell you stories that I probably shouldn't tell you but I will tell you one about this one in just a second. This was a very bad case. This was a very bad case. These guys again, there were drug overtones in this case. This case we had a live witness who survived the shooting, I can't remember her name. But these guys had gone into a house that they

⁶⁰ See, *People v. Hicks*, 101 Ill. App. 3d 238 (4th Dist. App. Court, 1981). Also see, *State Journal Register*, August 29, 1980, pg. 1.

knew there were drugs there, maybe they had bought in the past or whatever, but they really just, they gunned this poor guy down, I can't think of his name unfortunately, but it was a very bad case. We tried that case against John Noll. John was just back from being in the Army. He was a public defender. Interestingly enough, this was a case where we actually debated and discussed whether or not we should seek the death penalty. And we decided after a lot of discussion that we would not because first of all, we weren't satisfied in our own minds that our witness would come through. She ended up coming through with flying colors. She was a superb witness.

LAW: Katherine Yazell.

SHIFFMAN: Yes. Yes. She was very good. She was very good. She did a great job and her testimony convicted. We had one defendant in this case, this was Vernon Hicks, he was convicted. Then, we had a second trial against another defendant.

LAW: [Nathaniel] Russell?⁶¹

SHIFFMAN: Yes. Bruce Losher was on that case. And in fact, I remember, because I almost, I got very mad at Bruce, because Bruce slipped in the fact that his client had offered to take a lie detector test. And I just went ballistic when he did that. I said, "Come on." We were across the courtroom and this is two guys who probably couldn't punch their ways out of paper bags but I said something to him and he said something to me and we took like two steps towards each other but luckily there were much wiser people we never got close to anything but I think what happened was Bruce tried Russell

⁶¹ See, *State Journal Register*, November 4, 1980, pg. 9, January 6, 1981, pg. 30, and January 9, pg. 35. Also see, *State Journal Register*, November 27, 1980, pg. 19.

and actually got a hung jury. But then Russell died in the county jail.⁶² Was that the same? There was another Russell. There was a third. Was there two Russells?

LAW: There was.

SHIFFMAN: Okay, one died in the county jail, two were, Hicks and Russell, well one was convicted, or maybe, I don't know, I can't remember now. It may have been the same one, if there was two or three people...

LAW: Richman and Nathaniel...

SHIFFMAN: Okay, alright. One of them dies in the county jail. And the other one was convicted. But anyway, So Judge Londrigan, who was a, Judge Londrigan, before he became a judge, was a member of the statehouse. Judge Londrigan was a very astute politician and always knew what was going on politically. So we get ready for the sentencing of Mr. Hicks. And Judge Londrigan, the day before the sentencing, Judge Londrigan has us in his chambers. He says "I don't want anybody making me look bad at this sentencing hearing." "What do you mean judge?" He said "I don't want you guys asking for a huge sentence that I won't give him." I told you about this. "I don't want you asking for like a hundred years and have me give him forty or sixty years and make me look bad like I'm being lenient." "Judge, we wouldn't do that, don't worry." "Okay." So we get up and the sentencing hearing was supposed to start at nine thirty in the morning. Doesn't take very long. Well, supposed to start at nine thirty but starts at nine o'clock. Everybody's there, it doesn't go very long. So because we told Judge Londrigan we weren't going to make him look bad. Ron Stone stood up; he was first chair so he got the prerogative. He said, "Judge, we just think you should give him a sentence well in excess of the minimum." Judge Londrigan then turns around and looks at the defendant and

⁶² Richman Russell died in the County Jail.

says, “Mr. Hicks, I just want you to know that you got a huge break in this case because the state didn’t ask for the death penalty.” Ron Stone and I look at each other and say, “Wow, so much for not making anybody look bad.” But fortunately for us, none of the news media were there yet because they thought the case would start at nine thirty. So Judge Londrigan who would, kind of got a little crossed wired, I don’t know why he, I still don’t know why to this day why he did that to us but anyway. Never got in to, you know, never got reported because nobody was there to hear it. If a tree falls in the forest, so. But that was, that was, Ron was, that was the first case I ever tried with Ron, and he was very thorough, well, he’s still here in town. He represents the police benevolent I think. I’ve seen him on occasionally on some other matters. He was a hockey player. He used, there was a team, there still is a team in town called the Springfield Kings, but back in the seventies the Springfield Kings was a semi professional team. Ron used to play hockey and he a lot of scars to show and bad knees as well.

LAW: You had another murder case with him, this was the [David] Crisp, and the murder of Gregory Gillmore in front of Judge Friedman.⁶³

SHIFFMAN: Okay

LAW: David Crisp, he was found innocent. Any memories of that one?

SHIFFMAN: You know I have none, to be perfectly honest with you. Isn’t that terrible, do you have a, tell me what, give me a little more.

LAW: It was a stabbing I think the defense was that it was self defense.

SHIFFMAN: Yes, yes, I kind of remember it now. Judge Friedman was the most liberal, not in a bad way, Judge Friedman was, prosecutors had to, I want to put this the right way. He was the most, he was defense oriented but he was very fair, but on the other hand, it

⁶³ See, *State Journal Register*, February 6, 1981, pg. 11.

was a real close situation he would give defendants the benefits sometimes. That wasn't a bench trial was it? It was a jury trial. I can't remember that one hardly at all.

LAW: It was a jury trial.

SHIFFMAN: Does it say who the other side was? Who the other lawyer was?

LAW: John Casey.

SHIFFMAN: Doesn't ring a bell. I just, I mean I know I had, I recognize the name and I know I lost my fair share but for some reason I just can't, it must have been a case where obviously self defense was the issue and the jury, you know, decided. Now back in those days, again, you know the law was different. There was murder, there was voluntary manslaughter, there was involuntary manslaughter. There was no such thing as second degree murder. Now you have second degree murder and a case like that, the jury probably would find someone guilty of second degree murder but you couldn't that back in the late seventies, early eighties.

LAW: Another case that had some, I guess you could say, political, was this Watson case involving the petitions.⁶⁴

SHIFFMAN: Oh yes, yes. I didn't get to see that one all the way, I did get to see it all the way through. I did because I remember what happened now was, yes. This was the famous, what they called, the Thompson propositions. Where Jim Thompson decided he was going to get something on the ballot about taxes. This was just after Jerry Brown in California, you know they had the Howard Jarvis and they had proposition whatever that number was about lowering taxes and everything. So Jim wanted to get on the band wagon. And he had people essentially, I can't remember what the word, not log rolling,

⁶⁴ See, *People v. Watson*. 85 Ill. App. 3d 649 (4th Dist. App. Court, 1980). See, *State Journal Register*, April 3, 1981, pg. 14.

but essentially what they would do was they would get all these petitions and they'd get a table and they'd get ten, twelve people around and everybody would kind of sign fake names. They'd have list of voters and they would just sign it and

[02:30]

there would be so many different hand writings. And this woman was supposedly involved and she came from, I think she was connected to the Kane County State's Attorney's office, a lot of people up in Kane County, there were lawyers who lost their licenses over this thing.

She was prosecuted, was it her, somebody was prosecuted for perjury because they testified in front of the state board of elections. And we prosecuted this case, well we didn't prosecute it, I remember it was my first experience with a Grand Jury investigation with somebody who was going to claim the Fifth Amendment. I didn't really even know what to do. So, you know, we got a letter from the lawyer that they were going to claim the Fifth Amendment and actually somebody came down here, we gave another witness the Fifth Amendment, she got immunity, she testified in front of the Grand Jury. The woman was indicted for perjury, and by that time, I think maybe I had left the office. I had gone on the bench. Bill Trapp was handling it. Howard Lee White dismissed the perjury indictment and then they took it up on appeal, the Appellate Court reversed it, sent it back for trial, and then I think she pled to some minor election law violation. But it was kind of my first experience and I remember it because again, there was some newspaper people from Chicago hanging around. They were very hard to deal with. There was an AP reporter I think, or a UPR reporter. They were very hard to deal with and very hard to talk to and it was not something that I was really that excited about,

you know, I got excited about murder cases and armed robbery cases, these election law cases didn't do it for me.

LAW: Well another murder case involving Judge Friedman was this Groth case.⁶⁵

SHIFFMAN: Oh yeah, Donnie Groth.

LAW: Yeah.

SHIFFMAN: That case did make *True Detective* as well. That was an interesting case

because two things that I remember about. First of all, we really had problems getting the body identified because the body had been in a well for a long time down in Macoupin County. We had some problems with that, identifying the body. And I remember, I remember talking to Bill about it. I found some obscure statute that said that the findings of a coroner are prima facie evidence of the facts presented or something. So I said to Bill, I said, "Well then all we really have to do is we'll call the coroner," because the coroner never testified, you know, the coroner doesn't know anything about the cause of death. "We'll call the coroner to testify and he'll testify that the body was identified as that of," I can't remember the victim's name.

LAW: Mark Miller.

SHIFFMAN: Mark Miller, yeah. This is another case where Groth convicted himself because he ran all around town with Mark Miller's car telling people, you know, criminals are not smart, that much we know. But anyway, I said, "We'll call the coroner and he'll testify that he identified this body as Mark Miller." So we won't have any problems with the ID. Okay. Well, we called the coroner and Norm Richter was the coroner at that time and he got on the stand and I thought he was going to die or pass out. I've never seen

⁶⁵ See, *People v. Groth*, 105 Ill. App. 3d 244 (4th Dist. App. Court, 1982). See, *State Journal Register*, August 7, 1981, pg. 9, and September 16, 1981, pg. 11.

anybody more nervous in my life as a witness. This was a guy who used to conduct these inquests all the time and he would show up on TV every once in awhile, but he was very nervous. I don't think he had ever testified in an actual courtroom before. So I asked him a few questions and then I said to him, "Did your inquest identify this body?" "Yes, it was the body of Mark Miller." And I turned to Bill and I said, "Should I ask him anything else?" Bill said, "No, get him off the stand before he has a stroke." So we got rid of him. But we got the identity. But that was, I remember, I can't remember, there was something in that case about carrying the body someplace that I just have vague recollections. But it was a good case, it was a very good case. I think he's probably, he was implicated in another murder after that or something, I think. Maybe even in prison but I think he is still, if he's not dead, he's still in prison.

LAW: Any memories of this Cohn case?⁶⁶

SHIFFMAN: Only bad ones. Only bad ones. That's another case where if we had the technology that we have now, we might have been better off. We tried and probably it wasn't handled the best way, we tried to get some evidence from him through the trial court. Ben Miller always used to rag me about that case because he said it was the only time he had ever been reversed by the Appellate Court. I think probably again, I wish that we had the technology now, then that we have now. We might have been able to handle that case a little bit better. That case was never solved.

LAW: That's what else I was wondering.

SHIFFMAN: Never solved, never even came close. Everybody was involved is long since passed away.

⁶⁶ See, *In Re September 1981 Grand Jury*, 104 Ill. App. 3d 94 (4th Dist. App. Court, 1982). See, *State Journal Register*, November 11, 1981, pg. 17, December 16, pg. 14, December 21, pg. 3, January 25, 1981, pg. 3, and February 19, 1982, pg. 11.

LAW: Do you think he was?

SHIFFMAN: I think that there was, you know, something happened. I think he was, you know, I had the prosecutor's mind back then which was, you know, that was everybody is probably, they are probably guilty we just can't prove it. But I've changed quite a bit since back in those days.

LAW: Okay, the Marshall case. Shirley Marshall.⁶⁷

SHIFFMAN: Shirley Marshall killed her brother, I think it was. And that was just after the law had been changed to allow for the verdict of guilty but mentally ill, which essentially is, you know, a person suffering from mental illness commits a crime. It was an attempt to deal with the insanity defense, which really wasn't such, there weren't that many cases where insane people would get, you know, insanity defense was being involved. This was probably, I would think, I don't if this was, this might have been right after John Hinckley shot Ronald Reagan and got off on insanity but, you know, they were passing these laws. Shirley was definitely mentally ill, and maybe if she had, she might have even been insane but I remember we had testimony that she was suffering from mental illness but she could determine right from wrong. Gordon Seator was the judge; he came over from Morgan County, from Jacksonville.⁶⁸ A very good judge and I remember that was one of the few cases, few murder cases, in fact it may have been the only murder case I ever tried that was a bench trial. I can't remember who Shirley's attorney was, I can't remember, but clearly the attorney was smart enough to recognize I think, that she would, the only way that she could get herself treated would be with a finding of guilty but mentally ill and that's what Judge Seator ended up finding. We had two psychiatrists

⁶⁷ See, *State Journal Register*, January 27, 1982, pg. 15, January 28, pg. 17, and March 9, 1982, pg. 3.

⁶⁸ Judge Gordon D. Seator became an Associate Circuit Judge in 1971, was appointed a Circuit Judge from 1979-80, and elected to that position in 1980. He served in that position until his death in 1988.

who testified. They may have testified by written report, did that a lot back in those days. It was a bench trial, you know, I think it was the first time, you know what, and it may have been the only, well, I think there have been a couple since. Now the law has been changed several times since so I don't know what the status of guilty but mentally ill is anymore but she was sentenced, she went to McFarland for some period of time until she was cured, I don't know if she was ever cured.

LAW: Okay. Now the next one is the murder of Charles Cummings, involving Robert Feagans.

David Landers, Leslie [Feagans].⁶⁹

SHIFFMAN: Ah, ha, that's the case I was thinking about, carrying his body across the bridge. Yeah.

LAW: Yeah.

SHIFFMAN: That was kind of an interesting case. You know what, it's terrible, I don't remember very many details about it, I remember a couple things. Bill Panichi represented somebody in that case, I don't remember who the other defense lawyers were.⁷⁰ See, one of the things that happened in Sangamon County and still happens in a lot of counties is, we didn't have a lot of trials where we would have people who were charged with one crime all being tried together.

LAW: Right.

SHIFFMAN: So we had a case like that, we had three defendants, we had to have three

⁶⁹ See, *People v. Leslie Feagans*, 118 Ill. App. 3d 991 (4th Dist. App. Court, 1983), *People v. Robert Feagans*, 119 Ill. App. 3d 941 (4th Dist. App. Court, 1983), and *People v. Leslie Feagans*, 134 Ill. App. 3d 252 (4th Dist. App. Court, 1985). See, *State Journal Register*, August 14, 1982, pg. 19, September 16, 1982, pg. 13, November 16, pg. 6, December 9, pg. 44, and January 13, 1983, pg. 45.

⁷⁰ Bill Panichi defended Leslie Feagans. Robert Feagans was defended by Public Defender Phil Schickedanz and David Landers was defended by Public Defender James Fox.

separate trials. After the second trial, the third trial you just, you wanted to get, you couldn't think straight sometimes. You couldn't keep things separate and apart. And I don't remember, I think Ben Miller was the trial judge for one of them, I don't remember who else might have been involved.⁷¹ And I just know Bill represented somebody in there.

LAW: Leslie.

SHIFFMAN: Leslie, yeah, but they were all convicted.

LAW: Yep.

SHIFFMAN: And they all did, you know, substantial sentences. But I don't remember much about Cummings, isn't that terrible. God, you know you've really made me...

LAW: Well they all went out drinking basically and they robbed him for two dollar and thirty five cents. And he had sixty bucks in his...

SHIFFMAN: Yeah, and they threw his body over the bridge.

LAW: Yeah.

SHIFFMAN: Yes, they carried it out, they stopped some place in rural Sangamon County, they took the body out of the car and then they walked and they tossed it over the bridge.

LAW: Yeah, for two dollars and thirty five cents.

SHIFFMAN: Yeah, well, lots of them. Unfortunately, it's not a very, it's not a business that makes you optimistic about human beings.

LAW: Well, you know, it raises question for me, how do you, in dealing with these types of cases, how do you not internalize all of this?

SHIFFMAN: You know, I, you don't internalize it because after awhile, you get kind of

⁷¹ Judge Jerry Rhodes handled Leslie Feagans case, Ben Miller the other two defendants.

immune, maybe not immune is not the right word, I mean, you just, I don't know. My wife always remarks about the fact that I would never talk about cases. She would have to read about them in the paper. I don't know, it's a very good question. You just, I think you just have to realize that as an attorney or a judge, you know, you're performing a certain function. It's like, if you were a doctor, you know, you never, every time you had a patient die, you know, you couldn't handle it, you wouldn't be very much of a doctor. It's not the same thing but you just kind of learn not to, not to internalize it. And it can be difficult. You know, I mean, I was obviously, I am able to not internalize it enough that some of the cases you are mentioning I can't even recall very much.

LAW: It looks like Leslie Feegan's case was in front of Jerry Rhodes.

SHIFFMAN: Okay. Okay, yeah. By that time Jerry was a circuit judge.

LAW: Yeah. And the other Robert Feegan's, that was in front of Ben Miller.

SHIFFMAN: Yeah.

LAW: Now, I did find that this was interesting; I think it's worth talking about. It's this murder case involving, it was the murder of Toby Phillips and there was some discussion of seeking the death penalty. The headline reads, "First time in Sangamon County since 1970."⁷² So this was, the question I have is, how as a prosecutor, how do you make that determination to seek the death penalty, and then coupled with that question would be, is it sometimes used to force a plea?

SHIFFMAN: I will answer the second question first and say yes, it was and I think this may have been a case where that at least leaving that possibility open was, we didn't want to foreclose ourselves from that possibility in that case, and we talked about it, and I mean,

⁷² See, *State Journal Register*, September 29, 1982, pg. 11. Also see, *State Journal Register*, October 13, 1982, pg. 72, and November 4, pg. 9.

you know, back at that time, in that time period, as the death penalty was, you know, was around. This was a case where I believe the victim in that case had been killed in a gas station robbery.

LAW: Yeah.

SHIFFMAN: And again, Phillips had a few, he was young but he had some convictions, he had some, I think he had, we didn't have formal requirements, we didn't have something, you know, if you had come to the State's Attorney's Office and said to Bill Roberts, "Let me see the book that tells if you're going to seek the death penalty or not?" We didn't have one. We didn't have such a book. But I think Phillips was, he was, we just didn't want to say no early on because Phillips at one time was represented by, I think, by an attorney in private practice and you know, we didn't want to paint ourselves into a corner just yet.⁷³ If there was going to be a plea we wanted to make sure that, you know, we could get a plea, but it's, you know, there were no hard and fast rules.

So, I mean, but I will say this, Sangamon County was a case was a county where I think that the feeling, the consensus in Sangamon County was that it would be it would very difficult to get the death penalty because we had jurors who were a little bit more, I want to say, a little bit more liberal. We had a lot of government; we had a lot of state workers. We had a lot of hospital workers. There are certain things, if you ask lawyers just in general about Sangamon County, you know, they'll tell you for example, Sangamon County jurors do not return large verdicts in personal injury cases. There have been very, very few large verdicts here. Jurors here are just a little bit more, I guess maybe sophisticated than in other places. We always thought that would be a problem. To get, you know, in death penalty cases. So there weren't very many of them. In fact, I

⁷³ Mike Metnick.

don't know that we ever, I don't think that we ever had a Sangamon County juror return a verdict, a death penalty verdict.

[02:45]

We had a couple of cases where judges imposed death penalty sentences. We had the famous case the murder case, it wasn't my case, Sue Myercough was the trial judge.⁷⁴ I know John Noll was on it, I think maybe Don Cadigin, I don't know if Don Cadigan was the State's Attorney or John Schmidt but it was the first trial ever conducted in the new courthouse.⁷⁵ The courthouse wasn't even really open yet but they conducted a trial over there before they actually formally moved in and it was a unique case because it was a murder case, it was a woman who had been killed out west near Lowes or near that area out there. They found her body in a corn field. It wasn't my case so you won't find it in there. Sue Myerscough was the judge, the victim was a young girl and the first, there was a defendant in that case, and they had a case and they had twelve women on the jury.⁷⁶ No one had ever, ever seen a case like that before. That twelve women on the jury and they did not vote to give the death penalty. There were a couple, now that I think about it, we did have a couple cases here, because Bill tried another one with a young woman who was killed. Bill Roberts did and he got the death penalty in that case. And I can't remember, they didn't try it here in Springfield. They moved it, they changed venue to maybe Champaign or Peoria.⁷⁷ But anyway, the death penalty, over the years, as I told you when we started, when I talk about my appearance in front of the Illinois Supreme

⁷⁴ Judge Sue Myerscough became an Associate Circuit Judge in 1987, was elected a Circuit Judge in 1990, was elected to the Illinois Appellate Court in 1998, and was appointed a U.S. District Court Judge in 2011.

⁷⁵ Don Cadigin served as State's Attorney from 1986-94, was elected a Circuit Court Judge in 1994, and served in that position until his retirement in 2005. John Schmidt served as State's Attorney from 1999-2010, was appointed a Circuit Judge in 2010 and elected to that position in 2012.

⁷⁶ See, *State Journal Register*, April 12, 1991, pg. 1, April 16, pg. 1, and April 18, pg. 1.

⁷⁷ See, *State Journal Register*, October 23, 1985, pg. 1, and October 25, pg. 1.

Court, I was very much in favor of the death penalty but over the years I have changed my opinion quite a bit.

LAW: Okay Judge, the last murder trial that I was able to find was this Green murder case.⁷⁸

SHIFFMAN: Ah, that's my famous case, the Havrilka murder. Fritz Havrilka, Fritz's Wagon Wheel, which is still a restaurant here in existence. There were two defendants, one defendant, there were three people involved in this murder. One of them worked at the Wagon Wheel, at Fritz's. And they decided on a Saturday night I think it was, after the place was closed, that they were going to rob Fritz of the money. Something happened and they ended up putting him in a car and driving out into the countryside and shooting him. I can't remember all of the details exactly. But we got one of them, the one who we decided was the least culpable, who didn't really shoot. We got him to turn and testify. The other two were tried and I remember several things about it. The first thing I remember of course is that the widow, Nancy Havrilka, she was, we dealt with her, she was a wonderful person and was very understanding and it was very sad, she still had this business to run. She was a very understanding and thoughtful person and she sat there of course throughout the entire trial. I remember we got one conviction and then we had the second trial and actually Joe Miller who just passed away this last week, Joe Miller represented the second defendant who I think was Green. Am I getting this right?

LAW: Yeah.

SHIFFMAN: Well we tried Green and we tried Green in front of Judge Friedman. And we thought we had a dead bang solid case. And we had a hung jury. The jury was eleven to one for guilty. And the one person who was the holdout was somebody that someone who

⁷⁸ See, *People v. Green*, 125 Ill. App. 3d 734 (4th Dist. App. Court, 1984). See, *State Journal Register*, May 11, 1983, pg. 10, May 20, pg. 15, and July 1, pg. 9.

worked in our office. In those days we used to pass around the list of prospective jurors to everybody in the office, just to see if they knew anybody. And one of the people had marked down the name of this person, and I don't know what the name of person was, John Smith, and their name was John Smith. They said "John Smith is a very pro prosecution person. If you get a chance, keep him on the jury." We did, and he was the one holdout. So we turned around, we had to try the case again. We tried that case, I was sworn in as the judge on Friday July 1st 1983. We started that case on Monday, June 26th in front of Judge Friedman, in his courtroom. We picked the jury, we put on all the witnesses and on Thursday we gave closing arguments. We started Thursday morning, we gave our closing arguments and the jury the second time went out right around noon time, had lunch, and they came back in like an hour and a half with the verdict of guilty. So I had my last trial on Thursday, it was finished about two thirty in the afternoon. My relatives and family were already starting to come to Springfield. And on Thursday night we all went out to dinner to celebrate that the next day I was going to be a judge. It was my last case and at least I went out a winner.

LAW: Alright, I just wanted to ask you about a few other judges and then we'll wrap it up for today. The judges I haven't asked you about, but I just want to make sure I do. The first, this is going back, you may not have had anything in front of him but I wanted to be sure to ask. Any memories of Eugene Duban?⁷⁹

SHIFFMAN: Yes. Yes. Judge Duban was, Judge Duban was the juvenile judge primarily here in town. He was a, I think he had worked at the legislature reference bureau. A very thorough, very slow, a very nice man. Unfortunately, and see I had been, I had only been

⁷⁹ Eugene Duban was a Magistrate Judge from 1968-1971, and then became an Associate Judge serving until his death in 1984.

here a few years. I can't remember, yes Judge Duban died after I became a judge. He was, believe it or not, he was working out at the Y. He used to go to the Y every day, working out at the Y, on some kind of exercise machine, had a heart attack and died. But he was a very thorough, again, very conscientious, moved sometimes at a slow rate in the courtroom. And sometimes lawyers would get frustrated with him. But he was very, very thoughtful and a very nice man.

LAW: Dick Cadigin?

SHIFFMAN: Well Dick, Dick was the first, the first of several Cadigins because we had Dick and then we had Don and now we actually have Don's son who I think is running in this next upcoming election. Dick was kind of more along the Jerry Rhodes. Dick was very smart. Dick was another guy, you would go into his office, there would always be, there was books always scattered around. He read a lot of history, he read a lot of law, he was very smart. But he also was, he was very quick, he wanted to be quick. He didn't like to delay or wait around. He was a very fast moving judge. For a long time when I first came here Dick did not get, did not hear criminal cases because Dick was a judge and brother Don, who was a younger brother, was in the State's Attorney's Office. And so there was a conflict, the administrative office said if your brother is in the State's Attorney's Office you can't hear any criminal cases whatsoever. So Dick used to hear a lot of civil cases and divorce cases. But he was a very, he was a good judge. I mean he was, he was actually, when I became a judge, he was let's see, I remember after I became a judge he gave me a couple of assignments. He said, "This is not the best assignment for you but I need you to go here, I need you to do this because we have some other problems, and I know you'll help solve those problems." And I appreciated that. And he was very good,

you know sometimes in the judging business especially, it's a very lonely job. But Dick was the kind of guy who would sometimes tell you, "You're doing fine, you're doing good," you know, "keep it up," and I appreciated that.

LAW: John Crane?⁸⁰

SHIFFMAN: John was a great trombone player. John had a very difficult problem making up his mind. Again, he worked hard he was a very, he was a good lawyer in private practice. But there's a difference between being a lawyer in private practice and being a judge. Because judges have to make decisions and it finally caught up with John towards the end of his career. Essentially he had to be kind of monitored and they had to make sure that he got all of his cases decided because he was being very slow and having problems with them. But he was always, he had the greatest laugh, he had the greatest laugh in the Sangamon County courthouse. When something struck John as funny he had a great laugh and well another, one John Crane story.

Judges used to do mental health hearings under the mental health code. And John used to do the mental health hearings because it was something he could do, it didn't, it wasn't something that, it was just good for him to do. So he would go out to McFarland. We had a circuit, they would go out on Friday mornings. You'd go to St. Johns Hospital, you'd go to Memorial and you'd go to McFarland Mental Health Center. Sometimes there'd be hearings, sometimes there wouldn't. So there was a hearing out at McFarland Mental Health Center one day. And there was a person who was in need of mental treatment. Well the doctor, you'd put the doctor on and the doctor would say, "In my opinion this person is in need of mental treatment." John was the judge, I don't know

⁸⁰ Judge John B. Crain became an Associate Circuit Judge in 1979, and served in that position until his retirement in 1987.

who the prosecutor was, who the defense lawyer was. But the prosecutor said to the doctor, “Now tell me about this patient, does this patient hear voices?” And the doctor said, “Yes this patient thinks he’s Jesus and he hears voices.” And the lawyer, the prosecutor says, “And what do those voices say?” And the defense lawyer says, “Objection judge, hearsay.” John Crane started laughing. In those days they used to tape these hearings. John Crane started laughing and laughed for a good five minutes. Because he thought it was the funniest thing that he’d ever heard. The person of course was sent, stayed in McFarland at least for a little while. But that was John Crane, he had a very good sense of humor.

LAW: Okay, how about we end it with this question. So there’s an article from November 21st, 1982, *State Journal Register*.⁸¹ It’s about Harvey Beam, he’s retiring, and the reporter is asking him about the changes in the law that he’s seen. And there’s a particular quote I think is of interest. He’s talking about changes in the law over the last ten years. And he says, “The volume (of cases) has at least doubled since I came here,” he says, “There’s been an explosion in civil lawsuits. People were more prone to bring legal action in the past ten years than they were in the previous ten years.” That’s one quote, the second quote, “We also have an increase in most facets of criminal activity, and thus the legislature has enlarged the different types of crimes.” So my question is hearing that after your first ten years, does that sound accurate? How did things change over those ten years, if at all?

SHIFFMAN: Okay, they did change for example, one of the biggest changes that occurred over that period of time, for example, driving, laws involving driving under the influence. When I walked into the State’s Attorney’s office in 1975 the standard disposition for first

⁸¹ Pg. 8.

time offenders for driving under the influence was a hundred dollar fine. And in many instances what we called supervision, or no conviction on their record. By the time I left in 1983, by the time I left the State's Attorney's Office we were demanding and getting jail time for people who had multiple convictions. And that was one of the areas where there had been a huge increase in the number of driving under the influence and the number of serious traffic offenses. So that is correct. In the other area I would take a little bit of issue with Judge Beam to this extent. We had a lot more civil cases but some of the things that we had civil cases involving were essentially, the numbers would tell us, more collection cases. I don't think we had more major personal injury cases. I don't think we had more medical malpractice cases, or malpractice cases of any kind. But we had a lot more cases involving people for example who couldn't pay medical bills. So we had a lot more, what we call small claims and LM cases, those were the smaller civil cases under fifteen thousand dollars.⁸² We had a lot more of those because hospitals were collecting, hospitals became much more involved and much more active and aggressive in collecting unpaid bills. Collection agencies sprouted. So we had a lot more work but it was kind of at the lower level of the economic spectrum. You know I think Judge Beam was right, but the amount of cases had increased substantially, but I'll tell you this. Judge Beam, was that in 1982?

LAW: Yes

SHIFFMAN: You know ten years later it was even worse, and twenty years later it was worse still. I guarantee you, you go walk down, you just check the numbers, you'll see that there's a lot more numbers. Now that doesn't mean necessarily that there were a lot more cases. Because there were all kinds of things going on. In criminal law, we were filing

⁸² Law Minor.

more counts against individual defendants. We were doing all kinds of different things. While there were more cases, I don't want to take issue with Judge Beam, because he was a very wise guy, and he's correct to some extent. But if you look at the numbers nationally, in the eighties, you will find for example that there were more cases filed back in the twenties, the 1920s, than in the 1980s. So the numbers don't always tell the complete story. But the work had gotten more complex. There were a lot more things going on. When I became a judge and had to start to learn about things like DNA and I remember being a judge and hearing a case that involving blood evidence and having the expert witness say that the chances that this blood being somebody other than the defendants were one in seven billion or something. And I think to myself there aren't seven billion people in the world, how can that even be? So all of a sudden I have to start educating myself. Judges, prosecutors, lawyer have to start educating themselves in areas they never thought they would have to worry about when they were in law school.

LAW: Okay judge I think we'll stop there for today, Thank you.

SHIFFMAN: That's a good stop, okay.

[Total Running Time: 03:00:47]

END OF INTERVIEW TWO

BEGINNING OF INTERVIEW THREE

LAW: This is an oral history interview with Judge Stuart Shiffman. Today's date is June the 14th, 2016, Flag Day. We are in his law office here in Springfield Illinois. This is our third interview and we're going to continue talking about his legal career. Judge Shiffman, I thought I would start today with how and why did you decide to be a judge?

SHIFFMAN: I think for me at least it was a desire to become kind of the umpire so to speak, I hate to use that term, but the person who had a little bit more control over the trial and the process. I had tried a lot of cases; I had seen a lot of what I thought were good judges and bad judges. I also, throughout my legal career, and even before my legal career, my undergraduate career, I had read a lot of history, read a lot about judges and always thought it was something that I would want to do.

The process is always somewhat interesting. I first expressed some interest I think and it took maybe in my early thirties after I had been in the state's attorney's office for several years. An associate judge vacancy came along. You start to think about it. And quite honestly you go in and talk to some of the judges about the process and about perhaps being selected. And they encourage you or they discourage you depending on what they felt. I learned throughout that process that there were politics. There were both judicial politics and what I will call partisan politics. And I just I plugged away and finally after a few tries there was a vacancy that I guess they decided it was my turn. I shouldn't say it like that but, but that I was the best candidate, I hope, and I was selected in 1983. I replaced Judge Charles Ryan who had come to Springfield from Jacksonville. He had been the state's attorney in Morgan County. His term expired on June 30, 1983

and I was sworn in on July 1, 1983. I guess that's a long answer to essentially tell you that I think many lawyers want to be judges because they view it as kind of an honor to your career.

LAW: Help me understand a little bit more about what you said about the judicial politics of getting a judgeship.

SHIFFMAN: In Illinois it's still a very interesting process; and in fact it differs somewhat from Cook County to the rest of the state. But basically, well there are two types of judges in Illinois, as you well know. Associate Judges are selected by a vote of the circuit judges in their individual circuit. At that time, there still are, there were eleven circuit judges in the seventh judicial circuit. You did it by talking to each individual circuit judge, essentially making your case. Some of the circuit judges would vote based upon who they thought would be the best judge. Some, it was kind of a mix, sometimes they voted strictly on politics. I had several judges who would tell me, "You know if two people are equally qualified for this position I will vote for the Republican because I'm a Republican and I was supported by Republicans." Of the same token some would say, "I would vote for a Democrat because I was supported by Democrats." Sometimes in a circuit like ours geography had played a role. As I indicated Judge Ryan who was my predecessor in that position had come over from Morgan County. Morgan County at one time which was a smaller county in Sangamon County had three judges out of our total group of circuit and associate judges. So there were, when I say politics what I really mean to say is obviously we all understand partisan politics, Democrat or Republican. But there are also other issues. When I came to Sangamon County there were no women judges. Now probably if there are twenty judges in the seventh circuit I think there are

probably six. The female numbers of judges have increased substantially. When I came to Sangamon County we had no African American judges and over the years I think it became generally understood that it would probably be a good thing to have a member of that community represented on the bench and it came to pass. There is a lot of, when I used the term politics I think I'm using the term in at least in this sense it expresses there are a lot of factors that go into selecting judges at all levels. You want the judiciary to represent not just the legal community but I think the community as a whole. There's a lot that goes into it, let's put it like this. It's not just a process whereby the names of the potential candidates are put out to the community, both the legal community and the non legal community and they conduct kind of an evaluation and the person who scores highest on the evaluation becomes the judge. There are a lot of factors that come into play. Now that's just of course just the associate level. Circuit judges run for election on partisan ballots. I did that a couple of times. As my friend Rich Kling says I came in second both times unfortunately. But that process has a lot of proponents and detractors.

LAW: I wanted to ask you a little bit about that a little bit later, but before we get there I kind of wanted to look at that first four years as an associate circuit judge. So you come in, where are you initially assigned?

SHIFFMAN: I come in 1983, July 1st. And because of course I had done nothing but criminal cases for many years I was deemed unqualified, not unqualified, it was determined that I couldn't hear criminal cases because there could be a conflict. So I went the first time into the domestic division and then I was also I did civil cases. Primarily I was doing domestic relations I think for the first couple of years. It was interesting and in many respects enjoyable. But it was also frustrating. I have since come to realize that

there are reasons why domestic relations cases are frustrating. Because the people who are involved in the cases are frustrated and have anxieties caused by the fact that financially when you break up a marriage there isn't enough money for both sides to exist like they did when they were married. Sometimes children also can be a source of conflict. But I did that primarily and I also, I did a couple of things; when I became a judge the first thing I really wanted was I wanted to be, I was young and I didn't view it as a place where I was going to be rewarded for years of service. I wanted to be an active participant in making changes and bettering the legal system and also just working. So one of the first things I did, I made it very clear to the, who was the first Chief Judge when I came in, who was Gordon Seator from Jacksonville, and so I told him, I said, "I will go anywhere you need me to go and I will do anything you want me to do." So very early on I would be travelling. I would go to Jerseyville. I would go to Carlinville. I would go to Winchester. I was going to all six other counties in this circuit and we also in Illinois have kind of a unique situation sometimes where from circuit to circuit if there was a conflict, there might be a case where no judge in a circuit could hear a case, a particular case. So I sometimes would ride up to Bloomington and I'd hear cases in McLean County. And of course we'd always make our annual trips to Cook County. In the mid 80s and all the way up until probably I think the 2000s most downstate judges, many downstate judges would be assigned to Cook County for two weeks. And depending upon what you wanted to do you could work anywhere in Cook County and I always volunteered, I was willing to go up. And in fact one year I went up four weeks. But I always asked if I could go to places other than traffic court. They normally would send you to traffic court because they would try to send you to a courtroom where you

didn't have to return. You know to handle cases later on. So they would send you to the high volume courtrooms. Traffic court was the highest volume. I went there a few times but did not like it and asked if I could go someplace else. And there were always places to go. If you wanted, I learned very early that if you really wanted to work hard as a judge there was always assignments you could take and always work that you could find.

LAW: Give me an idea of how the work was sort of parceled out? In the office.

SHIFFMAN: In the Sangamon County courthouse there were specific assignments. You would generally get an assignment for, usually for a year. I think there were three judges assigned to what we called domestic relations. That involved divorce cases, that involved non-support cases, which they still call non-support cases, and I believe that it also included the juvenile assignment. Judges who would handle the juvenile cases. There would be a civil assignment for cases, small claim cases, what they called municipal cases which were, there were three classifications of small claims, of civil cases based upon monetary requests. Early on it was fifty thousand to fifteen thousand, fifteen thousand to twenty five hundred. You could get any kind of a case in there. But there was the civil assignment. The criminal component was felony cases, misdemeanor cases, and traffic cases. Associate judges were usually assigned to traffic and misdemeanor cases. But when I started hearing criminal cases in those years the Illinois Supreme Court had a specific special rule that if you were an associate judge but if you had an appointment from the Supreme Court you could hear felony cases. And as soon as I started hearing criminal cases I asked for and received that additional ability to hear felony cases. And I was hearing felony cases all over the seventh circuit and actually over the state of Illinois as well. The assignments we would get by a yearly basis and at the end of the year they

would rotate the assignments and you would take another assignment. That quite honestly was one of my peeves. I always argued that we shouldn't just get an assignment like that. I argued that we should all receive cases on an individual basis. Each judge should have their own individual docket. I always thought that it would be a more efficient way because when you were hearing cases on a yearly basis and your assignment changed let's say on January first or second of each year. A lot of times as you came to the end judges became very lackadaisical and didn't really care about what they had because whatever they didn't decide was just going to go to somebody else. I always thought that if each individual judge had their own case load for which they were responsible there would be more accountability and more responsibility

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for the judge to make certain that his or her cases were disposed of. But others didn't agree.

LAW: So give me a better idea of what you heard when you were in domestic relations? Any strong memories? Memorable cases? What stayed with you?

SHIFFMAN: Well, in domestic relations I'm always reminded of something one of my fellow judges told me at some point when we were having a discussion. He said he liked to go from the domestic relations assignment to the criminal assignment because on the criminal assignment he met a better class of people. Domestic relations is not an easy situation. You have child custody cases, you have child custody disputes. You see people at their worst. Now, when I say that you always have to remember that in domestic relations, or any assignment, you have a huge number of cases that are resolved, settled, you don't even worry about them. But my recollection of domestic relations cases was

primarily sometimes the very incredible petty disputes that lawyers had. After a case was resolved sometimes, the lawyers would talk to you. I remember two lawyers once telling me about a case that they had where they sat down with the clients and they hashed out every possible detail of this case and they had it all settled and all resolved and finally after they had everything done and they were getting ready to pack up one of the parties said, "What about the video recorder?" They had video recorders back when I first started. He wanted the video recorder and his wife didn't want to give him the video recorder. His lawyer got so angry that he reached into his pocket and he pulled out money and he peeled off a hundred dollars and said, "Here, go buy your own blank video recorder, let's get this case done." You know lawyers would tell me that and sometimes we would hear incredible things. I have memories of a divorce battle between a doctor and his wife where I heard and learned more about investments and tax shelters and things of that nature than I ever cared to know. You know I remember, I don't have any particular memories because after awhile they all just kind of blend together. It was a, sometimes it could be very hard as a judge; you couldn't understand how people would spend thousands of dollars in legal fees to fight over something very insignificant. Now, years later, I think I'm beginning to understand how that happens.

LAW: One issue was child support, how was that handled initially and how has that changed over time?

SHIFFMAN: That's a wonderful question because back when I first got started, let me start again and let me say this, nowadays, presently, we now have child support guidelines. So there is a statute that says for example, if there is one child to be supported the general support, the amount is twenty percent of net income. And the statute tells you how to

calculate net income. And the statute tells you that you can't really deviate from that unless there is a very strong reason. It goes up I believe, twenty eight percent for two, all the way up to five children I believe. So there are statutory amounts. When I started off as a judge they always told us, "You can't just apply a percentage. You can't just apply a percentage amount." But all the judges would acknowledge that what they would do is they would just apply it in their head and then that would be the amount that they would reward. So those guidelines were there to instruct you and generally you followed them. Although you never admitted that you were actually following any type of a percentage charge or anything. Maintenance also kind of became a percentage amount. I think judges didn't just flat out and say I'm going to award a certain percent, but in their heads that's how they calculated and that's how they worked. Of course there were differences over the years. When I first started in the eighties there were instances of, situations where, there were a lot of stay at home mom's in the eighties; a lot of women who were not yet in the job market. But one of the great changes in divorce law over that time was that you got to the point where you had two income families and so maintenance and how you handle maintenance has always kind of been an issue. And in fact even now I can tell you based on my experience in practicing law there are still many maintenance cases that bother judges and that cause great legal dilemmas for them.

LAW: Did you have to hold people in contempt often for non-support?⁸³

SHIFFMAN: You did but generally you got to the point where the threat of holding someone in contempt for not paying child support was enough to get them to pay. Many times they just had nothing to pay with. That was always the real problem; you had to decide between the honest people who really couldn't pay and the ones who could. There were

⁸³ See, *State Journal Register*, May 5, 1985, pg. 4.

ways to kind of deal with that situation. If you had somebody who you thought was really not paying and they could pay you could put them in jail and let them go to work, and we would release them to let them go to work. And again this was before the orders for withholding that are now in effect. In the beginning if you ordered child support, child support was always ordered to be paid through the Clerk of the court and the person who was paying this court would have to send a check to the Clerk of the court. Now through the automatic orders for withholding the process of getting payments is quicker and more efficient. We don't have as many instances where people just got money and never paid it in child support. I never philosophically believed that putting a person in jail for not paying child support would accomplish very much. There were occasions; in fact this was probably a standard judicial tactic. A husband came in, and I say husband because in most instances it was the husband who was ordered to pay child support. A husband would come in and be in arrears in child support, back perhaps in the 1980s the arrearage had gotten up to let's say twenty five hundred dollars. So the husband would come in and say, "I can't pay child support. I don't have any money." And you would look at their financial resources and you'd see a lot of times they just didn't have anything. At least on paper they didn't have anything. And the judge would say, "Alright, I find you in contempt and I find your failure to pay is willful. I am remanding you to the custody of the sheriff until you purge yourself of contempt and I'm setting your bond at twenty five thousand dollars." And low and behold, within, oh you know, twelve, twenty-four hours, that person would come up with bond and a bond of twenty five thousand dollars is actually twenty five hundred, it's ten percent. So there would be twenty five hundred dollars now in the clerk's office and you'd say, "Alright, you can be released from

custody, you'll come back in a week and we'll have a hearing." Come back in a week and we'd have the hearing, we'd say, "Alright, I'm ordering that the clerk take your twenty five hundred dollars that you posted as bond and I'm ordering that they apply that to your child support arrearage and you're no longer in contempt." And then, you know, you hopefully wouldn't see them for awhile until their arrearage built up, you know it's one of the more difficult things that judges sometimes had to do, you had some people who were just so, the animosity was so great, you know, they wanted to fight so often that they would have their lawyers file a Petition for Rule to Show Cause when they got a month behind in child support and a month's child support back in the eighties may have only been three hundred or four hundred dollars. And here they are in court fighting over three hundred or four hundred dollars and they are paying their lawyers probably that much for a couple hours worth of work so you always had to kind of balance that and try to deal with it. And you know, that was part of the job.

LAW: Another issue was child custody cases. Any memorable child custody cases and here I'm thinking of one that generated an opinion column in the *Chicago Tribune*.⁸⁴

SHIFFMAN: That was one of my famous cases. I will tell you that it was an eye opening experience in several respects. That really wasn't even my case. It had been assigned to another judge, something happened and he couldn't be there, and I ended up having this hearing in this contested child custody situation with allegations of child abuse that turned out to be unfounded and unsupported and I had a finding that the mother had abused the custodial arrangement, I found her in contempt and sentenced her to some time in the Sangamon county jail. And somehow, much to my amazement, the next day

⁸⁴ See, *Chicago Tribune*, November 26, 1985, pg. 3. Also see, *State Journal Register*, November 26, 1985, pg. 12, November 27, pg. 2, November 28, pg. 17, December 3, pg. 3, December 6, pg. 8, December 9, pg. 5, December 14, pg. 11, January 14, 1986, pg. 3, and May 2, pg. 7.

or couple days later there was a column in the *Tribune* by the famous Michael Royko about this case. Since he had never been here, since he had never called me, since he had no knowledge whatsoever really about the case other than what someone else must have told him, I found that somewhat surprising. I never spoke to him about the case; he wouldn't even give me the courtesy of that. I do remember speaking to his editor and in fact, oh gosh, I was just talking to a friend of mine, I was talking about this in a different context, I can't remember his name now.⁸⁵ The editor of the *Tribune* later went on to have some involvement in the Ross Perot campaign and I wish I could, I can't remember it. But anyway, I remember speaking to him on the phone and his comment to me was, "You know, you have to understand, we have cases up here in Chicago were people commit armed robberies in banks and they don't get any time in jail. When a woman gets sentenced to jail its big news." I said, "Well, you can think that, but that's just," there's just not any truth to the column was my big complaint and I learned that that was not really an issue. So, it was not a great experience, actually, looking back on it now years later, I can laugh a little bit. Because I can remember one of my lawyer friends telling me a couple days later after it came out, "Well, you know, your mother must be happy." I said, "What do you mean?" She said, "Well she lives up in Chicago and she is always telling people about her son the judge and now he's got his name in the Chicago paper so you must be happy about that." I said, "I don't quite think so." It was, I will tell you that after that column was in the paper, I did get a few unsigned letters and I think my wife as I recall got kind of a nasty phone call at home. I'm still in the book, you could find me. I think she got a nasty phone call that bothered her a little bit. It was not a wonderful experience but I learned from it. It was just part of the job. But it never changed me

⁸⁵ Jim Squires.

insofar as, you know, going about my business. In fact, interestingly enough, there was a famous case in Washington D.C. I'm reminded of this now, there was a woman in Washington D.C. named Elizabeth Morgan who had a very, very long and contentious child custody battle with her ex-husband involving all kinds of allegations of abuse and everything. She was eventually sentenced to serve a term in the jail in Washington D.C. and the judge ordered her sentence until she would divulge the whereabouts of her child.

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She had actually hidden her child in New Zealand or Australia or someplace like that from her ex-husband. And the judge ordered her imprisoned until she divulged the location. She refused to do that. I think she was actually in prison for over a year and finally the federal, the House passed a law to authorize her release. I can't remember the exact details but I remember that the famous columnist Anthony Lewis had some observations about the case. And I remember actually writing him a letter and you know, trying to, well just explaining to him how difficult sometimes it is for a judge to come to that kind of a conclusion, to order that kind of action. And I got a letter back from him, so we had a little bit of a discussion about it. You know, that always a difficult part, you never want to put anyone away but sometimes that's the only alternative they give you.

LAW: I imagine not all child custody cases were of that nature.

SHIFFMAN: No, oh no. Sometimes, I think one of the things you realize after awhile after you've heard a few cases is sometimes parents fight about custody because it's a way of asserting their position or their control. You know, it's like one of another changes we've had in the law in that last thirty five or forty years. After I had been on the bench for several years the legislature established what they call joint custody. And joint custody

essentially says that both parents play an equal role in the raising of their child. Many lawyers and many judges realized that joint custody really was just kind of a placebo. It was a term that you could use for, to people and you could say to them, "Alright, I'm awarding joint custody but under the terms of this joint custody agreement, the father gets to see his children every other weekend and one night a week." Which is the same as what happens usually in a regular custodial arrangements where the custody is awarded to the mother and the father is the non-custodial parent. So you call it joint custody but it would be the same as traditional custody and you know the father could walk out of court and say, "Well I got joint custody of my children so I have just as much right now as I did before." These are the things that happen in the domestic relations process to kind of I think, in the goal of trying to eliminate, in trying to reduce the tension between the parties, after I became a judge, one of the things they added was what they call a children's advocate which is essentially a lawyer for the children now. These were things that, you know, again, it's always been an effort to tamp down a lot of the disputes between the parties. To some degree, they've succeeded. Divorce is much different; divorce litigation is much different now that it was when I first started in the eighties.

LAW: Okay, so there was child support, child custody, divorce, anything else in domestic relations?

SHIFFMAN: No, no. I mean, there were other areas but, one of the things that I will tell you, that I rarely did, was I rarely got involved in the juvenile aspect, you know, what I guess you'd call the criminal cases for juveniles. I never liked doing that, I always asked not to. In part it was I think because I had young children myself at that time and they were growing up and I just, I never was comfortable trying to deal with that area. Other judges

enjoyed it, we had one of our judges, John Russell from Jerseyville, who spent a lot of time in Springfield, was a wonderful juvenile court judge. He was very patient, he was very understanding. He enjoyed that assignment so he kept it for many years. I simply did not enjoy it. There was enough other work to do so that I could keep away from that. But that was pretty much, I think you've pretty much, one I guess final observation, when I came on the bench, people were still on occasion fighting about grounds for divorce. You know, when I first came on the bench, there was mental cruelty, physical cruelty, adultery, those types of things, it was a fault system. I was always of the belief that if you didn't want to be married any longer, the law shouldn't force you to be married. That perhaps is a little bit extra judicial in a way, so it was very, and most people never fought about grounds. Occasionally, I remember one case where I had a very, I think I had almost a one day trial on the issue of grounds only, which was unheard of. And at the end of that one day, I said, "Well neither side has proven grounds, since neither side has proven grounds you cannot get divorced and the case is dismissed." And the lawyers just, well the lawyers were the ones who were doing the fighting and they had to eventually, they had to go out and figure out a way to get these people divorced because we had bifurcated trials, you couldn't, you didn't hear any evidence about property, custody, visitation, support, any of that until you first found grounds. And if you couldn't find grounds then you couldn't move along. But then the legislature in their wisdom created no fault divorce, which was if you were separated for two years or you could be separated for as little as six months, you could obtain a divorce without any basis, without any fault needing to be found. And fault was so easy, you know, mental cruelty was pretty much a very easy thing to prove. If everybody wanted to, let's put it like that.

LAW: Now would you have been in domestic relations that first four years the whole time?

SHIFFMAN: No, no. I was in domestic, my first assignment was, since I came on the bench July 1st, my actual first assignment was actually just for six months, it was in domestics. At the end of domestic, I think the chief judge did come to me and say, "Will you stay in domestic for another year?" I said, "Okay." So I stayed. I was willing to do it because, as I've said, I took a lot of other things that gave me some variety. I have always wanted throughout my judicial career, the one thing I wanted more than anything else was variety. I didn't want to have one type of case. Some judges really like that. There are courthouses; there are courtrooms up in Cook County where judges hear only one particular type of case, that's all they hear. You get to be very good at that. But I didn't want that. I wanted to have a lot of variety. So I took the domestic assignment for another year, and by that time, after a year and a half, I no longer had problems with hearing criminal cases in Sangamon County, so I could start hearing criminal cases and I think I moved to the criminal side then the next assignment. And then I took, you know, I took the civil but it just after, I was in domestic for awhile, usually what happened was you would rotate, maybe take a year away, or two years away and then come back and do domestic. So I had a couple of assignments in domestic but I had a variety. I always tried to do something different and I always had a lot of cases that I was juggling. I liked it that way.

LAW: So when you started hearing criminal cases, what was it like to be on the other side?

SHIFFMAN: Well, it was interesting. It was different first of all. You had to make certain that you didn't try to influence too much, get too much involved in a case. I remember, after I started hearing criminal cases, I became very interested in the entire notion of just

how far a judge should become involved in a case. Should the judge ask questions? Should a judge not ask questions? If there is an element, if the prosecution hasn't proven an element of a case, what should the judge do? Because you're supposed to do justice, and you shouldn't allow some very, for example, back in those days, you had to prove venue. In Sangamon County, if you were in Sangamon County, you had to prove that the crime occurred in Sangamon County. Sometimes lawyers would forget to ask that very simple question. What's the judge supposed to do? Should the judge remind them that they haven't asked it? Or should the judge just not say anything? So you always had to deal with that. I remember one time, my friend George Ray who became a judge sometime after I did, once reminded me in court.⁸⁶ We had a defendant who was appearing for a first appearance and I was setting bond and there was an assistant from the office who I knew and I think George may have been there and I asked the assistant, "Does the defendant have a criminal history?" He said, "Well I don't know judge, I haven't got all the paperwork." And I looked at him and said, "Well, what does our file show?" Meaning what does the State's Attorney's office file show, which was kind of the wrong thing to say but you have, you just, after a while it became very easy. In fact, talking to other fellow judges about that very problem, there was always kind of a consensus that ex-prosecutors were the most, were the judges who were better for criminal defendants because ex-prosecutors knew all the tricks that prosecutors often played and by the same token former public defenders were the toughest judges in criminal cases because they generally knew that, you know, most clients were in fact guilty. People would be trying to get them off. You know, I tried to be fair; you always

⁸⁶ Judge George Ray became an Associate Circuit Judge in 1987, and served in that position until his retirement in 2007.

try to be fair. You worked through the whole concept of you know, the difficult concepts of guilt and innocence and suppressing evidence and things of that nature. I think every judge realizes how difficult that is. It's hard. I don't like to be a, I didn't want to be and I don't think I was considered. I remember one year when they did a poll and I think I was very proud of the fact, they did a poll of the legal community and eighty percent of the lawyers polled said that I was very fair in criminal cases. Ten percent said I was pro defendant. Ten percent said I was pro prosecution. So I thought that was a pretty good recommendation.

LAW: Okay, so then memories of the civil docket, working civil cases.

SHIFFMAN: Okay, you know, I think the one case I will never forget is a case that was a wonderful case to be the trial judge because of who the lawyers were. I tried a case, I can't remember exactly what year it was, but it was a really difficult case. It involved a man who was working out at a project, a blacktopping project out near Lake Springfield. And they had these giant machines that would stir the asphalt and you know, so that it would then come out and be poured on the highway, on the roadway. This man was working on this machine and somehow fell into the machine itself. The machine was supposed to have some time of stop mechanism to stop it from continuing to turn if somebody fell in, the stop mechanism did not work properly and he was killed. His family filed a lawsuit and they were represented by Bruce Cook, who is an attorney from down near Saint Louis, who is probably one of the best personal injury lawyers in the state of Illinois. The company, and I can't remember the name of the company, but the company was represented by an attorney from Chicago name Richard Phelan. Richard

Phelan, by the time he came here to work on this case, had become very famous because first of all, he worked as counsel to the House Committee that ended up

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investigating the Speaker of the House, Jim Wright from Texas. And actually, ultimately, his investigation led to Wright's resignation as Speaker of the House. Then Phelan decided to get into politics and he had been nominated, he won the Democratic primary to be the president of the Cook County board. A few years later he ran for Governor but he lost in the primary to Don Netsch. But anyway, I had this trial with Cook and Phelan and they had associates. And it was just amazing. They were the best lawyers. I said to somebody afterwards, "You know this is the kind of case that you watch and you just think you should tear up your law license because they were just phenomenal." They tried this case, and I remember listening to closing arguments and you have to be very careful when you're the judge because Cook's closing argument almost had me in tears. And the Phelan's closing argument was just as good. So I kind of had to look away from the jury, I didn't want them to see my face, what I was expressing. The jury went out and they deliberated for, I think a day and a half or two days and they couldn't reach a verdict. And they eventually settled the case. But that was a case I still remember.

There was, I had some really good civil cases. Another one tried here, Tom Londrigan, whose office is right over there, was the plaintiff's lawyer and he's probably another very, he was one of the most well known and successful plaintiff's lawyers, not only in Springfield, but in the state. He tried a case, oh; I think it was George Gillespie, who was a noted defendants lawyer here in town. This was a case against the Methodist

church.⁸⁷ It's funny how these cases, this case was probably at least twenty years ago but it still kind of, it has issues that still ring today. This was a case where the Methodist church had received information that one of their priests was abusing children. They didn't fire him. They didn't do anything to him. They moved him from his first pulpit to another pulpit over in Macon Illinois, which is near the border. The church I think was located, I'm pretty sure has headquarters here in Springfield, that's how the case ended up in Sangamon County. But Londrigan had brought a law suit against the church for keeping this priest who then had a second instance of child abuse in the new church. And they sued the church and they got a verdict of, what in Sangamon County was a lot of money, I think it was four hundred and fifty thousand dollars. It was not affirmed on appeal but it was, they ended up settling it anyway. I can't remember, it was some error that I committed. It was kind of an error that was invited by both counsel but I can't even remember what it was. It had nothing to do with the actual trial itself, I think it had something to do with instructions. Oh no, no, no, I take that back. It was the special interrogatories. The lawyers had special interrogatories and one of them was inartfully drafted. But anyway, that case, that was another interesting case.

I had a lot, you know there was some very, I tried several medical malpractice cases. I do not think, to be honest with you, that I ever had a medical malpractice case that I had; I think I had one where the juror returned a very small verdict. Most of the medical malpractice cases I had were decided in favor of the doctor, which is not unusual in Sangamon County. I did all kinds of cases. I did, oh I remember doing some huge case involving utility companies. I did another case that I actually, it wasn't my case, but Jeanne Scott who was in our courthouse, was a judge in our courthouse and later became

⁸⁷ See, *State Journal Register*, September 2, 1989, pg. 30.

a federal judge, asked me if I would help try to settle a case. Occasionally, you know, a judge would take a case that needs to be settled and if somebody would work with the lawyers but the judge didn't want to do it personally because that might hamper their ability to ultimately hear the case if it went to trial. So she asked me and I said sure. And I sat down with these lawyers; it was a case involving insurance and the sale of life insurance policies. You know sometimes you start to hear a case and you find out things that never even knew existed. If you have a life insurance policy you can actually sell that life insurance policy to a company that will give you, okay, I'm the First National Life Insurance Company, and I have out there, I have you know, ten million dollars worth of life insurance policies on various people, I can sell those life insurance policies just like money to someone else who will buy them and give me six or seven million dollars and then years later they will, they might have to ultimately pay these policies off, thirty, forty, fifty years down the road but in the mean time, they've earned money on it. I'm not explaining it correctly but anyway that was the case where I actually, we hammered out a settlement. I remember I felt like Henry Kissinger because I had lawyers in one jury room, I had the insurance companies in the other and I kind of walked back and forth and we got it settled. So, but, you know, civil cases were a lot more fun because one of the things you learn after awhile, in a criminal case often times, the defense is essentially hoping that you will make a mistake, you as the judge will make a mistake because then even if their client is convicted there might be a reversal in the appellate court later on. In a civil case, since both sides can appeal, the lawyers are far more careful and they want to make sure that they don't make, that there are no errors in the case because either side can appeal. Prosecution can't appeal on a criminal case so it changes the dynamics.

LAW: I do want to ask you about one particular case just to see if you had any memories of it. I guess it was dealing with the Freedom of Information Act, with a liquor license.⁸⁸

SHIFFMAN: Yes. I think it was Copley Press and was I think it was the Journal Register but at that time it was Copley Press. And I think the case involved the city of Springfield. You have hit upon one of my kind of, I don't want to say bugaboo and I don't want to say prejudices but something that I have always very firmly believed in. That is the public's right to know. Okay. This was a case involving the, I think I remember the details pretty well. You probably have it there and might catch me on something. There was actually a well know radio personality. He was known as "One Eyed Jack" and I can't think of his real name. Jack is his first name, I can't think of his real last name. But anyway, Jack was applying for a liquor license.

LAW: Donald Jackson.

SHIFFMAN: Donald Jackson, thank you. Donald Jackson was applying for a liquor license. The city of Springfield apparently had some information about him including I think some criminal, I think he may have had a criminal conviction for something, I don't know if it, insignificant, it wasn't a serious crime. But he had some criminal history. They, without divulging what that criminal history was, they denied his request for a liquor license because he had a criminal history without really saying what the actual criminal history was. And I think it was then the *State Journal Register* under the Freedom of Information Act, they requested that information from the city. The city said no, we're not going, we won't give it to you because the way they interpreted the statute

⁸⁸ See, *State Journal Register*, May 15, 1986, pg. 10, and October 4, 1986, pg. 10. Also see, *Copley Press, Inc. v. City of Springfield*, 143 Ill. App. 3d 370 (4th Dist. App. Court, 1986).

it involved criminal histories and whatever and they said we don't have to give you that information. Well I reasoned slightly different and essentially what I said was, I don't know if it was actually reported in there or how they said it but my essential argument was this, the city of Springfield, any information that the city of Springfield relies upon to deny or grant a permit is something that the public has a right to know. I'm still a very big believer in this. And in fact, you know, this was my first opportunity to apply that and say that this information has to be disclosed. It should be disclosed to the newspaper. That was what I ordered. The city appealed and the Appellate Court said no, we don't interpret the statute in that fashion and the city does not have to disclose this information. Even now, even now today when I'm not a judge, but when I'm a lawyer, in fact there is case that's actually going to the Illinois Supreme Court right as we speak that is pending, I guess it's between, it's between the city of Springfield, no, not the city of Springfield. It's between the newspaper and the school board about what information the school board has to disclose. And I was just speaking with one of the lawyers in that case. I said okay, "Would you send me copies of the briefs when they get filed because I'm very interested in that." I happened to believe and you know, I'm not Hugo Black or I don't claim to have any great judicial philosophy but I happen to believe that public decisions that are made by elected bodies, school boards, city councils, things like that, that they should not be allowed to base a decision on some information that they do not disclose to the public. It's just a pet peeve, no, I don't want to say pet peeve, that's not right. I believe that my view is founded in the law. On that first amendment interpretation, I have a very wide view. Trial judges don't get to have a lot of judicial philosophy. When I was a young law student interviewing for a job up in Chicago I remember talking to a lawyer who had, it

was a small firm, about eight lawyers and he said, “Our firm has this very basic philosophy, we want to get the files off the radiator.” That shows you how long ago that was, they had radiators. “We want the files off the radiator and the money in the bank.” And I said, “Well I understand that.” And when I became a judge part of your philosophy as a judge is, you have a lot of cases, you want to move cases. You want to get through them. Trial judges do not have philosophies like Justice Scalia or Justice Breyer or someone like that. We are trying to move cases, we are trying to get our work done. But on this one issue I still remain very true to my feeling that I’m a strong believer in the public’s right to know.

LAW: Okay, so is the process of being I guess re-elected...

SHIFFMAN: Reappointed.

LAW: Yes, reappointed. How different is it from the initial appointment?

SHIFFMAN: How different is it? Well it is different you know. When you first go you apply, not apply but you really are expected to go see all of the circuit judges. There were eleven circuit judges. When I started there were I think six in the Sangamon County courthouse and five outside of the courthouse. So you had to see all six. And again you would talk to them, and sometimes they were committal. I think the last time that I finally got to where I knew it was very close. I got a little bit more specific statements of support. You know, “Yes, I am going to vote for you.” Before that people wouldn’t say I will vote for you they would say, “You are a good candidate but I cannot tell you how I will vote.” You were expected to talk to all of them. Usually what I would do is when the process got started I talked to all six in the courthouse and then the other five would sometimes would be in the courthouse for a visit or a hearing. But I made it my business to talk to all

of them, all eleven. Interestingly enough in talking to some of my friends in Cook County where there are over three hundred circuit judges they said that if they made it, they had a special ballot or they kind of divide the candidates down to a workable number and they say they are expected to talk to all of the circuit judges. And what they finally have done up there is they actually have receptions where all the circuit judges are there and the individual candidate can talk to them. But you talk to all eleven. Now a reappointment is a little bit different. Because you have to get technically sixty percent of the circuit judges to vote in your favor, to vote yes on the question:

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Should Stuart Shiffman be reappointed? Now it's fairly rare that associate judges are not reappointed although it happens. It's happening with more regularity in recent years. But when it came time for reappointment, when it came time for my first reappointment, I just called up everybody. And I said "Okay, you don't have to tell me how you are going to vote, but do I have any problems?" We always had these bar polls, these reevaluation polls and so you generally knew if you got a favorable score on the bar poll that you weren't going to have a problem. I can't remember, I think it was my second time for reappointment, the first time was in '87 and there was nothing. In '91 I think it was, two judges here in Sangamon County were not reappointed and it was kind of, they never actually went to a formal vote. What happened was they did the bar poll and two judges got very low scores on the bar poll and essentially I think the circuit judges said to them, "You should withdraw your application for reappointment, your request for reappointment." I think that was '91. I guess it could have been '87. I don't remember, but I think it was '91. Was it '91 or '87?

LAW: Are you talking about [John] Crane and [James] Fox?

SHIFFMAN: Yes

LAW: That was '87.⁸⁹

SHIFFMAN: Okay, that was my first year for reappointment. I did not have an issue. I didn't have a problem, I had gotten good scores on the bar poll. I didn't have a worry, but I did touch base with everybody just to make sure. My recollection is their scores were, they never published the scores because what happened was before the scores would be released they gave them the opportunity to just withdraw their applications. So they both withdrew their applications. We had two vacancies then. Then in '91, again I made the obligatory phone calls, no problem, '95, '99. In 2003 I would have been reappointed, I think I was still working in 2003. In 2007 I think I didn't have to reapply because I had already retired. Was it 2007?

LAW: 2006

SHIFFMAN: Wow, okay so 2007. I didn't have to. I never had to, knock on wood, I never had any issue. I think usually in many instances what happens is across the state if a judge had an issue somebody would come to them and speak to them and tell them you might want to withdraw your request for reappointment. I know actually there was a time someplace in Illinois where you have to get sixty percent. I think there was a judge in Illinois as I recall who did not get reappointed, did not get the sixty percent that he needed to get to be reappointed. And then of course that position became vacant. And he turned around and reapplied for that position and he won the election because he got five out of nine or something. I don't know the numbers for all of it. But the whole reappointment process was always, it didn't really trouble me that much. I never felt in

⁸⁹ See, *State Journal Register*, April 16, 1987, pg. 14.

danger or anything like that, so it was just something you had to go through. And if you did a good job, there were across the state there were a lot of judges who did not do a good job. They deserved to not be reappointed. But I just was always comfortable in what I was doing and never really had a problem.

LAW: That reminds me, I think in the early '90s there were a couple of judges who had to step down because of improprieties. Any memories of that?

SHIFFMAN: Yes, I have memories of Phil Schickendanz that's one.⁹⁰ Who is the other one? Do you have a name? I remember Phil, that was terrible. Phil Schickendanz was a judge who was actually appointed after I was. He went on the bench and he was a hard working, very good judge. But he had a drug problem that manifested itself, never manifested itself on the bench. I never ever saw anything that would make me think Phil was not other than, nothing but a hard working judge. But I recall he was on his way home one day and his car got stopped for some traffic violation and they found cocaine in the car. And the next day I think Phil resigned. And actually was prosecuted for possession and actually did some time in the county, not our county jail but in a different county jail. So he was one, I don't remember, was there another?

LAW: [John] Keith.⁹¹

SHIFFMAN: Oh, that was a different story, that was a much different story. John was a good friend of mine, still a good friend of mine. He was removed by the courts commission in what was for many people a very shocking decision led by then Justice Heiple. John was a very stern, tough person in his courtroom who did not, I think let himself sometimes

⁹⁰ Judge Phillip Schickendanz became an Associate Circuit Judge in 1984, and served in that position until his resignation in 1990.

⁹¹ Judge John Keith became an Associate Circuit Judge in 1990 and served in that position until his removal from the bench in 1994.

just, there were things that were done that were you know the public did not understand. I think that, I have to say that I would not have behaved that way. But for example I remember from reading the case and reading some of the testimony and transcripts. One day he was in traffic court with a very, very crowded docket. And there was doctor who was there for a traffic violation. And she asked if she could get taken first because she didn't want to, she couldn't wait she had an office full of patients. And he commented that you know he had often waited in doctor's offices for doctors to take care of patients, so she could wait. He had a habit sometimes with child support. He sometimes when he would do the non-support call, if people would come in and say they couldn't pay support he would look at them and say, "Let me see your watch, what kind of watch are you wearing? Do you have any jewelry on you? You can go ahead and sell that and get the money." He could be very cross. He could be inappropriate. I think that the people suggested that he not be so mean. I believe the term Justice Heiple used was mean spirited judicial tyrant. It was ironic of course because later Justice Heiple later had his own issues with the courts commission and with the courts just in general. But John, I will say this, John may have exhibited poor judicial temperament but John was never from a legal standpoint never inappropriate or never unethical or criminal or anything of that nature. It was a very, I remember, okay, they had a hearing in Chicago, they had a couple of hearing days, and they had one in Chicago and the lawyers argued the case and in the end usually what happens in those cases is that courts commission then adjourns and issues a formal written opinion later on. And most people who were following the case, including myself, I thought that probably John would be censured or reprimanded. He would get some minimal punishment. But I guess what happened was they stopped,

they took a recess. Justice Heiple came back out onto the bench along with the courts commission and announced that John was removed. And it was stunning, it was literally. It happened on a Friday afternoon I'm sure. And on the next Monday, John did not even get the courtesy of being allowed to go back to the courthouse and remove his stuff from his office. He had to come back, he came back here on Monday and had to come into the courthouse and get his personal items out of the courthouse. I remember there were people here; John had a lot of support. There were a lot of people who worked with John who believed he was treated very poorly by the courts commission. I worked with John when he was a lawyer and I was a judge and he was always thorough and extremely competent. But I never saw him on the bench; I just know what I read from when I read the order.

LAW: Okay, I just want to ask you about a couple things then I want to talk about the elections.

The first one is I found an article about, it's involving you and a gentleman named Carlton Bass and really the substance of the article is that there are too many continuances, twelve in his case. Then I found another article, this is from a couple of years later, and this one was about gambling.⁹²

SHIFFMAN: The famous gambling case! Let me tell you about the continuances first. It is one of the things that you kind of learn as a judge about continuances. A lot of times cases are continued, it's difficult. Some judges had this as their solution to that problem. A lawyer might come in for a tenth or eleventh continuance. There a couple of ways to deal with it. One thing about continuances in Sangamon County we used to always only continue cases for thirty days. In some courthouses they continue them for six months. Maybe that explains why sometimes you have six continuances when you could have had

⁹² See, *State Journal Register*, July 18, 1988, pg. 6 and February 2, 1990, pg. 19.

one. But one of the things I learned early on. Judges would always say, “Okay I don’t want to continue this case but I am going to continue it one more time and I am going to mark it final. Next time it comes up it will be tried no matter what.” Sure. The next time it comes up the judge is sick or one of the lawyers has a personal problem or something. You should never mark a case final because you should never say it can’t be continued. A lot of times these cases were continued because lawyers had way too many cases on their docket, you know public defenders or the prosecutors. They had multiple cases ready for trial and needed to continue. Continuances have always been a problem in the legal system and will still be a problem in the legal system. Based at least on my experience they have never been resolved yet.

Okay, the famous [Davis] “Cozy” Cole case, one of mine that I am glad you reminded me of that one because it was one of the more interesting cases that I handled. “Cozy” Cole was a very interesting figure in Sangamon County history. He was an African American who lived on the east side who always dabbled a lot in politics. A lot of people knew him and he did a lot of different things. He had a couple of different state jobs, he was an interesting fellow. He had a speech, I don’t know if it was a speech impediment but he was very hard to understand. He never did anything really bad but he was always on the police radar. In this instance “Cozy” ran, was essentially a kind of a social club on the east side. And people would come into his social club and they would, he would sell them liquor you know, he would sell them drinks. He didn’t have a liquor license. And also he would run a little poker game. It wasn’t much of a poker game because the night the police came in and raided him they found a few pint bottles of liquor and they found some cards, they found a card table and they found seven dollars

on the card table. That's how much money was in the game. They were not playing poker it was something else but there were seven dollars on the table. They charged him with gambling and they actually had a jury trial. "Cozy" was represented by Ted Lewis, the Theodis Lewis who later became a judge who I just had lunch with about eight weeks ago. I don't know if you did an oral history with the Theodis, he would be somebody you should've talked to. Next time I see him I will remind him about this. He represented "Cozy," his name was Davis Cole. Scott Hanken

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who was my son's junior football league coach was the prosecutor. In those days, I don't know what happens now, but in those days they would, the police would occasionally arrest people for gambling and they charged them, they would come in and if they plead guilty they would pay a fine of one hundred dollars. I have to remember to tell you an interesting byproduct of all this. But anyway we had a jury trial and "Cozy" Cole was convicted by the jury of gambling. And they came back and after they convicted him we went immediately to sentencing. I said at the time and I still say this actually; this is really kind of hypocritical that the police are targeting these poor people on the east side for gambling when the state has a lottery, there are poker games, at the time we only had Illini Country Club, there were poker games at Illini Country Club and people are gambling all over the city and you've targeted this guy? I am not going to impose the hundred dollar fine. I remember saying this clearly. In England they sometimes had different laws of defamation and if they have a very minimal punishment they impose; they order that the juries order a fine of one pound. I said, "I am going to fine Mr. Cole one dollar plus court costs." The funny thing is one dollar plus court costs back in those

days turned out to be forty eight dollars. So it was almost the same as if he paid a hundred dollar total fine. I said, "I don't think this is a very serious matter and I think all of our resources could be better spent doing something else." I think it was Chuck Redpath who was an alderman at that time got very upset about this at that time because he thought it was going to bring the whole city of Springfield down. I still believe what I said and in fact I will tell you two things. One that just occurred to me, before this I used to play poker on a regular basis with some friends here in Springfield. All of whom were lawyers, three of whom, and I was a judge. There were at least two or three people who worked in the State's Attorney's office and we would play poker on a fairly regular basis. After this case and I did what I did. I said, "Boys I'm out, I'm not playing poker anymore." Subsequently, that case was gosh, in the early eighties. After this case there was a fellow who came to Springfield who first came as a state senator who used to play poker fairly regularly out at Panther Creek Country Club and his name was Barrack Obama. Nobody said a word because he was playing on the west side. But anyway I tried to make a point and I don't know if I made the point or not but sometimes you have to just do things for yourself. Scott Hanken who was the prosecutor in that case has told me many times since that he was very angry that night but he learned later on that I was probably right.

LAW: One question I wanted to ask that comes out of both these articles, both of these cases, has to do with the right to a speedy trial. In the first one which dealt with too many continuances that was the essential element was that he was not getting a speedy trial. The second one with the gambling case there is even a quote in here from you that says, "The state's attorney's office is losing drunk driving cases all the time for not providing

speedy trials.” My question is, is that something you saw throughout your career? Were they overloaded or was it at this particular time was there too much going on?

SHIFFMAN: You’ve raised something that was really a serious problem. My point was at least in so far as the Cole case was that while we were spending time trying this case they should have been dealing with some of their DUI cases. Now this raises a lot of questions. One is just how active should a judge be in docket management? I thought you should always be fairly active. Here is one of the problems when something comes up. There is a right to a speedy trial, and we had this speedy trial issue, but many times defendants didn’t want a speedy a trial. They would demand a speedy trial on paper but they would want their case to be continued as much as possible because the more it got continued the greater the likelihood the witnesses might forget things and it would help their case. We always had no problem trying the cases where defendants were in custody and needed to be tried. We always managed to get those done. But a lot of times we were devoting resources to gambling cases and some other low priority cases and the drunk driving cases were not getting tried and sometimes those cases were continued on the state’s request because they had another case going and that would cause speedy trial issues. That was one of the reasons interestingly enough why I always thought that judges should have their own docket and they should be controlling their docket because if there was a speedy trial issue the judge would be more aware of it. Many times judges would come in on Monday mornings and there would be ten or twelve cases set for trial. And they didn’t know which ones had speedy trial issues and which ones didn’t. It was a matter of docket management and that was a problem and I think it’s still probably a problem in the courthouse. I don’t know that we have solved it yet.

LAW: One last thing, you referred to a little bit I think earlier in a previous interview about the great changes in the DUI laws.

SHIFFMAN: Yes, yes.

LAW: This would be an opportunity to talk about that from your perspective as a judge.

SHIFFMAN: From my perspective as a judge and again I guess you can go beyond that when I was a prosecutor. When I came to Sangamon County I may have said this before. The normal punishment for a first time offender in a drunk driving case was you paid a hundred dollar fine and that was it. In many cases you didn't even lose your license because the Secretary of State wasn't suspending licenses. You just didn't lose your license. That's changed quite a bit. And because it's changed so much many people are now going to, some people are going to trial more often. There are more DUI trials. I think if you ran over to the courthouse there and you checked the records you would find more DUI trials than any other type of case. It's become a very expensive proposition. Like I said it was a hundred dollar fine and I don't even know if people's insurance was affected in the seventies and eighties. Now you lose your license automatically for maybe up to six months. That's without a conviction, if you are convicted of drunk driving I know people who have lost their license for five or ten years. And even if they ever get a license their insurance is so incredibly high it doesn't even pay for them to drive. The punishment has gotten better and I'm not saying that is necessarily wrong because drunk driving is probably the only crime I'm aware of where the toughened laws have really had a deterrent effect. If you increase the punishment for armed robbery from four years to ten years most people don't even care about it because first of all they're armed robbers and they don't think they're going to get caught. But the average drunk driver in

America, in Illinois, in America is a person who knows a little bit about, who reads a little bit, who understands a little bit. And that's one of the reasons and it's been a very good thing. You go to a bar nowadays and the reason why we have designated drivers or people have chosen, while a group of people are out drinking and one person will be the designated driver because everybody knows about the serious punishments and ramifications for a drunk driving conviction. It's a good thing but in so far as the criminal system is concerned it is a good thing but it also leads to some additional trial work for judges and for prosecutors and defense lawyers because the stakes are higher, and that is a good thing. The legal system, somebody always talks about no matter what type of laws are passed. There are laws that cost a lot of money to the State of Illinois. Sometimes that is an unintended consequence. We pass a lot of criminal laws sometimes that require there be more court hearings, more court work, more time spent in court. And people sometimes don't think about what kind of an impact that has on the legal system.

LAW: Okay, well let's get into these two elections.

SHIFFMAN: Okay.

LAW: We may have to stop to change the tape so bear with me. At some point you decide to run for full circuit judge. The first time was in '92 and I'd say that was not very contentious.⁹³

SHIFFMAN: No.

LAW: But the second one seems like it was very contentious.⁹⁴

SHIFFMAN: It was more contentious for a couple of reasons. First of all in the first one, the

⁹³ See, *State Journal Register*, October 29, 1992, pg. 11, November 4, pg. 9, and November 22, pg. 23.

⁹⁴ See, *State Journal Register*, May 5, 1994, pg. 7, September 30, pg. 3, October 12, pg. 9, October 13, pg. 9, October 15, pg. 8, October 16, pg. 18, October 19, pg. 6, and November 3, pg. 9.

person I ran against was Tom Appleton. And Tom was a good friend of mine and you know we didn't have much, there wasn't much difference in the way we ran. It was also circuit wide, all seven counties. It was my first experience. I don't think there were any real issues involved. It was a, judicial elections are really kind of funny in certain respects. How does a person, in that election in 1992 we were one of the, you would go for these groups and organizations. And one of the issues most of the organizations were interested in was your position on the equal rights amendment. Judges are supposed to not take positions on certain issues because they are not supposed to indicate how they would rule. I think it was a straight forward election. Clinton was running for President at that time and I think a lot of people just thought that Democrats would do better. It was somewhat disappointing. I was never a great candidate just in general. It was a lot of work. We drove a lot of places like I got all the way to the Mississippi River, Jersey County. Spent time in all the counties. It was enjoyable in certain respects. It was hard on my family but it was a somewhat of an interesting experience. The second race was not the same because quite honestly I didn't think that; I think I ran against Don Cadagin who was the states attorney and I didn't think he was a very good states attorney. He's passed away, but I didn't think he was a very good states attorney and I didn't think he had earned the advancement to become a judge. It was a little more vigorous pointing out some of the. He was, Tom was an attorney in private practice. There wasn't very much I could say about Tom. Don had a record of public service that I didn't think was very good and I pointed that out.⁹⁵

LAW: Do you think the friendship you had made any difference with Appleton?

⁹⁵ Judge Thomas Appleton served as a Circuit Judge until his assignment to the Fourth District Appellate Court in 2001. In 2010, he was elected to the Appellate Court. Don Cadagin was appointed State's Attorney of Sangamon County in 1986, and was elected to that position in 1988. He served as a Circuit Judge from 1994-2005.

SHIFFMAN: It didn't make any, were still friends. It didn't make much difference to me.

Somebody had to win somebody had to lose. I mean I was disappointed that I lost.

Interestingly enough after I lost Tom came over as a circuit judge and he made some of the changes that we had talked about during the campaign. In fact the one thing I remember is that when Tom came over to the courthouse he was the first circuit judge that anybody could recall who took and accepted the assignment of being a domestic relations judge. And because he took a domestic relations assignment somebody one of the

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associate judges had to take an assignment that had been normally reserved for a circuit judge, and that was me. So it was kind of a joke that you would say that I lost the election and I'm getting to do the circuit judge work that I would be doing had I won the election but the only thing I wasn't getting was the boost in pay that circuit judges got. But I was very grateful to Tom and we always had a very cordial good working relationship. I still see him all the time and we're still friends so that was never a problem.

LAW: Okay, so what I was going to ask before we stopped was about the '94 election. Any memories or thoughts on the role of the *State Journal Register* in the election?

SHIFFMAN: I always had issues with the paper because in those days the paper was a very strong Republican paper. The joke was they will pick one Democrat candidate, local candidate to endorse. The publisher of the paper in those days used to have lunch on a regular basis with many Republican Party, local Republican Party powerhouses. I mean you know I never really liked the paper and of course after they put out there that they endorsed Don Cadagin. Probably I should not have, but I did write a letter to the editor

that commented on their choice. I had, I will tell you very honestly that I had gone through two campaigns back to back, '92 and '94. The first time I told people I ran for myself the second time I ran more for the party because they didn't really have anybody else who wanted to run. The Cadagin name was a very good name here in this area. That was the last straw for me and you know in fact after the letter, after they had gotten my letter I spoke with the Editor, Steve Fagans was I think his name. We had a long chat, a long discussion about it and I think we parted as understanding enemies. The whole process you know I've always believed in its kind of difficult. I think there are some people who would say, "He ran for office twice and lost and that's why he says it." But I have never believed that judges should be elected. The process, and I was speaking about that for forty years and now I think some people are starting to realize that some of the things that I said might happen have happened. We had a campaign for the Supreme Court here last time where they spent ten million dollars. And that wasn't even on an election it was on a retention election. One of these days I am sure we will have a Supreme Court Campaign that will be fifteen million dollars. I mean it's just absurd. I have always said to people, people say, "Well you should have a democratic process where we select the judges." And I have always tried to explain to them. And they would say, "Federal judges are just as bad as state court judges. They are appointed they are not elected." And that is true. The problem we have in Illinois is this and the problem you have in many states: most of the people who run for judgeships are prosecutors or elected officials. We don't get a full range; we don't get very many attorneys in private practice any longer who run for judgeships because they have to give up their practice for a long time essentially while they run for office. It's a difficult process. If we have an appointed

system we would have a much greater range of attorneys to pick from. I don't have to worry about that anymore. Just the fact that I've been proven right by history doesn't count for anything.

LAW: When you have a contentious election like that how do you, what's the relationship like with the judge after going forward?

SHIFFMAN: There was never any problem afterwards. I don't think Don Cadagin never did anything except a good job in the job he is at, so I am not going to worry about it. We were never good friends, I mean we never, I don't want to say, we were never buddy buddies or anything like that. It's not like we had a friendship that was destroyed by a campaign which sometimes does happen. We would just you know, we were courteous and we would see each other. I remember when one of the court room reporters got married we sat at the same table at the wedding. So we had things in common. We had kids to talk about and things like that. It was just not. And I still see her every once in awhile at the grocery store. It is what it is.

LAW: I wanted to ask you about a couple cases. These are mostly from the nineties. And you mentioned before the Methodist church case but you also handled some abuse cases involving the Catholic Church.⁹⁶

SHIFFMAN: Oh yeah. Those cases never went to trial.

LAW: Because of the statute of limitation?

SHIFFMAN: Because of the statute of limitation. In fact, you know, one of the things that

⁹⁶ See, *State Journal Register*, June 29, 1993, pg. 13. Also see, *Roman Catholic Diocese of Springfield in Illinois v. Maryland Casualty Company*, No. 97-2482 (7th Cir. 1998). And, *State Journal Register*, November 9, 1993, pg. 1, April 8, 1994, pg. 11, May 27, 1995, pg. 7, December 13, 1995, pg. 22, December 19, 1995, pg. 10, October 31, 1999, pg. 1, March 13, 2005, pg. 10, April 29, 2006, pg. 8.

happens sometimes in communities such as this, the cases were filed as with pseudonyms. It was John Doe or John Smith or whatever. There were a bunch, there were like three or four people that, parishioners who had been allegedly abused. And I remember, you know, listening to everything. The first issue was whether or not the statute of limitations had gone on the case. And I ruled that it did. And that was affirmed by the Appellate Court. I think since that time the legislature has changed the statute of limitation on those cases. I remember those were very tough decisions and they were some hard decisions but you had to do obey the law. And I do remember one thing about that one time, a couple years after those cases were decided, I remember meeting a young man someplace, school or I don't know. I think it was at when I was teaching at UIS and he actually after class or I don't know how it was, he said to me, "I was a John Doe in one of those cases." And we chatted a little bit about it and I told him about how difficult it was. He seemed to be okay but it was, that was a tough case. People always ask about, what's the toughest case you ever had. That was not the toughest case I ever had but it was a very, those were very difficult cases because there is a part of you as a judge that says, you know, people should get their day in court but there is also the part of you that says the rules have to be followed. That's what makes it hard sometimes.

LAW: With the recent conviction of former Speaker Hastert there has been discussion in public circles on whether or not the state should do away with the statute of limitation on abuse cases. What are your thoughts on the matter?

SHIFFMAN: That's a very good question. I have to say, and I hope this doesn't sound like a weasel answer, but I think there is a reason for the statute of limitations and one of the reasons is that after a certain period of time it becomes very difficult to either defend or

very difficult to remember what happened. I think the reason for the statute of limitations is an important one. As part of my answer I would say is Dennis Hastert whether he was; he was not convicted of anything of sexual charges. He was convicted because of money laundering issues. But for all intensive purposes he will be known for the rest of his life as a sexual predator. And whether we put him in prison for, I think he is going for, I can't remember a year, two years. But if we put him in prison for the rest of his life that is not going to add anything, it's not going to change things for most people the result of where his life is. The criminal justice system can punish certain people but some people don't need to be punished even by a day in prison, because a person like Hastert who was the Speaker of the House can no longer even probably walk around without meeting people who know who he is. I think he has been punished and even though it occurred late in his life I don't know that the statute of limitations, if we could prosecute him now for his sex offenses if that would add much to it.

LAW: With the number of abuse cases do you think that the Catholic Church in this area addressed the underlying issues?

SHIFFMAN: You've got the wrong guy to ask that question. I don't think in general, just in a general sense, I don't want to pinpoint this church here, but I think in a general sense it has taken them a very, very long time to actually face up to these problems. And I don't think that they really did, and I think there were some other priests in this area who had some difficulties and I'm reminded of the movie that just won the Academy Award...

LAW: *Spotlight*⁹⁷

SHIFFMAN: Yes, it's interesting because in some respects this is not a problem of just the

⁹⁷ Open Road Films, 2015.

Catholic Church. There are Hasidic rabbis in New York who have apparently had some issues of wrongdoing. The Methodists also, who I first dealt with. So I don't know, I think the church, I would like to be around another thirty or forty years to see how this finally all plays out but I don't think that is going to happen.

LAW: Okay, let's talk about some of those experiences outside of the circuit. I think you wanted to talk about some of those experiences in Chicago, Cook County.

SHIFFMAN: I will tell you the sad story of my first visit. I was a young judge in '83 and I think that first summer or September or October I went up for my first trip up to Cook County. And I go to traffic court. And as I said there was a lot of volume, there was a lot of things going on. The first thing I remember is I get to traffic court the first morning and I walk in and go back to the Chief Judge who I think at that time was Dan White and I introduce myself and he says to me, "There is donuts, there is sweet rolls. There is all kinds of food here." Then you would come in at lunch time and there would be food from the local restaurants and things. It was kind of a wild place, there was always things going on. In your courtroom you'd be sitting up at the bench and you'd see a lawyer come in the back door of the courtroom and as soon as the lawyer walked in the clerk would all of a sudden call a case out of order and it would be that lawyer's case. There were a lot of things going on, a lot of things that made me uncomfortable to be very honest with you. I was not Brockton Lockwood, I was not the guy who put the microphone in his boots or anything.⁹⁸ But after spending a couple of weeks there, my first two weeks, I came home and I lived across the street from a gentleman who probably some people have mentioned, Roy Gulley. He was the administrative officer of

⁹⁸ See, Brockton Lockwood and Harlan Mendenhall, *Operation Greylord: Brockton Lockwood's Story* (Carbondale: Southern Illinois University Press, 1989).

the Illinois Courts. He was a guy who made a lot of important changes in the court system. He was very involved and very active, and I said to him, we were out on the street. And I said, "Roy, is there any way that I could, if I go to Chicago, if I can go someplace other than traffic court?" That's all I said. He said, "Yes, it can be arranged," he said, "the next time you get an assignment we will see if we can send you someplace else." So the next time I went to the civic center and I heard civil cases. I never, I didn't go back to traffic court for a couple of years. Then I went, again I was talking to Roy and he said, "You ought to go back to traffic court because we have a new presiding judge in traffic court and he is running things a lot differently." And that was Tom Fitzgerald.⁹⁹ And I went back to traffic court. I did a couple more stints in traffic court. Tom was the presiding judge and then Harvey Schwartz became the presiding judge.¹⁰⁰ It was run like a courthouse. The first thing I remember when I walked in and it was Tom Fitzgerald's office I remember going over and he had a desk back there like that one. And he had a baseball bat on the desk and it was signed by all the members of the 1959 White Sox. I said, "You are a White Sox fan?" And he said, "Oh yeah!" And I said, "So am I." So I felt like I was in a good place. So I went back up a few times. I went other places,

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I went to the civic center, I heard civil cases. I went to the civic center and I heard divorce cases. One time when I was up there for two weeks I heard two trials, back to back, divorce cases in Cook County. They both lasted a week. You tried cases differently in Cook County than you did in other places. You still had to move a lot of cases of the

⁹⁹ Justice Thomas Fitzgerald was a Circuit Court Judge from 1976-2000, and then was elected to the Illinois Supreme Court, where he served until his retirement in 2010.

¹⁰⁰ Judge Harvey Schwartz became an Associate Circuit Judge in 1987; and a Circuit Judge in 1995. He retired in 1996.

call, so you'd get there at 9 o'clock in the morning and you would go over cases and motions and things first. And at about 10 o'clock you would start a trial. You would go from ten till noon and then from 1:30 till 3:30. You didn't have a lot of trial hours. But I did try two one time. I went out one time they had branch courts, they were actually in police stations. One was at eleventh and state, I don't know if it's still there. One was at 5500 South some street. I remember I had to drive to this police station. And you heard gun cases and drug cases and all kinds of cases. And I did that, but the best place ever was when Tom Fitzgerald became the presiding judge at the criminal courthouse at 26th and California. I asked him if there was anyway that I could come up there, and they said sure. So I went up there for two weeks. And it was the greatest court house; it was the greatest experience I ever had as a judge. You would hear all kinds of cases. I didn't get any real contested, any jury trials or anything like that. But I heard bench trials and a lot of motions. The thing about that courthouse was all the judges; it was a very collegial place. Because it's located in a kind of a bad neighborhood and there aren't a lot of places to go at noon time the judges all ate lunch in the building. The judges would all eat lunch together. I met some of the greatest Illinois judges that a person could ever hope to meet. I had a wonderful experience. Tom Fitzgerald used to call it. He would say 26th and California is the center of the universe. Which is a line from the Bonfire of the Vanities, and it was. And if I could have, I would of given just about anything to be able to be there on a permanent basis but it was never going to happen. But it was the greatest place ever to work. It was quite the experience.

LAW: Okay, I just want to make sure I have this covered right. You start off in domestic ' relations. You go to civil, then criminal...then back.

SHIFFMAN: That was it, those were the only three assignments that you could get plus the other work, plus the other assignments that I kind of weaseled my way into.

LAW: And then in the early '90's you are able to do the felony cases. What about that last ten years?

SHIFFMAN: Well that's, I'm doing domestic cases. I think probably about half the time maybe I'm in domestic, I'm also doing civil; I'm doing all kinds of jury trials. A lot of judges do not like to do jury trials because first of all they weren't brought up doing jury trials. When you try a jury case it can often times be a very taxing experience, especially if you are trying a case that might last for seven or eight days. I have known judges who tried cases that lasted, even longer, maybe two or three weeks. And at the end of that two or three weeks they may have lost ten pounds. I could have used a few more of those three week trials. But it could be a very taxing; you would try a case sometimes. In my day, when I was in trial, when I had a jury trial, I would start the trial usually at nine o'clock. But I'd be at the courthouse much earlier. I'd be getting ready for the trial. Usually, between maybe eight thirty till nine o'clock I would handle some routine matters that would only take thirty seconds, two, three, four minutes. Get rid of some of those. Then you'd start the case at nine o'clock. You took a break at ten fifteen or thereabouts. Then you take a break at noon and you'd come back at one. Then go till five. If you had a jury that was going to be out, sometimes you would be there till eleven or twelve o'clock at night. It was very demanding. A lot of judges do not like that. I was one of the judges who didn't mind it, I enjoyed it. There were some years towards the last seven or eight years where if you look at it probably if you take all the holidays and things you know. Maybe forty eight weeks in a year. You get some vacation so you have maybe forty-six,

forty-five, forty-four, actual weeks where you could have trials. And I would have twenty, twenty-one, twenty-two, trials in a given year. Most trials only lasted a day or two. But still, it was a pretty interesting experience. So I was doing some of that. And again, there were times in our courthouse; I mentioned his name before, John Russell, who is the judge in Jerseyville. Jersey County was a very small county in the early eighties. It became a larger county, it didn't become a larger county, but the population increases and also what happened because of its proximity to St. Louis there were a lot of people who were, the population and the county increased. And if the population of the county increases you have more divorces, you have more civil cases, and you have more criminal cases. So John's workload was getting very heavy. So he asked if we could send him some help a few days a month, three to four days a month. I said, "Sure I will go." I liked to go, it wasn't that the conditions were great, the courthouse was very old. But the people were all nice. So I went down there a few days a month. And I heard cases, all kinds of cases down there. I tried several jury cases there including a case you would never get in Sangamon County; you probably wouldn't get it in many places. A case where some cattle broke down a fence and got out onto the road and there was a lawsuit, somebody was injured somewhere along the way, from the cattle not being properly restrained. So I remember that case, they didn't get any money. The jury ruled in favor of the defendant. But I did that. I was doing a lot of work in Jersey County as well. It was a good experience.

LAW: What did you learn about the criminal justice system by being a judge? Does it work effectively?

SHIFFMAN: Sometimes. One of the things I learned and I spoke about this very often.

Sometimes people wouldn't like it when I would say it but judges; at some point while I was on the bench they actually passed a law that required that the Department of Corrections to tell each judge, they sent at the beginning of the year a little form to each judge to tell them how much it cost to incarcerate someone for a year, and that number was usually somewhere between fifteen, sixteen, eighteen thousand dollars a year, twenty thousand dollars a year. Sometimes when I was speaking out in public. Actually I think it got even higher than that, because now I think it's closer to thirty. I would say, "It costs over twenty thousand dollars a year to keep somebody in prison." A lot of people who we put in prison for minor offenses, drug offenses, retail theft, for property damage; I thought instead of putting them in jail we let them stay out, if we didn't put them in jail, and we paid them one thousand or fifteen hundred dollars a month we would end up money ahead. Now of course if they committed another crime we would have to put them back in prison, I understand that. I was just trying to point out to people that a lot of people who were incarcerated didn't need to be in prison. They were costing the state a lot of money. Now once again I think the years have shown that I am correct about that. Another thing I think I mentioned to you before, but when I was in the Attorney General's office way back in the early years I argued Curtis Brownell who was one of the first death penalty cases. And my opinion based upon what I saw of how the death penalty was actually applied and used as I, how I saw that as a judge, it didn't change my opinion of the death penalty from being a person who supported it to one who now opposes the death penalty. It's not because of the fact that I guess you might say I am a criminal defense lawyer now. It has nothing to do with that. I have seen how it works

and I just think it's a very large waste of resources. The criminal justice system has limited resources and we don't necessarily apply them in the best fashion.

LAW: I did want to ask you about the death penalty because we have seen so many changes. I just wanted to ask first generally; what was your reaction to Governor Ryan's call for a moratorium?

SHIFFMAN: I thought that was, I was very much in support. I think that it took a lot of courage on his part. I think it took a lot of just, from the way the whole process whereby people; when the *Tribune* story started coming out there was a time we learned here that we had more people who had been wrongfully convicted and who were released from death row than we actually had people who were executed. I thought it was a very courageous act on his part. I think of course it was muted by his own criminal issues and problems. But I think it was something that was, took a lot of courage and it took a lot of courage from the legislature to finally abolish the death penalty here in Illinois. I was very happy when it happened. I think that, I can't think of anything that is more difficult although some judges probably do not believe that, but I cannot think of anything more difficult than sentencing someone to death and then finding out afterwards that they were actually wrongfully convicted. I don't want to jump on your questions here but one of the things that I remember. One of the experiences that I remember most about my judicial career. I tried a case; I was a judge in a case where a person was convicted of a sexual assault. And part of the evidence that was, that came into the sexual assault related to a similar sexual assault that he had not been convicted of but that he had occurred. It brought up some legal issues, what they call other crimes evidence and things of this nature. And he was convicted in part; I think there was a fingerprint on a cigarette package or something

you know. There were eyewitness identification but he was convicted in this case. And six or seven years later I get on my desk in the file a petition from the Innocence Project from New York, this was before the Illinois Innocence Project had even really gotten started. And this was from Barry Scheck the famous Innocence Project guy you know from New York, you know the O.J. trial and all that. And there was a request in this file and they were asserting that he had been wrongfully convicted and they wanted to do some blood, they now had available certain blood evidence that they could test and they wanted to test it. And I can't remember what the state's position was, I can't remember anything like that but I said I'm going to order it, but I have to tell you that for awhile, before the blood results came back, and they came back and confirmed his guilt, but I have to tell you as I was thinking what if he was wrongfully convicted and I am thinking to myself did I do, could there have been something that I could have done, could I have seen this, could I have found this, or whatever, you have some second doubts about that. Now this was not a death penalty case; this was not a murder case or anything of that nature. But it goes through your mind. I don't think any judge is infallible and there are some judges who think they are. You know it's; and you know just the very fact that they think they are proves they are not, but there are times when you sometimes wonder what you should do.

LAW: After the governor instituted the moratorium he formed a commission to study capital punishment and the Supreme Court also formed a special committee to look at capital cases. The Supreme Court, their

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committee, they recommended several changes including the creation of the Capital Crimes Trial Bar and higher standards and rules for capital crimes attorneys. What were your thoughts at the time on those reforms?

SHIFFMAN: Well, I thought that all of those were very good reforms. I thought as a matter of fact one of the first things I did after I retired was I applied to be a member of the capital litigation bar and I became a member but there were never any cases around here where there were appointments. Although I did get some phone calls and I did kind of on an informal basis talk to some people. After I retired I went to work, about a year, two years after I retired, for the state appellate defender and I worked on a case from a, Maurice LaGrone, I can't remember if it's DeWitt or Clinton county, the county seat of Dewitt is Clinton, and vice-versa, anyway it's from over east near Champaign. And I argued that case in the appellate court. And that originally had been a death penalty case, he did not get death. Some of the issues that have been raised and created by the new law were involved in that case including the use of jailhouse informants. That was an issue that I argued in the appellate court, not to any success but I thought many of those improvements were very appropriate and justified based upon again all of the things that we've seen that have gone wrong with the death penalty. So I supported most of those changes and I think they are good ones.¹⁰¹

LAW: What was your reaction to the governor granting blanket clemency to everyone on death row in 2003?

SHIFFMAN: Well I think that was the only way he could handle it. Had he gone through and picked out individual cases, first of all I think that that kind of a decision shows what the real problem here is. One of the, long ago, long, long ago when the first death penalty

¹⁰¹ See, http://www.illinoiscourts.gov/R23_Orders/AppellateCourt/2011/4thDistrict/September/4100212_R23.pdf

cases started to actually come up to the U.S. Supreme Court and when the U.S. Supreme Court declared the first time, they declared the death penalty as it was then applied unconstitutional I believe it was Justice Stewart who wrote, “receiving the death penalty in this country is very much like being struck by lightning, there is no logical explanation.”¹⁰² There still is no logical explanation. The same crime, even when we had the death penalty in Illinois from county to county, for example in the first few years it was in place in Illinois the State’s Attorney of Champaign County asked for it in every case where there could be a logical argument or a legal argument that the person was eligible. In our county, in Sangamon County, I was always very proud of the fact that when Bill Roberts was the State’s Attorney each time there was a death penalty case there was discussion about it. And we didn’t always seek the death penalty here based upon the circumstances, the individual circumstances and things of that nature. One of the reasons was it was also a very kind of just common sense approach. Asking for the death penalty created some serious difficulties many times in maintaining a conviction. People wanted to be more than satisfied beyond a reasonable doubt that someone was guilty. The death penalty matters were just kind of all over the place, it was very capricious. It’s still; there is no rhyme or reason across the state of Illinois. So I think he had to make that decision. It’s going to be an all or nothing decision, and I think that made it even more difficult for him, but I think it was the right thing to do.

LAW: Do you think the moratorium and the reforms of the Supreme Court were successful in correcting the flaws in the Illinois death penalty system? Should the moratorium have continued? And what were the legal ramifications of the moratorium?

SHIFFMAN: It’s funny you should say that, I think the moratorium itself I think if you think

¹⁰² See, *Furman v. Georgia*, 408 U.S. 238 (1972).

about it because there have been other states where governors have tried to do that. The moratorium is actually illegal. In this sense: the governor doesn't have the right to tell prosecutors what they should and shouldn't do in individual cases. So when the governor says, "I don't want anyone asking for a death penalty." If a prosecutor in Illinois said, "Nuts to you Governor Ryan we are still going to seek the death penalty." He couldn't have done anything. The only thing he could have done eventually was when the person got the death penalty then he could have commuted the sentence to life in prison or something of that nature. In fact I think it was in Pennsylvania where the governor tried to impose a moratorium like that and the state Supreme Court said no you can't do that. But the governor did what he wanted to do. I think the governor moved the process along and he did it, and it's interesting, he did it without any legislation and he did it without any other action, there was nothing he could do. He moved the process along by his own efforts and again I think he is to be commended for that.

LAW: Prior to the abolition of the death penalty in 2011 did you believe that it should have been abolished? Should it remain abolished?

SHIFFMAN: I will answer the second part first. I think it should remain abolished. I do not think, even; it's always difficult because people sometimes, they just want to open the door a little bit. We've had this come up, we had this terrible tragedy, the one in Charleston, South Carolina. Some of our politicians are saying, "Well I support the death penalty in that case." Interestingly enough even though the relatives of the victims apparently do not, they still think it should. I don't, I just think that it will accomplish nothing. It will extract a small amount of revenge for that one crime but I just do not think as a general rule that the death penalty, I guess you have to if you are going to say

that you have to accept it for all possible cases. Again we had another tragedy down in Orlando now; now he's dead so it doesn't matter. But if he survived and he was arrested I could understand how some people might say he killed fifty people, forty-nine people, and he should receive the death penalty and I can understand that. But just think if you look at it from the total perspective the problem is there are way too many cases where people do not receive it. I just finished reading a book called *The Lynching* it's about a case down in Alabama where they actually sued the Ku Klux Klan in a civil courtroom for conspiring to murder a black man and causing his death.¹⁰³ The defendants were tried in Alabama in an Alabama court room and one of the defendants received the death penalty. A white man, for killing a black man. It was the first time in over fifty years that any white man had received the death penalty in Alabama for killing a black man. And I'm sure there are a lot of other southern states; I would venture to say that's probably almost true in Illinois as well. The disparities, there are so many disparities that I don't see how we can ever apply it in an appropriate fashion. Some people would say well you don't have to, but I think the law requires a little bit more than that. You got me on my soapbox now.

LAW: Okay I have one last question about your time, years as a judge then I have some philosophical questions for you.

SHIFFMAN: Okay.

LAW: So I found this letter to the editor that you wrote. It is from 2004 the day after Christmas. And the headline, the lead line is "Iraq War argument same as for Vietnam" and the last part of it is a question you ask...

¹⁰³ See, Laurence Learner, *The Lynching: The Epic Courtroom Battle That Brought Down The Klan* (New York: William Morrow, 2016).

SHIFFMAN: You have stumped me...

LAW: You say, “How many soldiers and civilians will die in vain in Iraq to prove that those who died before them did not die in vain? Stuart Shiffman, Springfield.”¹⁰⁴

SHIFFMAN: This must have been after I retired.

LAW: No, this was while you were still on the bench, that’s why I wanted to ask you about it.

SHIFFMAN: Let me see, oh, okay.

LAW: That seems to me to be, is bold the right word?

SHIFFMAN: Okay here is what I am going to tell you. In 2003, 2004 I must have in my own heart known that I was getting close to retirement, or getting closer to retirement. Let me backtrack here for a second and say this. When I became a judge in the eighties the concept and the notion was that judges should be mute. They should never say anything in public or ever say anything about anything you know? They should go about their judicial business and that would be it. I wasn’t the one who started the process whereby judges started to speak out a little bit more. My good friend Bob Steigmann who sits on the appellate court now became a person who spoke out quite a bit more frequently. He and I actually would in the ‘90s we would sometimes appear together on the radio talking about legal issues and things of that nature. Other people started to do it. I think that probably, I really can’t recall what it was that got me to write that letter other than the fact that the Iraq War was such a terrible disaster and I personally wasn’t involved but I had friends of my children who saw, who were over there. I had some people I knew in the Reserves who were going over there. I think it was an editorial that the *Journal Register* had written, I’m sure it came from; one of the things I learned through the years here was a lot of the editorials they wrote were not really written by people here. In those

¹⁰⁴ See, *State Journal Register*, December 26, 2004, pg. 22.

days it was, San Diego was the headquarters for all the papers owned by the Copley Press and they might have sent that one in. And I think I was just probably angry and I wanted to reflect my wishes. By that time I was more than willing to speak out on, look at how far I progressed. That is a much better letter than the one I wrote about Teddy Kennedy in the 1960s so at least I made some progress.

LAW: Okay, I actually have one other thing I wanted to ask you about. This is the last year and it has to do with this Major Case Unit and some improprieties with search warrants. And it seems that you may have helped to bring this to light with the writing of a memo to Chief Judge Leo Zappa and all the other judges.¹⁰⁵

SHIFFMAN: I have to be careful what I say here. This whole thing was to me, I was very angry and very frustrated. It all started when I, there was this little tiny blurb in the newspaper about how this person whose charges were dismissed because of the search warrant. And of course the newspaper didn't tell the whole, the real story. This person's charges were dismissed when they discovered there was false information in this affidavit. What they didn't say and I found out in the courthouse was that someone else had already plead guilty to a charge related to that and was doing time in the Department of Corrections. So they at least turned around and they brought that person back. When I wrote that memo and I wrote it to the chief judge and the court administrator, I remember the court administrator coming back into my chambers and saying, "Well I have talked to one of the judges and he assures me everything is alright, and that this was an isolated incident." I said, "That's not acceptable and I think we need to have a meeting with the police department to find out what's going on." They had called a meeting and it was very clear to me that when they had this meeting

¹⁰⁵ See, *State Journal Register*, January 22, 2006, pg. 1.

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they had scripted the whole thing out. We had the police chief, we had the state's attorney and we had a couple of judges and they really had just scripted this whole thing out. I wasn't satisfied, I had already written the memo but I was never satisfied. I never felt they really looked into it. The two officers that were involved I think actually they have been reinstated by now. After this I was subpoenaed to testify in some type of administrative hearing that they had regarding those officers. But I was very troubled by that. I still to this day do not think that I got a satisfactory answer but there was not much more that I could do.

LAW: I have kind of touched on a couple of different instances relating to the judiciary and the media through your own life experiences. The first philosophical question I have is how should the judiciary relate to the media and how should the media relate to the judiciary?

SHIFFMAN: That is a wonderful question. I will start off by telling you this. The answer I am going to give you today is far different than the answer I might have given you back in 1980, or 1983 or even 1990 or whatever. One of the things I believe that has changed in my life is the fact that I believe that judges have an obligation to be a lot more open with the public about what goes on. Now you can't sit there and say you know, "God I had that lawyer, Justin Law in front of me and he was a lousy lawyer and his clients were," you can't do things like that. But I think you have an obligation to go out and share. First of all in part you have that obligation because if you don't do it, people are going to do it for you. It's already out there. Look at; you can't watch television now and not see judge shows. And people get a perspective on how they think judges should behave by that show. You can't watch television and not see crime shows and courtroom shows and all

of this. We have an obligation to be out there and kind of spread the news the way we see it. And I think there are a lot of judges from the Supreme Court on down, judges are more willing nowadays to go out and speak with the public and discuss what happens. And I think that is a wonderful thing, I think that's a very good thing. The media, the problem that often happens with the media is this I think: the media only is concerned with the legal system when it involves sordid criminal activity. I remember, here is something else that has changed over my career. When I was a young judge, even when I was a middle aged judge, I was a firm believer that we should never allow cameras in the courtroom, and the reason I said we should never allow cameras in the courtroom is because cameras screw up everything that they ever get involved with. They've screwed up politics, they have screwed up sports, they've screwed up everything that there is, news, whatever, it's all gone to the worse because of cameras and television and all of that. But I have changed my view and I have now come to realize that we should have cameras in the courtroom. One of the things I used to say was okay we will put them in the criminal court rooms, but before we put cameras in the criminal courtroom, let's have cameras in the probate court rooms, let's have cameras in the civil court rooms. Nobody wants to see any of that stuff. They want to see the crimes, they want to see the sordid, they want to see all those types of things. But the media I think has an obligation to really try to report a lot more. When I started here in the seventies believe it or not there was a full time reporter from the newspaper who covered the courthouse. He or she was there every day reporting about things going on in the courthouse. There was a reporter from the radio station, WTAX, who was at the courthouse everyday covering what was going on. Now you can't even find anybody over there. Now when they want to do something about the

courthouse, I still get calls to go on television and try to explain something or do something. They give you thirty seconds, forty five seconds. I don't think the media really spends time trying to cover the whole court system. They only want the stuff with the expression in the news media is, "If it bleeds, it leads." That's the only thing they want to talk about is the big murder trials, they want to talk about the big sex cases. I think that the media should spend some more time talking about how a courtroom runs. How do judges, without going into details, how do they deal with divorce situations? Some of the questions you have asked me today are very good questions. The media should be asking those questions of judges and the media should be asking those questions of lawyers and lawyers and judges should be giving them answers.

Unfortunately they don't want to do that because nobody cares about that. They care about who is Ms. Sangamon County Fair. Watch the news, watch the news and see five minutes into the news we are already getting the weather. Then we're getting some medical story that was created in Pennsylvania or something. The media doesn't really; I think the media has an obligation to try to explain some of these things.

LAW: Having said all that, now as a lawyer but also speaking as a judge, even though you are retired, I understand that. But as a lawyer and a judge what are the best means of enhancing the public's awareness of the judiciary and what the judiciary does?

SHIFFMAN: Well the first thing is, I have said it today, and I think they really should, I think judges, and I think most judges are still reluctant to go out and speak in public. Because they do have this problem that it's a very fine line between speaking about issues in general and speaking about specific matters. And, also the public has to respect what a judge can and cannot say. Still when I started to go out and speak a little bit in public I

would always get people who would say, "I know you can't talk about a specific case but what about my cousin George who got a speeding ticket or this or that." They have to respect what it is we can and cannot say. It's a relationship that is a very difficult relationship that all of us have to understand there are benefits to both sides. I think going out and speaking to the public has often been a very eye opening experience for me because I have learned. I used to go out and I would talk to people and one of the things that people would always tell me was how terrible, how much they hate jury duty and they don't want to be involved. We used to have a system here where it took a week. If you got called for jury duty you had to come to the courthouse every day for a week, even if you never got picked for a jury. In talking to the public we realized how much they hated that so we changed it. So we have gone to the one day, one trial system, which they do in a lot of counties. That is something we learned, we the judiciary, we the legal system learned from people by just sharing that kind of information. We have to talk more, we have to understand more and we have to accept the fact that the public has a lot of good things that they could be offering to improve the legal system. Now some of them are not good things. I'm sure the public would say is, "Well the first thing we need to get rid of is that lousy Miranda stuff and it's okay to torture people and whatever." A lot of things the public wants we cannot do and we have the obligation to explain to them why.

LAW: Are you a member of any bar associations? What is the nature of the relationship between bar associations and the judiciary in this area?

SHIFFMAN: Well I am a member of the Illinois State Bar Association and I'm a member of

the American Bar Association. The Illinois State Bar Association, which one of their important functions is evaluating judges. Because they do that for bar polls and bar surveys for when people run for judicial races. And I have always said to them, again this is something where I understand the nature of the problem. And it's kind of related to what I said before about electing judges versus appointing judges. It's very difficult to rank judges. It's almost impossible to rank somebody who is a sitting judge against somebody who is not a sitting judge and has no judicial experience at all. It's also difficult to rate people by asking them yes and no questions because a lot of them can't be answered that way. The American Bar Association which doesn't evaluate state court judges, but it does evaluate people who are nominated for federal judicial decisions, has a much more thorough way of evaluating people. But it takes a lot of time, it costs a lot of money and it's a very difficult process to do and they can justify it sometimes because there aren't that many federal judicial spots they are working on. But still bar associations play an important role in improving the quality of legal work in America but also in evaluating judges. The one thing I would say for example the Illinois State Bar Association could be more vigorous in pointing out some of the flaws of our elected judicial system but they don't seem to want to do that. And in a way I understand that because it's difficult for them and it places them in a bad position.

LAW: We've talked a little bit about the politics of the judiciary. Have the politics of the local judiciary changed in a significant way over the course of your career? What should we take note of?

SHIFFMAN: Yes. Well I think one of the, first of all many of the changes have been for the

better. One of the important changes is we have a much more diverse judiciary. We have a lot of women, we have some minorities. Our judiciaries reflect the community a little bit more than it did for example when I started it was all white male. It's not that way anymore. I think also, I think there are a few more members who are more inclined, more members of the judiciary who are more inclined to share experiences and thoughts in the public forum which is also a very good thing. I think one of the bad things at least in Sangamon County is our judiciary has become more partisan in the fashion that the Democrat party was more active and more involved years ago. The Democrat party in Sangamon County has become pretty much a non entity. As a result they don't, the judges here are almost all Republican.

LAW: When do you recall that changed?

SHIFFMAN: It took a while; part of it was caused by the Democrats. Because when they were more powerful they were less inclined to, at one time there was a lot more compromise in the judicial selection process. That kind of ended, that evolved in the late eighties, early nineties. I think that nowadays, over the last several years, every single judge that has been elected or appointed in Sangamon County has been Republican. The last elected Democrat was Pat Londrigan who ran circuit wide.¹⁰⁶ Macoupin County is far more Democratic than Sangamon County. He had better dynamics, you know political dynamics. It is what it is, the judiciary has become a little bit more, I think the notion nowadays is if you were going to ask ten lawyers what's the best, if you were to become a judge what should you do? And I think the answer would be to support the Republican Party because I think the Republican Party still has a lot of influence in the appointment

¹⁰⁶ Judge Patrick Londrigan was elected as Circuit Judge in 2004, and served in that position until his retirement in 2014.

process. And that's okay because in other counties, in Madison County or in the southern counties, the collar counties to St. Louis, it's the Democrats who have all the power and they select all the judges. And again that's a byproduct of the whole election process and if we didn't elect judges we wouldn't have that problem.

LAW: What about the process of States Attorneys stepping down, being appointed and then running?

SHIFFMAN: That is part of this whole election process. The whole problem, the state's attorney is another position, one of the things in Illinois is we elect way too many people. Would you tell me is there a Democratic or Republican way to be the Recorder of Deeds? Is there a Democratic or Republican way to be the Treasurer? No. These positions shouldn't be elected they should be appointed. Even all the way up to the Secretary of State, you know statewide. These positions should not be elected, they should be appointed. This whole process

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it's not just that the state's attorney in this county that that's the way that Republicans move people around. They resign and take a better position and then somebody gets appointed and that gets the whole process going. The judiciary in general, across Illinois is populated by a lot, if you check the biographies of most judges in Illinois you are going to find that they were especially in smaller counties, they were elected state's attorneys or they served a long time in the state's attorney's office. Just as if you look at the federal, the U.S. Supreme Court is filled completely with people who served as federal judges. You go back and look at forty years ago, that is not how the Supreme Court was made up. The Supreme Court was made up of people like Earl Warren who was a state court

governor. Hugo Black who was a U.S. Senator. There was a bigger variety. I think the worst thing that has happened to the judiciary is the fact that too many people are coming from government service and very few from private practice.

LAW: What kind of impact does that have?

SHIFFMAN: I think it has an impact that just people do not have the wide range of experience. I will say this, I have said this after I retired and I realized after I did some private practice. I could have used some private practice before I became a judge. I would have had a better experience and I would have had a better background and I think I would have been better able to deal with some of the issues. But I didn't have it. Some of the things that I am saying that we should do now are things that I didn't do when I was a judge or when I became a judge, it's all part of it.

LAW: What is the role of the judiciary in society? What is the role of lawyers in society?

SHIFFMAN: Well the lawyer it's much different. A lawyer's primary role is to represent his or her client. The lawyer is an advocate. If the lawyer is a prosecutor they are to make sure that people who are charged with crimes they appropriately get convicted. They also have the obligation to bring them to justice. A criminal defense lawyer has to represent his client even if his client is guilty. Even if there is a hundred witnesses you still have to fight for your client. Lawyers in civil cases have to advocate for their clients as well. The judiciary's role is a little different. They obviously have to decide cases. When we started today, I mentioned the umpire role. And I said I didn't like that. One of the reasons I don't like that is because judges are more than umpires. They don't just call balls and strikes. And if they do each judge has a different strike zone. I've always believed in something that I can't quite come up with a name. What I called it is the release valve

theory of justice. Judges, be they federal court judges, state court judges, often times they have to make hard decisions that legislatures are not willing to make. One of the greatest decisions ever in the history of American law is *Brown vs. Board of Education*. A lot of people will tell you that that case is not constitutionally sound. The legal theories behind that case aren't very good. And that very well may be true. But if the Supreme Court hadn't done that in 1954 I don't even know if we would have integrated schools now. The two greatest contributions, the two greatest things that integrated the schools of this country, and the colleges and universities were *Brown vs. Board of Education* and college football and college basketball. If sports hadn't, if southern schools hadn't been getting their brains beat out because all of the black athletes in the south were going to northern schools because the northern schools were integrated and the southern schools were not. If those schools hadn't been getting their brains beat out I don't know if they would be integrated today. I think the legal system, judges have a, they sometimes do things that no one else will do. If their willing to do that and are willing to take that chance I think they perform a very useful function. Over and above of course is just their function of moving trials and getting cases disposed of and doing all of the other things that they have to do.

LAW: What are the benefits of doing pro bono work? Have you been engaged with that kind of work and any other kind of philanthropic work?

SHIFFMAN: Oh yeah, I do my volunteer work in the community. I do work over at the library; I do other, all kinds of different things you know. I think that pro bono work is very important. I have done a lot of pro bono work, I've done some pro bono criminal cases. I've done work over at the courthouse in domestic violence, representing women who are victims of domestic violence. I've done pro bono divorce work and things of that nature.

I think that every lawyer should do that. The Supreme Court asks if you do and you report to them if you do. I think we should do it. I would like to see a way actually that you could expand some of this pro bono work to help people for example I have done pro bono divorce cases and you have to go over and on one occasion I had my client fill out an affidavit to even pay the filing fee and we got it filed for free. But I wish there was a fund available sometimes so that the Supreme Court could help people pay filing fees, and pay some legal expenses. I've had cases, pro bono cases where I know uncontested divorces, domestic violence cases. I know that there's not going to be any financial matters at all. But there are also a lot of people who need a lawyer to maybe help them write a will, draft a will, draft some estate documents, durable power of, healthcare. Minor things that do cost a little, if you have a lawsuit sometimes it needs a little, you need to have transcripts prepared, you need to have discovery done, things of that nature. I wish that there was a way the Supreme Court had funds available to help people in those kinds of situations. I wish there was more opportunity, I don't want to say opportunity because I guess I could do it all myself if I wanted to pay it out. Our firm does some pro bono work. We've taken on quite a few prisoner civil rights cases. People fall through the cracks. Legal aid has just been battered and bruised so badly over the last few years financially that you can't even, I don't even know if they have a legal aid office left in Springfield. People do need sometimes a little help and I wish there were better ways to provide it for them.

LAW: What kind of civic engagement have you been a part of?

SHIFFMAN: Oh god. Well I've done, I've served on some, and I was president of my

synagogue for a couple of years. That was a thankless job, but I did that after I retired. You know one of the things I could never do as a judge is you can't ask people for money. I've done that. I have served, at the library, the Springfield Public Library I've done, I support the Presidential Library. I've done all kinds of speaking and I just try to do whatever I can. I've served on, I mentioned the domestic violence stuff, and I did some stuff for SPARC. I try to do a lot of different things, I just enjoy it. There's not much time though but you try and do what you can.

LAW: What does the future of the profession hold?

SHIFFMAN: That is a very good question and I really don't, I think that the future of the profession, it will be interesting to see in ten years from now where we are technologically because there has been, if I go back over the years I think I may have mentioned, I can do legal research right here at the old computer, I have everything I need right there. When I first started you had to actually go down to the Supreme Court Library and read in the stacks. Now they are filing things online. I think the future will be very interesting. Some of it may be dangerous and difficult. I can see the first time somebody has an alibi to a criminal activity that involves Facebook posts, where they were at some point in time and we have to figure out a way to authenticate that. But I think the future is going to be very interesting. I did worry sometimes that, I wonder sometimes if those people who believe that the law should be interpreted the way the founding fathers interpreted it, really ever stopped to think that Washington, Adams, even Abraham Lincoln to some extent, have no idea what kind of technological changes there have been. Although I will say this, this is interesting when you think about it. No other profession, if you're a doctor who practiced medicine in 1860 and you came back to life

today, you couldn't be a doctor. You'd go into see somebody who was ill and you would say. "Well we have to bleed them." And they would say, "What are you talking about?" Abraham Lincoln, if he could be reborn today and walk down to the Sangamon County courthouse he could still try a case. It's still the same in many respects. The technology is different. We'd have to say, "Abe you have to get a laptop." "A laptop, what's a laptop?" But he could question witnesses; he could do all those other things. One of the great things, I think the next big technological advancement we will have in the American legal system is this; I wonder how many years it will be, I bet in the next three or four years. We will be watching the Supreme Court, the U.S. Supreme Court on television. Of course the news media will be reporting it and they will have arguments that last forty five minutes and they will only show ten seconds worth. I think that is going to be the next big technological change. The rest of it if I knew I would buy stock in whatever the next big lawyer thing is going to be.

LAW: This is in regards to your legal career. If you had to do it all over again would you do anything different?

SHIFFMAN: That's not a very good question and I will tell you why. People always say, "Yes." But in reality they probably wouldn't. If I had anything to do all over again I don't know that I would, probably. Well I probably would have bought a bigger house in 1983 because I didn't know how much money I could afford to pay for the house that I had. I probably could have gotten a slightly better house. There are some things yes. Obviously everybody would do some things differently. The one thing as I said I wished I would have done differently. If I told you, here's what I would say to you, rather than if I became a judge in 1983, I would probably if I could do anything differently, I probably

would of gone back and in 1983 and done private practice for six or seven years and then came back in 1990 and then been a judge. But here is the problem. If I had done that, when I wanted to become a judge in 1990 there may not have been any spots open and there might have been other people above me who had moved above me in the food chain. There are a lot of things in anybody's life that you go back and look about doing differently. I will tell you this, some people know this, but very few, when Bill Clinton was elected in 1992 I applied to be the U.S. Attorney.¹⁰⁷ And I made it to the final cut, there were three people left and I made it to the final cut. I actually remember I went to Washington and I interviewed with Senator [Paul] Simon and Senator [Carol] Mosely-Braun, she had just been elected. I didn't get the job, someone else got it. I guess maybe had I gotten that, who knows what might have happened. But it didn't happen. You can't play that game. I think there are some things I would have liked to do, some things I wish I would have done better. I wish I had bought Amazon when it was twenty dollars. But you got to go with what you got.

LAW: Again this is in regards to your career. What do you want to be remembered for? What is your legacy?

SHIFFMAN: I just hope that people when they talk about me they say he was a good lawyer,

[02:45]

he was a fair judge, he worked hard at what he did. He had a good sense of humor. He got to see his White Sox when one World Series and his Blackhawks win a few Stanley Cups and the Bears win a championship. I guarantee you if this history, twenty years from now, I don't know if people will ever remember anything. They remember what they want to remember. I just hope people think fondly of me.

¹⁰⁷ See, *State Journal Register*, June 10, 1993, pg. 7.

LAW: So generally I do these right around when somebody is retiring but, I know you have been doing other things, so this is an opportunity to talk about that. But what is next? And what have you been doing since you retired?

SHIFFMAN: Well since I retired I came here, I had a very interesting, and when I first retired I taught for a while at the University of Illinois at Springfield. They had some freshmen classes come in and I actually taught a few classes there. I went to work for my, the office of state appellate defender. I was running appellate briefs for criminal defendants for a couple of years. I tried a murder case with my friend John Noll who is an attorney here in Springfield. I came to work here at Feldman/Wasser and I've done some legal work. I have been writing a lot. It's not great writing but I have written some articles for *Judicature* and I have written some book articles and book reviews and things of that nature. I've tried to keep active. I have tried to travel. I spent a little time trying to improve my golf game, unsuccessfully. Spend time with my kids and my grandkids. I have had a very enjoyable full time. The other day, since this is a legal history I guess its okay, maybe it will show up some day. The other day I actually answered an ad that was in the ABA journal where they were looking for TV judges. I thought I'd be wonderful except I have a face for radio. Who knows maybe one of these days I will be the next Joseph Wapner or Judge Judy. I have always told this to people. The one thing that I really wish I could really do, the TV shows now on the air, *Law and Order*, the original *Law and Order*, they would always have a scene about thirty minutes in where they'd be in the court room and the guy would be making his first appearance. And the judge would always say, "He's charged with first degree murder; how do you plead?" "Not guilty, alright I'll here the state on bond," and there would be some back and forth between

lawyers and the judge would always make some snappy comment, and he'd say, "Bond is ten thousand," or, "ten million dollars" or, "remanded into," and he would rap the gavel and that would be it. I always thought I would be perfect to do that every few episodes, it didn't happen. I'm just going to have to go my way.

LAW: Judge Shiffman that is all I have for you today, thank you sir.

SHIFFMAN: Thank You.

[Total Running Time: 02:48:12]

END OF INTERVIEW THREE

END OF ORAL HISTORY