

Jamie S. Gorelick

May 30, 2006; May 29, 2007; May 16, 2014 through July 27, 2016

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ABA Senior Lawyers Division
Women Trailblazers in the Law

ORAL HISTORY
of
JAMIE GORELICK

Interviewer: Pamela A. Bresnahan

Dates of Interviews:

May 30, 2006
May 29, 2007

The following is the transcript of an interview with Jamie Gorelick conducted on May 30, 2006 and May 29, 2007, for the Women Trailblazers in the Law, a project of the American Bar Association Commission on Women in the Profession.

Ms. Bresnahan: This is the Oral History of Jamie Gorelick taken on May 30th, 2006 beginning at 1:25 p.m. First of all, I want to thank you for doing this.

Ms. Gorelick: You're welcome.

Ms. Bresnahan: I would like you to talk first, about your childhood, where you were born, where you are from and about your family.

Ms. Gorelick: I was born in Brooklyn in 1950. My father had come over to the United States with his family as a two-year-old in the 1920's. My mother was the daughter of immigrants. They lived in Brooklyn. My dad had served in the Army during World War II and had returned from that service. He was then recalled as part of the doctors' draft during the Korean Conflict. I was born in Brooklyn and we then moved, as my father was stationed near DeRidder, Louisiana and then in San Antonio, Texas.

Ms. Bresnahan: Where is that in Louisiana?

Ms. Gorelick: DeRidder is in Southwest Louisiana near Fort Polk. So I spent my very early years in Louisiana and Texas and then we returned to Brooklyn and then soon

thereafter, my parents bought our first house in Levittown, NY. We were in the group of first residents in our section of Levittown on Long Island. It was a little house but it seemed like an estate to anybody who had lived in a tiny apartment in Brooklyn. I had swings and my own room.

Ms. Bresnahan: And how old were you?

Ms. Gorelick: I would have been three and four at the time. I guess we moved when I was about three, or maybe four. In any event, we lived there for a couple of years and then my parents brought a somewhat larger house in a town called Great Neck also on Long Island. That's where I spent most of my childhood, going to the elementary school and to the high school there. My brother was born in 1954. He's now a professor at Stanford.

Ms. Bresnahan: In what?

Ms. Gorelick: In Earth Sciences. He's a hydrologist. He does water pollution remediation and studies ground water pollution.

Ms. Bresnahan: And you had cousins and relatives that lived around you?

Ms. Gorelick: My immediate family was rather small. My mother had a brother who died during the War and my father had one sister and two half-siblings; each of them

had two kids. There were nine cousins in that extended family. We also had a huge extended family at the grandparent level. My father's father had 13 brothers and sisters and my mother's grandparents had many siblings also. On my father's side, they ran out of names for the children. Both the oldest and the youngest uncles were named Leo – Big Leo and Little Leo. They figured Big Leo was so much older that he and Little Leo wouldn't be confused. So I had a vast set of second cousins. My mother, in particular, was very, very close to her cousins, who were more like brothers and sisters for her.

Ms. Bresnahan: Are your parents still living?

Ms. Gorelick: My mother died in 2000. My father is still alive.

Ms. Bresnahan: Where does he live?

Ms. Gorelick: He lives now at an assisted living facility not far from us. My parents lived in New York until 1997 when we convinced them to move to be near us. My mother lived for three years after the move.

Ms. Bresnahan: And tell me about your schooling from your elementary, junior high I guess they would call it, they call it junior high.

Ms. Gorelick: My upbringing in Great Neck was very all-American. The town was a lovely little town, very neighborly, very friendly, varied in its politics and in the

backgrounds of people. My strongest memories are of playing in our neighborhood, of being a Brownie and then a Girl Scout, of walking or biking to school. My elementary school was an old-fashioned school where we learned not just academics but also things like handwriting and social dancing. My parents were very well-read, very broad-gauged – interested in the world around them. They bought every periodical you could imagine. My mother was an artist and so we spent time on the weekends in New York City at museums and galleries. My father had a deep interest in archaeology and that was another source of learning for us. They were very interested in giving us every advantage that they themselves did not have. They had grown up very poor.

Ms. Bresnahan: You say she was an artist, what kind?

Ms. Gorelick: She painted, she sculpted, she did etchings, she worked in silverpoint – almost every medium and over a very long period of time. She taught and she showed her work both on Long Island and in New York City, as well as in Provincetown, Massachusetts, where we spent time during the summers.

Ms. Bresnahan: And did you inherit her talent?

Ms. Gorelick: I have no artistic talent. My niece inherited all of my mother's artistic skills. But I'm a great appreciator of art, by virtue of having been dragged to every museum and gallery during my childhood, under my mother's tutelage.

Ms. Bresnahan: And you still do that. You go to museums and galleries wherever you go?

Ms. Gorelick: Yes, we visit museums here and when we travel. And we have a lovely collection of work that we've inherited from my parents, my husband's parents, and that we've collected on our own.

Ms. Bresnahan: So you went to elementary school, public school and how do you think it affected you or formed any political beliefs that you had or how did it form how you thought about politics since you've been so active in politics?

Ms. Gorelick: Well, I haven't really been active in politics. I've been active in government but, with one exception, I've never worked in a campaign. As I've said, we had very lively dinner table conversations about current events. My parents were very interested in the world around them. They brought all sorts of ideas into the house. We debated almost every issue at the dinner table. I grew up interested in the world of ideas and policy just by osmosis and because I grew up in the 60's. I was 13 when JFK was assassinated. Bobby Kennedy and Martin Luther King were assassinated during my senior year in high school. The country struggled over civil rights during my junior high school and high school years. We were just at the beginning of the struggles over the war in Vietnam and Cambodia when I went off to college. So, this was a period of tremendous turmoil. My childhood was an interesting combination of that turmoil and the more normal aspects of growing up in a lovely suburb. I went out with a basketball

player. I was active in the student government and community service. I worked in the McCarthy campaign to effect change. I said I only had one political experience - that was it.

Ms. Bresnahan: How did you get in the McCarthy campaign and how did you come to be involved in that?

Ms. Gorelick: I was worried about the war in Vietnam. I first became interested in Bobby Kennedy's campaign. When he was assassinated, I got involved in trying to do what I could locally for McCarthy. I stuffed envelopes and organized other kids to help. I did what you could do as an 18 year old.

Ms. Bresnahan: Tell me about how you decided to go to college, where you went to college, what you did in college.

Ms. Gorelick: I never really considered myself an intellectual. I was a pretty good student but was actually surprised that I was able to get into really good colleges. Between the two high schools in Great Neck, there were 900 graduates and very, very few kids would get into Harvard or Yale, so I had no real expectation until the very end of my high school career that I might go to a really good school. In those days, a good student would go to one of the better state schools. That was what we aspired to and that's how the guidance counselors counseled us. I had friends in the high school class ahead of me who were at Harvard. I visited and decided to try to apply.

Ms. Bresnahan: I take it from what you said your father was a physician.

Ms. Gorelick: My father was an orthodontist, which he chose because he thought it would give his family a decent standard of living. He didn't choose it because he loved it, though he always took pride in doing a good job and helping his patients. What he really loved was the archaeology he studied and collecting cylinder seals which he studied. The lesson for me in watching him was that I should to find work that I loved. I had watched him have a life divided between his vocation and his avocation.

Ms. Bresnahan: What about your mother?

Ms. Gorelick: My mother grew up so poor that it affected every element of our lives. When we drove through Brooklyn with her, she would point out all the places where she had lived. Her family would move in someplace, be unable to pay the rent and be evicted. So she lived in literally dozens of places. That sort of insecurity during the Depression really affected our lives and my world view. Even when we became middle-class and reasonably comfortable, she was very conscious of what things cost and insecure about not having enough money. Both of my parents wanted a secure life.

Ms. Bresnahan: And you went off to Harvard in what year?

Ms. Gorelick: I graduated from high school in 1968 and began college that fall.

Ms. Bresnahan: And where did you live?

Ms. Gorelick: I lived first in the Radcliffe quad – and then at Harvard. I had the best of both worlds because when I was admitted to Harvard, the women still lived separately at Radcliffe. So in my freshman year I lived only with women. There were 300 women and roughly 1200 men in my class. So I had a sense of knowing most of the women who were in my class. Harvard now admits equal numbers of men and women. By the time I became a junior, the Harvard Houses were being integrated. I lived in Quincy House, where I formed some of the most important friendships in my life.

Ms. Bresnahan: And how many people were living in Quincy House?

Mrs. Gorelick: The houses each had a couple of hundred students.

Ms. Bresnahan: Tell me about the academic side of Harvard for you in 1968 to 1972.

Ms. Gorelick: When I arrived, the tumult that I was talking about was very much in evidence and there were demonstrations and protests constantly. That affected my classes all the way through, and it affected, in some respects, my academic choices. I looked for a small cross-disciplinary major, which I found in a major called Social Studies – which may sound like you are back in sixth grade – but in which we read the

great political and social thinkers of the 19th and 20th centuries and discussed them with smart and thoughtful people.

Ms. Bresnahan: And give me an example of some of the professors and the people that you dealt with.

Ms. Gorelick: The Chairman of the Department was Michael Walzer, a thoughtful academic in political theory who later went to Princeton. My advisor was Marty Peretz, who ran Social Studies and who developed it into the wonderful program it was.

Ms. Bresnahan: It still exists today?

Ms. Gorelick: It still exists. We were taught by the likes of David Reisman, Stanley Hoffman, David Landes. I came away thinking that I might want to be an historian and actually applied for and got a Fulbright at the beginning of my senior year, but when I actually wrote my senior thesis, I found that, while I liked the ideas and the research, I did not like the solitude. Late in my senior year, I applied to law school.

Ms. Bresnahan: And how did you arrive at that choice?

Ms. Gorelick: I realized that I had applied for the Fulbright based on the erroneous assumption that I would like being an academic and because I was mad that

almost all the fellowships and scholarships, such as the Rhodes Scholarship, were closed to women. I got my back up and applied for one of the only ones that was open to women. But I realized that it was stupid to spend year in England just to spite somebody.
(Laughter)

Ms. Bresnahan: Oh I don't know, I've done that.

Ms. Gorelick: I probably would've enjoyed myself and I would've gotten a great deal out of it but I realized, when facing the very concrete prospect of a year in England, that it was really not for me, that I wanted to have a life of doing rather than of observing and studying and writing. In addition to all that, by the end of my senior year in college I'd gotten back together with my now husband with whom I had gone out when we were seniors in high school and had known since we were thirteen. He was coming up to Boston to go to medical school and so the combination of all those factors led me to opt to go to law school.

Ms. Bresnahan: Tell me your husband's name.

Ms. Gorelick: Richard Waldhorn.

Ms. Bresnahan: And he – you grew up with him?

Ms. Gorelick: Yes, we knew each other from 7th grade on.

Ms. Bresnahan: Has he gotten better looking?

Ms. Gorelick: Yes, of course.

Ms. Bresnahan: Just checking. And so he also came up . . .

Ms. Gorelick: He came up to Boston to go to medical school. We stayed in Cambridge for three years. He had one more year of medical school which he finished after I moved to Washington. He went to Boston University Medical School. He had gone to Columbia College.

Ms. Bresnahan: And so you graduated and where did you go to law school?

Ms. Gorelick: Harvard.

Ms. Bresnahan: Somebody asked me this question the other day and I didn't know the answer. Is it generally typical that you have undergraduate degree and a law degree from Harvard. Somebody told me it was not and I didn't know one way or the other.

Ms. Gorelick: I was accepted at Harvard and Yale. Rich was going to be in Boston. I had loved college and I had the erroneous impression that if I stayed at Harvard and went to law school, I would in some respects continue my college experience.

Ms. Bresnahan: And that did not happen?

Ms. Gorelick: No, because the law school, at least at the time, was much more like a trade school than it was an academic venture. You didn't really talk very much about "why." You talked about what the law was, what the competing interests were and what the principles were, but it was not a doctrinal conversation. Going to law school is a pretty intense experience and staying in Cambridge had many advantages. I had friends who continued on in law school. I had friends among the faculty and friends in graduate school there.

Ms. Bresnahan: You didn't have to move, you didn't have to . . .

Ms. Gorelick: I had a support system and very good friends.

Ms. Bresnahan: Tell me about some of your friends from college and law school. And how they contributed to sort of the way you are and how you have succeeded.

Ms. Gorelick: I had very close friends from both college and law school who are among my closest friends today. I stay in very close touch with my college roommates, one of whom continued with me in law school and is now in Alaska and another of whom went off and did other things after college but who now is here in Washington, a successful businesswoman. Seth Waxman, who was my partner in law, and also at the

Justice Department with me, and now here at WilmerHale, was a friend in college, as was Merrick Garland, who was two years behind me in college and law school and is one of my closet friends; he worked with me at the Justice Department and is now on the DC Circuit. Any number of my friends from that period of time were journalists. They have remained very close friends as well.

Ms. Bresnahan: Are they still journalists?

Ms. Gorelick: Yes.

Ms. Bresnahan: How many women were in your law school class?

Ms. Gorelick: About 75 out of about 550. The third year class when I was a first year student – so those two years ahead of us – had 25 women out of 550. It has kept increasing over the years. Although it took awhile from the class of '75 to class of '80 for the numbers really begin to move up.

Ms. Bresnahan: Now, in the three years at law school did you focus on any one area of the law, did you find, everybody finds some things more interesting than others of course, I never found property very interesting, but what did you focus on?

Ms. Gorelick: I was blessed with really good teachers. On the first day of law school in my very first class, I was seated in the very first row. Alan Dershowitz was the professor. I was the first person called on. An interesting beginning....

Ms. Bresnahan: From one of the great characters.

Ms. Gorelick: He was a terrific teacher and so interesting. This was one class where the “whys” were discussed: “Why does the state seek to imprison someone? Is it because of something they did? Is it because of something they might do? Is it because of the nature of personality? Is it because of guilty intentions? What is the sanction of the criminal law about?” Those were questions I thought were interesting. Having been a Bazelon clerk, Dershowitz was interested in civil commitment and the relationship between the concept of guilt and the right to imprison someone. I observed that in the study of criminal law, I could both learn a skill that was very important to our legal system and also be engaged in the great debates of our time. That interest stayed with me.

I came to the law school very interested in civil liberties and civil rights, but I don’t know that I would maintained that interest – so many in law school abandon their original goals – had I not had professors and friends among the faculty who were interested in the same issues. Alan Dershowitz was one very important influence on me. Charlie Nesson was another, as was Jim Vorenberg. Abe Chayes got me interested in international issues.

I had the good fortune of taking constitutional law from Jerry Guenther who was visiting Harvard from Stanford to work on the Learned Hand papers. He was a great, great teacher and just loved the law. He was wonderful at drilling down from high principles to real cases and back up, fostering real debates. One of the funnier moments of my law school career was in his classroom. At that point in time, we still referred to Justices as “Mr. Justice,” as you recall. He would often provoke debates between two people in the class. He posited a problem involving the First Amendment and turned to me and said, “now Mr. Justice Gorelick, how would you decide that case?” And I just paused, as I was the first woman he had called on. I finally asked, “Mr. Justice Gorelick?” He said, “Oh my God!” He hadn’t ever thought about what you’d call a female Justice. It was always “Mister Justice.” I laughed it off and went on to answer the question. But he completely lost concentration. He kept saying, “I can’t believe I did that.” He couldn’t move on. Later, when the Supreme Court ended the use of “Mister,” he wrote an op-ed piece in which he recited this incident and said what a good idea it was for the Court to have done so in contemplation of a female member of the Court, which there was within a year.

I had really excellent teachers when I was in law school.

For my first year summer, I applied for a job with Alan Dershowitz. I worked for him during the summer and actually the next year during the term, on cases. So I actually had really excellent clinical experience starting at the end of my first year.

At Dershowitz' suggestion, during my second-year summer, I went to work at Williams & Connolly, which had a tiny summer program. The firm had about 24 lawyers, although it was growing.

Ms. Bresnahan: And they were still over on Farragut Square?

Ms. Gorelick: They were at 17th and I.

Ms. Bresnahan. 17th and I Street. Right.

Ms. Gorelick: And that was a great experience. And then . .

Ms. Bresnahan: Whom did you work with?

Ms. Gorelick: I worked with Jack Vardaman, Paul Connolly, Joe Califano. I did a memo that became part of a brief for Edward Bennett Williams. I spent a fair amount of time with Williams, for a summer associate.

Ms. Bresnahan: A once in a lifetime experience.

Ms. Gorelick: It was. It was really great. And he loved to talk about his cases.

Ms. Bresnahan: This would have been 1973?

Ms. Gorelick: This was the summer of '74. It was the Watergate hearings summer, which was interesting in and of itself. When I got to be a third-year student, I thought about what I might like to do. I had the great fortuity to have as a teacher Nat Lewin, who was a partner in Miller Cassidy Larocca & Lewin, but who was teaching at the law school, which had decided to have a clinician come each year; he was the first one. And he taught white collar criminal defense, appellate advocacy and First Amendment law. I took two of his three courses and I thought, "This would be a fun practice."

I had gotten a clerkship with Bill Bryant on the District Court here. At the very last minute, he told me that his courtroom clerk, whose slot he was going to use for a second law clerk, would not be leaving in time. Remember in those days, many of the judges only had one clerk. He was in the process of converting his courtroom clerk to his second clerkship slot. But he had used the courtroom clerk, the court clerk, essentially to give a job to a student who was going to law school. And the student hadn't gotten a job yet. So, Judge Bryant called me and he said that I could wait, or take the clerkship in a year, but he couldn't guarantee that I would have a slot at graduation. Everyone in my law school class had a job. I was just about the only one who didn't. I talked to Lewin about this and he said, "Well, almost all the people my firm had hired in recent years had come off of the Supreme Court – but I think you'd be a good fit. Why don't you take a chance and come and talk with us?" So I did. In those days, you had to talk with everyone in the firm to get a position there.

Ms. Bresnahan: Right.

Ms. Gorelick: They took a chance on me. So I went to work there.

Ms. Bresnahan: But you took a chance on them.

Ms. Gorelick: I took a chance on them.

Ms. Bresnahan: They were a young firm.

Ms. Gorelick: Right. They were. There were, I think, seven partners and two associates. I joined with Bill Bryson, who's now on the Federal Circuit. He had just finished clerking for Justice Marshall. And we started off together. And he loved writing briefs. And I liked writing briefs, but I also liked witnesses and clients.

Ms. Bresnahan: He liked it reduced to a record.

Ms. Gorelick: So we decided instead of splitting up the cases, we would work on everything that we possibly could together. Together, we made one pretty competent associate.

Ms. Bresnahan: You're a people person.

Ms. Gorelick: I like both the law and people. And he was a prodigious worker and loved crafting an argument and writing memoranda and briefs.

My first assignment was drafting the Bill of Attainder section of President Nixon's brief in the Supreme Court on the taking of his papers. It was astonishing that I would have been representing Richard Nixon and that anybody would be writing anything about a Bill of Attainder.

Ms. Bresnahan: Except on the Bar exam. One question.

Ms. Gorelick: I started right after graduating in May 1975. I did not even take a day off between law school and work, because, one of the reasons they hired me was that they needed help. So I took the bar exam while I was working, which was not a lot of fun. Bill Bryson was finishing up his clerkship, mostly reviewing certiorari petitions for the next term. He went to the bar review classes, took all the notes and typed them up and shared them with me. If I could even open a book, it was a miracle. I was really afraid I wouldn't pass this exam, but I did. Bill and I became very close friends. And I remain very close with all of the people with whom I worked at Miller Cassidy.

Ms. Bresnahan: When did you get married in this?

Ms. Gorelick: I got married that Fall, right after I started work.

Ms. Bresnahan: Tell me about your wedding.

Ms. Gorelick: We got married at my parents' house. It was a lovely, wonderful ceremony. We were worried that it would have to be canceled because there were hurricanes, the rivers were flooded and flights were canceled. But in the end everybody got there, and the sun came out and it was beautiful.

Ms. Bresnahan: And what day in September is your anniversary?

Ms. Gorelick: September 28, 1975.

Ms. Bresnahan: That's good, you remember your anniversary, you get points for that if your husband ever hears this tape.

Ms. Gorelick: Yes. The date of our wedding is on a quilt that we received as a gift. When he worries about not having the day right, he goes and finds the quilt.

Ms. Bresnahan: I don't have a quilt so sometimes I don't know either. So he became a physician.

Ms. Gorelick: Yes. He did a lot externships that year, which allowed him to stay much of the time in Washington. And then he became an intern at Georgetown, followed by a residency and then a fellowship in pulmonary medicine there. He was hired by the

Pulmonary Division, so he stayed there, eventually becoming Chair of the Pulmonary Division, and then Chief of Medicine at Georgetown Hospital and the Chair of the Department of Medicine at Georgetown Medical School. He left last year, after 28 years. The last several years were very administrative. Now he is the Distinguished Scholar at the Center for BioSecurity, so he works on issues like the avian flu, and anthrax and things like that.

Ms. Bresnahan: And is that here?

Ms. Gorelick: That's in Baltimore. It was part of Hopkins and then it became affiliated with the University of Pittsburgh, so he's affiliated with the University of Pittsburgh Medical Center, but he works in Baltimore.

Ms. Bresnahan: Let's go back to your first year, first several years as a lawyer. It's interesting to me about what you focused on. You get cases all right, some cases you like, some cases you don't like. Tell me how you started to focus on what you wanted to do.

Ms. Gorelick: One of the advantages of being in a small firm was that, if I liked a particular type of matter and one came in, I could volunteer. As long as I was willing to stretch and work hard, I could put my hand up and get on something I liked. So, we had, for example, cases involving the political contributions being made by companies using various schemes. I really liked internal investigations and the representation of

individuals and companies in difficult circumstances. I liked parallel civil and criminal proceedings. I liked their complexity. I liked real stakes. I was more interested in this than in ordinary commercial litigation. I could be in the mix in each of the big scandals and investigations of the day.

Ms. Bresnahan: Tell us about some of the cases that were significant to you.

Ms. Gorelick: My very first case involved Jack Miller's representation in the Supreme Court of President Nixon in his effort to protect his papers from being taken by an Act of Congress. I also represented NASCAR, for which we were the general outside litigation counsel, when drivers would challenge a rule or restriction on what they could do to soup up their cars; without those rules, some of them would have turned their car engines into jet engines.

I represented National Public Radio in all manner of litigation. In one case, Cokie Roberts, Linda Wertheimer, and Nina Totenberg were my witnesses – and we've all been friends since. As a pro bono assignment for what is now the National Partnership for Women and Families, I represented a woman suing the World Bank over sexual harassment.

Both GE and Aetna were very substantial clients – my work involved several large parallel civil and criminal cases. I also developed expertise in the representation of defense contractors, including Lockheed. Stan Mortenson and I represented one of the few individuals to win acquittal in the Ill-Wind defense procurement prosecutions. I

worked with Bill Jeffress representing small banks across Louisiana. I worked with Nat Lewin on many, many cases, including a voting rights case in the Supreme Court. I handled a bailment case, if you can believe it, that reached the Supreme Court.

One area I really enjoyed was internal corporate investigations. I developed expertise and wrote about grand jury proceedings and internal investigations. I was involved in one of the very first Foreign Corrupt Practices Act cases.

In all of these cases – with Miller, Cassidy, Lewin, Jeffress, Minsker, Rocap, Waxman and others, I learned a lot and I had a blast.

By the time I became a partner in 1981, I was beginning to develop my own practice, which I really enjoyed. There was – and still is – tremendous camaraderie among the then small group of white collar criminal lawyers in town. We knew and trusted each other.

I was also active in the Litigation Section of the ABA and loved the friends I made across the country. I also co-authored a book on the destruction and maintenance of evidence.

Ms. Bresnahan: And how long were you there before you went back into government?

Ms. Gorelick: I came by my first government job through serendipity. When I was a third-year associate in 1978, a client who was a partner at Wilmer, became General Counsel of the Department of Defense. She initially asked me to come in as her special assistant but I did not want to leave the firm. A year later, she asked me to become the vice chair of a commission that was being set up to look at whether the Department of Defense should have an Inspector General like the other departments and agencies had. The Inspector General Act of 1978 created inspector generals in all the departments except for DoD, which got a commission instead. I worked on that, which provided a very interesting window into the Department of Defense. I got to see a lot and learn a lot, but still work at the law firm, because I was a part-time special government employee. When that project was done, the Deputy Secretary of Defense, Charles Duncan – to whom this commission had reported – became Secretary of Energy. His transition team included the General Counsel of DoD and his Military Assistant, who was Colin Powell. He asked me if I would join his transition team. Obviously, I had never done anything like this, but was a quick study and I felt I could be of help. Then, Duncan asked me to stay on at Energy. So my first job in government was a short-term one, for probably about six months, from the middle of '79 to the beginning of '80. Then I returned to the law firm and I stayed there until 1993. After the election in 1992, I helped out on the Clinton transition. I vetted potential cabinet members. I worked on ethics issues. Then I was asked to become General Counsel of the Defense Department.

Ms. Bresnahan: Do you ever think that – this is a digression – did you ever think about going on the bench?

Ms. Gorelick: Yes. When I was at Justice, I was asked if I would like to be nominated to the DC Circuit. But I did not want it. Much earlier in my career, I had been asked to put my name in for the Superior Court here in DC, but declined. I just felt that the judiciary would just seem like a nunnery for me. I had watched Justice White, who was Jack Miller's closest friend, have difficulty – as much as he loved the Supreme Court – with the strictures that applied as to whom he could talk to and what he could say. Jack was a very close friend and I am sure that they were able to have conversations in complete discretion. I know that Justice White really valued that. But I know that he really did feel constrained. He called me when I first got to the Department of Justice, and said, "Don't tell anybody this, and particularly don't tell my current colleagues, but your job is the best job I ever had."

Ms. Bresnahan: Because it's an "out there in the arena" job.

Ms. Gorelick: Yes.

Ms. Bresnahan: That's right. And he liked that.

Ms. Gorelick. He did. I'm sure he loved being a Supreme Court Justice. It's a wonderful job, a place to make tremendous contributions. But I did not aspire to the bench and I felt that Merrick Garland would do a better job.

Ms. Bresnahan: He does a wonderful job. Did you between the time you went back to Miller Cassidy and the time you left, tell me about the sorts of things you and tell me also, there's a whole other side of you that we haven't really talked about and that's this other Bar Association activities and community activities which – we can cover only so much.

Ms. Gorelick: Over time, I became increasingly knowledgeable about the criminal law and civil litigation. I had clients coming to me. I built a very interesting and eclectic practice representing General Electric, Aetna, National Public Radio, and many individuals. I liked developing client relationships, learning about a company or an enterprise like NPR and getting to know the people who worked in the enterprise. I found this to be enormously rewarding and interesting.

Ms. Bresnahan: So the business of the business had to interest you if you were going to dig deep as it were.

Ms. Gorelick: I liked the direct involvement with clients. I'm old fashioned in that way. I would not like the kind of distant relationship that some lawyers now have with their clients. Just by virtue of the way the practice has evolved, and how many lawyers there are in-house, the interaction with clients has changed for many outside counsel. I still seek and maintain strong personal relationships with my clients.

Ms. Bresnahan: Let's talk about the Bar stuff.

Ms. Gorelick: I was at Miller Cassidy for the better part of 18 years. I had many, many other interests beyond the practice of law. One of the ways in which I leavened the practice of law was to do a lot of *pro bono* work for a wide variety of institutions, many of them in the women's rights arena. I worked for what is now the National Partnership for Women and Families and the National Women's Law Center. I joined the National Women's Law Center Board.

I also became involved in Bar work. A very early matter on which I worked required me to file an inquiry with the Ethics Committee of the D.C. Bar. That required me to sit through its meetings while I waited for them to get my matter. I became very interested in their work and later applied to become a member. When I didn't get it, I called the Bar to ask why it was not putting me on this Committee. It was gently explained to me that that Committee was selected from among the gray eminences of the Bar and I was, after all, only a third-year associate. I remained interested, so I asked Jack Miller if he could just introduce me to someone on the Bar Board so I could introduce myself and express my interest. He called a couple of friends of his, John Nolan, David Isbell, John Douglas, John Pickering. I went and met with each. And I explained that I hadn't known that one had to be twenty years out of law school to be on this Committee. I expressed my interest. I said, "If there is ever an opportunity, I would like to serve." Two years later, the Bar called and offered me a slot. I carried my weight, working really hard. I was a real student of ethics. I also became the ethics expert in my firm. Later, I was on the Discipline Committee of the District Court. I was on the Professional Disciplinary Committee of the ABA.

I also joined the Litigation Section of the ABA. Mike Tigar was working to get women involved. He made me the vice chair of a committee on white collar criminal defense. Again, I worked really hard and I went to all the meetings, which I really enjoyed. Then, at some point, I ran for Bar Board in D.C. and eventually, in 1991, was elected president-elect of the D.C. Bar, becoming President of the Bar in 1992.

Ms. Bresnahan: Of the unified Bar.

Ms. Gorelick: Of the unified Bar.

Ms. Bresnahan: And how did you find that experience?

Ms. Gorelick: I liked it. It was an opportunity to make a difference in the community. I loved the fact that in the course of the campaign, I was invited to meet with all elements of the Bar. There were 33 other Bar entities in Washington. I went to every meeting and met people I never otherwise would have. I had a Chinese banquet with the Chinese American Bar. I had Greek banquet with the Greek American Bar. There were elements of the legal community that I didn't even know existed. I had great fun doing it. I got to know lots of different practices that I hadn't been familiar with.

I also got to do the things I cared about. I spent a lot of time on diversity, on supporting *pro bono* work, on revamping of our *pro bono* program. It took a fair amount of time, but my firm had a long history of supporting Bar work. Jack Miller had been President of the Bar Association.

Ms. Bresnahan: How many people were in your firm by this time? In 1992.

Ms. Gorelick: I think at its height we were about 40 or 45.

Ms. Bresnahan: And then what happened to the law firm?

Ms. Gorelick: I left to go to the Defense Department. Then when I went to Justice, Seth joined me there. By the time I left government, the firm had merged with Baker Botts, which is a Texas firm with a reasonably sizeable DC presence. A majority of my former partners are there. Nat Lewin did not go. He first went to Mintz Levin, and then started a firm with his daughter.

Ms. Bresnahan: So in 1992 how did you end up as Deputy Attorney General?

Ms. Gorelick: I ended up as Deputy Attorney General in 1994 after a year at DoD.

One of the things that I did between being identified as the nominee to be General Counsel of DoD and being confirmed, was to help get Janet Reno confirmed. One of my clients at Miller Cassidy was Aetna; Zoë Baird was the General Counsel. When she was nominated to be Attorney General, she asked me to organize her substantive briefings. After her nomination was withdrawn, I was asked to organize the same for Janet Reno. The White House asked me to help shepherd Janet Reno through, because they knew I

was going to be in government and therefore would not have any conflict arising out of running a transition team for someone who would be running a department with which I did business, which was a problem that many private practitioners would have had.

And as different as we were, Janet Reno and I became great friends. I came to admire her and like her. After she was confirmed, we went our separate ways. I was fully engaged in DoD. I loved working there, first with Les Aspin, then with Bill Perry, whom I just adore. John Deutch was Perry's Deputy, from whom I learned so much. I was there for a year when Janet Reno called to say that her deputy Phil Heymann – whom I had known since my time at Harvard Law School – were parting ways and she would like to recommend to the White House that I join her as Deputy. I thought that was highly unlikely. I could not imagine they would put two women there and I knew that this would be a highly sought-after job.

Ms. Bresnahan: Right.

Ms. Gorelick: In the end, the White House decided to nominate me. I went through a second confirmation process and ended up in April of '94 as Deputy Attorney General.

Ms. Bresnahan: What did you do at DoD?

Ms. Gorelick: I spent time on the consolidation of the defense industry. In the post Cold War period, we knew there would be fewer defense contractors. The DoD's

role in mergers had been virtually nil because the Republicans believed that involvement would mean social engineering by the government. I thought that the DoD should have as much voice as any other customer affected by a merger would have. Since DoD was the principal customer of defense contractors, I thought it ought to have a voice in the consideration by the Department of Justice or the FTC. I put together a Commission headed by Bob Pitofsky – later Chair of the FTC – with representation from everyone from consumer groups to defense contractors. So, I worked on the procedures and we worked it out with the Judiciary Committee which was very concerned that DoD not take over the process.

I also worked on expanding the roles that women could have in combat, which involved a very difficult set of discussions within DoD. I worked on “don’t ask; don’t tell.” I got to DoD after the decision had been made that that was going to be the policy, but before there was any meat on the bones – as to what the policy meant in practice. There were many, many decisions that needed to be made embedded within the pact that the President and the Secretary had made with Capitol Hill. This involved working directly with the JAGs, the principal legal advisors to the military services where much of the opposition had come from. One of the unique elements of my tenure at the Department of Defense was that there were almost no political appointees. The Administration had been very slow to name secretaries of the military departments and thus there were few assistant secretaries or general counsels. So for much of my tenure there was only the Secretary, the Deputy Secretary, the Under Secretary, and myself. Eventually we got assistant secretaries at DoD, and thereafter we got service secretaries, but very late. So I had more direct contact with the chiefs of the services and their

uniformed military advisors and JAGs than my predecessors had had. There was an awful lot going on that first year.

Ms. Bresnahan: This shows my ignorance about DoD, but how, what was the chain of command for the general counsel?

Ms. Gorelick: The General Counsel of DoD reports to the Secretary of Defense and by statute is the Department's chief legal officer. But, in contrast to my Republican predecessors who felt that they should be able to direct the legal advice being given by the military lawyers, I felt that that was neither appropriate nor practical – the military needed its own legal advisors. Ultimately, of course, if we disagreed, there would have to be some way of asserting the role of the DoD General Counsel, but I worked very collaboratively with the JAGs because I did not want it to come to that. I visited them in their offices when I was preparing for confirmation. I learned about their work. I brought them into the drafting process. I preferred working it that way, and I think it served the Department well.

Ms. Bresnahan: So you are at DoD for a year, and then you go back for a second confirmation process. How was the confirmation process the first time?

Ms. Gorelick: It was very rigorous. The Senate Armed Services Committee was led by Sam Nunn and Strom Thurmond. That Committee was quite rigorous in terms of eliminating conflicts of interest, et cetera. It was very helpful to me that one of my law

school classmates and a very good friend, Andy Effron (now a member of the Court of Appeals for the Armed Forces), was Sam Nunn's counsel, so I had some good personal advice as I was seeking confirmation. I thought everything was going smoothly until a hold was put on my nomination, but I didn't know by whom. It came back to me, ultimately, that it was Senator Lott. We heard that he had expressed some concerns about the appropriateness of my background, but I had no idea what his concerns were and was fearful. Then, the Secretary visited with him. He came back to report that the Senator had some issues with DoD about facilities that he wanted to see in his state, which had nothing to do with me. It was actually fairly terrifying to be held up if you think that it's because somebody thinks there's something of concern in your background. But it ended well and the confirmation hearing itself was fine.

Ms. Bresnahan: And you were confirmed – when were you confirmed?

Ms. Gorelick: I was confirmed in March of '93.

Ms. Bresnahan: And when were you nominated for Deputy Attorney General?

Ms. Gorelick: About a year later. And I was confirmed in March, I think.

Ms. Bresnahan: And how long were you Deputy Attorney General?

Ms. Gorelick: Until April 1 of 1997. I served a little over three years.

Ms. Bresnahan All right, we're going to revert to family. We left you getting married.

Ms. Gorelick: Right.

Ms. Bresnahan: So there must have been; you must have some family life along the way because I actually saw your family life on a number of occasions. So tell me a little about your family.

Ms. Gorelick: We adopted our children. Our son arrived in April 1988 and our daughter arrived in August of 1993.

Ms. Bresnahan: And did that change your life?

Ms. Gorelick: Yes.

Ms. Bresnahan: I don't want to be personal, but how to did you decide, can you tell me how you decided to adopt and how you went through the process.

Ms. Gorelick: We ended up being parents later than we would have liked. When Dan arrived in 1988, I moved to a reduced, more normal schedule. I had worked all the time, as did Richard. We both loved our jobs. And that worked fine for us. We had lots

of friends and a very active social life. Without children, you can also really apply yourself to work. When Dan arrived, I cut back quite a bit.

Ms. Bresnahan: How old was he when you adopted him?

Ms. Gorelick: A newborn. We got the call the afternoon before I was second-chairing a Supreme Court argument. So left I directly from the Supreme Court to go up to Philadelphia with Rich to pick up Dan. I would say that my concentration at the argument was not what it otherwise might have been, but it was pretty exciting.

Ms. Bresnahan: No preparation for Dan's arrival?

Ms. Gorelick: No. One of the things for which I will always grateful is that the firm sent a car to take us up to Cherry Hill, New Jersey, because my partners recognized that neither one of us would be any shape to be driving with an infant, since we were so excited and this was so sudden. We had nothing for the baby. I called all my friends. When we got home from Cherry Hill, there on our stoop was everything. Seth Waxman and Debbie Goldberg had brought a changing table, and people brought diapers, and bottles and clothes. We got home that night and we had everything we needed.

Ms. Bresnahan: And that was in April of 1988. So you're still in private practice.

Ms. Gorelick: I took off six months, but I couldn't just stop working abruptly. I had to spend a lot of time shifting things to my partners, who were wonderful. When I came back, I did not work the full-time schedule I had before.

Ms. Bresnahan: Not the 80 hour week full time; maybe the 40 hour week full time.

Ms. Gorelick: Yes.

Ms. Bresnahan: In May of '93 if I have my dates right, you're at DoD then.

Ms. Gorelick: Dana arrived in August of '93; and I'd been at DoD for just for a couple months.

Ms. Bresnahan: Then you had two.

Ms. Gorelick: We had two. I remember when we got the call that the second child we had been waiting for had arrived. DoD is a hard place to work, because you get in early to be with your military clients and you stay late to be with your civilian ones, so you are working a very extended day. Richard and I talked about whether we were just nuts to try to do this, but we decided to do it and we're certainly glad we did.

Ms. Bresnahan: Lack of sleep notwithstanding.

Ms. Gorelick: Dana arrived as we were getting ready to go to Cape Cod for our summer vacation. The car was packed. It was my last day of work before vacation. When we got the call, we went straight to New Jersey. We stayed there for several days. Then Dan and Rich went up to Cape Cod and I stayed for the requisite week to get her checked out. Rich took Dan to my parents, who were up on Cape Cod. Then he came back to get me a couple of days later when I was free to leave with Dana. And we drove up to the Cape and bought baby things on the way up. Dana spent the first three weeks of her life sleeping in a drawer. We pulled the drawer out, we padded it, and that was her first bed.

Ms. Bresnahan: That's a wonderful story. So you stayed in Cape Cod summer and were you there all summer.

Ms. Gorelick: No we were there for three weeks or a month, and then we came back and I went back to work. I worked full time but again not as much as I think I otherwise would have.

Ms. Bresnahan: And did you have a nanny?

Ms. Gorelick: Oh, yes. We've had the same babysitter since Dan was an infant. She is with us today. I told her when I hired her that I was looking for someone to be with us forever, to be part of the family.

Ms. Bresnahan: One of my friends said she'd get rid of the husband before the nanny. She has three boys and is a senior partner in a law firm, and that is what she says. She says that how she hires. The same baby sitter for now what 14 years?

Ms. Gorelick: No, 18 years.

Ms. Bresnahan: Eighteen years. How old is Dan now?

Ms. Gorelick: He just turned 18.

Ms. Bresnahan: And Dana is. . .

Ms. Gorelick: Twelve soon to be thirteen.

Ms. Bresnahan: And where do they go to school?

Ms. Gorelick: Dan is at Georgetown Day School and Dana is at Edmund Burke.

Ms. Bresnahan: All right, that was a nice digression. Tell me what else, outside of work, you enjoy doing while you were at the Department of Defense. I know there were so much others things you had to do and you had do children but did the kids play soccer or were there other things that you got involved with in the community.

Ms. Gorelick: If you have a family and you have a compelling job or both people in the couple have compelling jobs, that's pretty much it. We have our friends. We have had hobbies. When the kids were little, we biked together as a family. We played tennis. We have a garden that we enjoy. But I wouldn't overstate the degree to which we actually have significant hobbies. We just do whatever things the kids are into at the particular time. We try to stay healthy and athletic. We try to see our friends. And then I outsource every possible thing. I outsource things that you couldn't believe that you could outsource. Even when I had no money I threw what money I had at problems. I would much rather have the time than the money.

Ms. Bresnahan: Let's shift gears a moment and talk a little bit, and then, I'm going to run out of steam probably.

Ms. Gorelick: Me too. It's hard to talk about yourself for two hours.

Ms. Bresnahan: Well, but you've done better than I thought you'd be because you're reserved as well as everything, getting you to talk I thought was going to be an interesting exercise. But tell me a little bit about the beginning of being Deputy Attorney General. What it was like in the beginning.

Ms. Gorelick: I came in in a fairly odd circumstance, in that the Attorney General was unhappy with the way her previous Deputy had worked with her. When she called me at the Department of Defense to ask me if I would consider having her submit my

name, I asked her what she wanted in a Deputy. She said, in essence, "I want someone to run the place so I that I can spend my time making the key decisions in an organized fashion and representing the Department externally," which is a big part of the job. I called Phil Heymann, her then Deputy, and I asked him whether he thought I would enjoy the job. He said, "no." He asked, "Why would you want this job?" And I asked him what he meant. And he said, "She wants someone to move the paper around so she can make the decisions." I felt that that was the prerogative of a cabinet secretary and that usually the number two is indeed a manager. He felt that that was not that interesting. Phil was very interested in policy and very much wanted to participate in, and also lead on some of the critical policy decisions of the Department – which is all well and good, but someone actually has to bring all the voices together and move things along.

I thought that one could have very substantial policy impact by playing that management role. I thought this would be helpful to the Department and that I would not be just a paper pusher, but would have real substantive engagement. And that turned out to be true.

I told the Attorney General that if she wanted the Department to run that way, she would need to actually let me run the place day-to-day, to get the decisions served up to her in an organized fashion. This did involve ceding a fair amount of responsibility. We decided to have a unified staff. While individuals' assignments came from me, they were ultimately responsible to her. I asked her to forbear from trying to make decisions before a decision was ready to be made, because I wanted to make sure that there really was a dispute and that the issues were joined.

She agreed that this made sense. And in the end, the system worked well. Many decisions went away, when we actually forced people to talk to each other

Ms. Bresnahan: A form of mediation.

Ms. Gorelick: If you bring people to the table and you ask them probing questions, many decisions go away, and others come to the decision-maker with greater clarity. Janet Reno was always the ultimate decision-maker. The Attorney General always asked my view or what Merrick or other staff thought, so we were part of the process.

I told her there were a couple of requirements if she wanted the Department to run properly. One was that we have a joint staff. Two was that the Department would report to her through me. Three, that she give me a little space in which to operate. And she happily did these things, because she was confident in her own authority.

And I was very careful not to try to arrogate to myself responsibility for decision-making that was hers. I was assiduously careful to make sure that she knew the status of each matter. We were both clear that the substantive policy decisions were hers. And she, by the same token, was careful to make sure that I was consulted and that the team was consulted.

I had a fabulous team of people. For twenty years, I had been making a list in my head of what my own law firm would look like. And now I had the opportunity to have that team. Bill Bryson was, by then, at the Department of Justice, as was Merrick Garland. We got Bill to be the Acting Associate. Merrick was in the Criminal Division.

I asked him to be my Principal Associate Deputy. Seth Waxman, who thankfully agreed to come in even though the only slot I had open was as an associate deputy overseeing INS, joined us. David Ogden, Amy Jeffress, Cathy Russell, Casey Cooper, Mark Steinberg, Michael Vatis, Paul Fishman, Jon Schwartz, and so many others, joined too. They were just absolutely stellar. David Margolis – veteran of the Department – agreed to stay in the Deputy’s office. My military assistant at DoD, Colonel Dennis Corrigan, agreed to retire from the Army to join us as Chief of Staff. We had a really, really great team. I recruited people like Paul and Jon who were superb assistant U.S. attorneys from different offices around the country. This dream team was comprised of people I really knew and trusted, so they could act for me in so many contexts. I tried to do something unusual, which was to bring in people who were my contemporaries, people who knew me well enough and knew the Department and its traditions well enough and knew the law well enough that they could act as my alter ego and would be respected as such. And that worked. And I’m sure that we were more intrusive than people liked us to be in matters throughout the Department, but we were I think equally intrusive as to all the different parts of the Department so people could take some solace in that.

Ms. Bresnahan: For somebody to be at Justice Department as deputy you were there for a long time.

Ms. Gorelick: Yes. I was.

Ms. Bresnahan: Tell me a little bit about the substantive issues you faced at the time.

Ms. Gorelick: Oh, they just came at you a mile a minute. One of the things that you have to discipline yourself to when serving in a job like that is to doing things in fifteen minute spurts. You don't have the luxury that I have when practicing law of lots of time to think about an issue. You really had to take what was put in front of you and what your team recommended and decide as best you could. As I said, I brought with me my military assistant from DoD, Dennis Corrigan. I had a devil of a time getting approval because he was a Republican. But he was a wonderful combination of Army and Irish. And the Army part was very disciplined and the Irish part was really good with people. He moved paper and he kept me moving in the course of a day. He knew when things were going awry and he developed wonderful sources within the department to give us an early warning of a problem.

Ms. Bresnahan: A watch your back person.

Ms. Gorelick: Yes. All of the staff knew that they had to watch my back. And that if I was about to do something stupid, they were to stop me. If I wrote a letter that was intemperate, they would put it in a drawer.

Ms. Bresnahan: If you were listening to yourself, not others.

Ms. Gorelick: Yes, if I wasn't listening to someone I should be listening to, they reminded me to do so. When you move fast, you know, you can make a lot of mistakes. But if you don't move fast, things pile up.

Second Side, Tape 2:

When I got to the Department of Justice, a very large conference room table in the Deputy's office was covered in layers of green folders – reflecting issues that were waiting to be decided. So we just had to plow through them. I needed to have a staff to whom I could turn, and say, "Give me the bottom line on this. What do you think?" Then, I would try to move quickly to a decision or a recommendation to the A.G.

Continuation of Interview of Jamie Gorelick

May 29, 2007

Ms. Bresnahan: This is the continuation of the interview of Jamie Gorelick. We were talking about your tenure at the Department of Justice and how you became Deputy Attorney General. I think we talked about your tenure at the Department of Defense and then, a little bit about it but you really never went back to it and then we ran out of tape.

Ms. Gorelick: To review where we were – I got to know Janet Reno when she was nominated to be AG. The White House wanted someone to oversee her confirmation

process. I had done substantive preparation work for Zoë Baird when she was the nominee – at her request because she had been a client of mine and we had gotten to know each other over the years. The White House was looking for someone who would not have any business before the Department of Justice and since I had already been identified as going to the Department of Defense, the White House thought that I would be a good person to perform this function. I got to know Janet Reno while helping her over that month-long process. We stayed in touch during the time that I was General Counsel of the Department of the Defense. We liked each other a lot and when she and my predecessor, Phil Heymann, decided to part company, she asked if I would mind her putting my name forward at the White House. At that time, I was really enjoying myself at the Department of Defense. I had formed a strong bond with Bill Perry, who had been the Deputy Secretary for most of my tenure and who had only recently become the Secretary, and I had good relationships with his Deputy, John Deutch, the Joint Chiefs and on Capitol Hill.

I loved the Department of Defense. I loved working there. At the same time, I thought it would be extremely unlikely that the President would want to put two women at the top of the Department of Justice. I asked Janet Reno if I could think about it. I remember a conversation with Colonel Dennis Corrigan, my Military Assistant. He had thirty years in the Army and was a Republican. I asked him what he thought it should do and he said, in his view, it would be crazy for me not to pursue the position at the Department of Justice because it was yet another ceiling that needed to be broken through.

Ms. Bresnahan: It's interesting that he would say that.

Ms. Gorelick: Well, my thought at the time was that if a white Republican Army lawyer was telling me that I needed to do this, the feminist in me had no business saying no. To digress some, I had been considered for Deputy Attorney General at the outset of the Clinton Administration when it was considering asking Circuit Judge Richard Arnold to be the Attorney General. I had thought about the job and I think the folks in the White House had thought about me. I had previously been vetted. I believe I said when we spoke before that the law firm in which I had grown up, Miller Cassidy, Larroca & Lewin had been formed by people who had been in the Kennedy Justice Department. I grew up in that firm with a reverence for the Department of Justice. I also got to know Justice White who was a very close friend of Jack Miller and White often talked about how much he had loved working at the Department of Justice.

Ms. Bresnahan: Did you know if you had any competition for the job?

Ms. Gorelick: I'm sure I did have competition for the job because there was a period of time in which names were being floated and possible candidates were being discussed. I think that some of that ended up in the newspapers because I called White House Counsel, Bernie Nussbaum, and asked him to try to move the decision along and not let me swing.

Ms. Bresnahan: Slowly in the wind.

Ms. Gorelick: Not slowly in the wind because that suggests something bad is happening – but not to be swinging in limbo. At the Department of Defense, they didn't know whether I was coming or going. I had a number of projects ongoing and strong relationships with both Secretary Perry and then Deputy Secretary Deutch who were not thrilled at the prospect of losing their General Counsel.

Ms. Bresnahan: Was Judith Miller before or after you?

Ms. Gorelick: She succeeded me. In any event, that's how I came to be nominated.

Ms. Bresnahan: Tell me about the nomination process. Was it different, the same, easier or harder for Deputy Attorney General? I don't have any real clear recollection of it other than I saw a picture of you testifying and it didn't seem to be like there was too much controversy. You had bipartisan support.

Ms. Gorelick: I had bipartisan support although Senator Grassley was highly suspicious of my willingness to enforce the qui tam statute in which he had a very strong interest. He felt that, coming from the Defense Department, I might be inclined to try to gut it. He had concerns about my role in private practice, where I had represented defense contractors – but not in qui tam proceedings. I had taken a meeting with

individuals within the bar representing defense contractors who were worried about a provision in the qui tam statute that permitted an employee of the government who comes into possession of information in a governmental capacity to then use that information as a qui tam plaintiff which, when you think about it, is at least potentially corrosive of the obligations that a government employee owes to the agency in which he or she is working. So that was the one issue on which there was any controversy. I had known Senator Hatch because some of my partners had represented him. I had known Senator Biden for a very long time. I had been a member of his external advisory committee and had represented him in the leak investigation following the Anita Hill testimony in the Thomas confirmation. So there was a base of trust that allowed the confirmation to go along fairly smoothly.

Ms. Bresnahan: Now was Biden the chair at that point?

Ms. Gorelick: Yes. Having said that, the fact of the matter is that when you are nominated for position at that level, particularly when the administration has had over a year in office, there are many questions that arise that might not have arisen if you were being confirmed for a lower level position or at an earlier point in time. So nearly every point of controversy regarding the administration of justice did arise in some fashion in my confirmation.

Ms. Bresnahan: Did you, I think that confirmation hearings have become very contentious. Were they contentious or were they more thoughtful?

Ms. Gorelick: They were thoughtful.

Ms. Bresnahan: What was the vote? Do you remember?

Ms. Gorelick: I think it was 98 to nothing. I don't think I got any negative votes. There were contentious hearings even at the beginning of the Clinton Administration. Certainly the Zoë Baird hearing was very contentious and there were others that were fairly contentious. I was very happy not to be among the targets in a partisan battle. Senator Hatch is a measured and thoughtful man. He was, mostly, concerned actually that we make sure not to politicize the department, that we insure that the White House and Congress not have any inappropriate communications with the Justice Department on issues of enforcement

Ms. Bresnahan: How old were you when you were confirmed?

Ms. Gorelick: I was 42.

Ms. Gorelick: Senator Hatch asked that I send a letter to the White House Counsel setting out the rules, which is an interesting and good tradition, one that I think should continue. Senator Specter was very worried about me having enough time with my family. My young son accompanied my husband to the hearing. He fell asleep.

Ms. Bresnahan: Showing this appropriate amount of interest in the proceedings, right, that's funny.

Ms. Gorelick: And in fact, you know, in a sort of nice way, Senator Specter lectured me about me making sure that I would have enough time with my family. Later in my tenure, I was taking a rare vacation on Cape Cod and the phone rang. My husband happened to have been up at the house, while I was down at the beach with the children. It was Senator Specter's office wanting to talk to me. Rich said that I was unavailable. Senator Specter's staff said that it was time-sensitive and asked Richard to get me. Richard reminded the staff that the Senator himself had wanted the Deputy Attorney General to spend time with her children which is what she was doing! I called back later. In general, the hearing was professional. There were some hard issues but we addressed them.

Ms. Bresnahan: Tell me about the work of the Deputy Attorney General. I know it covers the gamut of things but how did you view your role as a policy maker, how did you view your role as a Chief Operating Officer or however and how did you and Janet Reno divide responsibilities. I mean every Deputy Attorney General and every Attorney General does it differently that I can tell.

Ms. Gorelick: That's correct. As I said when we last spoke, when Janet Reno called me, I asked her if I could have some time to think about her offer to send my name to the White House. I called Phil Heymann, who had been the Deputy Attorney General.

I asked him what he thought about the job and working with Janet. Essentially he said, “Stay where you are. You’ve got a great job. Being Deputy Attorney General in the way she wants a deputy to operate is not worth doing.” He explained that she wanted to make all of the important decisions herself and that she wanted a deputy to help run the place and organize the decisions for her. He felt that the most interesting part of the job was making policy and that if all you did was the organizational work, it would be boring and without impact. I called around within the Department. I had many friends in the Department at that time, mostly in career positions but some in policy jobs. I also talked with the Attorney General who said that she felt (a) that the decisions weren’t being made in a timely fashion, (b) that there was too much deliberation, but (c) that the deliberation was not clearly delineating the choices and that the various voices within the department were not being heard. Others within the Department confirmed that. This was not inconsistent with what Phil had said.

I concluded that the job she wanted done was indeed the job of a good deputy. Most deputies are supposed to be the chief operating officers of their departments and that, if I had sufficient authority, I could do the job that she described and in doing so, would have an impact on policy. I discussed with Janet what it would take for someone to do what she wanted done. As you noted, every department organizes itself somewhat differently. I told her that if she wanted a Department that ran smoothly and if she wanted to make decisions in the way she described, the entire Department would have to report to her through me, we would need to have a unified staff between the Attorney General and the Deputy Attorney General, that I would need to organize the staff and run

the staff but that they would deal directly with her when decisions were ready for presentation to her and that the decisions would be presented to her with all the voices of the Department being heard. She agreed to that and actually gave me tremendous authority within the Department, much greater authority than almost any of my predecessors had had. Traditionally there are turf issues between the Attorney General's staff and the Deputy's; there is a division of labor as to who does what, with each taking the lead on different issues. We worked much more as a unit. I never had any question or doubt that she was the ultimate decision-maker and that was fine with me because she was the Attorney General. On the other hand, she always solicited my advice and in the development of alternatives and in the vetting of issues among the different groups in the department, many issues just went away because the process of drilling down into a disagreement allowed what would otherwise be combating parties to see the other's view and sometimes they receded.

Ms. Bresnahan: Do you think that that happens a lot when people talk to each other? You're talking about being a mediator and a facilitator in part.

Ms. Gorelick: What you do is bring everyone to the table and you fully air the views. Often, there are misunderstandings as to what the competing positions are. Often, you can narrow down the area of disagreement and therefore you're presenting a decision to the Attorney General that's very different than the ones you might have gotten if it had just been a free-for-all. In that process, both in the initial vetting of an issue and in the

decision-making process that she followed, I had a lot of influence. So Phil's prediction that this was a job not worth having turned out not to be right for me.

Ms. Bresnahan: But from my personal observation it also helped that you all liked each other very much.

Ms. Gorelick: Yes, we had a good time. We respected each other's values which were not identical but which were sufficiently similar that we were not at odds or coming to issues from very different perspectives. We were complementary. She had been a local prosecutor. I had not had prosecutorial experience. She had been in and stayed in local government, which I had not. She lived in a part of the country that I did not. She, on the other hand, did not enjoy working issues in Washington. She was very happy to have someone else handle the Department's business at both the White House and on Capitol Hill. She did not know a lot of people in Washington, so, in both the transition process and thereafter when I came to the Department, I helped populate her staff with people I thought were terrific and she came to know and like and respect. Many, many, many people on whom she came to rely – Merrick Garland, Seth Waxman, David Ogden – were people I introduced to her.

Ms. Bresnahan: And not the lesser lights of Washington, by the way.

Ms. Gorelick: They were fabulously talented people. I brought them to the briefings that she needed. She knew a tremendous amount about how criminal justice is

carried out on the ground but you don't, as a District Attorney, have any reason to learn about federal immigration law, or antitrust, or any number of issues that she needed to quickly understand during her confirmation process. When you can bring in an Alex Aleinikoff to talk about immigration or Bob Pitofsky to talk about antitrust, you can provide a very quick education on things that she needed to understand. She's a very quick study. She developed an appreciation for the depth of talent in Washington that she might not otherwise have seen.

Ms. Bresnahan: I think, also you have complementary personalities.

Ms. Gorelick: We do.

Ms. Bresnahan: Because you're much more outgoing than she is. I mean I've known her a long time and she's, not well because that's the way it is with her. I think that you are much more outgoing.

Ms. Gorelick: We had a very close personal relationship. She was wonderful to my family and extremely sensitive to my need to be with my family in the setting of meeting times, etc. One thing that we have in common is a directness and without any. . .

Ms. Bresnahan: No rancor.

Ms. Gorelick: Yes, without any feeling that if I disagree with you, that that's a problem.

Ms. Bresnahan: Right, even-tempered.

Ms. Gorelick: Yes.

Ms. Bresnahan: Both of you.

Ms. Gorelick: And we like to laugh and we like people.

Ms. Bresnahan: Baseball.

Ms. Gorelick: We like baseball.

Ms. Gorelick: She was a very, very, very diligent worker. And getting her to go out and take some time to enjoy herself was hard, but we had some really good baseball seats.

Ms. Bresnahan: You and she were very, very nice to the kids of one of my clients. Let's talk about what you felt were emerging issues at DoJ, where you had the most influence either by policy or organization or however and what comes to mind. When I did this with somebody else they came up with some interesting.

Ms. Bresnahan: I was just saying to take some of the issues where you felt where you've made a difference. I did this before and people come up with all sorts of different things and it can be something great or something small or how you felt, whether you felt like either you or the Attorney General left a lasting mark on the way the Department of Justice is run. Particularly in light of what's happened that might make you a little sad the last few weeks because the Department of Justice for many reasons, in my opinion, had a great reputation as a great law firm and I feel bad for what's happened to them. That's been a long time.

Ms. Gorelick: You know Pam, I don't even know how to begin to list the issues we addressed. As I said last time, one of the interesting challenges in working at the Department of Justice, at least in the way that we did, was that there was a new issue every 15 minutes. We had fabulous and large staff. We really empowered them to work each of these issues and then bring them to me when we needed convening or a decision or a contact with another agency. So the pace was pretty hectic. We had crises like how to respond to congressional interest in the killings at Ruby Ridge, how to properly assess discipline in the related personnel issues. If you want to talk about the U.S. Attorney's offices and the administration of justice in the field we, I think, took a great deal of pride in the quality of our appointees and in the process by which U.S. Attorneys were selected and, when a U.S. Attorney needed to be disciplined or removed, how we went about that. The President had any number of initiatives. He was very strong on criminal justice. He wanted to and did put 100,000 additional cops on the beat.

Ms. Bresnahan: Was that through grants mostly in training? Is that how it worked?

Ms. Gorelick: It was a match, it was essentially a matching grant program and it was very cleverly designed. It got Congressional approval very quickly and it was implemented with tremendous attention to detail and to insuring that it was real and not rhetoric. We had a strong Civil Rights Division. We had a strong Antitrust Division. We brought the *Microsoft* case during that period of time. There were Haitians and Cubans taking to their boats, overwhelming Florida with their numbers. We had the invasion of Haiti and challenges in the establishment of a working system of justice without which it is very hard to bring a country toward democracy.

Ms. Bresnahan: Did you have a Supreme Court appointment?

Ms. Gorelick: Justice Ginsberg was nominated before I arrived. Justice Breyer was nominated after I left.

Ms. Bresnahan: That's right, I didn't think so, but you had circuit court of appeals appointments.

Ms. Gorelick: Many. We had to shepherd many judicial appointments, including that of my deputy, Merrick Garland. There were countless issues. I don't even know

how to begin to list the ones you might want to talk about so why don't you go through your list.

Ms. Bresnahan: Well, I think the three that I'm most interested in, probably because of, you've mentioned two of them, but because of recent events was the relationship between the White House on policy issues and the Department of Justice and the Congress. Ultimately, you send a letter with the rules, and I guess I'm interested in knowing how the rules worked out and if they changed and what kind of relationship you ended up having with the White House. Who was White House counsel at this point? It wasn't Nussbaum was it?

Ms. Gorelick: There were five – Nussbaum, Cutler, Mikva, Quinn, Ruff.

Ms. Bresnahan: So you had a day to day relationship, so it changed, the personalities?

Ms. Gorelick: The personalities changed, the skill-sets changed but the rules never changed. The rules were that communication with the Justice Department on any case was to be between the White House Counsel or his Deputy on the one hand and the Attorney General, or the Deputy Attorney General on the other. We adhered to that. On issues of nominations, there was direct communication between the White House Counsel's office and the Office of Legal Policy.

And on grants there were communications between the White House and the Associate's office, which oversaw the grant-making capabilities in the Department. On legislation, there were direct communications between the White House Legislative Office and the Department's legislative office. But on any matter of sensitivity, the communications were as I noted. The Office of Legal Counsel developed opinions at the request of the White House, but all opinions came to the Deputy Attorney General and the Attorney General for discussion more broadly within the Department, including with the Solicitor General and the relevant litigating division heads. We had a very clear set of rules and we abided by them, I would say religiously. It was very helpful in the governance of the Department, because everyone knew what the rules were and what the processes were. I had a weekly meeting at the White House Counsels' office and we would each have our own agendas of items to review. They would include everything from pardons to the positions we would be taking in the Supreme Court, and everything in between.

Ms. Bresnahan: And what was the demarcation between Congress and the Justice Department?

Ms. Gorelick: As I mentioned, there was a letter that Senator Hatch asked me to send. It said that no member of Congress should call or intervene in any way in the litigation of a case, particularly in enforcement. I can get you the precise language. This was an extremely important element of the governance of the Department. If you compare the letter that Janet Reno sent to White House Counsel setting out who might

communicate with whom between the White House and the Justice Department, on the one hand, and Attorney General Ashcroft's memo on the other, this Administration has broadened out from something like five people to something like 200 people at the Department of Justice the number who can have communications with the White House on matters of enforcement.

Ms. Bresnahan: Do you use e-mail?

Ms. Gorelick: There was no e-mail outside the Department. There was e-mail inside. I used it very infrequently. The security concerns were such that you could not use e-mail to talk to anyone outside.

Ms. Bresnahan: Now, how long were you there?

Ms. Gorelick: I was there a little over three years.

Ms. Bresnahan: And what did you decide to do next and when.

Ms. Gorelick: I decided over Christmas vacation in 1996 that I was going to leave and made that announcement as soon as I returned in January but indicated that I would not actually depart until the end of February. As it turned out, I left at the beginning of April in order to give some time for the identification of my successor and the confirmation process. I wanted to explore positions where I could use some of the

managerial skills that I developed. I had really enjoyed running something. I also had many inquiries from law firms and loved the practice of law but wasn't sure that I wanted to return at that time. I interviewed in the month after I left and took a job as the Vice Chair of Fannie Mae. It had a business and a mission that I liked, which was to address the affordable housing mission, so the role I would have there was one that I liked very much.

Ms. Bresnahan: And so you went there in June or July?

Ms. Gorelick: I decided to go there in May of 1997. I went on the payroll for very limited purposes at that time, but I did not begin full-time until after Labor Day because I was just exhausted.

Ms. Bresnahan: So, and you got to spend the summer in Cape Cod.

Ms. Gorelick: Yes.

Ms. Bresnahan: Right, with your children, without Senator Specter. And so you started in September of '97 full-time.

Ms. Gorelick: Yes.

Ms. Bresnahan: And tell me, I don't, I apologize, I really don't know very much about Fannie Mae so and also I suspect people that listen to this won't. When you say the affordable housing issue is that in the form of loans, is that the principal business.

Ms. Gorelick: Fannie Mae is a company that has two basic businesses. It says to a lender if you make a loan, we will guarantee the repayment of that loan for a fee, and that allows the lender to sell the loan or package of loans to an investor because the investor knows that it doesn't have to worry about whether the borrowers will repay.

Ms. Bresnahan: Right.

Ms. Gorelick: So, Fannie Mae's job was to evaluate the risks, to put a price on the risk, in a package of loans. Second, Fannie Mae would also buy packages of loans. The two functions together puts tremendous liquidity into our system of home ownership and housing finance which, I believe, is responsible for the high home ownership rate that we have. Home ownership is the principal source of wealth for most middle-class Americans.

Ms. Bresnahan: And so, this is a follow through, so that meant that as Vice Chairman you were evaluating the policy that went along with selling loans at discount and all those things, the bundling of loans, in order that people would invest and then there would be more capital available.

Ms. Gorelick: Some of the work that I did involved what innovations one could explore so that we – Fannie Mae and others in the housing finance industry – could get capital to the broadest range of borrowers.

Ms. Bresnahan: And who was the Chairman?

Ms. Gorelick: When I was hired, the Chairman was Jim Johnson, who was also at that time the Chairman of the Kennedy Center. He was succeeded by Frank Raines.

Ms. Bresnahan: Right. And you spent how long there?

Ms. Gorelick: I spent about six years there.

Ms. Bresnahan: Why did you decide it was time to go?

Ms. Gorelick: It was just time to go, for a variety of reasons. I was named to the 9/11 Commission at the end of 2002. That work was not compatible with being at a company. I transitioned back to the practice of law, which is a much better platform for doing the 9/11 Commission work. The Fannie Mae job had changed when the company came under assault, from banks and others who felt that it was creeping into their businesses, so a larger part of the job became working with the various trade associations and lender customers to assure that we were playing an important enough role in the housing finance industry that they would want the company to continue to do what it was

doing. In Jim Johnson's words, we needed to demonstrate everyday our indispensability to realtors and homebuilders and lenders. And that was essentially what I focused on. At the same time, Larry Small left and Dan Mudd arrived as President of the company. Larry had spent a great deal of time with customers. Dan was not interested in that, so my work became much more focused on individual lender customers. I did a great deal more traveling than I had in the past and that became tiring also. My son was 14 and my daughter was 9 by the time I left.

Ms. Bresnahan: So you have one high school, one college now?

Ms. Gorelick: My son has graduated from high school now and my daughter is graduating into high school.

Ms. Bresnahan: So you decided too much travel.

Ms. Gorelick: It was the right time to leave, for many reasons.

Ms. Bresnahan: Right, you couldn't do the travel and the Commission . . .

Ms. Gorelick: I couldn't have had the independence that I needed. The Commission just had to be the first imperative and being Vice Chair of a company you have really significant fiduciary responsibilities that require the company to be the

imperative, so as I say, there were many reasons to leave, but it was not possible to be there and be on the 9/11 Commission.

Ms. Bresnahan: How did that appointment to the 911 Commission come about?

Ms. Gorelick: Each party in Congress appointed four members and the President appointed the Chair and the Democratic leadership in the Congress appointed the Vice Chair. As soon as the Commission was established by legislation, various individuals reached out to me to ask whether I would be interested in being considered. In the end, I was appointed by Dick Gephardt, with the agreement of Tom Daschle. They did these appointments together.

Ms. Bresnahan: It's hard to tackle a 9/11 Commission for a lot of different reasons because I don't, there are some things as you both know, that there's probably things you can't discuss but tell me what the people were like and tell me what it was like doing the work of the Commission, as best as you can.

Ms. Gorelick: It was a fascinating experience, one that I wouldn't trade for anything. If I never do another bit of public service, I will still feel fulfilled by the public service I've had, including that experience. The Democrats and the Republicans on the Commission started off with goodwill but mutual suspicion, in part, because of the way we were appointed which was by the most political people in Washington. This was just the nature of the process.

Ms. Bresnahan: Who appointed Fielding? Was he appointed by the speaker?

Hastert right?

Ms. Gorelick: Speaker Hastert appointed Jim Thompson. Senator Lott appointed Slade Gordon. Senator Lott had ceded one position to Senator McCain – who appointed John Lehman. Fred Fielding was named by Speaker Hastert.

These were all serious people. We started off, of course, with Henry Kissinger not Tom Kean, as the Chair and George Mitchell, not Lee Hamilton, as the Vice Chair. I suspect that, had we proceeded like that, the Commission would have been quite different. Kissinger, in the brief two weeks that he was Chair, made decisions almost entirely on his own. There would have been fisticuffs over that. That would have set a very different tone than the one that was set by Kean and Hamilton who agreed, (a) there would be no party or separate staffs, but a unified staff; (b) that the two of them would never disagree if they could help it; (c) that there could be no votes at all if they would help it; and, (d) that we would try to write a report that read much more like a book, so that it would be very accessible to the average citizen and would provoke debate and change, if possible.

Ms. Bresnahan: So Kissinger, I've forgotten, he resigned after two weeks and there was some reason for that.

Ms. Gorelick: He did not wish to disclose his clients which he had been given to understand he would not have to do.

Ms. Bresnahan: And then Kean was the Chair.

Ms. Gorelick: Correct.

Ms. Bresnahan: Who was the Vice Chair at first?

Ms. Gorelick: George Mitchell.

Ms. Bresnahan: George Mitchell resigned because?

Ms. Gorelick: I think that he didn't realize, when he agreed to do it, how much time it would take and how his law firm would feel about that. He was just starting out. When that reality set in, he resigned.

Ms. Bresnahan: And then Lee Hamilton was appointed in this stead.

Ms. Gorelick: Correct.

Ms. Bresnahan: Tell me how the Commission's work developed. I mean, it might be like watching sausage being made but can you give me a feel for it?

Ms. Gorelick: It was methodical and organized, although we did not have enough time in fact to do what we had to do since we had to stand up the Commission from scratch. It took us four to five months before we had offices, hired a staff and got them cleared. That was four to five months of what was supposed to be an 18-month period, two months of which had to be reserved for closing up. So in essence we really only had a year. Eventually, we got a couple of months added on, but it was very, very rushed.

Ms. Bresnahan: It was 20 months.

Ms. Gorelick: Yes. It was very rushed. But having said that, I think we did a pretty good job. We had a staff of approximately 80, many of whom were drawn from the various relevant agencies of government and some of whom came from outside and who were also terrific. We were organized by areas of inquiry. We had debates over whether to have hearings or not. We had debates over scope, for example, whether we should discuss Iraq. We had debates over how aggressive to be with the administration in seeking documents. But we got to know each other pretty well in that process, and what came out of these debates was a sense of mutual respect. We really got to see what each other were about when we got into the facts and debated what documents meant, what individuals were really saying in their interviews. There was a wide variation among panel members in their commitment of time, in their availability. I probably put in more time than others. I find it very difficult to do something like that in a half measure. Several of us, often Slade Gordon and I, ended up really boring in on the facts which had

a way of melting away any partisanship. A typical commission looks at a public policy issue. Commissioners will say, "I will not sign a report that says X." But you can't say that about facts. You can't say, "if this document says X, I'm not going say X." You can debate the nuances, but not the essence. When we had disagreements over the facts, we went to the documents and the interviews. We got the staff who had done the interviews, we looked at the documents and we argued about it. Every once in a while, we came to a place where we couldn't agree, but it was quite rare. We made one big decision about our drafting, which was essentially to eliminate all adjectives. So if you don't characterize but simply describe

Ms. Bresnahan: That's a trial lawyer trick too, you know. I mean, you know, you never overstate anything if there's no adjectives or adverbs.

Ms. Gorelick: That's true. So if you read our report, there are very, very few adjectives and adverbs. It's very spare in its language.

Ms. Bresnahan: The mission of the report was to give recommendations as to how do better the next time.

Ms. Gorelick: The mission was explicit in the statute. We were asked to answer various all-encompassing factual questions, to make the factual record of what had occurred and why, and then to make recommendations. We spent the vast portion of our time on the former and were actually worried about whether we could get through the

latter. But once we had agreed on the facts, the recommendations flowed almost effortlessly from the facts. So for example, you could not observe what we observed in the dysfunctional relationships among 15 intelligence agencies and not recommend some mechanism to address this. We recommended a Director of National Intelligence to adjudicate disputes among them, to make a harmonized budget, to create a uniform and unifying personnel system, etc.

Ms. Bresnahan: Is there any follow-up to it?

Ms. Gorelick: After the Commission submitted its report in the summer of 2004, Congress wanted to hear no more from us.

Ms. Bresnahan: Right.

Ms. Gorelick: So, we formed our own non-profit called the 9/11 Public Disclosure Project. The 10 Commissioners formed the board. We named it in the most neutral way we could. We recruited a number of our staff to work for the project. Tom Kean and John Lehman and I raised over \$1,000,000 to pay the expenses of the project and we used the project as a way of getting the word out about the report, its conclusions and recommendations. We all agreed to speak and to write. I visited over a dozen states, speaking at universities, to business groups, to anyone who would hear from me, as did all of the former members of the Commission. You may recall we also gave report cards

on the government's progress. We testified at innumerable hearings that summer and fall until the Anti-Terrorism Act was passed in the fall of 2004.

Ms. Bresnahan: When did you come here?

Ms. Gorelick: In mid-2003.

Ms. Bresnahan: So you were here while you were working on the 9/11 Commission.

Ms. Gorelick: That's right. I came to the firm with the notion that I would be working half time at the firm and half on the 9/11 Commission. As it turned out, there were periods of time when I worked 110% of my time on the Commission. The firm was a wonderful corporate citizen, giving me tremendous flexibility in 2003 and 2004 and well into to 2005, actually.

Ms. Bresnahan: And how did you, without saying anything that is private obviously, but how did you decide to come here?

Ms. Gorelick: Well, my old firm had been absorbed by Baker Botts. Seth Waxman was here. I knew vast numbers of partners here because I had worked very closely with this firm when I was at Miller Cassidy. This is one of the few firms that I talked to when I was leaving the Justice Department. I was very close with Lloyd Cutler

and with John Pickering, the founders of this firm, who embodied the very best values in the profession. The managing partner of the firm, Bill Perlstein, was an old friend. I had colleagues from Defense and from Justice here so it was a very easy fit for me, culturally and personally. I also wanted to have the broadest base of regulatory, substantive expertise I could find. This firm has that. Also, it has the tradition of public service, so I knew it would understand what I would be doing on the 9/11 Commission.

Ms. Bresnahan: Tell me about your work since the 50% that turned out not to be 50% but how has your practice developed so bring us up to date.

Ms. Gorelick: My practice now takes up probably 70% of my time. It is counseling boards on the hardest issues that they face. It involves internal investigations. We address issues that are at the intersection of law and policy, so helping companies determine how to better align their business models with sound public policy. I started a national security practice which has been fascinating. I have maintained a relationship with the intelligence community since I left the government and have very strong views about the necessary interaction between the corporate world and intelligence and national security communities. Since the Democrats have taken control on Capitol Hill, I have been doing a lot of work helping companies' address congressional investigations of which there are many more than there had been under the Republican Congress. And then I have my *pro bono* projects.

Ms. Bresnahan: Which are?

Ms. Gorelick: Well there are any number of individuals whom I counsel. I represent entities like Playing for Peace – young Americans who use basketball – a uniquely American sport and, therefore, not indigenous to many places where folks were at war with each other – to help teach young people from different tribes and backgrounds how to get along in places where they don't. I'm on the board of the McArthur Foundation, the Carnegie Endowment, the Washington Legal Clinic for the Homeless, and others. I'm on two corporate boards, United Technologies and Schlumberger. That's a pretty full plate.

Ms. Bresnahan: And one in high school, one soon going to college, Richard's still around. Is he still practicing? He's a doctor.

Ms. Gorelick: He's a doctor. He left Georgetown after twenty-eight years, six of which were as Chief of Medicine. He's now at the Center for BioSecurity. He took some time and then he made a real change in the way he has lived his life which he is very happy with.

Ms. Bresnahan: And tell me just briefly about it, what is it?

Ms. Gorelick: It's a think tank which tries to address threats, both man-made and natural biological threats, like anthrax or avian flu. It considers what the responses are or

should be in federal, state and local governments and communities and our medical communities and what we should do for preparedness.

Ms. Bresnahan: That's a big change.

Ms. Gorelick: He has maintained his affiliation with Georgetown. He makes rounds once a week at Georgetown. He's one of the few people who have been in a hospital from the very bottom to the very top. If you're looking at threats to our health, mass casualties, and response of our health care system, you have to understand how hospitals operate. So you need to understand both the medicine – what causes the injury, how it is detected and how it is treated – and how the elements of our medical system can respond. I think he feels like he's making a very valuable contribution and I think he would be unhappy if he were utterly disconnected from the clinical world.

Ms. Bresnahan: Now, I don't have anymore questions but is there anything I've missed that you want to talk about? Did I make it through everything, I did?

Ms. Gorelick: Well those are certainly all the major periods of my career.

ABA Senior Lawyers Division
Women Trailblazers in the Law

ORAL HISTORY
of
JAMIE GORELICK

Interviewer: Jeannie Rhee

Interviews conducted from May 16,
2014 through July 27, 2016

Oral History of Jamie S. Gorelick

Interviewer: Jeannie Rhee, Partner, Wilmer Cutler Pickering Hale and Dorr LLP
Interviews conducted from May 16, 2014 to July 27, 2016

- Jeannie Rhee:** This is an oral history for the ABA Trailblazers in the Law project.
- Jamie Gorelick:** Hi, I am Jamie Gorelick and it is May 16, 2014.
- Rhee:** Jamie, why don't we start by just having you tell us about your ancestors and your ancestry.
- Gorelick:** My father's family came from Ukraine. They emigrated to the United States when he was about two. On my father's side, we had a very large and cohesive family. My father's father was one of 13 siblings. They came from a town called Melitopol, which was near Odessa. My great-grandparents on that side were Efraim and Bessia Gorelick. Efram was quite a figure. He was a strong person, a leader in the synagogue. You had to have been a strong person to have gotten a family with 13 children out of Ukraine, intact.
- Rhee:** Do you know how that happened?
- Gorelick:** They didn't come all at once. Various sons led groups of siblings through different routes at different times, culminating with the parents coming at the end with some of the younger children. There many family stories about this period. The family endured progroms, prejudice and fear. As is typical for the Gorelick family, there was some humor in the stories. My great-grandmother hid their money in a jar of rancid fat, so that nobody would want to look inside. There wasn't a lot of money to hide, but it was enough to get them passage. They arrived with very, very little and settled in Brooklyn.
- Rhee:** Occupationally, what were your ancestors doing near Odessa?
- Gorelick:** My great-grandfather was in the food business -- dried fish and other foodstuffs -- and I understand from my aunt that my grandfather, her father and my father's father, helped his father deliver food. That family business continued in a way when they settled in Brooklyn, because the various uncles opened delicatessens in Brooklyn. That was how the young men in the family supported themselves growing up. As I said, my father arrived at about the age of two. The family spoke Russian and Yiddish, but very little English. My grandfather spoke very little to me because he spoke very little English. My father could speak and understand Russian and Yiddish, but very quickly learned English.
- Rhee:** How many people are you talking about who managed passage?

Gorelick: I don't know how many of the siblings were married and how many had children. I know that my grandparents were married. My grandmother on my father's side was born and raised in Odessa and my grandparents met there. They made the passage together, along with my father, who was the first-born. My aunt was born after the family had settled in New York.

Rhee: When you say they all lived together in Brooklyn, what do you mean by that?

Gorelick: They all had apartments either literally in the same building or right near each other. They were each other's social lives. Everyone convened on Friday nights, Shabbat, at my great-grandparents' home. I know from my father's cousins that they arrayed themselves by ages. There was quite a bit of difference in ages even among the siblings. There were many, many cousins and they had different age cohorts. They kept Kosher homes and they were observant.

Rhee: What part of Brooklyn are we talking about?

Gorelick: I don't know the address where my great-grandparents lived. As I noted, my great-grandfather was a very substantial figure. He was a large man, physically powerful and a leader in the community. My great-grandmother was, by reputation, a character. She was, unusually for women at the time, educated. She did not work when she got to the United States. My aunt thinks that she was actually trained as a dental assistant or a dentist of some sort. But she never worked and you could imagine if you had 13 children maybe you wouldn't have time for a job!

My recollection of the family is that it was very cohesive and very mutually supportive. It organized itself into an organization called Oxia, which exists today; it roughly translates into "mutual support." It has a bank – it's not a formal bank, but we own shares and we use that money to help individuals in the family who are in need -- to get educated, start businesses – whatever is needed. The ethos of the family was that you helped everyone in the family and you helped the community.

The family was very community-oriented, and, given their modest roots and immigrant status, it was amazing that everyone in the family ended up in some kind of middle-class job or position. If you take my grandfather, Isaac, for example, he did not speak any English when he came to this country and he ended up as a salesman of vacuum cleaners and other appliances. He was very proud to be the provider for his family. My father's family was middle class, in their view.

Rhee: What about your grandmother? What do you know about her?

Gorelick: My grandmother on my father's side?

Rhee: Yes, on your father's side.

Gorelick: She was well-educated. She learned English well. She was artistic and very musical. My aunt, my father's younger sister, is also very musical. My grandmother made sure that her children had not only education, but an appreciation for music and art. She made sure that my aunt had piano lessons, even though they were expensive and difficult to arrange and you had to have a piano. My grandmother became ill at a relatively young age. She had a series of little strokes that left her physically frail. She died when my aunt was a teenager and my father was under twenty years old. My grandparents made a good home for my father and my aunt. They put a primacy on schooling. They were very proud of my father – that I know.

Rhee: What were they proud of?

Gorelick: He was successful in school. He was a good athlete. He was handsome. He had lots of friends. He was very well-read. He spoke perfect English. He got into college and did well. He got into dental school. He did everything that was asked of him and he had a joy in life.

Rhee: If you had to reflect on the Gorelick family legacy, what do you think are the values or the things that they wanted to pass down to the generations upon passage to the United States and settling here?

Gorelick: Well I'm not sure it is terribly different from other immigrants, but the passion for education and self-improvement was palpable. You can see it in the stories of each of the siblings and in the cohesiveness of the family and in the pride in accomplishment. Second would be the pride in being a part of this country. It took a lot for the Gorelick family to leave Russia. They were forced out of several cities before they gave up. It was a huge undertaking and very dangerous to make the journey to this country. They very much wanted their children to be part of the United States, and were proud that my parents' generation was firmly American. The last piece was a sense of community. There was a strong sense of community within the family itself and in the larger Jewish community in Brooklyn.

Rhee: Let's turn to your mother's family and ancestry on the maternal side.

Gorelick: I know less about my mother's family because it was less cohesive and more far-flung. They were much poorer. They had less wherewithal to be cohesive. But they had a very good attitude and were very proud to be Americans. I remember my grandmother very well because she lived well into her 90s and was very much a part of our lives. She also was an immigrant. She was sweet, funny, flaky, social – she always had a very positive attitude. I did not know my grandfather but my mother always told me that he was loving and very sweet. He died shortly after I was born. My mother had a brother, Jackie, who died when he was 19. I was

named after him. It was a very small nuclear family. My grandmother eventually remarried and lived happily in Far Rockaway, New York. She worked in a bakery and could bring home the broken cookies, which was a treat.

Rhee: Do you know the story of how she made it to the United States?

Gorelick: I don't. My mother's family has not documented the history of the family in the same way that my father's family has. I know where the cousins are and I keep in touch with some of them but I don't have a resource on my mother's side, as I do with my father's sister.

My parents took us to Ellis Island, through which all of my grandparents transited. We went with my mother's mother who had a deep and painful memory of being separated from her husband, my grandfather, because he had sort of eye infection. She thought he was going to be sent back. I could see her recalling that terror. Have you ever been to Ellis Island? When you are there, America is so close and yet it is still so far away. But they made it through.

Rhee: Could both sides of your family find themselves in the documentation of Ellis Island?

Gorelick: Yes. We found our family in the Ellis Island records.

Rhee: Did either side of the family undergo a very common name change that occurred on having to go through entry?

Gorelick: The Gorelicks all kept Gorelick. The Fishmans, which was my mother's side, kept their names.

Rhee: Had your grandmother gone back to Ellis Island prior to your visit together?

Gorelick: No. It was a very dramatic moment.

Rhee: How old was she, or how young was she, when she came over? Do you have a sense?

Gorelick: I have a sense that she came over around the turn of the century. She was married.

Rhee: As a young bride.

Gorelick: Yes.

Rhee: Was she part of the Russian exodus as well?

- Gorelick:** Yes. She was also schooled, and very proud of the fact that she had gone to the Gymnasium. She read voraciously. She also loved birds and cuckoo clocks. When I slept over at her house, it was cacophonous.
- Rhee:** Do you know why? Why the collection of cuckoo clocks?
- Gorelick:** No. She also had a collection of teacups. She would buy a tourist teacup wherever she went. She didn't go very many places, but wherever she went she bought one. She cherished them, and she promised them to me when she was planning on dying, which was 30 years before she died. She would take me around her apartment and point out to exactly which teacups and clocks I was going to inherit.
- Rhee:** Other than the teacup collection, what do you think she passed on to both your mother and/or to you?
- Gorelick:** She had a joy in life – a very positive attitude towards life. She was curious, intrepid, had an interest in people, and was happy in her own quirkiness. My grandfather was very loving and both of them were encouraging of my mother, who was very smart. She was also very slight, and was always very young looking. She got pushed through school very quickly.
- Rhee:** Tell us about your mother.
- Gorelick:** My mother grew up poor. During the Depression, the family was thrown out of one apartment after another when they couldn't pay the rent. I remember as a child driving around Brooklyn with my parents – we would pass one block after another and my mother would point out all the places where she had lived. It's just hard to imagine that degree of instability and what that would do to you. What it did to my mother was it made her very anxious generally, and especially about money. Those habits of the Depression stayed with her forever. I don't think she ever bought anything at retail prices. That's a joke for a lot of people, but it was really true for my mother.
- She did a lot with a little. She was very stylish for a child of an immigrant family. She had a tremendous sense of style as a very young person. She was enamored of art. Very early on, she went to a public high school that had a famous art program and flourished there. She knew, early on, that that was what she wanted to do. She was outgoing and empathetic -- the kind of a person whom other people wanted to know.
- Rhee:** In addition to art, and always having an artistic bent, what were her priorities? What were the things that were important to her?

Gorelick: I can't really say in addition to art, because art was just so central to her and to her whole life. But friendship was so important to her. She had deep and really abiding friendships. She was interested in the life of ideas. She and my father both were interested in politics and were very progressive, particularly as younger people. Those would be the values, I think, that I would put at the center of her life.

Rhee: When you talk about the art, how would you describe her art?

Gorelick: She had the need to express herself in her art. She was primarily a painter, but actually used almost every medium that you could imagine. She painted large paintings in acrylic paint. But, along the way, she also sculpted in terracotta, in alabaster, in marble. She did etchings, she did silver point, she did drawings.

Rhee: Were there central themes?

Gorelick: The style of her art morphed over time. The early work looks like art from the 1940s and 1950s, particularly, in the New York artistic community. What distinguishes her art, ultimately, is a psychological expressionism. She did very impactful personal portraits. She was also very interested in nature and in its colors and formations. Because I'm not an artist, I'm not great at a verbal description of her artwork, but her art had impact. It was not decorative. Some of it is beautiful, but it was not her intention for her art to be decorative. She won many prizes for her work and her work was exhibited in galleries and museums.

Rhee: What about your father? Describe him for us.

Gorelick: My father was handsome, happy, intellectual, athletic, both outgoing and obsessive at the same time, which you wouldn't necessarily put together. My mother was more naturally empathetic and more naturally stylish. He was a little more geeky, but took great pride in his accomplishments. He was a caring provider. Because he grew up in a more secure environment, he had fewer of the anxieties that my mother had.

He prided himself in providing an environment in which she could do her art and we, his children, could have every opportunity that education could provide. He was also very involved in our lives. He took responsibility as a father in a way that most fathers in our neighborhood and environment did not. Fathers in the 1950s went off to work, often in the city, early in the morning and came back late. But our father structured his practice to be close to home. He was home for dinner every night. He often took responsibility for my brother and me so that my mother could find time to paint.

As a family, we went on outings every weekend – to the zoo or botanic garden, but more often to a museum or gallery. Our parents were very intentional in their parenting.

Rhee:

Your father was a dentist by occupation, with quite a robust extra-occupational professional interest. Can you tell us about that?

Gorelick:

Yes. My father was trained as a dentist and then ultimately as an orthodontist, and made his living that way. He was very good at it, and he was very proud of that. But he also had strong outside interests. In the late 1960s, he began collecting ancient cylinder seals and became one of the world's experts in them. He studied them. He learned how they were made. He became expert in dating when they were made and determining what was fake and what was not. He appreciated the artwork in their creation and their history and their part in the culture of their times -- these were objects that were both artistic and utilitarian. He loved that, and you could tell he was very passionate about this collection. He could talk to you about it as long as you could listen.

Rhee:

How did he come upon that? It's an odd thing to be an orthodontist on Long Island who becomes an intellectual expert on a fairly obscure subject matter.

Gorelick:

I believe he bought his first seal in an antique shop in Cambridge when I was a freshman. I'm not certain of that, but it was about that time. He was a man of enormous intellectual curiosity. He read very broadly and, when he was interested in a subject, very deeply. He bought one object that he found interesting to him and then delved into it very deeply. When he died, he had one of the great collections of books on cylinder seals.

He also would use his dental techniques to learn about these objects. The way he became so helpful to scholars in this area, and indeed became a scholar himself, was that he used his dental techniques to determine how the seals were actually made – that is, by replicating the tool marks and then matching up those tool marks with the tools that were available in a particular era. He wrote about fifty peer-reviewed scholarly articles on this. I think it just grew as a passion indigenously and played to his strengths. The collection was shown at the Brooklyn Museum. There's a beautiful catalogue of them, and they ultimately found a home in a Canadian museum.

Rhee:

Wow. Looking back, do you think that had circumstances been different, that he would have pursued life as a practicing academic?

Gorelick:

I think so. I asked my aunt that question. She said that he was very proud of what he did as an orthodontist and liked it a lot, but noted his passion for what he did in collectnig cylinder seals. I believe that had he had the

freedom to choose without regard to the financial aspects, he would have chosen to have been an academic.

Rhee: How did your parents meet?

Gorelick: My parents met at Brooklyn College.

Rhee: What do you think drew one to another?

Gorelick: They had some shared interests, and then in many ways they were complementary. Their shared interests were around politics and art. They came from similar communities, although not entirely the same. They both had a lot of friends, and their circles simply grew together. Their differences were also probably important. My mother was a very empathetic person, very outgoing, very stylish and very beautiful. My father was more meticulous and obsessive. In some ways, you could see the two of them being attracted to each other really on that basis – that he provided her with warmth and security and a stability that she hadn't really had, and she provided him with a joie-de-vivre and a set of friends and a set of interests that truly seemed wonderful to him.

Rhee: As their child, what do you see of them in yourself?

Gorelick: Well, not the artistic part. I don't have an artistic bone in my body. I wish I did, but I don't, although I am a great appreciator of art. I am organized like my father. I am empathetic like my mother, and I certainly have many of the same kinds of intellectual interests that they had. I have many different interests, and so did they. They found everything fascinating and, like them, I could delve deeply into any number of issues and questions, because I find so many things interesting.

Rhee: They met in college, they were both quite young, and they got married young. Tell us about their early life together, which also quickly came to involve you.

Gorelick: Yes. They graduated from Brooklyn College when they were about twenty. Then my father went to dental school and my mother got a Masters in Education. My father was in the Navy, toward the end of World War II. Then they settled in Brooklyn. I was born when they were living on Pierrepont Street, which is in Brooklyn Heights. Then during the Korean War, my father was in the Army, as part of the so-called doctor's draft, and we moved to Louisiana and Texas.

Rhee: Tell us about that time.

Gorelick: Well, my parents were two young people who had never been anywhere. My father had gone to the Catskills as a child, but other than that, they had not been out of New York City except for his service in the Navy.

Rhee: With basically the same community.

Gorelick: But then my parents found themselves in DeRidder, Louisiana, which is even today far away from any big city. Neither of them could drive. My father was assigned to drive an ambulance, so quickly learned. My mother drove, but was very anxious about it. One of my main memories of living in Louisiana is her driving on two-lane roads that had ditches on either side. She would be fine until a car would come from the other direction, in which case she would veer to the right, over into a ditch. We were always being hauled out of a ditch by kind farmers.

What I remember from that period is her anxiety. My father was off being an officer, and my mother was alone in a community in which she was quite a stranger. She told me that she tried to pass as Mexican, which was a reflection of how uncomfortable it was to be a Jew in that part of the world. There was a little girl nearby who was Hawaiian and her family was in a similar situation. The Hawaiian family and our family became friends, and she was my friend there.

It was a strange place to be a little child in that if you played outside, you had to wear rubber boots because of worries about snakes. When I became a lawyer, one of my very first cases was representing small banks in southwest Louisiana including the Bank of DeRidder. My mother thought it was the funniest thing that her daughter was now counsel to the bank in the town that had so terrified her.

Rhee: Did it give her a certain amount of satisfaction?

Gorelick: She was very pleased. She thought it was funny that the banker needed her daughter's help. We then moved to San Antonio, which was a little bit more cosmopolitan, but still far away from Brooklyn. Then back to Brooklyn, but very quickly to Levittown, which was built in the aftermath of World War II. We were among its first inhabitants. I remember my parents thinking that this tiny little house was so luxurious. We had a yard. We had two bedrooms and an attic where my mother could paint. My mother made a garden there. We had a swing set. It was, for all of us, a very happy time. The community was built around dead-end streets -- cul-de-sacs as those are now called - so there were natural areas in which to play, and there were lots of children -- the Baby Boom. My other memory of Levittown was my mother trying to return to painting. She painted all the time. I have paintings that she painted in DeRidder and in San Antonio, but she returned seriously to painting when we got to Levittown because she finally had a studio, albeit a small one. She would give me art supplies so that I could paint or draw while she was painting, but I could do nothing, absolutely nothing. I also was not good at sitting still.

Rhee: So, from Levittown to Long Island.

Gorelick: We moved then to Great Neck, New York. My brother arrived when we were in Levittown. He's four years younger than I am. Steven was born in 1954, and we were reasonably quickly out of room in our house.

Rhee: Tell us about your brother.

Gorelick: My brother was a really active little boy -- peripatetic, moving all the time. I had been a much easier child. My mother told us that she had wanted to have many children -- until my brother arrived -- which my brother thought was a great compliment to him. But he was a handful.

Rhee: Do you remember his arrival?

Gorelick: I do. My mother had told me when she was pregnant that I might have a sibling, and after he arrived and had been around for a little bit, I told her I would rather have a cat.

Rhee: You and your mother, by your account, were quite close and had gone through shared experiences of traveling about. What do you remember about your brother's arrival?

Gorelick: I remember after he arrived that I didn't get as much attention, and I didn't like that. But, by that time, I was beginning to be focused elsewhere in any event. We moved to another house where I had my own room on a separate floor from everyone else, and I was beginning to build my own world.

Rhee: You're the oldest, a girl, and your brother was younger, but the first boy, I think you once described it. Tell us about the gender dynamics in your household.

Gorelick: My parents were very, very equal in their treatment of us. They were enormously supportive of both of us. They gave us every lesson known to mankind and even some you wouldn't think that you could get.

Rhee: Like what?

Gorelick: I took piano, clarinet, guitar, glockenspiel, modern dance, tap dance, French, speech -- I'm sure there were others in there. I literally was given a lesson in anything in which I vaguely expressed an interest. I was given French lessons starting when I was in third grade. My parents' view was that they could provide opportunities that they had not had, and if I expressed an interest, I should explore it. Now, some of these were short-lived, like the clarinet and the glockenspiel.

Gorelick: 2-B

Rhee:

Tell us how your parents treated you and your brother.

Gorelick:

I think they were used to a permissive style of parenting, because it had worked with me, at least until I became very rebellious. Steven had dyslexia and I just admire the way he fought through challenges.

Rhee:

This is the 50's. How far along was the learning and the knowledge of what dyslexia was and how to treat it and how to understand it?

Gorelick:

There was very little understanding, and the reaction of our school was "This is a lost cause." It took a lot of effort on the part of my parents to find people who could understand what was happening to my brother and who could offer assistance. And then it took a lot of will on his part to overcome the problem.

Rhee:

What do you remember from that time as he was struggling? Do you remember how it affected you?

Gorelick:

It was very hard as a young child to understand how someone so smart could not be doing well in class and why it took him so long to figure things out, because he was very smart. Apart from that, I was pretty bound up in my own world and he picked interests that were not mine, so we operated in different spheres.

Rhee:

You mentioned the fact that your brother and you are very different. His disposition sounds very different in terms of rambunctiousness or ease of handling the very different issue of growing up. I just want to overlay on top of that the gender question and discuss what your perceptions were as you look back on how stereotypes of gender roles particularly in the 50's affected the situation.

Gorelick:

I remember thinking as a young girl that boys had a better deal. That's what occurred to me. I never felt that my parents had different expectations of me than they did of Steven, but the boys in the neighborhood were encouraged to be physically active, to be competitive, to be out there in a way that girls were not, and I noticed that. Particularly if you were a tomboy, as I was, you noticed that. My parents and I had fights over clothes. Boys could pretty much wear what they wanted, but I could not. I preferred to be running around in shorts and a t-shirt to being dressed up in a lovely but completely uncomfortable dress. I could observe that boys didn't need to be "good" in a way that I did, and that made me mad.

Rhee:

Would you characterize yourself as a tomboy today?

- Gorelick:** Is there a 63/64-year-old version of a tomboy? I don't know. I think that gender is so much less binary than it was then, that it wouldn't occur to me to use that nomenclature.
- Rhee:** You talked about your parents and their hopes and their aspirations for you. I just want to circle back to that particularly, and talk about the refusal to take "no" for an answer when it came to your brother. What do you remember in terms of your own perception of their hopes and aspirations for you and your sense of their expectations?
- Gorelick:** There are two themes that emerge. One is that they very much wanted us to have the sense of security that they, in particular my mother, never had. We were shielded from anything that one could worry about.
- Rhee:** What do you mean by security? There are lots of different ways to define that.
- Gorelick:** We didn't live lavishly, but we never worried about having enough to eat, or having a roof over our heads, or being able to get a good education. Emotionally, we were also shielded from anything that was difficult in the family. The second theme is that they believed in constant improvement. They gave us every kind of lesson that you could imagine. They shoved us out the door early. We were on our own quite a bit. They afforded us travel.
- Rhee:** You were a teen.
- Gorelick:** Yes, starting when I was 13, I joined various travel groups, usually with people who were very different from me and certainly older than I was. I didn't go to summer camp of the traditional sort, except for one summer, which was a disaster.
- I went to a foundation camp – that is a camp run by a foundation for poor inner-city kids. That's what my parents thought would be useful and helpful to me. We were breathing healthy country air, swimming in ponds and the like, but with kids who had much less than we did. That was helpful to me. I didn't really think about it at the time. It didn't seem odd. It was just going to summer camp with some people who didn't have as much as I did.
- Rhee:** Why was the one actual traditional or quote unquote traditional summer camp experience so disastrous for you?
- Gorelick:** My parents decided that I should try out a regular summer camp before it was too late, which meant that I went the very last year you could go, which meant that all the people who had been going there forever had their long-standing friendships. They, in contrast to the people I went to

this other camp with, were all very wealthy, very upwardly mobile, very materialistic, extremely competitive with one another and I just didn't like it at all. I did learn how to shoot foul shots. My way of dealing with this nasty experience was to stay on the basketball court for hours and hours perfecting my foul shot. I got to be very good.

Rhee: When you look back on all the lessons – I just want you to give us a feel for the range of lessons you're talking about – what is your reaction looking back on it now?

Gorelick: I think my parents were looking for whatever hidden talent we might have and some of mine were very hidden. I could not do anything with art. I could appreciate it but I couldn't do anything. I was not particularly musical, even though my father's sister was very musical and there was some hope it had passed to me. I tried four – maybe more – instruments. I wasn't a particularly good dancer. I happen to have been good at tap dancing but that was an odd kind of dance to be learning. It took my mother a lot of work to find somebody who could teach me to tap dance and of course I never have had any occasion to use it. I think my parents had a very good attitude, which was, expose your children to all kinds of things and see where their strengths are and what they love.

Rhee: What was the upshot for you having come out of all those lessons?

Gorelick: That's an interesting question. I learned a lot. I was fluent in French both in writing and orally by the time I graduated from high school. I could tap dance.

I came out of the experience of all those lessons with a real appreciation for excellence, both what it takes to get to be excellent and how impressive the people who are excellent are.

Rhee: You were talking about a sense of security as being one of the things your parents emphasized in terms of parenthood. Towards the end of your high school and your junior year I take it that your mother became ill. Talk to us about that and how that affected you in the house.

Gorelick: My parents tried to shield us from any kind of upset. At the time, I had a lot of friends, I was doing well in school, I had just come back from Russia, I had written this article in *Seventeen Magazine* about my travels. Then my mother got serious breast cancer and we didn't know if she was going to live. She had major surgery and a long period of convalescence. When you think about how they treated breast cancer in the 60's, it's not the way it is done today – much more invasive and destructive of the body. For me personally, the period of the quiet security of the 50's led, in the middle and end of the 60's, to a period of tremendous tumult emotionally – and also politically in the external environment. As I am

entering my junior year in high school, my mother is very sick, and the country looks like it's on fire. I felt like the weight of the world – the responsibility – was on me.

Rhee: Your mom was very young to be diagnosed.

Gorelick: Yes. She was 43. I don't know if she had periods of depression before this but she definitely did afterwards. Her personality was often quite ebullient and infectiously engaging and funny. But sometimes she would be overcome by anxiety. Later in my life, people would ask me why a certain event or issue was not making me anxious. I think that in high school I had kind of an 'anxiety bath.' I just had so much anxiety all around me that I just learned to tolerate a very high level of it and function through it.

Rhee: Do you consider yourself an anxious person?

Gorelick: No. Not today.

Rhee: In contrast to your mother?

Gorelick: Right. Sooner than most young adults, I became more of the adult. Obviously, my parents supported me through college and through law school, but I became independent very quickly and then in many ways became a person who shouldered responsibilities in the family.

Rhee: How long was your mother ill in this first round?

Gorelick: She was pretty sick for two years and then in a very long remission. She chose radical surgery and treatment to have a long life. She didn't have a recurrence until she was 67. Who knows what would otherwise have happened, but she had a longer life because she chose radical treatment.

Rhee: While your mother was sick, you were finishing up school and heading off to college. How much of the day-to-day were you aware of in terms of her treatment and her struggle?

Gorelick: Not much. Even then, my parents tried to shield us from that.

Rhee: How successful was that shielding?

Gorelick: We didn't have to live with the details, but it was a constant presence in the house. We knew.

Rhee: This is about the time that you became quite close to your now-husband – is the timing about right?

Gorelick: Yes.

Rhee: I just want to circle back to how long he's been a presence in your life. How much of a factor has that relationships been in all the subsequent steps that you've taken?

Gorelick: I'm 64 and I've known him since we were 12 or 13, so it's almost all my life. I don't even know how to describe it. We own each other's memories. He knows everyone I know, including everyone I grew up with. His family grew up with mine so we have shared values, we have very much the same motivations. I trust him entirely.

Rhee: Just to probe a little bit, you've spoken about a family oriented around stability in the face of domestic instability with your mother's illness. There is also larger social instability during a period of terrific unrest. In the face of all that, you choose to settle very early in life with somebody you've known essentially for your entire life. Just to push on the theme of stability in the face of instability and vice versa.

Gorelick: I think that's a good theme. I trusted Rich. We did go to different colleges and we saw other people in college and the like and then got back together permanently after college and through medical school and law school. For both of us, we are there for each other, always there.

Rhee: Anything else to conclude the early formative years?

Gorelick: The only other thing I would say about Rich is that we are complementary of one another. There are things that I do that he doesn't and vice versa and that...

Rhee: Give us a concrete example.

Gorelick: Oh, there are lots of very concrete examples. I take care of all the business matters for the family and he takes care of food and family health.

Rhee: The sustenance.

Gorelick: Yes, and things like that. There's very little overlap in our skillsets. He plans things that I do not. I make the list of people to invite to our parties. He plans the menus. Literally, if you look at almost anything we do, there is very little inefficiency in that we defer to each other in our respective domains.

Rhee: When you talk about an awareness of gender dynamics growing up, what do you remember?

Gorelick: I was a tomboy and very physically active. Both my knees are covered with scars and filled with tar and pebbles from sliding into bases and falling off bicycles and that sort of thing. There was a certain abandon in the way I lived. There were lots of boys in the neighborhood but few

girls, and while I liked the girls, I didn't like doing what they liked doing. I didn't like playing indoors, and I didn't like the quiet activities. When I came to realize -- as I started to through elementary school -- that girls were expected to be less active, and quieter and more appropriately dressed and all that, I resented the constraints. It never quite sat well with me.

Rhee: I take it your parents were supportive of that?

Gorelick: Yes and no. They were very supportive of my wanting to do what I wanted to do. They were very clear that I could do anything. My father in particular -- he made clear that if I set my mind to something, I could do it -- and they made clear that they would support me. On the other hand, they also wanted me to be appropriate. If I fell in the mud and came home dirty or didn't pick out the right clothing to wear to school, they didn't like that. We had fights about that. I was rebellious at a very early age, maybe ten or eleven. My mother, by that time, was spending a lot of time on her artwork. My father supported that and provided everything she needed -- a model, a studio. But this was time that she might have otherwise been spending with us. We had a housekeeper, so that my mother would have time to do her work. That meant in part that I had a great deal of independence, in retrospect, maybe a crazy amount of independence. I had a bicycle, and I could go anywhere in the town. I took responsibility for buying all my own clothes, starting when I was about ten or eleven. I made a lot of mistakes, and I was allowed to make mistakes. By the time I was twelve or thirteen, I was extremely independent. I did what I wanted to do, pretty much.

Rhee: When you talk about rebellion, in what form did the rebellion take?

Gorelick: The normal teenage rebellion that happens when girls are thirteen or fourteen, I had when I was ten. I didn't want to be told what to do, ever. I made that clear.

Rhee: How did your parents respond to that?

Gorelick: They did not like that.

Rhee: You came of age in the fifties. While you were still at home, there was this cultural change that happened from the fifties to the sixties. What, if anything, do you remember about that slide from one decade to the other?

Gorelick: The town in which I grew up and where I spent most of my time as a child was a very secure place. It had a *Leave It To Beaver* quality in that, while none of the houses were big, they were comfortable. The neighbors were close by. Everybody's door was open. You didn't feel the least bit threatened. One of the reasons my parents gave me as much rope as they

did is that they had no fear about my well-being. That was a great way to grow up. I was in the Brownies and the Girl Scouts and had a quintessential 1950s upbringing, a decent elementary school, good teachers. In the summertime, there was a community pool. I spent all my time there. We had family vacations. We went to the national parks. We spent parts of summers in Provincetown at the end of Cape Cod, which was an artistic community in which my mother would paint and exhibit. I just grew up with a tremendous sense of security. As the sixties unfolded, there was much more tumult. The civil rights movement grew and, when I was thirteen, JFK was assassinated. We went from a serene, calm and nurturing environment to one of division and fear. Even though during the fifties we had drills in school to prepare for nuclear war -- we were taught to hide under our desks -- the reality of my life was such that I didn't fear anything. And yet, just a few years later, it seemed like the country and the world were in a terrible place. During my senior year of high school, both Martin Luther King and Bobby Kennedy were assassinated and our cities were on fire.

Rhee:

Before the national slide into the reality of the sixties, you talked about your parents being very civic-minded and politically conscious. What is your earliest memory of this -- a consciousness to the greater social good out there?

Gorelick:

I have two memories that would be most salient. One was simply the discussion at our dinner table, and the discussions among my parents' very large and articulate circle of friends, about politics. They were very active in the political debates of the times. I remember watching the Army-McCarthy hearings as a very young child on our first television. I remember discussions of the Stevenson/Eisenhower race. I remember my mother taking me with her to leaflet against Strontium 90 in the milk supply, and I remember worries about nuclear war. My parents were active in the civil rights movement.

Rhee:

What about you? When do you remember coming into consciousness for yourself about the greater issues of the day affecting you?

Gorelick:

John F. Kennedy's assassination was a real turning point because it certainly decimated the notion that the world was a peaceful and secure place. And it destroyed the sense of hope that the country had had. When I was thirteen and fourteen, I went to Mexico with a student group. When I was sixteen, I went to Russia. When I was seventeen, I went to France. This broadening of my perspective occurred as I was becoming more aware of the civil rights movement, which was gaining momentum with sit-ins and demonstrations. In that time, between when I was thirteen and when I was eighteen, I was very conscious of the politics of our nation and, of course the war in Vietnam was a growing concern.

- Rhee:** What is it that your parents wanted for you when you were growing up? Did you ever have that sense that they had a goal for you or an agenda for you?
- Gorelick:** They never articulated a particular goal or agenda. They simply said, "You can do whatever you set your mind to." They clearly did not want me to shoot too low. They expected me to be excellent in school and to achieve.
- I also wanted to be part of the social life in my community and I was still a jock. I liked participating in sports and I liked going to basketball games. There was this tension that I had to work out between being smart and being popular. I never wanted to be the popular person, but I wanted to be accepted.
- My parents would ask me how I did on an exam and where I stood in the class. I remember one time, my mother asked me where I was in class standing. I can't remember if I was fifth in the class or third in the class at the time. But she wanted to know exactly who was ahead of me in class. That all made me anxious to get good grades. To address that anxiety, my father bribed me to get Bs. He saw that it was taking a toll on me to be so focused on achievement. I'd totally internalized their desire for achievement, denying it all the way, but I had.
- Jeannie Rhee:** Tell us about how intense that was, to the point where your father was trying to bribe you to pull back a little. What do you remember of high school and how hard you were working?
- Gorelick:** I worked hard. I worked all the time. I felt I wasn't naturally going to achieve to their level of approval and that I therefore needed to work super hard to do that. It came at a cost. I didn't eat very much. I was quite thin. I was under a hundred pounds at my same height for all high school. It was just pure nerves. I think they saw this previously happy-go-lucky person turn into someone who worked all the time. Outwardly, I don't think I seemed troubled but I complained about being anxious and I didn't eat very well.
- Rhee:** What was grinding you so hard?
- Gorelick:** I just thought I needed to achieve. They kept saying, "It's not us. We're not telling you to do this." But maybe I didn't believe that.
- Rhee:** Did you have an end in mind or was it just to have opportunity? Was there a particular goal that you were trying to reach?
- Gorelick:** I had no goal. There were certain things I enjoyed in high school. I was involved with the student newspaper. I was in the student government. I liked all that. I was actually interested in my classes. It wasn't as if I was

making myself study things that I hated. But I felt like this is what was expected.

Rhee: Did it ever dawn on you when you were in high school that you might end up becoming a lawyer?

Gorelick: No.

Rhee: Did you know any lawyers?

Gorelick: My uncle -- my father's sister's husband -- is a lawyer. His practice was an all-purpose small-town practice and he found it satisfying. The only role model I had for a crusading lawyer was a television show called *The Defenders*, which happened to have been written by one of my uncles. In *The Defenders*, E.G. Marshall always vindicated the little guy fighting against the big guy, fighting against government, fighting against somebody who was doing something wrong. That was, if I look back on it, inspiring to me. But I never thought of myself as E.G. Marshall.

Rhee: Why not?

Gorelick: It just didn't occur to me. I had no particular ambition.

Rhee: When you look back, you don't remember there being someone who you wanted to model yourself after?

Gorelick: There were very few women in what we would consider the traditional workplace. My mother was an artist and she taught art classes. But mostly she was in her studio by herself. We had one family friend who built, with my parents' encouragement and support, a business as a dealer in Indian art, and she traveled widely. But she was really the only one I knew. I didn't think I couldn't do those things, but I never really thought about doing them. I honestly had no ultimate career in mind.

Rhee: In high school when they inevitably asked the "what do you want to be when you grow up" question, how did you answer?

Gorelick: I don't know if I was asked that question but I certainly didn't answer it. One of my dearest friends, Mark Kelman, who was my classmate starting in about first grade all the way through Harvard and Harvard Law School, was asked that question about me our senior year in high school. He said, jokingly, that I would be either a Supreme Court Justice or a housewife. That was his idea of a joke. I took it just as a joke. Even today, I don't know what he meant by that.

Rhee: Well, how can that be? Let me backtrack. You mention some of the extracurricular activities that you were doing in high school, including student newspaper, student government. Tell us about what you were like

in high school and how you were perceived even if you didn't perceive yourself that way.

Gorelick: I'm really not sure how I was perceived. I did well in school. I didn't really think of myself as an intellectual. There were many people whom I thought were smarter than me. I thought I was smart enough to do something interesting. I worked on the newspaper and the student government because they seemed like fun. I guess if I had to have picked anything that I might have done, it would have been to be a journalist. I mentioned that I went to Russia when I was 16. My parents had signed us up to go on a citizens' exchange program, because that was the only way you could go to Russia and my father had a curiosity about the country where he was born. *Seventeen Magazine* was looking for somebody to do a teen report on Soviet youth. They interviewed me and paired me up with a photographer from Magnum. We traveled around Russia for three weeks and I wrote about it.

Rhee: You were in *Seventeen Magazine*?

Gorelick: Yes, when I was 17. I'll show it to you, Jeannie.

Rhee: I would love that.

Gorelick: So I did that. I'd never done anything like that. But I did do it and I was proud of it.

Rhee: It's not a common occurrence for a 17-year-old to be in *Seventeen Magazine*?

Gorelick: No. But it was completely serendipitous. I didn't go looking for this.

Rhee: Well, how did it find you?

Gorelick: The folks from *Seventeen* asked the organizations that were taking people on trips to Russia for the names of the 15- to 17-year-olds who had signed up to go and the editors at *Seventeen* interviewed us.

Rhee: And you were selected.

Gorelick: After a lunch at Sardi's.

Rhee: Now why do you think it was you who was selected?

Gorelick: I don't know. You'd have to ask them. I think they thought I could do it, that I could go into the various places where younger people were in the Soviet Union, strike up conversations, learn, find some interesting things to write about, and be reasonably photogenic. The interview was with the photographer and the editor. How they picked, I don't know.

Rhee: You also ran in student body elections.

Gorelick: I did.

Rhee: Tell us about those.

Gorelick: When I was a sophomore, I ran for Secretary of the student body, which was the position that girls ran for, although usually as juniors. I won and the other officers – two guys who were good friends of mine in the class ahead of me, and I had a great time. The next year, my junior year, I ran for Vice President and I lost. My now-husband, Rich, ran for president and won and his best friend was my opponent. It was all very friendly.

Rhee: What, if any, lessons did you take away from your student body electoral days?

Gorelick: I don't know - I worried about being thought of as pushy or uppity or resented in some way. I was trying to do something that hadn't been done before. I think that high schools are full of resentments and competitions. I think that gender complicates that question, whether characteristics that would be lauded in a boy at that age were thought odd in a girl.

Rhee: I want to pursue that. You've told us about being a tomboy as you were growing up and not conforming necessarily to gender expectations of what girls should like to do in their free time. Having a personality that is exuberant and assertive. You also just told us about the lack of any role models in a professional space during this time. Just reflect on what it was like and what you remember about being an assertive young woman in this moment in time.

Gorelick: I was pretty comfortable with myself and maybe not terribly self-aware. I didn't know how others perceived me. In high school I was in what was thought of as the smart kids' track so I knew I was smart and I had friends in that track who were on the nerdy end of the spectrum. But I also had friends outside that track, who were more social or athletic, and I liked that. I went out with the center on the basketball team. I liked being in both of those worlds. I wouldn't have been happy in only one of them. How other people perceived that, I don't know

Rhee: You made a reference to running against your now-husband's best friend. You essentially grew up with your husband, right?

Gorelick: Yes. We met when we were 13.

Rhee: Tell us about that meeting.

Gorelick: Oh, I don't remember that meeting.

Rhee: Tell us about how you became friends with your husband way back in the day.

Gorelick: We were just in the same classes and we got to know each other and he was my best friend.

Rhee: Why was he your best friend?

Gorelick: He was very grounded, very secure in himself. Very smart. He had many interests. He was, in addition to being student body president, he was interested in the theatre. He was athletic. We had very similar values. He came from an interesting family. His father was a psychoanalyst. His mother was a homemaker but also an artist. And both of them were erudite and intellectually curious. He bridged the intellectual and the social divide that I was feeling. He was athletic and social and easy in that space, and he was really smart. Annoyingly smart.

Rhee: What do you mean by that?

Gorelick: We would study together, or I would study and then I would call him to see how he was doing and he would not have done anything. He would do either just as well or just a tiny bit less well than I did - with no effort. It was annoying. He was smart in ways that I wasn't. He was much better at science than I was. He liked to have fun. I was a pretty fun-loving person. I felt very secure around him. Very safe.

Rhee: When did this friendship turn into a romantic one?

Gorelick: When we were seniors. We were both going out with different people. I was in France and we corresponded and then had decided that our lives should take a different course.

Rhee: And you've been together ever since?

Gorelick: Well, we went to college in different places and we saw different people. He went to Columbia, I went to Harvard, but we got back together when he was in medical school and I was in law school.

Rhee: Tell us about what it's been like to have a spouse whom you've known for so long and what that's meant for the rest of the trajectory of your life.

Gorelick: Well, you have shared memories that are for most of your life so if one of you doesn't remember something, maybe the other one will. High school reunions are funnier. Our families became close. His sister is one of my best friends. There's no division in our lives in any dimension.

Rhee: For a lot of men who are of this generation, out of the '50s into the '60s, there are definitely expectations and norms about how the division of

labor in the household will go and who should have primacy in terms of the pursuit of one's career and the like. How is it that the two of you together have defied some of these rules, background norms, or expectations?

Gorelick: We have lots of friends who have shared responsibilities in the way we do, where both partners have really compelling careers. I don't feel that we are unusual. He is tremendously supportive of me. I also feel that I'm tremendously supportive of him. Maybe it was because we grew up together that our expectations grew up together.

Rhee: It's popular wisdom these days for women who are pursuing professional careers, that one of the most important decisions one makes in fulfillment of that pursuit is who you choose as a partner. What do you think about that?

Gorelick: Totally correct advice from my point of view. You have to have somebody who is going to care about what you want as much as you do and who is going to work to find solutions about how to balance all the different competing demands on one's time and energy and money and to do all of that with the same perspective that you have. It may be the most important decision that one makes.

When we talk over issues like whether I should take this job, should you take that job, should we adopt a second child, should we buy a new house or stay in the same house or whatever – we've made hundreds of decisions, large and small – we approach decision-making from the same core set of values. Even where we might see an issue differently, the baseline of our decision-making is the same. That's just critically important. I am able to put myself in his shoes and I think he's able to put himself in mine. We also don't see decision-making as a zero-sum game. It's worked for both of us, not without some sacrifice on both parts, but it really has worked. He's been an enormously supportive person for me, always in my corner. He's a much fiercer protector of me than I am of myself. I think the same is true for me about him. In drawing a lesson from that, I would say, 'choose wisely and think about what's really important.'

Rhee: At the end of high school you're thinking about where you're going to go to college and what you might want to do. What are you thinking?

Gorelick: If you were a successful student, my high school would try to track you to one of the better state universities. I was not advised to shoot for the schools that I did shoot for. I wasn't sure that I could get into any of the places that I was really interested in. I had friends at Harvard. I had friends at Penn. My parents had a friend at Swarthmore and one at Penn. I went and looked at schools. I talked to a lot of people and I got into

Penn early and then just shot for Harvard as well. My guidance counselor thought that was ridiculous and that I wouldn't get into either place and that I shouldn't bother.

Rhee: Why is that?

Gorelick: It was objectively hard if you were coming from one of the very large suburban high schools. I don't know that we'd had very many women get into Radcliffe (Harvard) at all. And while I was good, I wasn't a genius. I had a shot. I took it and I got in.

Rhee: Did you have a perception back then for your wherewithal to be an effective manager, to...

Gorelick: Be an effective manager? No. I was a high school kid.

Rhee: Just hear me out. I mean – to put your mind to something and then just set out to go get it, or to be a leader?

Gorelick: No.

Rhee: When do you think that came into your consciousness?

Gorelick: During college, I got much more of a sense of how other people perceived me than I had coming into college.

Rhee: A lot of high school kids – in the face of the assassination and all of the upheaval and unrest – I think you said it yourself in one of your earlier answers – essentially wanted to set the country on fire. Was that your reaction?

Gorelick: No, and I had many entreaties to join that group. There were people like that who were my friends in high school, and the same thing was true in college. I had both high school and college friends who traversed every kind of politics and other activities. The political ones, or the angry ones, very much felt that you had to, not quite, set the world on fire, but you had to go outside the system and I didn't. I did not agree with that.

During my senior year in high school, I worked, first, on the Bobby Kennedy campaign and then, after his assassination, I worked on the McCarthy campaign. With the assassinations of Bobby Kennedy and Martin Luther King and the riots in our cities, the feeling on the part of people in our age group was that the normal body politic wasn't listening. That led to tremendous alienation. A lot of people we knew decided that the system was completely broken and that if you wanted to save the country, you had to go around the system. That became the central question politically and even socially during our college years. The

predicates were all laid in that spring of our senior year. The mood was not light. It was very serious and worried.

Rhee: Did you have any inclination to do set the country on fire?

Gorelick: I shared the frustration of so many and I didn't know what to do, but my instinct was not a destructive one.

Rhee: Why do you think that?

Gorelick: It didn't feel right. It didn't feel American. It didn't feel like it would end well. It didn't feel principled. A lot of it felt very self-centered and self-involved and not designed to build a movement that would bring about change.

Rhee: This is our third installation and we are going to cover your college years.

Gorelick: Okay.

Rhee: Just by way of orientation, why don't you walk us through your impressions when you got to campus. Just give us a feel for your perspective when you got there.

Gorelick: I was one of two women from my town going to Radcliffe – one from each of two large high schools – and there were a couple of men from each of the two high schools who were going to Harvard. I barely knew anybody at Harvard. I remember going into my freshman dorm and looking out the window from the common room onto the quad below. There were girls playing field hockey. One of the girls from down the hall was identifying those who were playing field hockey. It occurred to me that she knew, by virtue of having gone to one of the private schools, many girls at Radcliffe. I knew almost no one. I felt from the outset like an outsider.

Rhee: Did you feel that way?

Gorelick: I did. I felt very much in the minority. I was Jewish, I was from a big public high school and the tenor and tone of the place was very preppy in the beginning of 1968.

Rhee: Tell us a little bit about your impressions of the political life on campus when you started.

Gorelick: The countercurrent to that preppiness was that the previous spring had, as we have discussed, been very tumultuous. The senior year of everyone who was in my freshman class saw the assassinations of Martin Luther King and Bobby Kennedy and an election season that seemed unfair and not likely to put the country on the best course, to say the least. There was

an undercurrent of alienation that the upper classman also felt. You had this almost immediate collision of the beautiful campus and the sense that you had “arrived” on the one the one hand, with a sense that the country was going off track in a pretty serious way, on the other.

Rhee: What was your sense of the gender dynamics on campus when you arrived – tell us a little bit about the composition of your class and the reception to women that you felt.

Gorelick: I was in one of the last classes of freshman women who lived in the dorms at Radcliffe while the guys lived in Harvard Yard. There were 300 women and 1200 men. That was the result of the cap on the number of women. The classes were all taught where the guys lived, pretty far away from where the girls lived. Indeed, you would often have a course in which all the books were in Lamont, which was in Harvard Yard, and you had to travel a good mile if you wanted to read them. There were lots of things like that that were just gratuitously insulting but they’d always been like that and our predecessors hadn’t made an issue of it.

Rhee: And did you?

Gorelick: Eventually, yes. It didn’t take very long, but yes.

Rhee: What was it like in the classroom itself? Did you feel or perceive there to be the same kind of imbalance as the numbers bore out?

Gorelick: The first thing that one had to do was apply for freshman seminars. Here you are, just having completed what you think is the biggest application process that you could ever complete and having gotten into the school of your choice, and you then must start all over again applying for things that are hard to get into to. I applied for the freshman seminar taught by Martin Peretz, because it was supposed to have been the best. I went for an interview with him. We had a long conversation about the responsibility of the university in the situation that the country was facing – where our democratic system didn’t seem to be working, where we were in a war that was bad for the country and the world, and our race relations were not on the right course. I thought we had a really good conversation, but I wasn’t admitted to the seminar. Only one woman was admitted of the 12 or so people in the seminar. I did get into a fabulous freshman seminar taught by Professor Jack Womack, who was the biographer of Emil Zapata. I, like most freshman, was looking for a smaller home like a seminar so I could locate myself in this large university.

Rhee: Give us your impressions of the academic life. Was it more rigorous or less rigorous than what you were used to, what was your sense of things?

- Gorelick:** I thought I was pretty well-prepared for college by my high school education. I was afraid that I wouldn't be, that the people who'd gone to prep schools would have gotten a much better education than I had. In some respects they had, but many had not. Some of the women who'd gone to women's preparatory schools were disoriented by the co-ed environment in ways that I was not because I was used to it.
- A lot of learning was done in talking with fellow classmates, and just trying to figure out what my place at the school would be.
- Rhee:** Speaking of "place," when you got there, what did you decide you wanted to do and then what did you end up doing in terms of activities outside of the classroom?
- Gorelick:** I thought I would want to be on the *Crimson*, but ended up not enjoying that. When I got to school, I was disillusioned by politics. I tried out a lot of different groups within the school. I met a lot of different people and just tried to see where I might fit. I ended up finding a home in a small major called Social Studies, where students were exposed to brilliant people – both faculty and students. That became my home.
- Rhee:** Before we get to Social Studies because that's a longer part of this conversation, you touched on religion, gender, and you talked about race, but I didn't ask you specifically about it. Just give us your impressions of what the racial dynamics on campus were like, particularly when you got there and then we can talk about how those dynamics changed over time.
- Gorelick:** I lived with a number of African American women and I had an African American a "big sister," Fran Farmer, who was just wonderful. I got to know a number of her friends. Many of them wanted to be part of this iconic institution but they were also angry and worried about the country and concerned about being excluded. But for them, the feeling was heightened. It was hard as a woman and a Jew and somebody from a public school, but I think coming as an African American during that period and getting to campus and seeing how white it was, must have been very challenging. I've stayed friends with a number of the women I met as a freshman. One of them, Ifa Bayeza, is a playwright, who often writes about race, historically and otherwise.
- Rhee:** Social Studies – how did you find it or how did it find you?
- Gorelick:** When I started talking to people about their majors and I started taking various courses that might give me a hint of what I might want to do, I was curious about history, economics, sociology and government. Choosing among them didn't seem right, and they were also very big majors. This little program, this interdisciplinary program called Social Studies, allowed you to study all those subjects and it put you through a

very rigorous tutorial process where you read the great thinkers – Durkheim, Weber, Freud, Marx – and debated their world views. I liked that very much. I liked the smallness of it and I liked the intellectual debate.

Rhee: How small is small?

Gorelick: I don't remember how big the program was, but there were perhaps 50 people in my class, I'm just guessing, and my tutorial had maybe 10 students.

Rhee: What were you debating?

Gorelick: You debated whether Marx was right or wrong, and what you quickly saw was that he created this tautological universe, in which he was right if you assumed his assumptions. You learned to really immerse yourself in a view and a doctrine and pick it apart. Analytically, it was very interesting and because the time period brought out the passions of politics, the arguments that we addressed became proxies for what was happening in the world around us. We had huge arguments in our tutorials. Some of my closest friends today are people I stayed up all night arguing with. It was great, it was intellectually interesting, it was immersive and the professors were, I think, the best that Harvard had to offer.

Rhee: Looking back, what, if anything, would you say about the legacy that this course of study provided for you?

Gorelick: It taught me to read and slog through things that were hard to read. If you have a career that is built on reading decisions written by a wide variety of judges, that's a good skill to develop! But it also taught me how to be analytical about doctrine and that's extremely useful. It taught me how to build an argument and take it apart. Importantly, it taught me how to look at a situation from many different points of view – for example, Durkheim's perspective on culture, or a Marxist perspective on the economic realities underlying a policy, or a Freudian perspective on what is driving someone or some country or some movement, psychologically. It taught me how to write, because the criticism we received was pretty brutal. And it taught me how to be an oral advocate because I had to convince people who were really dug into their positions.

Rhee: You did a thesis at the end of your senior year.

Gorelick: Yes.

Rhee: Tell us about that. Within Social Studies, right?

Gorelick:

Yes. I decided to try to look at a group of people who were tremendously devoted to a cause, who became assimilated into both the popular culture and the economic engine of the country.

A number of my friends had joined the Students for a Democratic Society. These were mostly middle-class and some upper-class kids who took on the mantle of the workers but I couldn't see that the workers wanted their help or were following them up the hill. At the same time, it was clear that one couldn't just sit back and look at what was going on and do nothing. Pretty much as soon as I got to Harvard, the school erupted into various paroxysms. The takeover of Massachusetts Hall occurred when I was a freshman. There were strikes pretty every spring of my first three years. African American students went on strike one spring. We had a strike arising out of the bombing in Cambodia.

It occurred to me that if I looked at the left-wing playwrights like Clifford Odets, who later went to Hollywood and became screenwriters, I might learn something about radicalism in the United States. I got a small fellowship to pay for a trip out to California and many of these people – Dalton Trumbo and others – were willing to talk to me. I taped interviews of them. I tried to elicit from them why they moved – they literally moved from the east coast to the west coast – why they changed what they were doing, and whether the different job descriptions and the different atmosphere changed them, and what they thought about that. I'm pretty sure I did not discover the answer. The writers maintained that they were as passionate and devoted politically in Hollywood as they had been in New York, so I don't think I got any fabulous insights, but it was interesting.

Rhee:

What was your perspective on the tension that you were identifying of wanting to react to the circumstances around you and yet – I'm struck by the phrase you used – [thinking that things were] "slightly crazed."

Gorelick:

It was actually crazed. I was looking, in preparation for this interview, at a book by Roger Rosenblatt, who was the Master of Dunster House during this period of time. He interviewed a number of people, including me, about how they felt about the tumult on campus that fall, when students took over University Hall. There were calls by the students inside University Hall for others to join them. You could be inside University Hall, you could be far away or you could be, as I was, there on the outside hoping to be a bulwark against the police coming in.

In the end, the police did come in, with what seemed to be a military-like assault. For middle class students to be tear-gassed was not within their normal experience.

I didn't believe the argument that Harvard was part of the military-industrial complex and had to be stopped. On the other hand, I thought Harvard seemed indifferent institutionally to what was going on around it, and that, while there were conversations at the edges of the university about how to address what was going on in the country, there was not a focus on this set of concerns. It wasn't something that the university as a whole was trying to grapple with. I was concerned with that indifference and I felt that the university should have been a more enlightened place, a place that could come up with solutions and forge consensus. That's kind of where I ended up. It was a disturbing time.

I was also active on women's issues. A lot of what happened to us as women was, in retrospect, comic, but it wasn't at the time. When I got to Radcliffe there were parietals, meaning there were certain times you could come and go, certain times when men could visit and the places in the building where they could visit, etc. Over my freshman year, the women protested this system and soon those rules disappeared. As quickly, women were moved to integrate the Harvard houses. I was on the Committee on Housing and Undergraduate Life and I was very active in that process. I also tried to get women access to athletics and athletic events. It seems ridiculous, but if you were a woman undergraduate living in Quincy House, you could not get a ticket to a home football game, but the men down the hall could. When challenged, Harvard had this elaborate argument about how, if it were to give the seats to women, it would have to take away seats from alums and those alums would stop contributing to Harvard – or it would have to ration tickets to the male undergraduates and, when they grew up, they would not give money to Harvard, and so on. They had charts and weird metrics to prove that women shouldn't get football tickets because otherwise Harvard would go broke. The icing on the cake, of course, was their saying that all that women needed to do to go to a game was to get a date. They had no idea how infuriating that was.

Rhee: That's one example of the term you used – comic – so give us an example of things you were fighting against in your own way.

Gorelick: The discrimination against women was real. If a guy got an A in a class, he got a Harvard Book Prize. But if the woman sitting next to him you got an A, she didn't. None of the Harvard traveling fellowships – for post senior year -- were open to women. None. You could not apply for a Rhodes or many of the other fellowships. These may seem like silly battles to fight, but the second-class status of women at Harvard was apparent every day and needed to be addressed.

Rhee: The fellowships were formally not open to women?

Gorelick:

They were not. In fact, Harvard said it would have to break these trusts in order for women to be eligible because their criteria were written for men, e.g., for the man “who best emulates Henry Joe Smith III in intellect and physique.” These gender battles combined with those involving the war and race. If we return to the subject of Social Studies and my senior thesis, what Social Studies taught me was to go deep and to go broad and to not be bound by disciplines, but to be bound by rigor -- and to read, and debate, and listen, and debate some more. I came out of college feeling that I could digest these big questions if I stood back from them a little bit and took the time to understand them. That’s what I tried to do in my senior thesis. I don’t think I ever arrived at the answer to what it is that converts or changes a true believer, but I did learn something from the people with whom I spoke.

By the end, I had taken courses from Marty Peretz – he became my tutor – and Mike Walzer and Roger Rosenblatt and David Landis and David Riesman. I had wonderful teachers and they left me very well-prepared. I also learned a lot from my fellow students. If I look at my friends today, many of them are the people with whom I have been discussing hard questions since we were eighteen.

Rhee:

We’re going to talk about some of your fellow students and how they’ve been touchpoints in your life going forward. I just want to pause a little to come full circle on your thesis, both the subject matter of your study and your observations and indeed where you physically situated yourself. Not inside the University Hall, not a mile from it, but literally standing and guarding the perimeter so to speak. Where do you think that comes from – that perspective – in a period where there is a lot of unrest? Why stay the course of working within the institution and trying to change from within?

Gorelick:

I have a deep skepticism about politics as a religion -- or a religion whose tenets go unquestioned. I found the partisans on both sides to be in many ways unquestioning of what their colleagues were saying. They didn’t listen to each other or to the other side. It wasn’t that I liked moderation for its own sake. I actually thought that one needed to listen and consider in order to end up in the right place.

Rhee:

Speaking of working from within, you spoke of various committees that you were a part of – undergraduate life, co-residency. How did you get involved? Did they come looking for you? Did you go joining them?

Gorelick:

I don’t remember seeking to join any of those. Maybe I did, but I don’t think so.

Rhee:

Why do you think you were selected?

Gorelick: I have no idea.

Rhee: What was your relationship with the administration, I guess, for lack of a better term?

Gorelick: Well, you can tell from my stories about the athletic tickets that I thought a lot of what the administration said was ridiculous. And their notions certainly haven't withstood the test of time, let's put it that way. But they didn't even withstand scrutiny in the moment. In addition to that, there was a way of talking to me and others which was very patronizing, I thought. That may be the one thing that infuriates me the most – someone patronizing me. I remember one such session with the administration – about a women's issue. And I was so furious that I just bolted from the room. My friend Merrick Garland, who was two years my junior, followed me out and he must have spent an hour talking me down because I was so furious. I don't lose my temper easily, but I was just beside myself with this particular dean. He wasn't listening and he was patronizing. I hated that. Let me put it this way, I did not like the experience of powerlessness.

Rhee: You mentioned Merrick Garland. Just give us a flavor of the people you met in Social Studies and on campus who became lifelong friends and, in fact, colleagues.

Gorelick: I made two lifelong friends in my freshman House: Candy Lee and Margie MacNeille. We are still very close and see each other regularly. They were not in Social Studies, but they were very, very good friends. Many other women in my class remain good friends.

Friends from my classes have also remained lifelong friends – Linc Caplan, David Ignatius, Mike Kinsley, E.J. Dionne and so many others with whom I stayed up arguing. Mark Kelman with whom I'd gone to high school remains a good friend. Dan Meltzer, Bob Taylor – you look at the people who are friends today, they were friends then. Seth Waxman and Merrick Garland and I were all in Quincy House together. You'd never know that the then-to-be Solicitor General made his claim to fame working in the Quincy House Grill. He made a very good cheese dog.

Rhee: If there was a common thread, or commonality, amongst the people that you gravitated towards or became close to, what would that commonality be, if there is one?

Gorelick: Well, they were all very genuine. They were -- each in their own way -- full of beans, full of life, really interested and really curious. They came from very varied backgrounds, and they were very engaged in and by the world around them. And they all had some – to use the Yiddish term – “mishegas” to work out.

Rhee: Alright, so, fast forward to graduation and you are selected to be the Radcliffe speaker.

Gorelick: Yes.

Rhee: How did that come to be?

Gorelick: The committee organizing graduation asked people to come and try out, to stand up and say what you would talk about. I agreed to do that and they asked me to be a speaker.

Rhee: Why did you want to do that?

Gorelick: Well, I thought it would be fun – which it was. I thought it would be good to not just glide out of school at the end of the year but to try to put some thought around the four years that I had just spent and think a little bit about the future.

Rhee: At that point in time, you already knew you wanted to go to law school?

Gorelick: By the time I graduated, I knew I was going to law school. At the beginning of my senior year, I thought I was going to be an academic. Indeed, I had applied for and gotten a Fulbright – one of the few fellowships for which women could apply – to go to England to study intellectual history. Then I did my senior thesis, which involved interviewing these very interesting historic figures and trying to make sense of the role of the intellectual in political life. After writing it – sitting by myself, reading and writing and reading and writing and reading and writing and editing for months – I concluded that I would hate being an academic. So, at the very last minute, I applied to law school.

Rhee: Why so late coming to the realization that you might want to be a lawyer and might be a very good lawyer?

Gorelick: When I was growing up, various people had said that I should be a lawyer. Maybe it was because I argued a lot. I don't know. I never felt that this was my path, so I think that I did it by default. As I mentioned, I have an uncle who is a lawyer. I had another uncle who wrote the screenplays for a wonderful show called *The Defenders* in which E.G. Marshall always righted some terrible wrong. And that actually did affect me. But I just never saw myself like that. I never did.

Rhee: I just want to push on that a little bit because notwithstanding the academic bent that clearly runs through, it seems as if you couldn't help but become engaged as a more active participant.

Gorelick: Maybe I just didn't know myself well enough. It became obvious at the end, but it wasn't at all obvious at the outset. If another month had gone

by between finishing my thesis and when you could apply for law school, I would have missed the deadline.

Rhee: And you would have gone off to England?

Gorelick: Yes.

Rhee: All right. Tell us about the subject of your commencement address.

Gorelick: I was looking at how to be an adult in the world as it was changing. And though my mother had worked, she didn't work in an office setting or in a normal professional setting. She was an artist. My father worked but made a very big point of coming home for dinner and was unlike a lot of the fathers in our town who commuted into New York City. I wanted to talk about not being pegged into one model or the other – the homemaker or the completely driven career person who doesn't have a life, and that's what I talked about.

Rhee: It was the dichotomy between a Supreme Court Justice and housewife.

Gorelick: Yes. As we discussed, my very good friend, Mark Kelman, with whom I'd gone to school from first grade all the way through college and law school, wrote as a joke in my high school yearbook – that I would either be a Supreme Court Justice or a housewife. That was his joke. I don't really understand the joke. But it was a joke.

Rhee: When you say you don't understand it, why not?

Gorelick: Maybe it was how choices were framed then -- that you needed either to be this hugely ambitious person who cared most about career, or pay attention to family. Basically, what I was saying was we're going to have to invent a third way, which I think we have.

Rhee: That's your last hurrah as you're finishing out your college years?

Gorelick: My mother, by the way, after my speech, asked, "Why didn't you tell me you were speaking?" It just didn't occur to me to talk this over with either of my parents.

Rhee: They had no idea?

Gorelick: They had no idea that I was speaking, and they had no idea, obviously, what I was speaking about.

Rhee: How is it that you didn't tell them?

Gorelick: Afterwards, I realized I probably should have – I guess I was busy. I don't know.

Rhee: What was your parents' reaction to your commencement address? Other than obvious surprise?

Gorelick: I think that they both would have had a point of view because they both struggled with this choice themselves. I actually missed an opportunity by not talking to them.

Rhee: What did your parents think of your decision to go to law school?

Gorelick: I think they thought it was fine.

Rhee: Without a lot of thought, you're wrapping things up and you're –

Gorelick: No, it wasn't without a lot of thought, in that I thought deeply about what I didn't want to be. Some people don't figure that out until they're thirty. I did it when I was twenty-two, because the process of writing my thesis brought home that that was not the right path for me.

Rhee: Before we move on to the next chapter, what did you want to do with a law degree? Did you have in mind some rough shape of where you wanted to go from there?

Gorelick: By the time I got to law school, I wanted to use a law degree to even the scales.

Rhee: When you say, "even the scales," in what way?

Gorelick: I wanted to make sure that people who otherwise didn't have a voice had as strong and as effective a voice as those who had the full power of society on their side. In the way that I was looking at it at the time, that could have been the government in a criminal justice setting, or representing the little guy against the big guy in a corporate setting or civil rights setting. I gravitated toward the civil rights and civil liberties community. I was very active there. I loved my criminal justice class, which was my very first class at Harvard Law School with Alan Dershowitz. I found the things that motivated me.

Rhee: Okay. Speaking of transition, talk about the transition from college to law school – not just the transition from one part of campus to another, but what else is happening in your life in terms of this transition?

Gorelick: I really did think of it as just moving from one part of campus to another, which turned out to be a foolish way of thinking about law school. I had thought that college was terrific. I had learned a tremendous amount. It had been an intellectual feast. And, as I considered law school, I thought that I was going to have three more years of the same. What I found at law school was a completely different environment. The focus was much more on learning specific disciplines and principles. While we learned

how to use those principles and debate the right answers, we did not debate the more philosophical question of why the law was or should be one way of the other. I didn't like that limitation. In my first year of law school, I just could not believe how constrained the conversation was. I grew to understand that the law school was trying to teach me, in essence, a trade and a way of thinking. But I wasn't mentally ready for it. It probably would have been a good thing for me to take that fellowship for a year, but I didn't do that. At that point, I was in a hurry to get into the world and to be in the world. I went straight through. But I was surprised by law school.

Rhee: Tell us your observations about your incoming class at law school.

Gorelick: It was a very heavily male environment. Women comprised about 15 percent of the class. The law school was still quite set in its ways. Even though women had been there for over a decade, the numbers were very small and the school wasn't ready for women in any real numbers. There was a woman who arrived at school pregnant and she couldn't even fit in the seats where you had to fold the desk up from the side of the seat, so that it came down in front of you. There was only one women's room that was very far away from most of the classrooms. You couldn't use the gym at the law school because there was no locker room and no place to shower. Well, you could use it – you could play squash – as long as you didn't sweat. Things like that sent a message that we didn't belong there.

Rhee: Did it feel different than the undergraduate campus in terms of the political tenor and the gender dynamics?

Gorelick: Yes. It seemed more conservative and, because the professors used the Socratic method, they were just much more in control. Typically, our professors were men about thirty years older than we were. While they did not intentionally discriminate, their attitudes toward us would seep into the classroom. In our contracts class, the professor would pick two students to debate a particular issue. He happened, for the first time, to pick out two women to debate between themselves. When he had heard enough, he said, "Well, you ladies can continue this over tea." Now, he might have thought that was just a little segue to his next topic. But we hissed and booed. He could not understand why we thought the comment seemed dismissive. He said, "Should I have said bourbon? What is wrong here?" He couldn't get his mind around it. In another class, we saw the society's barriers creep into our academic discussion. The noted constitutional scholar Gerald Gunther, who was visiting Harvard from Stanford while working on the Learned Hand papers, would structure a debate between two students and then he would turn to another student to adjudicate. After one back and forth between two students playing petitioner and respondent, he turned to me and asked, "So, Mr. Justice Gorelick, how would you decide?" I was the first woman he had cast as

the justice. I just was nonplussed. I said, "Mr. Justice?" And he said, "Of course, that can't be right." But, because there were no women justices, all justices were known as Mr. Justice XX. He was so disturbed by this that he couldn't let it go. There were many moments like that, where the future and the past were colliding in the classroom.

Rhee:

You mentioned a professor with whom you took a criminal law class and was not 30 years older than you and your classmates at the time. Tell us about if you could perceive change coming even amongst the faculty and what that was like.

Gorelick:

That certainly was true. The younger professors were very different in so many ways. Alan Dershowitz had become a professor at a very young age, not long before we arrived at the Law School. Our section of about 125 students had him for Criminal Law. It was the first class that we had in all of law school and I happened to be seated -- in the fixed seating chart -- right in front of him. I got the very first question in the very first class of our first-year section. It was about an issue whether you can or should detain someone on the basis of what he was likely to do as opposed to for what he had done. Dershowitz had a long interest in the issue of preventive detention of the mentally ill. The issues that he teed up were very interesting and meaty, and I jumped right in. I had feared what that moment was going to be like, but because it was a debate about something real to me -- a question that was both a legal and a policy issue that I could understand -- the fear just melted away. And it was a liberating moment.

I loved the class, and then at the end of the semester I asked if I could work for him over the summer, which I did. That was also terrific because he was actually handling cases, though he had no partners or associates. I got to do much more than I otherwise would have been able to do in a law firm.

Rhee:

We're going to get to that. But what were your reactions to other classes aside from the criminal law class that first year?

Gorelick:

I had a very hard time just figuring out what law school was about. It took me a year. I eventually did, and I did fine, but the conversation -- about rules and how they apply to subsequent factual settings and the development of precedent -- was hard for me when I kept thinking about what should be. It wasn't until I understood that you really could ask the question, "What should the law be," that I got the law -- that I figured out that there was a place for someone like me in the law.

Rhee:

Did you perceive thinking to be discouraged by the way in which you were being taught first year?

- Gorelick:** Yes, in that I felt that the main focus was on learning the discipline of assessing what the rule of the case was and how it should be applied to the situations that followed. Until you got that first piece, nobody much wanted to hear about what the rule should be, and that's understandable. But it wasn't where my head was.
- Rhee:** January 6, 2015. We're now transitioning from college graduation and going straight to the other side of the campus to law school. Just by way of orientation, walk us through what the composition of the class looked like and what the faculty dynamics were like at the time that you started law school.
- Gorelick:** As I said, the law school was, to my great shock, very different from the college. It was really my fault for not understanding the difference between the two. In 1972, the law school was still very male and very traditional. There were about 75 women in my class of about 550. If you divide that by four sections, it gives you a pretty good idea of how few women there were in each classroom. There were very few women faculty. There was a sort of old-fashioned *Paper Chase*-like feel to the place. Then, there was just the difference between the very open and very questioning academic atmosphere of my college years and what seemed to me be more of a "trade school" approach. That sounds more pejorative than I intend, but I had to come to grips with the fact that the Law School was designed to train your mind in a very specific way. And certain questions were sensible to pose, and others not -- at least at the outset.
- Rhee:** Let's break that down. This is a period of transition for -- my understanding is that your law school class had 75 women, but just two years above you, that number is substantially smaller, right?
- Gorelick:** The third-year class when we were first-year students had 25 women. The numbers before that were even tinier. We were, altogether, about 150 out of 1600 students. If you take the presence of women generally in the law school, you really felt like a small minority.
- Rhee:** Can you give us examples of what that meant tangibly? Walk us through -- you show up and you go to class and are divided into sections.
- Gorelick:** The women spoke up less. As I mentioned, the classrooms were set up in such a way that our pregnant classmate couldn't fit in the seats. The seats had desks that folded in front of you, and there literally was no place that she could sit.
- Rhee:** And so what did the professor do?
- Gorelick:** Eventually, he said, "Take notes on your lap," and then that didn't work. So we got her a folding chair. It just didn't occur to anyone that women

might get pregnant and would need places to sit. There were no restrooms for women anywhere convenient. In the main teaching buildings, there were only men's rooms. You had to go very far, and you literally planned your trips to the women's rooms. You couldn't really use the gym because the locker rooms were only for men. So little things like these made you quite aware that you had been merely injected into this place and were at risk of being rejected as a foreign body.

Rhee: What about in the classroom? Did you feel like you were being heard?

Gorelick: There were little things that made the women in the class uncomfortable and that reminded you that you were in a minority and in some places, not welcomed.

Gorelick: There was an all-men's eating club that invited professors to lunch. You felt like an outsider in some ways then.

But, all of this had one very good effect – the women in the class bonded with each other. We developed very good senses of humor, I think, and strong relationships across the group of women in the class. To this day, the women in my class have a listserv. For forty years, my classmates have had a group to counsel with when they were starting out in their careers, on family questions, health issues and everything in between. Many of the women meet twice a year and literally have three days of being together so that they can keep up with each other. It was an extraordinary bonding relationship that came of this feeling of isolation.

Rhee: And turning to the faculty, by this time was there the beginning of some transformation of the faculty from the *Paper Chase* old guard to a more critical thinking school?

Gorelick: The faculty itself was divided in part on left/right issues. There also were younger faculty that had come on board who were different in the ease with which they dealt with women and frankly with a diversity of views and approaches to the law. While the influences of the older guard and the more formal classroom techniques were very strongly felt, there were cracks in that facade. I don't mean to suggest that every senior faculty member was alienating in his approach. Jim Vorenberg, who later became Dean, was the person for whom I wrote my third-year paper. He was a wonderful teacher and a wonderful mentor. But mostly my relationships were with the younger professors, with the exception of Gerry Gunther, whom I have mentioned. He was at Harvard working on the Learned Hand papers on sabbatical from Stanford.

Rhee: You mentioned just how jarring it was to go from the kind of push-pull discourse that you found in your college years to the structure and the pedagogy of the law school. Other than the fact that it was jarring, how

did you react to it and did you find it to be as intellectually challenging and fulfilling as your college experience?

Gorelick: Well, it was definitely not college, and I fault myself for thinking it would be. It took me an entire year to understand that there could be two different types of intellectual challenges. I came in thinking that, in studying the law, I would be studying subjects that would be as interesting as the intellectual explorations of Weber and Marx and Durkheim had been, because they were largely about how we structure ourselves as societies. I was shocked to find that there was really none of that. That's my fault. I found it very confining because one didn't really ask a lot of "why" questions. Ultimately, you do in the law. But in the first instance, you're really learning the discipline. You're learning how to take statutory law and common law principles and apply them, and you're learning that process – that analytical process. I bridled at that at the beginning. I came to like it, but I bridled at it in the beginning.

Rhee: And would you say that by your second year you felt like you had made the right decision to pursue it?

Gorelick: Yes and no. After the back-and-forth with Alan Dershowitz that I described, I became interested in criminal law and in the question of the proper relationship between the state and the individual. Almost from that moment on, I saw a path for me to learn the law and use the law to help guide that balance between the individual and the state. If you look at my career, it's largely been about that.

Rhee: He was a young faculty member at that time?

Gorelick: Yes and he wasn't teaching criminal law in the traditional way. He brought students into the debate by posing some of the most fundamental questions.

Rhee: And were you one of those people sucked in?

Gorelick: Completely. I was really interested in these issues and was among the small number of students who were interested in criminal law. I tried to figure out whether I could make a career in criminal law. When I finished that first semester, I asked him if I could work for him during the summer. He basically said, "Let's see how well you do in my course." I did work for him that summer. I got to work very closely with him on real cases with real stakes, and I could see that that would be something that would really interest me.

Rhee: So what do you remember from that first – that 1L summer working for Dershowitz?

Gorelick: I remember realizing how powerful the state was, and how many tools were available to prosecutors that weren't available to a defense attorney. I remember learning how important it was to turn over every rock and to really think creatively about what your client had done and not done. I learned a lot about the attitude of a defense lawyer. I also met a lot of characters because his clients were not your normal white-shoe businessmen.

Rhee: So give us an example, if you can.

Gorelick: He represented a lawyer who himself had represented organized crime figures. The lawyer himself then became a target of investigation. Discerning whether the lawyer was part of a criminal conspiracy or just doing his job and where that line should be drawn was fascinating to me. I remember after an argument in the Second Circuit that Alan had, we went for lunch in a restaurant and bottles of wine just started to arrive from clients of our client, we knew not whom. Working on these cases taught me what I liked and didn't like. I liked having as much responsibility as he could possibly give a first-year law student. That was great.

Rhee: And what didn't you like?

Gorelick: There isn't much I didn't like about the work that summer and into the fall. I did wonder how one could practice in this area and have a high-quality practice because a lot of the people practicing criminal law were not very good, and the economics of the practice were such that people couldn't afford to have you spend a lot of time being thoughtful and scrappy and turning over every rock, and that was a challenge. That's one of the reasons that people go into criminal law on the side of the prosecution. The issues are interesting and the government has more resources.

Rhee: So these positions working for Professor Dershowitz certainly are coveted positions. What do you remember about, if anything, the competition and the cultural bond at Harvard Law School?

Gorelick: Honestly, I just thought this was something I wanted and I asked him if I could do it. I had no idea if there were other people interested. I assumed that there were. The fact that he said, "I want to see how well you do in my class and the kind of grades you get, how you write," was an obvious thing for him to ask. It did put a fair amount of pressure on me to do well on that exam – even more than you would normally expect to have. But at that point in time as a first-year student, I didn't really have a set of expectations about what jobs might interest me, in the way that I did later at Harvard Law School. At that point, people were just doing whatever they could do – a number of us actually worked for professors during the summer, which was fun.

Rhee: Okay -- transitioning into the second year. What do you remember in terms of that transition from being a 1L to a 2L?

Gorelick: Well, you had a lot more freedom as a second-year student to pick some additional courses that you would like to take, to dig deeper into certain areas. You had the opportunity to work on issues or cases that were interesting to you. I was very interested by that point in time in civil rights and civil liberties and had signed up for both the Civil Rights and Liberties Law Review and the clinic in which cases were brought. I had both a clinical exposure to public interest law, as well as an academic element involving civil rights and civil liberties law. I also worked for Cambridge and Somerville Legal Services. I thought I might want to do legal services work when I graduated, and I learned that I didn't.

Rhee: And why is that?

Gorelick: Because there were just no adequate resources. The case load was such that you could barely scratch the surface. You could help people a lot. But the quality that I was looking for would have been very hard to find given the resources that were there. I also found -- I didn't like finding this out about myself -- that I didn't like working in an environment where the copy machine didn't work or where you had to be the project assistant and the secretary in addition to being the lawyer. It was a good thing to learn about myself, that I did not want to work in that setting.

Rhee: What about your clinical experience? What do you remember about that? Do you remember cases that you took on?

Gorelick: I can't remember specific cases. The other area that I thought might interest me was public interest law. The premise of public interest law is that there's a problem in society, and you are going to fix it by bringing a case. I liked cases that had real people. I found it more compelling than an idea. My second year helped me learn a lot about what was important to me.

Rhee: And what was the conclusion? You identified the things you did not want to do in the long-term pursuit. But coming out of those experiences, did you have some sense of what it is that you affirmatively might want to do?

Gorelick: For my second-year summer, I was bound for a very good Wall Street firm that had a very good litigation practice.

Rhee: Why did you choose that initially?

Gorelick: I just assumed I would go back to New York which is where I was from, and I assumed I would work in litigation because it was the subject to which I had migrated during law school. I assumed I would go to a firm

with a reputation for legal excellence and where the people were sympatico. At least I thought that I should would try it. This was the kind of summer associate experience that my classmates were expecting -- and it was kind of a free look at what the bulk of Harvard Law graduates do.

Alan Dershowitz asked me one day what I was planning on doing for my 2L summer, and I told him. He basically said, "You're crazy." He said, "I have nothing against that law firm -- it's an excellent law firm. But it's not for you." I said, "What are you talking about?" He said, "You belong in Washington." It was late in the process and I couldn't go back and start interviewing with Washington firms. In any event, he told me that the firms that I should work for didn't interview -- they didn't have summer programs in any event. He said, "You need to go work for Edward Bennett Williams." I said, "But he's got this tiny law firm." I think they had maybe twenty people at the time, and they didn't seem to hire anybody. He said, "No, I'll call him." He called Ed Williams and suggested that I fly to Washington to meet him, which I did. I met with Ed Williams and Joe Califano and Paul Connolly, and they asked me to work there over the summer.

Rhee:

All right, we have to back up on this story. Before you had the conversation with Professor Dershowitz, had Washington even crossed your mind as a place where you might set up shop?

Gorelick:

This was late 1973. The country was being rocked by Watergate. I hadn't really thought about going to Washington as a litigator. I had thought of it as a place I would go if I were interested in a public policy job of some sort, but not as a litigator, which is where I was focused. I hadn't even interviewed in D.C. during the fall of my second year. Alan basically said, "Look, there are scrappy law firms that have really interesting litigation practices that also involve public policy, and you're a perfect fit for that." Had he not said that, it wouldn't have occurred to me, at least not then.

Rhee:

So you just named the three founders of what is now clearly a Washington institution.

Gorelick:

I enjoyed meeting each one of them. They were very different from one another. I ended up spending most of my time in the Williams part of the practice. Connolly had a more corporate practice. Califano had a very varied public policy practice and also did litigation.

My first case was helping to try a case in which the firm was representing a woman who was trying to keep her son committed to St. Elizabeth's because she felt that he was a danger to himself and others if not committed. She said that when he didn't take his medications, which he didn't when he was not confined, he threatened to chop people up. So

here I am, a person committed to civil liberties, a person who doesn't believe in preventive detention or any kind of state control without a finding of an illegal act, and in my very first case, I was helping to advocate that somebody should be put away in St. Elizabeth's.

The case was tried in the District of Columbia Superior Court in the building that is now the Building Museum, but which at the time was a courthouse with courtrooms all around the outside perimeter. The large interior atrium was full of humanity because the court handled family law, misdemeanors, parking tickets, and all manner of disputes there. The building was dirty and grimy – which is hard to remember because it is so glorious now – I could not see how there could be real justice adjudicated in such an environment. But there was. The judge was able, the proceedings appropriate and substantive and I learned a lot – including that justice can be delivered in a depressing setting.

I worked on other cases. I did research memos. I sat in on depositions. I heard lots of war stories. Williams himself loved to tell stories, and I met a lot of the then-young partners who have been friends ever since.

Rhee: So it's a tiny firm. Were there any other women at that time?

Gorelick: The only woman with whom I dealt had been there about five or six years. But it was a very male place – very Irish, a very hard-drinking, hard-working, hard-playing place.

Rhee: And how did you find that?

Gorelick: Fine. It was fine because I can adjust pretty much to any atmosphere. If you're going to be a litigator, particularly representing individuals, you're going to work with trial lawyers who, at least in that era, in the '70s and '80s, were like that. And many of my friends today are like that.

Rhee: Did it have any other summer associates?

Gorelick: There was one other Harvard law student who had worked there previously in some capacity, I can't recall what, and we became the entire summer associate class.

Rhee: After your experience that summer, what did you think? How did you find it?

Gorelick: Well, Richard and I liked working in Washington. He was, at that point, a third-year medical student. Part of the question was where would he like to live and work. I think he had, as I had, assumed that we would go back to New York. But we liked living in D.C. It was a riveting summer because of Watergate, which was all anybody talked about. The Congressional hearings were going on. I liked my work. My instinct was

that even Williams, Connolly and Califano was going to be too big for me – that I wanted an even smaller place if I could find it.

Rhee: And what made you think that?

Gorelick: I'm not really sure. I felt that if I could be the second person on a case as opposed to the third or fourth, I could grow more. I could be more helpful. My value could be seen more readily. I didn't want to have to push my way into responsibility. I wanted it to be there for me to take. I'm articulating this in hindsight more thoughtfully than I would have at the time.

Rhee: So you come back to the law school for your third year, and what do you remember about the experience of that last year?

Gorelick: Well, I had worked very closely with Jim Vorenberg about liberal programs that go awry.

Rhee: This was for your paper?

Gorelick: Yes. My instinct was that if you looked at a lot of liberal solutions to problems, they involve the government being a greater presence in the lives of people, and that it would be interesting to see what the data would show about whether those programs ended up being more constraining of individual liberty or less. So, I looked at the example of pre-trial diversion in drug cases. The notion in starting these programs was that a defendant who otherwise would have been convicted of a drug crime and would be diverted to a program that would help that person to stay out of trouble. If they successfully completed that program, then the indictment would be dismissed.

That sounds great, except that what really happened was that prosecutors, not having to make the hard decision whether they could or should indict, just said, "Let's throw the person into pre-trial diversion." Defendants worried about taking the risk of conviction, and their counsel, thinking, "Well, how bad could the diversion be," recommended people for diversion who could well have walked away from their brush with the law under the old rules. What I found was an expansion of social control in the name of a reform.

It was very enlightening, because the data did support the concern. I've had that same concern my whole life – that you really need to examine the premises of putatively helpful efforts on the part of the government to see whether you end up expanding government control at the expense of liberty.

Rhee: How did you come upon this topic as a research agenda?

Gorelick: I guess I was always worried about governmental power, before college and in college. I spent a lot of time in criminal law classes thinking about these issues, and Vorenberg was very interested in it. I don't remember exactly how we arrived at the topic, but it was natural for me, although counterintuitive.

Rhee: Were there any other programs that you focused on in addition to the pre-trial diversion program, or was that where you were looking in the data?

Gorelick: No. I had the same thought when I was Deputy AG. Are we offering people deferred prosecution agreements whom we wouldn't have decided to indict? Have we just lost the principal step that you're supposed to take, which is to decide at the outset, "Is this a criminal matter?"

Rhee: You also took clinical classes in your third year, right?

Gorelick: I did, and they reinforced a couple things: One, that I liked having individual clients, but, two, that I was not meant to be in legal services.

Rhee: So in your third year, you decided to pursue a clerkship.

Gorelick: Yes.

Rhee: And what informed that decision?

Gorelick: I thought about it during the summer that I was working in DC and talked to a number of people who had clerked, who felt it was a really valuable experience. I wasn't very interested in an appellate clerkship, but I was interested in a district court clerkship and applied to Judge Bryant, who was just in everybody's estimation the best trial lawyer on the bench in the District of Columbia. I interviewed with him and I found him to be lovely. He offered me a clerkship, which I was thrilled about.

Rhee: And then what happened?

Gorelick: It turns out that the premise of the offer was that he would move from having one law clerk to having two, as most of his colleagues had. He had been using the second clerkship as what they used to call a "courtroom clerk" to, in essence, support a law student who was going through law school because you could do the courtroom clerk job without a huge number of hours. The person in that job was finishing law school and was going to get a job, and that would free up a second law clerk slot.

Well into the spring, the Judge called and said, "I don't have any guarantee that this student is going to get a job. He's having more trouble than I thought he would. I have to continue to employ him until he gets a job, and I can't tell you when that's going to be. I can offer you the clerkship in a year, but I can't offer it to you now. If you can't wait, then

it would be prudent for you to find another job either for a year or permanently.” School was ending, so I couldn’t wait. I think I waited a month and then I was really up against it. Unlike literally anybody else in my class, I had no job at the end of my third year.

Rhee: And so were you panicked?

Gorelick: Somewhat. I figured it would end okay, but I wasn’t sure how. I called everybody and interviewed widely in Washington for a variety of jobs.

I was talking to a professor of mine, Nat Lewin, about this. Nat Lewin had come to Harvard Law School on a clinical professorship which brings to Harvard Law School for a year a very well-regarded practitioner. Nat taught white collar criminal defense, First Amendment law and appellate advocacy. I took two of the three of those courses and I loved them. I loved the course material. I loved his energy. I loved everything he talked about. He brought practitioners of all sorts to speak to the class. You got a very real sense of what his practice was like.

When I went to him for advice, he said, “Well, why don’t you come and talk to my law firm?” I knew his law firm as a very well-regarded boutique law firm called Miller, Cassidy, Larroca & Lewin. It hired highly credential people, most of them former Supreme Court clerks. It never hired people straight out of law school.

Rhee: Is that why you hadn’t pursued it?

Gorelick: It just did not occur to me that I could apply there. He said, “Come and do it.” His wife, Rickki, whom I had met in Nat’s classes, was encouraging. She felt they should have a woman in this law firm.

Rhee: And they had none at the time?

Gorelick: They had none at the time. They had none for a long time after, too. I interviewed, and they offered me a job on the condition that I start literally the day after law school ended because – and I came to see this when I was there – the firm didn’t hire until it was so busy it couldn’t not hire. They had gotten so busy, and Nat liked me and the other people seemed great.

Rhee: And did you know anybody other than Nat Lewin at the time?

Gorelick: No, but I met them all. I interviewed with all of them. I was the ninth lawyer. I met him and the other seven.

Rhee: And were you, in fact, the only non-Supreme Court clerk at the time?

Gorelick: Well, let me see. There were two lawyers who had been clerks but not Supreme Court clerks. But most of their recent hires – Ray Randolph (who later was appointed to the DC Circuit), Martin Minsker, Bill Jeffress – had clerked at the Supreme Court. The other person hired to start with me was Bill Bryson (who later was appointed to the Federal Circuit) was finishing up a clerkship with Justice Marshall. It was a pretty rarified atmosphere.

Rhee: And what was your reaction to it?

Gorelick: I thought it was great. The people were really different from one another. You couldn't have picked more different people than Miller, Cassidy, Larroca and Lewin. They were different politically. They were different religiously. They were different in their personal styles. The only thing they had in common was that they liked practicing with each other. I jumped right in.

Of course, I had to take the Bar exam. I was working full time and taking the Bar at the same time. And I was saved by Bryson who was reviewing cert petitions over the summer and didn't have that much to do. He reviewed all the materials from the Bar Review course, took great notes and shared them with me. I completely cribbed off of him. We both passed but I'm sure he passed with a higher score than I did!

Rhee: And when you transitioned down to D.C., was Rich still finishing up medical school?

Gorelick: Yes. He was entering his fourth year, so he was able to take many of his rotations in D.C. He did one rotation in Boston, one in New York and the rest in D.C.

Rhee: And at that point in time, were you planning on getting married?

Gorelick: We'd planned on getting married in a year. But it became really apparent to me that some of the wives of the guys at Miller Cassidy were anxious about me being there. I just wanted to take that issue off the table. So we moved up getting married to that September, which made my mother nuts because I didn't tell her until June.

Rhee: And what was her reaction?

Gorelick: You'll never find a caterer.

Rhee: And did you find a caterer?

Gorelick: I asked a friend of ours who was a caterer in Boston to cater our wedding in New York. She rolled all the food and all her staff into a truck and

drove down in a hurricane, and they all slept in my soon-to-be mother-in-law's basement.

Rhee: Speak a little bit more about the perceived anxiety on the part of the spouses of your going to work at Miller Cassidy.

Gorelick: My first day there, I sat down with the managing partner. He said, "Come on in and let me tell you how we work around here." And he said, "We're not that formal a place. The guys call each other by their first names, and the gals, meaning the secretaries, call the guys by their first names unless a client is around – in which case the gals call the guys by their last names." He's going on about what the guys do and what the gals do, and I finally asked him, "What am I?" And he said, without skipping a beat, "Oh, you're a guy." That kind of gives you a sense of what it was like. They had no idea what they were getting into here. The secretaries did tell me that they thought the wives were anxious about me being there. You know, you worked late. You traveled. There had never been a woman attorney there. I just thought, "Well, I'll take it off the table." I said to Rich, "I'm feeling uncomfortable about this. I don't want people to worry. How about we get married in September?"

Rhee: And what was Rich's reaction?

Gorelick: "Sure." The problem, of course, ended up being that I was working and taking the Bar. There were a lot of decisions to be made. And he was working in New York over the summer. So I asked him to just work things out with my mother. My mother would say, "Do you kids want yellow napkins or blue napkins?" And Rich would say, "Blue." And she would say, "You sure you don't want yellow?" And he would say, "Okay, yellow." And she'd say, "You sure you don't want blue?" And so finally he would say, "If the napkins aren't blue, I'm not going forward with this wedding," and just be completely arbitrary about it because she was so anxious - as you might imagine that somebody planning a wedding on no notice would be. I was imposing this real burden on her but I had no idea. I thought, "What's the big deal? It's a party at our house, and people will come and it will be no problem." Now I realize that this was an incredible burden. But she said, "The kids want this and this is what the kids will have," and so she proceeded to do whatever was necessary to have a wonderful wedding in our backyard. Rich basically handled all of the decisions, including finding my wedding dress.

Rhee: What?

Gorelick: I didn't have time to go shopping. My mother would find these wedding dresses and send me pictures but I didn't really like what she was picking out. They were too elaborate. But I didn't have time to go find another one. Rich came down one weekend and went to the Phoenix – the

Mexican clothes store in Georgetown – and he found a very simple lace dress. He called me and asked me to come look at it, and I did and that was my wedding dress.

Rhee: What was your mother –

Gorelick: She thought it was fine. It was actually pretty. It was simple.

Rhee: So I take it he saw you in your wedding dress?

Gorelick: Yes, yes.

Rhee: Okay.

Rhee: This is Jeanie Rhee and this is the fifth Gorelick session for the ABA Project. Okay, so Jamie, we're going to – we ended the last session right upon law school graduation, and you took basically no time off in the transition to your first legal job at Miller Cassidy. So that's where we're going to begin, okay?

Gorelick: Okay.

Rhee: All right. Remind us again, you were attorney number?

Gorelick: Nine.

Rhee: There were how many associates versus how many partners?

Gorelick: I think when I got there, there was one associate above me who became a partner very soon after I got there, and one other associate joined with me at the same time and then one came the next year. Everyone else was a partner.

Rhee: Tell us a little bit about this firm. It was founded in 1965 with three name partners, right?

Gorelick: Well, there were three name partners, and then they added Lewin. Jack Miller had been a partner at Kirkland & Ellis. He had gotten to know Bobby Kennedy through some anti-labor racketeering issues that Miller had worked on. When President Jack Kennedy was elected and Bobby Kennedy became Attorney General, he asked Jack Miller to become head of the Criminal Division. He did this even though Jack was a Republican and indeed, perhaps because Jack was a Republican, because it would give him as Attorney General insulation from any notion that he was using the criminal sanction for political purposes. After President Kennedy was assassinated and after Bobby Kennedy left as Attorney General, Jack Miller left the Department and was joined by John Cassidy and Ray Larroca, whom he had known in various ways, and a fellow named

Courtney Evans, the FBI's liaison between Hoover and Kennedy, to form the firm. Lewin, who had been an ace lawyer in the Justice Department working with Miller, joined them. He had been a part of the Hoffa prosecution when it was being tried by Jim Neal, the U.S. Attorney in Nashville. Nat was part of that team and was called "Instant Law," for his command of the law and his agility in answering hard questions. He was the firm's first former Supreme Court clerk.

That was the heart of the firm, and it grew by adding people very, very gradually. Both Bill Jeffress and Marty Minsker joined right after their Supreme Court clerkships. By 1975, when I joined, I was the ninth lawyer.

Rhee: Okay, and you're the one and only woman?

Gorelick: Yes. For a very long time.

Rhee: And one of two associates?

Gorelick: Yes.

Rhee: Okay, so you show up, and what does the caseload look like there? How does work walk in the door at Miller Cassidy in 1975?

Gorelick: Well, it came in to different people. Miller was by far the most significant business developer. He had a terrific network of people from his DOJ days, people who looked to him as a friend and as a counselor, and they would send him work. People at then-Wilmer Cutler & Pickering sent him work. Other lawyers around town did because the practices of the large law firms did not include white collar criminal work. Miller Cassidy was asked to do that work.

Rhee: Okay, so criminal defense work comes in the door.

Gorelick: Yes.

Rhee: And what about work on the civil side?

Gorelick: We did whatever walked in. I think that my first case was working on the Supreme Court brief on behalf of Richard Nixon, when he was challenging the legislation that made his papers property of the government. I was asked to draft the Bill of Attainder argument. When you are in law school, you would never expect to have to address the Bill of Attainder Clause of the Constitution. Two of John Cassidy's clients were NASCAR and International Speedway. We did a lot of work for them on things like what language should be put on the tickets so as to prevent people from selling photographs and films of the races. We often had to decide what kinds of constraints there should be, consistent

with antitrust law, as to what the drivers could do to change the engines in their cars and still call them cars.

We represented a former Deputy Attorney General in his effort not to be disbarred. We had a big Tax Court trial. John Cassidy and Jack Miller had a client that was one of the largest grocery farmers in Florida right near Lake Okeechobee. He took on the Agriculture Department which he felt had shut him out of the parsley growing allocations. I worked on a voting rights case that went to the Supreme Court. I worked on multiple iterations of a case called *Zweibon v. Mitchell*, which involved whether John Mitchell and others were immune from suit for having used National Security wiretaps without a warrant against members of the Jewish Defense League.

In the fall of my first year as an associate, I worked with Nat Lewin in the representation of Bernard Bergman, who was charged with fraud both federally and by the New York State Special Nursing Home Prosecutor. I ended up negotiating with AUSA (later Judge and Attorney General) Michael Mukasey a significant portion of the plea agreements in that case just after I passed the Bar. We represented Alaska natives who lived in the lower 48 states in a suit to establish their entitlement under the Alaska Native Claims Settlement Act. I began my work for the National Public Radio in this early period. It was one of my very first clients, and that representation continued until I left the practice of law in 1993. And worked on sentencings and parole decisions. I worked to correct a dishonorable discharge from the Navy. Really, whatever came in the door.

Rhee: All right. Let me back up based on what you said. First, in 1975, do you recall how much you were making? What did the legal market look like at the time?

Gorelick: My salary was \$16,500. The partners at Miller Cassidy did not earn as much as partners at big firms. The clients that I listed were not the big companies who routinely pay their bills. Miller was really good at a lot of things, but not the business arrangements. Indeed, John Cassidy used to have to accompany him to initial meetings with clients to have a business conversation about the arrangements, because Jack would just jump into the case.

Rhee: Okay. In reviewing this long roster of cases that you were working on within that first year, were there other women lawyers on any of the other sides?

Gorelick: Not that I can recall.

Rhee: In terms of staffing, given how small the firm was to begin with and then the volume of work that is just apparent from your off-the-cuff recitation, how much supervision or lack thereof was there in your first year in practice, and how did you go about just diving into the practice of law?

Gorelick: There was a fair amount of supervision if you think about the ratio of partners to associates. No significant pleading went out without a partner's involvement. It was highly collaborative. I learned a lot. I was pretty well-edited and taught, I think. We weren't without help. We had paralegals. We had term-time law clerks who were mostly Georgetown Law night students. It wasn't as if there were only the two of us, Bill Bryson and me. But we did have a piece of nearly everything that was happening in the firm.

Rhee: What did you conclude after the first six months to a year about what you liked, what you didn't like, what you thought you were good at or what you thought you were not quite as good at, in the vast array that constitutes the practice of law?

Gorelick: I liked it all. I thought that this was a riot, so much fun. I was so grateful to have been hired by this firm. I got up every morning wanting to go to work. And I worked really hard. I liked drafting briefs and doing legal research. I liked the witnesses. I liked the clients. I particularly liked getting out into the country and seeing how work was done -- seeing how parsley was grown and how radio programs were made and how race car drivers drove. All of that was terrific.

Rhee: Apropos of some of the earlier conversations we were having about why it is that you chose not to be an academic ultimately, could you imagine a practice that was more cloistered brief writing, for example, and making that your focus?

Gorelick: No, and indeed, Bill Bryson was more drawn to that part of the practice. As between the two of us, he spent relatively more time in the library, and I spent relatively more time with clients and witnesses.

Rhee: On the road?

Gorelick: And on the road. Bill and I were a good pair. Together, we made one very competent associate as we had very complementary skills.

Rhee: How quickly did you start to take over the administrative/managerial operational aspects of the firm?

Gorelick: I never took over the managerial aspects of the firm, but I did take over the hiring process.

Rhee: How is that not managerial?

Gorelick: Well, I wasn't doing some of the things that, for example, Seth Waxman did later which were management of our collections and real estate issues and staffing and the like. I didn't actually do that. I didn't have much of an interest in it.

Rhee: How did it come about that you developed an interest in the hiring side of things, and how did you come to be the hiring attorney at Miller Cassidy?

Gorelick: We didn't have a hiring attorney, so I told people I would do it.

Rhee: But did they even think that they needed one?

Gorelick: Well, no. Before I got there, lawyers would reach out to the firm.

Rhee: How did folks who preceded you find their way?

Gorelick: I am not certain of that. Lewin, having clerked up at the Court, had an interest in identifying other people who had had that experience. The summer associate hiring, the term-time hiring and ultimately the full-time hiring, I thought, would benefit from some regularization. I started with the summer program, which barely existed. For one thing, I thought it would be fun to have new blood come in during the summertime. While the firm had had that, it was pretty much random in terms of who found the firm and whom the firm hired. I thought we could use the summertime to allow people to get to know the firm. Then they would go back to their law schools and tell people that they thought it was a good place to work. Ultimately, as those people went off and clerked, we would be better known. The firm had an excellent reputation, don't get me wrong. It just wasn't widely known. Everyone at the firm thought that was a great idea if I was willing to spend time on it. So I did.

Rhee: What did you proceed to do?

Gorelick: Well, I registered for us to interview at Harvard and Yale, which was about all we could do in the beginning. Ultimately, we also interviewed at UVA, because we hired a lawyer who had gone to UVA. We started out very, very small.

Rhee: And exclusively.

Gorelick: Well, we couldn't digest more than a few people. As it turned out, the spots were hotly in demand. Bill Jeffress was very well-known at Yale and Nat and Marty were very well-known at Harvard. We were known to faculty. Between that and coming up and talking to people about what we did, we got great applicants and we had terrific people come for the summer and some of them came back. Some of them went off, some of them never came back. The buzz was pretty good, so it made the regular hiring easier.

Rhee: You got a fair amount of press for summer hiring and the summer associate program. Do you recall how that came about?

Gorelick: This was about the time that the legal rags started ranking law firms on all sorts of dimensions. They started ranking summer programs, and we were just the sort of counter-example that they loved. We kept getting ranked as the best summer program in Washington, even though it wasn't much of a program.

The work itself was interesting, and that sold itself. Our colleagues were interesting and fun, and so that sold itself. I called in a lot of chits and had friends of mine who were doing interesting things in the legal community come to talk about their lives and their careers, and that was fun. Not having big elaborate social events was actually a plus because the kids who came to work saw what it was really like to be a lawyer in that firm. The firm was charmingly quirky. Miller's office was had a hodgepodge of antiques – old, creaky pieces of furniture that were once beautiful. Since he chopped his own wood at his farm every day, he had many axes around. He had a painting that had been done by Teddy Kennedy for him (Kennedy was a client), and then he had a sign for Miller beer – Miller liked his beer - in the window, and it just flashed all day long at Patton Boggs, across the street. We had a stocked kitchen. You could eat three meals a day there if you wanted, and some of us did. We also had beer in the fridge. We had foosball. We had a sauna and a shower. We had a little gym. We had a sun deck on the roof. If you wanted to move in, you could.

Rhee: And how quickly after you did Seth Waxman join?

Gorelick: Seth came two or three years after I did because he had taken a fellowship before law school and then a clerkship after law school, and he was a year behind me in college. I think it was three years.

Rhee: Did you have anything to do with his arrival?

Gorelick: Yes, I was the hiring coordinator, and I arranged for his interview. I told everybody what a good guy he was from our time together in Quincy House and he came very well-endorsed by many other people – including the judge for whom he had clerked, Gerhard Gesell. He was a great addition as a lawyer and as a friend.

Rhee: Looking back on that time, anything you would have changed? Things that you identified that you found problematic?

Gorelick: I liked working with certain of the lawyers better than others. I spent some effort to get myself involved in cases with one person rather than another.

Rhee: Who did you become particularly close to and develop a strong working relationship with?

Gorelick: I did a number of cases with Miller, who was just a force of nature, an intolerable punster. He had more crazy ideas about how to win a case than you could imagine. If you were good at separating the wheat from the chaff, and you spent time looking into some of his theories, they often paid off. He had a love of life and a sense of adventure about practicing law that was just wonderful. Lewin was a great tutor. He put me through my paces. He tore my briefs apart. He was incredibly demanding, but he was also incredibly trusting of me to handle matters. He would just send me off. It was remarkable. He gave me endless amounts of work, and I was pretty much endlessly expandable. I worked really hard, and I enjoyed it. And then I worked a lot with Bill Jeffress, who was a very young partner at the time. He had become a partner after only maybe six years. I had one of my big cases with him and learned a huge amount.

At the same time, I also found that there were some aspects of practice that I didn't like as well. I second-chaired a criminal trial in New York and didn't enjoy it.

Rhee: Why not?

Gorelick: Well, for one thing, I really hated the relative advantages of the U.S. Attorney's Office. We were dealing with an AUSA who was just abusive and obnoxious. He would make me wait for five hours to get documents that he was obliged to turn over. He would just jerk my chain because he could. We did what we could to even the scales, and I felt very good about doing that. The trial itself was really a trial to overcome the refusal of the prosecutor to come up with an appropriate disposition. We knew that we did not have terrific factual defenses but we could not believe that any judge who heard the facts would sentence this defendant in a way that the AUSA was demanding in a plea. The case was about the student lunch program. Our client was a young kid who had helped run a summer camp in New York that served subsidized lunches. They didn't fill out any of the paperwork correctly. They shouldn't have done that, but it wasn't the crime of the century. Because the prosecutor thought it was the crime of the century, he didn't offer anything worth taking. We tried the case really to show the judge what there was and what there wasn't. That's not the most satisfying thing. In the end, the sentence was more appropriate than what had been offered. The final aspect of the trial that I didn't love was having to divide my attention between presenting the facts and the performance elements of the trial. I couldn't hold both thoughts in my head at the same time, and I found the second really distracting from the first. And so –

Rhee: You preferred the finding of the facts rather than the theatrics of it?

Gorelick: Correct. If had to look back thematically at these early years, what I learned was that if you really applied yourself to a case in its early stages, if you found the facts, if you pursued every legal theory and if you could be persuasive with the opposition, you could get to the right result or something very close to it. Whereas, trials had a serendipitous quality to them that I didn't like. I felt that you could get to a right result or a wrong result with little way of predicting which it would be, and I didn't like that. I got a lot of satisfaction out of bringing cases to a sensible conclusion. Now, I was perfectly happy to litigate. For example, in the cases that I did with Bill Jeffress, the IRS and the Department of Justice took the position that executives at state banks in Louisiana couldn't sell insurance without the insurance income being attributable to the bank even though Louisiana state law said that banks themselves could not sell insurance. I had fun litigating that case because there was a disagreement between federal and state law and we had an opportunity to present the facts and the law to the court. I was confident that it would come out the right way, which it did in the face of a lot of overbearing behavior from the Justice Department and the IRS. I was perfectly happy to litigate. There was something about the trial process, at least in my early experiences with it, that I didn't love.

Rhee: Did that surprise you?

Gorelick: Yes, because I thought that was what I was going to do.

Rhee: February 19, 2015. Another session for the ABA oral history project. Where we left off last time was talking about the early years of your practice. You had a client, Lockheed, with whom you were very much involved.

Gorelick: Yes, Lockheed Shipbuilding.

Rhee: What were you doing for Lockheed?

Gorelick: The Lockheed Shipbuilding case was one of the early fraud investigations involving the defense industry. There was a grand jury investigation into whether there had been proper billing for work on a very large program to construct submarine tenders. These were the early years of the enforcement focus on the defense industry. It was very frightening to the defense industry, which had been previously viewed as a strong partner of the U.S. government and not used to this sort of thing. The complexity of billing in government contracts is enormous. What we did was to learn the facts from the ground up. I decamped to the Lockheed Shipbuilding offices in Seattle for quite a while. I worked out of the shipyard. Indeed, I had the opportunity to tour a submarine tender as it was being built, with a 13-story scaffolding up its sides. These are enormous and complex construction projects. I waded through the acres of costs that were attributed to the contract. With a young partner, Marty Minsker, I literally

wrote brief upon brief explaining all the costs and how they were appropriately accounted for. This might sound very boring, but it wasn't in two respects. One, it was fascinating to see how a submarine tender was built and what went into it, both from the technological point of view and from the business end. Second, it taught me the value of really getting your hands dirty, literally, to learn the facts. These records were row after row of paper records in boxes. I dug into them to understand the facts better than anyone else. Ultimately, we persuaded the Department of Justice that there was no case here, much to the client's relief. It gave me the feeling that if one really addressed an issue on the merits, one could, despite tremendous momentum on the other side toward doing something punitive, make people stop and think that may not be the right result.

Rhee:

When you think back on the wide diversity of cases and clients, are there any common themes or common thoughts that come out of your representations about what those early years taught you that have carried you forward in practice?

Gorelick:

First, the cases themselves taught me the value of curiosity and the benefits to the parties and to the system of understanding the reality on the ground, which a lot of people tend to gloss over because it can be dirty business. You have to spend a lot of time to understand what it takes to produce a radio program or grow parsley or build a submarine tender. But it's worth it.

I think the second learning for me, looking back at my early cases, was a different view of risk-taking – which was that if you don't take risks, you're taking risks. A lot of my friends were in the government, in larger firms, in organizations that had offered them what they thought of as a safer path, a less risky path, a path that would allow them - in the vernacular - to keep their options open. I had, on the face of it, taken a risk in going with this little law firm, but I was able to use my skills much more substantially and stretch myself more than most of them were able to do. My conclusion from that was that in taking a risk, I had taken a less risky path.

A third learning from this period of time was that despite the many ways in which systems tend to put you in a track, you actually have a fair amount of latitude in charting your own course if you decide that you are responsible for your own life and career. The first part of that was figuring out what my own strengths and weaknesses were. Then I tried to shore up my weaknesses and play to my strengths. Every day, I learned from the people who were more experienced than I was. People now talk about mentors in a sort of plastic, rigid way. I don't think any of the partners at Miller Cassidy would have thought of themselves as my mentors, but they were, each in their own way. For me, I really had to

decide what I could learn from each one, and I did learn different things from each one of them.

Fourth, within the firm, I learned a couple of important things. One was the importance of values in motivating people. The partners in the firm had founded it on a set of values that were very palpable in the organization. You could feel it, and you then lived it. You took on cases without any promise of getting paid, because you were sympathetic. You took on cases because they were interesting. You knocked yourself out for every one of your clients. You thought the practice of law was an adventure and exciting and fun and that it should be, and that you had a right to demand that of your career.

Fifth, I learned the value of humor, because it saved me many times. I learned the downside of passivity – that is, what could happen to you if you went along with the normal course of events. I tried to avoid that course.

Sixth, ultimately, I learned the importance of making oneself indispensable. If you're valuable to your colleagues, they will make a role for you and they will give you latitude when you need it – which, I did from time to time.

Seventh, another reflection has to do with gender. In thinking back on what I was like coming into the practice of law and how I dealt with being the only woman in a law firm for seven years and then one of two and then one of three, I think about one thing I learned from my mother, who was a woman artist in a male art world. She did what she did. She just did her art. And I learned from that -- that's kind of what I did. I worried less about gender or how I was being perceived than I might otherwise have done without her model. From my father, his view was 'you can do anything.' That was a great gift to me, too. My law firm changed in the period of time I was there. Not radically, but palpably over time. What I learned from that experience was that change has to be organic, that if you do it by fiat and radically, it is less likely to take hold. I saw the value in changing that environment that came from the spouses of the guys in the firm. I saw the differences that my husband made for me and that other men of our generation made for their wives. It gave me a lot of hope and confidence that things would change, which I think they have. Not perfectly, but they have.

Eighth, I benefited from other women coming up in the profession. When women prosecutors started showing up in cases, often the guys in other firms would bring me in, hoping that I would be of help in dealing with this strange new factor on the other side of the table!

Ninth, is an observation that I took from my early years that problems do need to be seen from all sides. There really are powerless people in society, or people who are much less powerful and unable to give voice to their side of the argument. Those are the people whose voices who need to be heard. When people would say to me, "Why are you representing folks like 'x'," I would say, "They deserve to be heard and the voices on the other side are overwhelming." That served me well certainly over the course of my career. You can find common ground. If you can't, you have to fight. There's often common ground to be found.

Tenth, the last and very brief observation would be this, which is that business relationships and personal relationships are inextricably intertwined and if you try to separate them, you're making a big mistake on both ends. You lose a lot by not having personal relationships in your business life or failing to see the people with whom you do business as people.

Rhee: I want to follow up on a couple of things that you said. On self-reflection in those early years, you talked about assessing your strengths, shoring up your weaknesses. In that self-reflection, what would you identify as the strengths and weaknesses that you were seeking to address?

Gorelick: I was good, I think, at understanding a whole case, seeing the whole context for a matter, and not just looking at it narrowly. I was good at getting information from people and really digging into the facts and the law. I was good at constructing a narrative and telling a story. I was good at finding the middle ground, where there was one, and I was good at identifying where we would have to fight and assessing how strong our case was.

I'm less good at trying cases. I didn't love it, though I had I thought I would. I went to a firm that specialized in it, but I didn't love it. I liked bench trials, I liked oral argument in an appellate setting or on motions, but I just couldn't get my mind around the simultaneous fact-finding and theatre of a trial. I don't know why, I just couldn't do it. A lot of the contests seem dumb to me. A lot of the things that people fought over seemed petty and not likely to enhance anybody's view of the facts. Much of what happened, I thought, seemed to be a waste. I steered my career accordingly.

Rhee: The other thing that you talked about that I just want to circle back to is this notion of making yourself indispensable and all the benefits that follow. How does one make herself or himself indispensable?

Gorelick: Nobody is truly indispensable. That's a bit of an overstatement. You make yourself a valuable partner and colleague so that people like working with you and feel very comfortable turning things over to you.

You do that by being very reliable, very responsible. These sound like obvious things, but they are not always. You make it clear that you can take criticism so that your colleagues are not afraid to tell you when you've done something less well than they would like, or that you have done something in a different way than they would like. You take the friction out of that. You fill voids, so that in looking at an entire matter you just don't do what you're assigned, but rather identify what will advance the cause. If you do all those things, you literally become a full partner in the enterprise. Such a person is invaluable.

Rhee: The other last thing that I want to circle back to is an observation that slowly but surely there was change even in a place like Miller Cassidy, and that it was organic and that it was incremental. What did you observe those changes to be over the tenure of your time there?

Gorelick: I went from being an anomaly and maybe even a curiosity to just being someone who did the work and got it done, so that was step one, which was no small thing. Second, the fears that people had about introducing women into the workplace, particularly a workplace where the work is contentious, had to be addressed. When I showed that I could take it and I could take criticism, battle, whatever the things were that people were afraid a woman wouldn't be able to do, it eliminated a whole area of anxiety that underlay the notion of having women in that setting, or for that matter, in other settings. We're now seeing the same thing play out elsewhere, whether it's in the context of the military, or law enforcement, or any of the traditional male domains - they are no longer. Certainly, they are no longer exclusively male domains. Finally, and this did take me a very long time, convincing my colleagues that however comfortable they had become with me, I wasn't the only woman with whom they could be comfortable, was tremendous. I did that by repeatedly showing them women who were great, and then pointing out to them how different the men were from one another, which they surely recognized. We made progress.

Rhee: I want to pivot to something that we've just touched upon very briefly, which was your having occasion to observe an ethics committee proceeding and noting that at some point you would have liked the opportunity to participate in something like that. Talk to us about your multi-year effort, as it were, to get yourself onto the ethics committee and then your subsequent Bar activities.

Gorelick: When I sat in on that committee's deliberations for a case, I thought its work was very interesting. I watched the members tackle a hard issue that I had raised. I also got to observe them deliberating on other issues that were on their agenda. I thought it was interesting and I thought I could also do this myself. I was told that it was ridiculous for somebody of my

short tenure in the profession to think that I could get on that committee, but I just didn't think that made a lot of sense.

Rhee: Tell us how you found that out.

Gorelick: I applied to be a member of the Ethics Committee because there was a notice that said, "Apply." When I got rejected, I called someone in the Bar, and asked about that. He said, "Well you're just not senior enough. Have you noticed who is on the committee? They're all thirty-year veterans of the bar." And I said, "I did notice that, but it didn't seem that it was or should be a requirement." He said, "Well, you can keep on applying, but it would probably be a good thing for you to wait a decade or so."

I came back and talked to Jack Miller about this. He had been president, not of a mandatory Bar, but of the voluntary Bar, and he was well-known and well-loved in the Bar. He said, "Well, that advice is probably right, but maybe you should just keep on trying." I said, "I would like to do that," and asked him to introduce me to the members of the Bar board who made these decisions. He literally picked up the phone and called several deans of the Bar who were on the Bar board, and he said, "Jamie would really like to meet with you. Would you spend some time with her? She is interested in doing this." They all said, "Sure." I met with them, and each was delightful. They were interested in the fact that I was curious about the Ethics Committee. They told me about their own careers, their own Bar experiences. These people were the leaders of law firms all around the city who took the time to talk with me.

It was a set of conversations with people about my interest in this issue, my background, why I thought I would be good. I said that, if there's ever a chance, I would like to do it. I didn't follow it up with them but I did submit my name again. That was it. About a year later, I was voted onto the Committee. To their credit, they questioned the Bar's assumptions about who would add to the conversation.

Rhee: I want to take a step back. At any time in this process did you ever think to yourself that maybe the original rejection or the original position had been right – that one needed to have decades worth of experience? To put it another way, what propelled you to throw your name into the ring in the first place, without any encouragement or any wherewithal to know how it would turn out?

Gorelick: Well, really two things. One, I had been a student of ethics. I was, by that time, the person who had handled the ethics issues that arose within the firm. We didn't have, as we have here at WilmerHale, somebody who was the firm's counsel who minds these issues. I just became the person most interested in them. I kept up with the cases. I had sat through

perhaps four or five meetings of the Committee and watched the members deliberate. The principles were the principles. Yes, they had more experience, but the rules were the rules, the facts were the facts. It didn't really seem that hard.

Rhee: You served on the ethics committee, and that's just one of the many positions you held. What made you double-down so to speak and get more involved in Bar activities and not less so?

Gorelick: I just liked it. If you practice in a little law firm, having a window into other practices, from domestic lawyers to large firm corporate lawyers to government lawyers, was great. It was interesting – the people were interesting, the issues were interesting. There were some big battles about whether the Bar should support pro bono activity, what the relationship is between an individual lawyer and the community at large, what the relationship should be between the legal community and a community of the city of Washington. All of that interested me. So, it was almost a natural progression. I don't think I sought out the opportunity to run for Secretary of the Bar. Someone asked me if I would. From there, I ran for the Bar board and then President-Elect, then President of the Bar. When I decided to run, I did want to campaign. Once I was asked to run and decided I would do so, I wasn't going to lose.

Rhee: How did you know how to run a campaign?

Gorelick: I didn't. I made it up. It wasn't very creative. Basically, I asked every voluntary Bar association if I could come and meet with their members. There were at the time thirty-three in D.C. and I went to any meeting that would have me. Then, I asked friends at different firms if they would write a note to their colleagues, which is now what everyone does. It wasn't really done at the time.

Rhee: To your knowledge, had prior Presidents-Elect run campaigns in their endeavors to become elected?

Gorelick: Other bar candidates had done some of these things. I was very organized about it relative to what, perhaps, others had been.

Rhee: What made you want that?

Gorelick: I just liked it. It was fun.

Rhee: At some point in time you also decided to pursue a leadership position, not only in the local D.C. Bar, but also in the ABA. Talk about how you got drawn into national Bar activities.

Gorelick: That literally came out of the blue. Michael Tigar, whom I had met at Williams & Connolly in the summer of 1974, became part of the senior

leadership of the Litigation Section of the ABA. He noticed that there were very few women and he asked me if I would be interested in serving in a leadership role. He made me the Vice Chair of one of the committees and that's how I got involved. I kind of skipped over a lot of the rungs that one otherwise would have to have climbed. I don't know if any china was broken in the process, but a lot of the people in the Section were people I already knew and so it was both...

Rhee: This was a criminal law section, right?

Gorelick: Oh, yes. Within the Litigation Section, there was a Criminal Litigation Committee. Those folks became good friends, and are really good friends still to this day. The work was interesting. We dove into some of the big controversies of the day. We developed positions on important legal issues. We advocated for women in the ABA. In those days, I don't know if it's true today, but you could make a difference by marshalling the voice of the American Bar Association behind a point. I liked that, and I liked the social piece of it.

Rhee: Who are your contemporaries that you talk about being in this constellation at the time?

Gorelick: It was pretty much the entire white-collar bar, because there weren't many law firms practicing white collar criminal defense when I started. After about 10 years at Justice, many Assistant U.S. Attorneys migrated into private practice. That group was maybe five years my senior. They became my cohort. And then there were the civil litigators with whom I dealt on cases. Between me and my colleagues at Miller Cassidy, we just had a lot of interaction with the litigation bar, both in D.C. and nationally. And I kept up with people.

Rhee: At this point, in the first 7-8 years of your career, did you ever think that maybe you wanted to go either in-house or go to the business or operational side of things, given the curiosity, the interest in the more holistic enterprise of the client operation?

Gorelick: That's an interesting question. I was offered opportunities to go in-house. They were intriguing to me, but I had two hesitations. One was that I didn't want to move. I asked myself whether any job could justify that kind of dislocation of my family. Rich was very much ensconced at Georgetown University Hospital and the Medical School. Our kids were in school, we had a babysitter we loved, we had friends we loved. The second was the trade-off – on the one hand the allure of being part of an organization and being able to help guide it, and on the other hand, the independence that I really treasured and the variety I craved in the work that I did. When it came down to it, every time, I decided to stay in private practice.

Rhee: But for the dislocation, the geography, if there had been other opportunities in D.C., would you have taken them?

Gorelick: I really don't know. I did try that when I left the Justice Department and went to Fannie Mae. I found that I didn't like it as much as I liked practicing law. In the end, I think I really love the practice of law, in part, for the independence it gives you. I can speak in my own voice in a way that I could not at a company. If you're in a company, everything you say has to be in service of that company's interests. At Fannie Mae, which was about housing, if I wasn't speaking about housing, I really had no cause to be speaking. That's not a fault of that company, it is simply where your fiduciary duty lies. To be sure, there are limitations on what one can say while one is practicing law because you have an obligation to your clients, but it's a much different kind of constraint. I also have a varied life here at WilmerHale that I could not have if I were in-house at a company. So, yes, I gave up the opportunity to be a leader of an organization, but I've had the opportunity to do so many more things that interest me that I wouldn't have been able to do had I done that. It was a choice I made and I am very comfortable with it.

Rhee: I want to change topics and talk about what turned out to be almost an 18-month task force assignment and how that opportunity came about.

Gorelick: When the Inspector General Act of 1978 passed, it was not that well-noticed. At the time, I had been co-authoring with Jack Miller a series of articles for the Legal Times, which was the fairly new newspaper covering the legal profession. We had, at my suggestion, offered to do these columns periodically. One column we wrote was on the Inspector General Act because I thought it was interesting that Congress saw fit to create an investigative body within each of the Executive Branch's departments and agencies. I had an interest in Inspectors General, what they could do, what their powers were, what one might foresee that they would be in the future. The Defense Department had gotten itself exempted from the bill and instead agreed to study whether it needed an IG. The General Counsel of the Department of Defense ("DoD") was charged with standing up a commission that was called for by the Act which would assess whether, in essence, DoD should have an Inspector General. DoD had argued that it didn't need one because it had, in essence, Inspectors General in all the military departments and various similar entities in other places within DoD.

Rhee: Just by way of context, DoD was the notable exception from the scope of coverage of the 1978 Act.

Gorelick: Yes. It had argued that, unlike the other departments and agencies, it didn't need one. I was asked to serve on this commission – the Task Force on the Audit, Inspection and Investigation Components of the Department

of Defense. Ultimately, I was asked to be its Vice Chair. It was a fabulous way to get to know the Department because there were audit, inspection and investigation components in nearly every corner of the Department of Defense. We got to look at all of them.

Rhee: Let's back up here. You're still relatively young, you're not that far into your career at this time...

Gorelick: That's right.

Rhee: You're young, and you haven't been practicing for all that long ...

Gorelick: 3 years.

Rhee: Which is not a lot of time, even back then and so how does this opportunity come about?

Gorelick: Jack Miller had been asked to help Deanne Siemer, who was a partner here at Wilmer when it was Wilmer Cutler & Pickering. She had a small real estate dispute. Jack gave it to me. I represented her and reasonably quickly dispatched the case. I got to know her a little bit. She was appreciative of what we were able to do in a short period of time. When she thereafter became General Counsel at DoD, she asked me if I would come be her special assistant, which I didn't want to do because I really liked practicing law and didn't want to leave the firm. A couple of months later, she was asked to stand up this Task Force and she asked if I would serve on it – which was a part-time, Special Government Employee position. Thereafter, she asked whether I would serve as its Vice Chair. That seemed to be a no-brainer, because it was interesting and I could stay at the firm and do this on the side, if you will, which meant that I worked hard. But it was worth it.

Rhee: When you look back on that, was it surprising that you were given this kind of opportunity? It's a big job.

Gorelick: There were quite a few commissioners. The Chair was a senior executive at Mobil who took it quite seriously. We had a great executive director who later became a senior lawyer at Mobil. It was a lot of work but...

Rhee: Were you the youngest among them?

Gorelick: Oh, by far.

Rhee: But when you looked up, did it register that the chair was a senior executive and the people you were serving on this task force with were notably more experienced, more seasoned?

Gorelick: No. I was working with partners who were that age and I thought I could be of help. I think I was of help. I certainly did much more work than most of the other Commissioners did

Rhee: This circles back to your "indispensable" point, which I wanted to follow up with you on.

Gorelick: I don't think I made myself indispensable on this commission. It would have survived without me, but I certainly did try to help.

Rhee: This is tape seven, and it is March 17, 2016. When we left off, we were talking about the Task Force and the work that you had done for DoD, as well as your increasing involvement in Bar-related activities. At this period of time, you also were approached about assisting in the transition from DoD to the Department of Energy ("DoE"). Do you want to talk about that?

Gorelick: Sure. Toward the end of the Carter Administration with maybe 18 months left, the President shuffled his Cabinet. One of the things that he did was to ask the then-Deputy Secretary of Defense Charles Duncan to become Secretary of Energy, replacing the first Secretary of Energy, James Schlesinger. We had more or less finished our underlying work on the DoD Task Force and we made our presentation to the Deputy Secretary. I had gotten to know him a little bit, and I had gotten to know his military assistant, General Colin Powell.

When Deputy Secretary Duncan was named, given the small amount of time left in the Administration, there was some urgency to getting him confirmed and to getting him up and running at a department that was still very new and not functioning as it should be. The selection of Duncan was in large part a result of his management expertise at DoD and the fact that a large part of DoE's mission was to manage the legacy of DoD's nuclear program.

General Powell asked me if I would be interested in helping with the transition process for the Secretary-nominee, and that was very interesting to me. I warned him and the others around the Deputy Secretary that I didn't know very much about energy. I told them, "I don't know oil from gas." Their view was, "You're a smart lawyer, you know how to get from here to there, you can distill large amounts of information and make it understandable and simple and straightforward, and we're putting together a team and you would be a good team member."

It took a very intense three weeks or so to get the Secretary ready and confirmed, and I learned a lot during that time period. It was my first real exposure to politics, and particularly to the confirmation process. I had to learn about oil, gas and coal. It was in the middle of the energy crisis.

There were gas lines. There were expected to be, and then later there were, shortages of oil and the like. It was a great learning experience.

At the end of that process, I expected to go back to my law firm. The Secretary asked if I would come into the Department of Energy and serve. He asked if I would help the Deputy Secretary nominee John Sawhill -- then President of NYU -- get confirmed and then serve as his counselor. I went to the firm and asked if I could leave for brief period. They were very hesitant to let me go, primarily because there were so few associates. Given the brief period of time and my real desire to do it, they agreed. So I did it.

Rhee: Okay, let's just take a step back. This is a time when there wasn't a whole apparatus or machinery around confirmation prep and vetting and the like. Is that an accurate statement?

Gorelick: Yes. It was more ad hoc, although a team did get put together pretty quickly.

Rhee: Given that you had no political exposure at the time, what do you think you brought to bear on this process, and why is it that you took to it as well as you did?

Gorelick: I think I was able to learn quickly and distill what I learned, to inform the Secretary's priorities. I think that that was helpful to him. The Secretary was very clear that he really wanted to know the top three to five things that he could get done in the time that he would have as Secretary, and the three to five things that could come up and bite him. He naturally wanted issues distilled and given some priority, and that fit very well with my inclinations and abilities.

I also had a pretty good idea of what I didn't know. There was a fair amount of substantive expertise both in the Department, obviously, and even within the transition team, so I could learn what I needed to learn from my colleagues.

Rhee: Given that you didn't have any exposure or you hadn't come from within DoE, how did you find the process of answering those kinds of substantive questions without having been at the agency itself?

Gorelick: I wasn't afraid to ask dumb questions or, in asking dumb questions, to seem dumb. I was who I was, and I was obviously a young lawyer. I don't know that there were tremendous expectations that I would have knowledge about the ins and outs of oil pricing, or FERC regulations, or international agreements, or any of the many things that we needed to assess. I just did what I did. I can't remember the precise assignments that I had. But when you come in with a new Secretary, people are going

to be nice to you. They're not going to say, "That is so stupid that I won't even talk to you."

If you come in with a new Secretary, people are going to at least be polite to you. The good news is that I was not threatening to anybody. I developed a relationship with the Deputy Secretary-nominee, and I think the Secretary was relieved about that and was happy that there was somebody on his team whom the Deputy liked and wanted to work with.

Rhee:

Just give us some context. New agencies are notoriously hard places to stand up. Particularly in this timeframe and in this context. The subject matter that the Department was supposed to be overseeing was, to say the least, fraught. What were your impressions of the agency in that moment in time?

Gorelick:

It was still very much the set of legacy agencies just brought together under one umbrella. They weren't even in one place. They were strewn about Washington and around the country. Many of them were still struggling over whether their old system for ordering furniture was in place or the new one. Those things matter to people, but little attention had been paid to managing the transition to a single agency. Schlesinger had focused on trying to get energy policy right during his brief tenure. As you noted, it was a terrible time for energy and energy policy. The issues were extremely fraught.

One of the main things we had to deal with was that the Secretary, the Deputy Secretary and the Assistant Secretaries were constantly being called to the Hill by proponents of one source of energy or another to testify about the policy choices that the Department was making. The White House was very involved. There was this torrent of internal administration meetings and congressional hearings that was very hard to manage.

It was then that I learned about the enormous impact of Congressional interest in a particular subject on the actual functioning of an executive agency. I had had a more naïve view that the Congress conducted oversight in broad strokes. Members of Congress and their staffs were very involved in the minute details of energy policy and the decisions that were being made. It was a tough time to be there, but very interesting because you saw up close the workings of the White House, the operation of the House and Senate themselves and, most particularly, as they visited their various concerns on a Department, which was not a mature Department.

Rhee:

You have seen up close and personal over the course of your career many Presidential administrations. History has been perhaps less than kind to the end of the Carter Administration. Just from your vantage point, what

were you seeing? What were your perceptions of the end of that Administration?

Gorelick:

I'm not sure that I had a good vantage point for seeing the Administration as a whole, and I certainly had no frame of reference. By the time I got into the Clinton Administration, I had the frame of reference of Carter and the intervening Republican years. But at the time, I didn't know whether what I was seeing was good, bad, aberrational, or common at all. I did attend really large meetings which I learned were not optimal. I saw a President extremely involved in the details of policy, which surprised me. I saw a Secretary whom I admired a great deal really trying to lead with his values. I saw a Deputy Secretary who had substantive expertise, but was in a battle with the Special Assistant, who was supposed to serve both him and the Secretary. I saw some good things, and then I saw some dysfunctional things.

One learning, of course, is that when our government creates a new department, it is usually doing so to address a political need for new policy emphasis. Yet the newness itself undermines the very effort that you're trying to undertake. This experience informed my view of the formation of the Homeland Security Department in the George W. Bush Administration. I learned a lot of both positive and negative lessons from that period of time.

Rhee:

But for the end of the Administration, given your exposure, do you think that you would have liked to have stayed?

Gorelick:

I came back to the firm before the end of the Administration. I actually didn't like it.

Rhee:

Why not?

Gorelick:

Because of the battles in the front office in which I was in the crossfire. I worked for the Deputy Secretary. He reported to the Secretary. Working for both of them in a putatively unified staff was the Special Assistant. I had the title of Counselor to the Deputy Secretary and Assistant to the Secretary. I worked for all three of them. The Special Assistant and the Deputy were more or less at war, and I worked for both of them. That was not a comfortable position to be in. The amount of time and energy that I spent on solving for these disagreements was huge and it certainly wasn't fun. It did not seem to me to be an optimal way of dealing with the actual challenges.

Now on the other hand, as I said, the Secretary led with his values. He was a very smart, very able man. I also got to know John Deutch, who was in the next office. He was a brilliant MIT professor who led science and technology at the Department. I later worked with him at Defense. I

got to know a number of people in the Carter Administration with whom I later worked in various elements of my life. It had many benefits for me, but it was not a place where I wanted to stay, and I really missed my law firm. I felt it was family, I felt it was home, and I felt that there was a lot more that I wanted to do there. I didn't leave government because it was the end of the Administration. I left because I wanted to.

Rhee:

In terms of the substance of what you were doing, one can imagine the portfolio at DoE looked very different than the cornucopia of cases that you had at Miller Cassidy. Is that fair?

Gorelick:

Yes, but the portfolio at DoE was equally broad. The Deputy was supposed to be running the place, and everything about the Department came to him. I sat out in the office outside his office and saw everything before it came to him, so that I could make a recommendation. In order to do that, I had to find somebody within the Department whom I trusted to discuss issues with me. I had to understand how the Department worked. I had to take a very quick but deep dive into the issue to make sure there wasn't a problem embedded in the papers I was receiving and reviewing.

I learned a lot both about energy and energy policy and about how you manage in a bureaucracy. I made friends within the Department who became lifelong friends, and I learned a lot about how bureaucracies operate. For example, once I had a question about a very neat packet that had come to me. It was about a report that one component of the Department wanted to publish as Department policy. I called down to the office that produced the report, and I asked if the people who worked on it could come up and meet with me and the Deputy that afternoon.

I was greeted with disbelief – did I not understand that the people who actually wrote the report didn't work for the Department – that they worked for a contractor who worked for the Department? That was my first insight into how much of the work of government in the policy arena and the analytic arena is outsourced. That was a shock to me.

I learned a lot about meetings. The Deputy Secretary said he didn't want in his meetings the whole chain of people from the person who knew what he was talking about to the head of the component. He did not want three people in a meeting who were just there for honorific purposes. He put in place a rule saying he wanted the person who knew what he or she was were talking about plus one, which is a very good rule. Anybody who has worked in a bureaucracy has seen that if you're meeting with the Deputy Secretary, three people – the Assistant Secretary, the Deputy Assistant Secretary, the office director – came along with the poor man or woman who actually knows what he or she is talking about.

There are many examples I can give you of what I learned, and those were good things to learn. I learned how to write a speech for a Secretary and a Deputy. I learned how to decide what meetings they should attend. I learned whom to pay attention to on the Hill and whom not to, because you get letters from everyone. I learned to look out for the chairs and ranking members of your oversight committees. Of course, there were many oversight committees for Energy, alas. But still, I learned that an ordinary letter from an ordinary member of Congress, of necessity, moves to the bottom of the pile. I learned many things like that that were very useful later. These may seem like obvious lessons, but they weren't for me.

Rhee: The portfolio of an agency in the front office is not entirely legal.

Gorelick: It wasn't a legal job at all. It was a management job.

Rhee: How did you find that, and did you prefer it? Were you agnostic about what the "it" was.

Gorelick: Well, I felt more comfortable in the legal framework. But given the newness of this environment for me, I was learning a tremendous amount. For the three, four, five months I was there, I was drinking from a fire hose and very happy to do so.

Rhee: You decided to return to the firm and within less than a year, you are elevated to a partnership. Just walk us through that process. Did you return because you wanted to be promoted to partner? What was informing the timing of your return to the firm? Was there any anxiety or uncertainty with respect to elevation?

Gorelick: I returned to the firm because I really preferred to be working in that environment than the environment that I was working in at the Department of Energy. I did want to become a partner in the firm. I wasn't particularly anxious about whether I would become a partner in the firm because the firm made its judgments about people in the first couple of years of their practice, and I felt as if I had passed muster. The people who weren't going to work out left reasonably quickly.

But it wasn't clear what year I would become a partner. Having been away for a good chunk of the previous year, I didn't think I would become a partner immediately after I returned. I was hopeful that it would happen within the next year, which it did.

Rhee: What did partner elevation look like? What did the process look like? Was there a process?

Gorelick: There must have been a process. I think the partners got together in December and decided, and then a decision was announced in January. But I could be wrong about that timing. It was not the process that we have, for example, at WilmerHale where you have an elaborate evaluation process. At Miller Cassidy, all the partners had worked with a person who might become a partner. They knew what they had.

Rhee: Do you remember where you were when you got – presumably, it was a call letting you know?

Gorelick: I have no recollection.

Rhee: Do you remember celebrating?

Gorelick: No. I probably did, but I don't remember. It's not a moment that in itself sticks out. I was very proud to be a partner in that firm. I had tremendously high regard for the other partners. And to be considered to be their partner meant a lot to me. I just don't remember the moment.

Rhee: What, if anything, did you feel changed after your promotion?

Gorelick: Because Miller Cassidy made people partners perhaps a little earlier than other firms, I was among the first of my law school cohort to become a partner. That time between your first five or six years in private practice and the partnership decision is when there's a lot of shaking out in law firms and many people decide to do other things. For me, it was a confirmation of the path that I wanted to be on. I was very proud to be a partner. I had already internalized that, to be a partner, you had to be pulling your weight in a lot of different ways, and I took that very, very seriously. I felt a tremendous institutional loyalty, and I had a developing sense of how hard it is to make a go of it at a law firm.

Rhee: In those early years of your partnership, do you feel that there was any change in what you were asked to do for the firm and the kinds of matters you were taking on?

Gorelick: I was not passive in this. I looked for cases that I thought were right for me and went for them. Among the cases that came in to other partners, I raised my hands for certain ones. I tried to bring in more work of a steady sort so that I wouldn't have to be constantly reinventing my own portfolio, which is a real burden in a litigation firm. Every year as your cases roll off, you have to regenerate them. If you have a set of relationships that are generating proportion of your work, it becomes easier. I recognized that and tried to develop those relationships, whereas some others in the firm were happier to just take the one-off cases.

Rhee: An example of a case that you handled – and it looks like you handled on your own in those first couple of years – is a criminal case involving a young man by the name of Eric –

Gorelick: Breindel.

Rhee: Breindel.

Gorelick: Yes.

Rhee: Tell us about how that case came to you or how you came to that case and the nature of that representation.

Gorelick: As I mentioned, I had a professor in college named Martin Peretz, who was one of the leaders of Social Studies – which was my major. He also was my tutor for my thesis, and we stayed very close. When I was in law school, he bought the *New Republic*, and he installed a college classmate and close friend of mine, Michael Kinsley, as the editor. I spent time with them at the *New Republic*, where they would gather for discussions with policy-makers and scholars. It was a kind of intellectual feast for me and very much outside of what I was otherwise doing in private practice. It enabled me to meet people I wouldn't otherwise have met and to think about issues that I may not have otherwise thought about.

I got a call from Marty in the middle of the night one night, and he said that Eric Breindel, who was another former student of Marty's at Harvard – a brilliant young man – had been arrested on drug charges. Marty asked if I could help him. Of course, I said yes. I hardly knew Eric, but I had met him, and it was stunning to me that somebody that I knew and that had this reputation for brilliance and who worked for the Senate Intelligence Committee would be arrested on serious drug charges (not selling, but personal use). I represented Eric and tried to navigate that problem for him.

Rhee: There was a fair amount of press coverage surrounding his representation. You were available for quotes and you provided interviews to the media. You were still pretty young at this time and just starting out in your partnership. Can you tell us about how you came to develop a relationship with the press and be comfortable enough to put yourself out there in the media spotlight?

Gorelick: Taking the second part of the question first, I'm pretty comfortable with journalists because I grew up with them in college. Most of my friends in college were journalists. I knew a whole swath of people my age – a little younger, a little older – who were journalists. I knew the folks at the *New Republic* and I had friends at the *Washington Post* and *New York Times* and the *Wall Street Journal*.

A lot of the interaction I had with the press had been around firm issues. Right about the time that I was a senior associate and young partner, the legal press was born. There had been no coverage of the legal profession as a business before this, and the *Legal Times of Washington* began reporting on all aspects of the practice of law.

Rhee: Right.

Gorelick: The short of it is that I ended up talking to a lot of the legal press about the firm, and I got to know some of the legal reporters. I had kind of two windows into the press, if you will.

Rhee: We covered you being the firm's spokesperson in light of the vacuum, and talking to the press about the firm. Obviously now your practice involves crisis management, and a key component of that is communications and media strategy. But early on, in the context of individual representations, at least in hindsight as we go through the press coverage, you seemed at ease. You were managing the case and discussing it in the media, and I want to explore that. It's still at a time, at least I think historically, where that was not commonplace and there's a —

Gorelick: Right. Some firms believed that it was inappropriate to talk to the press. Sometimes that is right and sometimes it is wrong. A prosecutor who has Eric Breindel's case, might have thought of Eric Brindel as a horrible person who risked the national security of the United States to feed his drug habit in a self-centered and irresponsible way. Or you can think of Eric as a troubled person who did no harm to our national security, and who hit a very troubled patch in his life and needed both to make amends and get back on a path to being a productive member of society, as he had a lot to offer.

My view was that it mattered to what would actually happen to Eric for people to have what I thought was the more accurate view — the latter view of him. I thought it was in his interest for people who knew him to talk about that. There are many cases in which it's not in the interest of the client to speak publicly. There are some in which it is, and that was one of them.

Rhee: How did you develop a sense of when it would — as you say, there were certainly firms especially back in the day where, you know, having any discussions with the press was out of bounds. The representation was the representation, and it would speak for itself. We talked about your earlier personal comfort with the media. But I also want to explore the genesis of this intuition that there are times when it actually is to the benefit of a client to frame the case outside of a legal proceeding.

Gorelick: I don't think you can have practiced in Washington during the time in which I did without seeing the interaction among the legal process, the political process and the media. To me, it was obvious, and you had to make a considered judgment as to what was proper. There are times when it is not proper to talk about a case. But assuming it is and consistent with the ethical and judicial rules, there are times when it is in the client's interest. I thought about it, and in that case I did it. I did it in a number of other cases. There are many in which I did not.

Rhee: This is a time where there's also a transition from you being in a second-chair role to being in a first-chair role. Was that a natural evolution? Was that something you were quite conscious of? Did it just happen?

Gorelick: No, I wanted it to happen, and I very much wanted the autonomy that came with running my own cases. I say that with the knowledge that I had wonderful partners whose offices I could wander into with whatever hard problem I had. I don't know that I would have felt as comfortable being the first-chair if I had been practicing by myself. But knowing that I had a group of colleagues whom I respected enormously and in a firm in which the culture was you were in and out of each other's offices with the hard issues made it a lot easier. But I wanted it. I was ready at that point in time to lead my own cases.

Rhee: One last case that I want to just get your recollections on, the case against the World Bank. Remember this case?

Gorelick: This was a pro bono matter that I took on for one of the leading women's groups in town. I was very active with both the National Partnership for Women and Families and the National Women's Law Center and took matters for them. I was asked to represent a woman who was an economist at the World Bank – an analyst, a very attractive, very spunky, smart woman who had been harassed by the men with whom she worked especially when they went on foreign trips. She wanted to press her case against the World Bank, but the World Bank had immunity under the International Organizations Immunities Act. That Act was a major obstacle to pressing her case because it does say that you can't sue international organizations except in some very narrow exceptional circumstances.

The Bank was represented by John Pickering here at then-Wilmer Cutler & Pickering. He had the law on his side, and won in the Court of Appeals and we lost. In the course of litigating against John on this, I said to him, "This is just wrong. These international organizations are major employers, especially here in Washington. They are funded largely by the United States. They have offices here in the United States. The notion that they can operate outside the boundaries of the law that determines whether women are treated properly is wrong." He agreed and worked to

set up an internal but independent mechanism in the Bank for adjudicating these complaints. The Bank hired Judge Shirley Hufstедler to run this process, not just for my client but for others like her.

It had, in that respect, a happy ending. I don't like losing. I knew going into it that it was a hard case, and I think we did okay for my client.

Rhee:

A last subject to kind of end on apropos of that case is: you're the first woman partner at Miller Cassidy and one of the younger partners in town, let alone female partners in town. We've explored this topic previously where, notwithstanding the unique role you have in a larger social fabric in terms of gender politics and gender dynamics, you seem oftentimes not necessarily aware that you're playing a role or not focused on it. I just want to pause now. It's the late 1980s, early 1990s, and you are established here. But it is still very much a man's game. Did you dwell on that? What did you think about that as your –

Gorelick:

Well, first of all, I was very conscious of gender discrimination generally and tried to help within the legal profession, within my firm and within other firms, within the Bar. I was an advocate for women and very active in the organizations that advocated for women. I was on the board of one of the leading women's organizations, the National Women's Law Center. It was a very important part of my life.

A bunch of the women partners in the major Washington law firms would get together for lunch once a month for most of that decade. We have remained friends, though so many of the women left the practice of law. Jane Harman served in Congress and now heads the Wilson Center. Several went to run government agencies. Some stayed in the practice of law; others did not. But we helped each other. In this lunch group, we didn't talk about the law *per se*. We talked about our lives as women in the law. It was a very helpful pause once a month to think about where we were and what we could do differently and what we could do for others.

I just took the attitude that I was going to do my work and not pay attention to what other people might see first about me, which was that I was a woman. I was going to ignore it. There were times when being a woman was a negative, but there were more times when it was a help. I often felt that adversaries trusted me more than male colleagues.

Rhee:

Why is that?

Gorelick:

I don't know. I believe, and I could be wrong, that there's an inclination to think that a woman is going to be more straightforward.

Rhee:

Let's end with family. This is a period where you and your husband are contemplating a family. Tell us about your children and juggling it all.

Gorelick: We adopted our children. Daniel was the first to arrive in 1988, and Dana arrived 1993. As it would be for anybody with young children where both parents have busy jobs, it was hard. Rich and I are mutually supportive, and we shared all the obligations and all the fun of being parents. The kids were integrated into every aspect of our lives. We knew going in that it was going to be challenging, but we had been professionals for a long time. We'd established ourselves, which was very helpful. Being older parents had its down sides, but it had many benefits including that we were reasonably secure in our professional positions. We didn't have a lot of money relative to some people – there were doctors and lawyers who earned more – but we had enough to be comfortable and enough confidence in our positions in our respective organizations, that some of the things that people have to worry about, we did not.

Rhee: That said, do you remember those early years when it was hard?

Gorelick: Yes. The same thing happened to me as happens to everyone. You have a child's event at school. You have a sick child. You have needs that must be attended to, and you also have your work to do. When I said earlier that I really wanted autonomy, it was in part for this reason. I wanted to be able to say to my client, I need to do X tomorrow, and I won't be available to you until such and such a time, as opposed to having that translated through somebody else.

I felt that most clients, most courts, most everybody would understand if I needed some flexibility, if I could have a conversation with them myself. Having that autonomy, having that ability to meet a problem head-on took a lot of the anxiety out of it. To be sure, it was hard. We basically had our kids and our work and spent a little time with our friends -- and pretty much nothing else. We didn't do anything else.

Rhee: Did the children, I mean given that you were always working, I take it they didn't know any other alternative or universe?

Gorelick: Well, we were around a lot. Richard didn't travel very much, and I didn't actually travel that much during this period. He had to leave early in the morning, but he would get home earlier. I left for work later and usually took the kids to school. We were around a fair amount. We also had a wonderful babysitter who still works for us even though there's no baby. She is part of the family. We had routines. We had discipline in the household. We had regularity. Our children weren't buffeted by our professional obligations. Most of their friends' parents also worked, so it didn't seem aberrational, I don't think. We took great family vacations. We were around on weekends. I'm sure that there were things that they missed that they might have had if one of us hadn't been working, but there were upsides too, and they seem to have come out okay.

Rhee: All right, we're going to end right there.

Rhee: Turing back to the narrative. Jamie, where we had left things was at the very dawn of the Clinton Administration, and I want to turn your attention to the transition. Just by way of background, you had represented Vice President Joe Biden in connection with the Clarence Thomas hearings? Is that right?

Gorelick: Yes, in the aftermath of the hearings....

Rhee: Okay. Tell us about that and how you got into the Biden circle.

Gorelick: I became part of the Biden circle sometime in the late 1980s, when he was looking for a new Chief Counsel for the Judiciary Committee. I met with his team and the Senator himself, but ultimately decided that I did not want to leave private practice. But I said I would help in any way that I could. He established a number of working groups at the time that he had the brain aneurysm so that he could keep the work going while he was out. And I participated in those efforts. I was very active in civil justice reform, working with Ron Klain, who had become Chief Counsel. I got to work pretty closely with Senator Biden and his senior staff on that.

In the aftermath of the Clarence Thomas hearings, there was an independent inquiry into how the leaks of the information about Clarence Thomas from Anita Hill and others had occurred. At that time, the Senator asked if I would assist him in connection with that inquiry, which I did. He later came to say, quite publicly, that he was the worst client I ever had because he didn't listen to a thing I said. I had advised that he give short and succinct answers. But he took what would have been a 20-minute interview and turned it into a three-hour conversation. All the while, I was kicking him under the table. We came to know each other pretty well and I came to view him as a good friend whom I admire greatly.

Rhee: Okay. Fast forward to the transition at least by public record accounts, there are a number of people who are already involved to bring you on board. Those include folks from the Biden circle, Ron Klain, Mark Gitenstein and Peter Edelman, for example, whom you also knew from previous interactions. So just tell us how you were contacted and asked to get involved.

Gorelick: During the transition, I had three or four different connections with the efforts that were going on. One had to do with the President-Elect's desire to do ethics reform. Because I was had a reputation as an ethics expert at that point, I was asked to provide advice and assistance. Much of my advice was ignored, but I did provide it. I was also asked to help with the Department of Justice transition and provide substantive input there. And

then, as you might imagine, there were lots of phone calls, conversations, etc., about who would be good candidates for what, as the transition teams were trying to, in essence, compile lists from which the President-Elect could make some selections. I knew a lot of people inside the transition on the personnel side. I had also known Vice President-Elect Gore since college, through our mutual friend, Martin Peretz. I'd been a very early supporter of his in his prior campaigns and in this one.

Rhee: Let's pause because it had been many years of Republican-controlled administrations through the 1980s.

Gorelick: Twelve to be exact.

Rhee: Exactly. Two Reagan terms, then a Bush term.

Gorelick: I called it the long Democratic drought.

Rhee: And then you have this moment – a generational shift – a very different kind of candidate and then elected President who is of your generation. Tell us what it was like in this moment of transition.

Gorelick: It was tremendously exciting. There was huge pent-up interest in the legal community, the activist community, the academic community -- pretty much every community I was involved with. And this was a period of both celebration and – for those of us who had been around for a while – the sobering reality that governing after 12 years out of office was not going to be easy. Those who hadn't been around during the Carter Administration might not have understood how difficult it would be to actually govern. I had been a youngster in the Carter Administration, but I saw how hard it was. I saw people who did it right and people who did it wrong. I was going to do everything I could to make sure that the new Administration got off to a good start.

Rhee: You made a comment as an aside about giving ethics advice that was largely ignored. Can you elaborate on that?

Gorelick: This happens in nearly every new administration, Republican and Democratic. The newly elected person is going to reject everything that has come before and be more high-minded and better than everyone who had preceded him (or her). Often, new rules are promulgated that end up being, in many respects, more trouble than they are worth. Here, the President-Elect wanted to erect higher barriers to the so-called revolving door, for example, by prohibiting appointees in his administration from advocating in their prior agencies for a period of five years after they returned to the private sector - the previous rule being one year for many people and two years for other people. That sounds good but creates unforeseen problems. Just to take an example, if you are a litigator and

you need to advocate for your clients at the Justice Department, a five-year bar on doing the only thing you know how to do means it is quite daunting for you to take a job. It doesn't measurably change the protections of the ethics in our government because there are many other protections against advocating for something that you were personally involved in, etc. I tried very hard to say to people, "Look, this sounds great, but let me give you an example of how it might be counterproductive." There were many examples like that, but that's one.

Rhee: Was there a sense – it certainly seemed in hindsight that this was an outsider's Administration of people coming in from a state that did not have a significant political presence in D.C., of people who not only had been outside of federal government for the 12-year duration, but had never been part of federal government to begin with?

Gorelick: That's a little unfair to the incoming Administration in that Governor Clinton had been very active in the Governor's Association and he had created the Democratic Leadership Council, the so-called third way for the Democratic Party. He knew a lot of people and had been very, very active in Washington-oriented debates. He wasn't a complete an outsider. At the same time, he was critical of the way the Carter Administration had governed, with some good reason. So, some very seasoned people who had served in the Carter Administration were sidelined when they could have helped in the early days of the Clinton Administration. The early tenure of the Clinton Administration reflected that. In many areas, they were making it up as they went along, and would have benefited from some more seasoning. They learned quickly, but could have benefited from a broader circle of advice.

Rhee: Let's return to the Justice Department, where you were a key transition person in the vetting of who would be the next Attorney General.

Gorelick: I wasn't involved in the vetting. After Zoë Baird was nominated, she asked me to help her get prepared. I had been involved in vetting various other cabinet officers, including several Clinton cabinet members who served. I worked with others to develop a template for vetting.

Rhee: Before we talk about the template, particularly around the nominee-to-be, the Attorney General, there was a lot of focus by the Administration on a series of "firsts" -- the first female Attorney General, a push for diversity and inclusion in the cabinet. What do you remember of that and what do you remember being the reaction to that?

Gorelick: Bill and Hillary Clinton knew a lot of people who could have been Attorney General. They knew a lot of women who were stellar. I think they thought that they could easily come up with tremendously qualified candidates – women candidates – who could be Attorney General. The

Big Four cabinet agencies are the Justice Department, State Department, Defense Department, and Treasury. It was very important to the Clintons that there be a woman in the Big Four.

Rhee: And your name was in the mix at that time?

Gorelick: It was ridiculous that it was, but it was floating out there, among many.

Rhee: Do you remember whether or not there was any tension in serving on the transition team, as well as understanding or at least hearing that you were being vetted?

Gorelick: I wasn't vetting for the Justice Department. I was vetting other cabinet members for places like Commerce. There were a lot of people who were among the vetters who were also thinking about going into the Administration or whose names were on various lists to go into the Administration. It would have been peculiar if I'd been vetting for a position that I was being considered for, but that wasn't the case.

Rhee: How did you know Zoë Baird?

Gorelick: When she was the General Counsel of Aetna, she hired me to help on a number of matters, one very difficult matter in particular. In that matter, she was very hands-on, so I got to know her pretty well.

Rhee: Tell us about how you worked together in preparation for her hearings and her nomination.

Gorelick: You may recall that the decision to nominate Zoë Baird was made fairly late in the sequence of nominations. The transition had talked to Judge Pat Wald, who didn't want to leave the bench. They talked to Brooksley Born. They spoke with others. Zoë, who had not had a long-term relationship with the President-Elect, but who was well-known to Lloyd Cutler and Vernon Jordan, and who had been helpful in the election process, her name rose to the top and she was selected. She or the campaign – I don't know who – asked Ron Klain to run the confirmation process. He had been the Chief Counsel to the Judiciary Committee. Senator Biden chaired the committee. She asked me to lead her substantive preparation, which meant cataloguing the issues on which she would need to be briefed, finding the best people to help with that, and getting her briefed up. But very, very quickly it emerged that there was an issue relating to the tax status of her babysitter that became a tsunami that swamped everything. While we did do the substantive preparation, it got scant attention from her.

Rhee: In retrospect, there's been a fair amount that's been written about how nominees time and again have had domestic help tax-related issues. And

yet in a long succession of male nominees, it has never come to the fore, let alone ended up overwhelming every other potential conversation around a candidate. What do you think happened here?

Gorelick:

Partly, it was that Zoë had some actual enemies. She was General Counsel of an insurance company and was viewed, in parts of the advocacy community, as a corporate person. There had been many disagreements between the plaintiffs' bar and the insurance industry. Her compensation and the like were published in the newspapers. There was a sense that she wasn't of the community. But also, it's just gender. Who even thinks to ask a man about the tax status of his children's babysitter? It just didn't happen, although it did for a while after this episode; Chuck Ruff would have been the Deputy Attorney General had it not been for this issue. But this issue had never arisen before there was a woman nominee. I started carrying around my babysitter's I-9 form in my purse, so that if anybody asked, I could pull it out to show that we had a perfectly legal babysitter and all of our taxes were in order.

Rhee:

Was it just a set of unfortunate circumstances? We talked about the alignment of other interests within the Democratic Party.

Gorelick:

I don't know. She didn't have that many natural allies. There was no big hue and cry when people went after her or raised these issues. The vetting process had been truncated because of the rush at the end. The issue took the Administration by surprise. The nomination came out at Christmas and the people who should have addressed the issue were hard to find. All the folks in Arkansas were packing up for Washington. The issue was underestimated at first, and for too long, in the view of many of us. Before the incoming Administration knew it, they were overcome by this wave of antipathy toward her and there was no way to overcome it.

Rhee:

When you say that it was underestimated for too long, what do you think contributed to that?

Gorelick:

This kind of thing had never been an issue before. Nobody took it seriously as an issue. It was unclear that it would have salience on Capitol Hill. The explanations of how the issue had been missed or left unaddressed were slow in coming. I remember one day being called by Senator Biden, who was livid. He couldn't reach anybody senior in the transition. He wanted to know why he hadn't gotten answers to certain questions he had raised. The true answer was that nobody was really in charge and on top of it. That was really unfortunate. I decided that we needed to know the facts so I asked my partner Seth Waxman to represent Paul Gerwitz, Zoë's husband, who had actually hired the nanny and taken care of it, and to find out what had happened. We really needed to get the facts and the campaign and the confirmation teams weren't doing it.

Rhee: There was a lot of criticism of the Administration for this failed nomination and the way in which they handled it or their relative slowness in coming to appreciate the way in which they needed to handle it. Very quickly thereafter they ran into the same problem in their vetting and nomination of Kimba Wood. What do you remember about that quick succession of negative outcomes and negative attention?

Gorelick: I don't remember much because I wasn't involved in the conversation about who would be the potential nominee. In general, the transition had set up a very good vetting process. The slowness in identifying the nominee in the first instance ended up truncating the process in a way that made it not as good as the other vetting processes. For the candidates whose vetting I led, there were no surprises on any of their nominations, even though, as you can see from the public record, there were some very complicated issues. You have to dig into those issues to make sure people know what could be coming at the nominee. That didn't happen as well as it should have for some of the candidates, notably for Attorney General, because they went through several candidates before they got to their actual nominees and didn't leave enough time. A lot of this could have been done in November, but it was being done in the late days of December.

Rhee: When you talk about the vetting process for everyone else, you make reference to a template. Tell us about that and its development.

Gorelick: A number of us convened to head the vetting teams for key potential members of the Administration. We talked about what we would want to find out. Ultimately, Jim Hamilton, a wonderful lawyer in town, put together a template for us to use. Some version of it is still in use on the Democratic side – for when we vet candidates, whether a cabinet member or vice-presidential candidate or potential Supreme Court nominee. And we were very, very thorough. We reviewed all of the person's tax returns. We had a physician look at their medical records. We looked at everything that the person wrote as well as anything that had been written about them. We interviewed all the key people who would be knowledgeable about the candidate's flaws, including issues in their personal lives that they would just as soon not have spoken about. I thought it was a very good process. I myself was the subject of that process three times and it is hard. But it's important.

Rhee: Looking back, do you think there was any way to salvage the Zoë Beard nomination if it had gone through this more rigorous version of the process with enough time to anticipate the issues that were going to come up?

Gorelick: If somebody had paid attention to this issue ahead of time, you would have taken the issue to Senators Biden and Hatch and walked them through it.

You would have tested the waters. That happens today with issues that are found in vetting. You would have asked, "Is this a deal breaker? How important is this to you?" You would have had all the facts. You would present them in a fair way. You would be available to answer questions before the nomination. That didn't happen here. Indeed, there was a leak during the FBI's background investigation process that made the issue come out in the worst possible way, which is: "Hey we found out something you didn't tell us." That's hard to overcome in the confirmation process. It looks like the nominee has been hiding something. Something like this – which was not heretofore considered disqualifying – perhaps could have been handled. Maybe not, but at least you would have had a good shot at it.

Rhee: When asked to speak about it after the fact, there is an assertion on the part of Zoë Baird that she had disclosed this in the course of her vetting process – that this was not something that she had withheld.

Gorelick: She didn't withhold it. I don't know the facts here, but I surmise that the way in which the conversation took place either didn't fully alert the people who were having the conversations with her to the danger – or the people who were having the conversation just weren't listening for it in the right way, which happens when you want to move something along. We know this from practicing law. If you're in a hurry, you might not be listening with all your hearing power. What you would have wanted the vetter to say is, "I need to dig a little deeper to this. Let me see the records. Let me talk to your husband. Let me understand what happened here. Let me understand what the justifications were." Then they would have put all that information together in a meaningful way and taken it to the people who are the ultimate decision-makers. And those steps were not taken.

Rhee: Just on a personal note, you worked with her in close proximity as you were helping to prepare her. It must have taken a very human toll on you. You watched the beginning of the polarization of the confirmation process. It really started in a fairly systemic fashion to chew up and spit out its nominees.

Gorelick: It was awful to watch. Zoë had had a wonderfully lucky and admired trajectory. She'd been in the White House Counsel's office under Lloyd Cutler. He came to like her very, very much. She went to work at GE for Ben Heineman. Just those two alone are wonderful mentors and people who could vouch for her. She then became General Counsel of Aetna at a pretty young age. She had explored interesting issues while General Counsel of Aetna. To take somebody who was in so many ways riding high – she had a lovely husband, a lovely son – and watch her be decimated before your very eyes was just a remarkable experience. I felt for her. You could see the train wreck happening in slow motion in front

of you. I could only do so much, myself, to help. It was a searing experience to see what can happen to someone during a confirmation process. I knew that that could happen, but I had never seen it happen in up close.

Rhee: Did you draw any lessons from it in terms of whether or not you wanted to subject yourself to this, what one does to shore oneself up for something like this? You were very close in age and not so dissimilarly situated.

Gorelick: Maybe I was a little self-confident that I wouldn't have such an issue. My instincts were somewhat different than Zoë's. While we did have kids of about the same age, I did have an I-9 form to carry around with me. I felt very empathetic towards Zoë and I liked her, but I also didn't conflate the two of us. I had seen lots of congressional hearings and some confirmations – you can't avoid seeing them up close in Washington – in which there was that sort of human tragedy and flagellation. I wasn't sanguine, but it wasn't shocking to me. It was personally affecting, but it wasn't shocking to me. It underscored what I already knew.

Rhee: You can juxtapose Zoë Baird, who had a young family and was trying to balance having two professionals in one household with children, to the eventually confirmed nominee who was single, without any familial attachments, and who had a very different protocol and a very different persona. A fair amount has been written to suggest a kind of backward step was taken on the gender war when comparing the Zoë Baird nomination to the Janet Reno confirmation. Given that you lived it, what are your thoughts on that?

Gorelick: It's funny. I really didn't see it that way. Because Janet paid a very high price in the gender wars herself. She was very unconventional for Washington, although maybe not unconventional for the country. But she was upwards of six feet tall. She was very informal in her manner. She was unmarried. She was, in some ways to the untrained ear, folksy in her presentation. This was a subject of both fascination and derision in Washington, which was cruel in its own way.

Rhee: How did you get involved in her eventual confirmation process?

Gorelick: Well I had done such a great job with Zoë Baird that the White House asked me to do it again. (That is a joke.) By that point, I had been identified as the nominee for General Counsel of DoD. There was this one other brief interval, and I can't remember the precise sequence, in which they were going to nominate Judge Richard Arnold to be Attorney General and me to be his Deputy. Then when that fell apart for reasons unrelated to me, I was asked to become the nominee to be General Counsel of DoD. I talked to the President-Elect about it. I talked to the Secretary-nominee about it. Because it was understood that I would not be appearing before

the Department of Justice, since I would be leaving private practice, I would not have had any conflicts of interest if I led the confirmation of the Attorney General. Bernie Nussbaum, who was at that point White House Counsel, asked if I would lead that effort along with Ron Klain. I was introduced to Janet Reno in the White House Counsel's office in the first few days of the Administration.

Rhee: Different than in the Zoë Beard context, I mean, you really were introduced as a professional handler.

Gorelick: I was not a handler, but more of a briefer and an organizer. When you are a state prosecutor -- which is what Janet had been -- you have no reason to know about federal antitrust law or federal immigration law, or many other subjects. As a nominee, you really do need to go to school and learn things that you don't know. Your perspectives on criminal justice issues, which you might know very, very well, require a quarter turn to understand the federal statutes and the like. I was much more on the substantive side -- with Ron handling more of the politics -- but during confirmation hearing preparation, the substance and the politics merge.

Rhee: And how did you get along?

Gorelick: Janet told me afterwards that she didn't know quite what to make of me because I would show up -- in her words -- "dressed to the nines," very organized and direct. It took us a while to figure each other out. But we didn't have much time. We had three weeks to get all of the voluminous paperwork submitted and to prepare for the hearing. So, we needed to get to know each other pretty well, pretty fast. And we did. I had already put together a good team of people to brief Zoë. Those people and then some additions were brought in one after another to brief Janet. Janet was very smart and could see when somebody was able to cut through, explain, defend, and dissect complicated legal issues so that she could quickly understand them, figure out what she needed to know, figure out how far she could go as a nominee and how far she couldn't. I was basically the conductor of an orchestra that was playing to her nonstop for three weeks, as she also feathered in meetings with members of the Senate Judiciary Committee, other members of the Senate and other opinion leaders.

I think she really did appreciate all the work that went into this. I worked all the time. We were together in the trenches, holed up in the Vice President's suite in the Old Executive Office Building. Getting her ready and through the process meant doing everything from teaching her antitrust to getting her a completely new wardrobe. If you work in southern Florida, all your clothes are pastels and your shoes are open-toed. This was January in Washington. Sandals and pastel suits were just not going to work. In the midst of this, she would come over for dinner. She

got to know my husband Rich and she got to know Dan and Dan who were very little kids at the time. It was a family affair.

Rhee: Are you telling us that you took Janet Reno shopping?

Gorelick: No, no, I didn't. I told her she had to go shopping. She had other, better friends of longer standing than I to take her shopping.

Rhee: Through this process, I take it you realized mutually that you worked well together?

Gorelick: Yes, but it was over in a flash. We continued to see each other after her remarkable confirmation hearing. We continued to see each other through the following year.

Rhee: We have Zoë Beard who has one at least public persona. Then we have Janet Reno – another very high-profile nominee with a very different public persona that you touched upon. Then, as you alluded to, during this same timeframe you yourself were put up as a nominee?

Gorelick: Yes.

Rhee: This is a moment where really for the first time in the public eye, you see more than one – I don't know if this is the right word to use here – “token” nominee. You really are starting to see a number of women, more than one woman, really, come into the public eye as part of a new Administration. Did it feel different? Did it feel like part of a continuation? What was the sense at the time of the momentum and progress?

Gorelick: The women's community, after those twelve years of Democratic drought, had really coalesced, and built lists of qualified women for every single position imaginable. Many women were part of the Administration's personnel operation. It was much more open to women candidates than the process had ever been before. They were flooded with resumes. The network of women was very active. I had been on the board of the National Women's Law Center, I had been very active in women's issues. There were lots of other women who were very, very qualified and whose names were also put up for different jobs. It became easy to imagine that there would be highly qualified women at the cabinet and subcabinet level.

Rhee: You talked about being in the mix for the Deputy slot at the Justice Department. How did it come to pass that you were put up to be GC of DoD?

Gorelick: Part of it was just serendipity. I have a very good friend who was also a good friend of the President-Elect. We were all at the Renaissance Weekend between the election and inauguration.

Rhee: I just want to pause on that, because those weekends are legendary.

Gorelick: I had been invited to them for many years and I had never gone. They seemed to me to be a busman's holiday. Our family time is so precious, that I did not want to take my Christmas vacation and talk about policy. I wanted to spend that time with my family, off doing something completely unrelated to what I did every day, so I never went. But after the election, everyone thought that it was going to be a really interesting event. The organizers had completely changed the program because they had to address the fact that one of the founders of Renaissance Weekend was going to be President. So, I went. I spent a lot of time trying to help Zoë, but I did spend a little bit of time on my own. I also had a few minutes with the President-Elect, to whom our mutual friend had introduced me, and we talked. The President-Elect asked me what I would like to do. And I told him that the two places where I could make the greatest contribution were Justice and Defense. Thereafter, I got a call to come out to the Governor's mansion in Little Rock to speak with him.

Rhee: Had you known him previously?

Gorelick: No. Hillary had, in essence, founded the effort to elevate women in the American Bar Association. And I had met her, but I really didn't know her. I knew a lot of people who knew both of them, but I didn't know them personally. I went to Little Rock, but no one would tell me what I was going there to discuss. The President-Elect was late in getting back from Mexico and so Hillary visited with me. She mostly wanted to talk about schools for Chelsea and the like, but also about the White House Counsel's office, what one would do with it, what role the office could play, etc. I thought, "Well, maybe they are interested in me for White House Counsel." But I had assumed that Bernie Nussbaum would have that job. I was told later that I had been the runner-up for White House Counsel, but I didn't know that at the time. A little while later, I got a call to go and talk to Secretary of Defense Les Aspen's people about going to Defense. That was a good fit for me, and potentially very interesting.

Rhee: When you say you thought you were a good fit for that job, why did you think that?

Gorelick: Well, a couple of reasons. One, I had been there before, albeit, in a very different role, but nevertheless a role that allowed me to see across the whole department. I had spent time reviewing the functions of each of the military departments. I had spent time in the Office of the Secretary of Defense. I had spent time in the Defense agencies. I knew the structure. I knew the military chain of command. I had a basic understanding of how the building – the Pentagon – worked and I had followed defense issues. I had represented defense contractors. I knew some of the education issues, some of the health issues, some of the other public policy issues. Nobody

is perfectly qualified for that job. It's just too big. But I was reasonably enough qualified for it and I thought I would be a good fit there. I thought it would be fun because I had really liked my time there fourteen years earlier.

Rhee:

It's one thing to go in as you did in the first go-around in a very discreet capacity and relatively junior. When you think about the transition to becoming General Counsel of DoD and effectively policing the lawfulness of the activity of a fairly vast Department, particularly where so many campaign issues were focused around statements of the President-Elect's intent to reshape the Defense Department for the modern century – at any point in time did you pause and reflect on the challenge ahead of you?

Gorelick:

It was quite daunting in that respect. You are right that being a member of an obscure commission doesn't prepare you to be General Counsel of the Defense Department, particularly given that my work on the commission was a part-time activity fourteen years before. I did not know the Secretary or the swirl of people around him. He brought with him many of the people with whom he had worked on the House Armed Services Committee, both staff and those he had consulted in academia. I was an outsider.

There were a couple of ways in which I did gain insight into the place. Number one, I had gotten to know Colin Powell both at Defense and then when we worked on the transition at Energy. And he was, by this time, Chairman of the Joint Chiefs. Number two, John Deutch had been at Energy when I was there and he was now Under Secretary of Defense. Number three, the Chief Counsel of the Senate Armed Services Committee was an old friend and law school classmate, Andrew Effron. He had worked at Defense in many capacities. He had been an Army JAG officer and he had been Counsel to the Senate Armed Services Committee under Chairman Nunn. These were people who could literally translate for me what was really going on. And I quickly identified people around the Secretary whose judgment I could trust.

Finally, the career staff at DoD in the General Counsel's office were terrific. Some of them are still there. They're talented and dedicated, and they helped me a lot. Ultimately, I was aided when I got there by the fact that there were hardly any other political appointees so I didn't have intermediaries between me and, for example the T-JAGs, who are the senior lawyers in each of the armed services. I could also relate directly to their bosses, the chiefs of each of the services. I had some help and then I found the other help that I needed.

Rhee:

We completely skipped over your confirmation – but in some part because – at least based upon my attempts to scour the public record, there really isn't much to say about it.

Gorelick: At that time, the only nominees for confirmed positions were the Secretary, the Deputy Secretary, the Under Secretary, and me. The three of them got confirmed right away and I was a bit of a laggard and that worried me. It turned out that a very senior senator wanted a certain military facility in his state and was jerking the chain of the Secretary. But once we figured that out, I was confirmed. I had the wonderfully helpful tutelage of my friend Andrew Effron, Counsel to the Armed Services Committee. The staff director of the Committee, Arnold Punaro, who became a very, very good friend, was also enormously helpful to me. Senator Nunn and Senator Thurmond had a very good working relationship. The confirmation hearing was not particularly problematic. I literally was told, "Here's how you need to answer this question about Goldwater-Nichols." I was quickly schooled in where the points of sensitivity were and how to approach those issues.

Rhee: What is Goldwater-Nichols?

Gorelick: Goldwater-Nichols is the legislation that created "jointness" among the military services. It created the unifying governance system of the then-separate military services. If you didn't have someone to decode this for you, as an outsider, you wouldn't have known.

Rhee: Okay. What about the campaign promises made along the way?

Gorelick: The biggest problem in the first years of the Clinton Administration at the Defense Department was that the Defense Department itself did not trust the President in large part, because the military viewed him as a draft dodger. Then, he announced, almost in an off-hand way, that he was going to end the ban on homosexuals serving in the military. Whether that could have been more successfully achieved or not is hard to know. But the way it was done certainly was a recipe for disaster because there was no ground work laid for it and everyone who opposed it got very well organized right away. I walked in the door to a DoD that had deep mistrust for the White House and not that many people in DoD were trusted by the White House. This was both a curse and an opportunity.

Rhee: I just want to pause on that. How were you perceived? Clearly, you are a political nominee and there at the behest of the White House and particularly this President. And you come in as part of this Administration that is already created some animosity.

Gorelick: And I come in very sympathetic to the goal of ending the prohibition of gays serving in the military and ending the ban on women in combat, to the extent that we could. So, yes, it was very hard. Because there were no political appointees in the military departments, I was able to make my own relationships with the chiefs of the services and their legal advisors – the T-JAGs. I was very open with them and included them in all decision-

making. I visited them in their offices instead of asking them to come to me, which I could have. I was extremely curious about what they did so accepted every invitation to see them in action in the field. I also hired a military assistant for the first time in that office. Colonel Dennis Corrigan was a 30-year veteran of the Army JAG Corps. He knew everybody and he helped translate the Department to me, and vice versa. I tried to be open and inclusive and respectful and I developed a level of trust among the many constituencies within the Defense Department, which allowed me to work through issues. I was not always successful, but more successful than one might have hoped if you looked at the situation objectively.

Rhee: How quickly did you come to appreciate that the Administration could not deliver on its campaign promise to end the ban of gays serving in the military?

Gorelick: Very quickly. I was stunned by how blind to that the White House was to the political forces arrayed against what it wanted to do.

Rhee: You made a pretty quick assessment that this was not going to be able to happen.

Gorelick: There was no support on Capitol Hill, aside from Barney Frank. The silence was deafening. The Democratic chair of the Senate Armed Services Committee expressed significant doubts and then ultimately came out with his proposal for "Don't Ask, Don't Tell." Although it wasn't exactly clear what that phrase meant, it certainly wasn't what the White House had in mind. At one point, George Stephanopoulos asked me to come over and talk with him about the likely outcomes and he was shocked by what I had to say.

I think that they were prepared to compromise on things like whether gay partners could demonstrate affection on base or off base. But we were so far from that, it wasn't funny. I think they thought that more was possible than was politically.

In part, it was because there was this vast gulf between most of the people in the White House – who had never served in the military or even visited the Defense Department – and the people at DoD. Lots of other things underscored the difference in cultures. At the outset of the Administration, in a White House meeting on a national security-oriented topic, people often drifted in and out of the room. You never knew who was there or why each person was there. Some people put their feet up on the table. This seemed almost designed to put off senior members of the military. I personally found it very off-putting because I never knew who was in the room when I was talking. I couldn't tell who anybody was and so I stopped talking in White House meetings on national defense issues. I

listened and then I would have an offline communication with a critical person, but I wouldn't talk, because it just seemed too loose to me. This changed over time, but this is what it was like during the first year.

Maybe it's because of my personality, but I very quickly grew to love the Pentagon – the discipline, the rigor involved in living up to commitments and meeting deadlines and doing what you said you were going to do. You knew who would be in the room. There was an order in which people spoke. You may say that that's too orderly, and it may have been. But the difference between meetings in the Pentagon and meetings in the White House was so huge, it sometimes felt like I was in a parallel universe. I felt that I was one of the few emissaries from one to the other. I did try to translate.

Rhee: What do you think accounts for the obvious failure to comprehend what an almost impossible task this was? Is it a generational divide? Is it a cultural divide? Is it all of the above? Is it the outsider status, and just... that's a shock.

Gorelick: Part of it was that the military by that point had been a volunteer military for a very long time. It drew on a fairly narrow segment of society. By and large, the military is drawn from some of the most conservative parts of our society and you're doubling down on that by virtue of the military culture that I've just described. It's very patriotic, it's very disciplined, and it's much more right than left. You take that, and then you take the slice of society from which the Clinton White House grew, and never the twain shall meet. There were very few people who had operated in both environments. Very few. We were lucky to have had Bill Perry and John Deutch, both of whom had served in the Carter Administration. And, of course, Rudy DeLeon.

I think that the President thought that the prohibition on homosexuals serving was ridiculous. He couldn't understand how anyone would think otherwise. We see today that many people, most people, particularly the current generation – have accepted that entirely and have the same view. To them – as it was for President Clinton – the view is, "How could you have done otherwise?" When you look at how our kids think about gay marriage now, and you think about how their parents or their grandparents thought about it before, that's kind of what we had here – colliding world views. The fault that I would lay at the White House's steps is that they should have noticed that and tried to figure out how to work on it. General Powell said – I don't know if this would have been born out or not, we'll never know – that if he had been able to work the issue within the Pentagon he might have made some progress. But there was no opportunity to do that and we had this huge backlash, which by the time we actually took office, was quite hard.

Rhee: Do you think that this interim step of "Don't Ask, Don't Tell" got you further along the trajectory faster?

Gorelick: It's impossible to know. I know that General Powell felt that "Don't Ask, Don't Tell" was a waystation that would take perhaps 30 or more years to mature to another stage. Whether trying to do it the way it was done in the Clinton Administration made it harder or not, I really don't know. Certainly, that waystation lasted a shorter period of time than he and I thought it would. You just don't know what would have happened. "Don't Ask, Don't Tell" was ridiculed and indeed it was a failed policy in many ways.

The problem was that enlisted personnel did not know gay people -- or they thought they didn't know anyone who was gay. The senior military officers knew gay people and, indeed, knew they had them on their staffs. They knew that they worked with gays and they knew gay servicemembers were talented, patriotic and good soldiers. In those offices, no one "asked" and no one "told," but everyone knew. But the average enlisted man -- because no one could come out either at home or in ranks of the military -- didn't know that he knew gay people. The caricatures of what gay people were like were all they had in their heads.

The notion of "Don't Ask Don't Tell" was, "We're not going to hound you out, gay person, but just don't shove it in our faces." I can't put it any differently than that. That's really what it was about and the notion was that, gradually, members of the armed services would come to realize that some of their good and strong compatriots were gay. The idea was that that would lead to greater acceptance. I have no idea if that really occurred. I suspect not, but maybe it did. But, of course, society changed and so members of the military realized that they had cousins and next-door neighbors who were gay -- and the world didn't come to an end. Of course, there's still a lot of objection to gays in the military, but if you think about it, the change went reasonably smoothly. But we'll never know whether "Don't Ask, Don't Tell" was a help or a hindrance. Its intention was to help, albeit incrementally.

Rhee: You, at least in the public space, carried a lot water for lack of better term, in the sale of this policy and in the hearings surrounding this policy. Looking back in hindsight, what do you recall, given your own personal views?

Gorelick: Any number of people on Secretary Aspin's team might have done it, but there was no one actually who could do it. I remember the Secretary's Special Assistant Rudy DeLeon saying in a meeting, "Well somebody's got to land this plane." Looking around the table, there really wasn't anybody else to do it.

Rhee: Why do you say that?

Gorelick: There were very few confirmed people, and the ones who were confirmed, were not trained as advocates. Also, translating a policy that is really a slogan – “Don’t Ask, Don’t Tell” – into policy that can be implemented requires legal and personnel expertise. Explaining the policy requires a detailed knowledge of it. When the policy was ready to be rolled out, it was nearly Christmas, 1993. I was told the night before that I would be explaining the policy to the press after the Secretary announced it. I was told the day before, “You’re going to do a press conference and you’re going to explain what all of these regulations mean.” The Secretary spoke first and muddled the waters. He didn’t explain it well. Of course, a lot of this was down in the weeds, because we were operationalizing a page-and-a-half policy that ended up affecting thousands of pages of regulation.

We had had an enormous task force across the Department to hash out the ambiguities, which were many. Could you put a picture of your partner on your night table? Was that “telling”? Is somebody who asks who a servicemember’s partner is “asking”? There were thousands of those questions.

I certainly did not want to do this. I had many friends in the civil rights community who were distraught by this policy who had been so hopeful at the outset of the Administration. But I felt that we could have enormous fissures in the military if we didn’t land this, and land it quickly. It needed to be done in the course of that first year in office, which it was. The Chief of Staff of the Army, who’s a wonderful man, told me that he would have had to resign if the President’s initial policy went into effect. He would have had an insurrection on his hands. I was in no position to evaluate that, but it was credible to me. I felt that you could make a little bit of progress, and for the institution to move on and to exist in some form of harmony with a White House whose directions it needed to follow, for the good of our national security, we needed to get through this, and I said I would do it.

Rhee: As you mentioned, you’re a child of the civil rights community, so tell us about that.

Gorelick: It was hard. Here’s my first big government job and the first thing I’m asked to do is something that I thought was retrograde. If you asked me whether this was good policy, I would have said, “No.” It was the best policy you could have in the circumstances in the military at that moment in time, given where the country was. The principal decision had been made before I got there: The Secretary and the Chairman of the Armed Services Committee had agreed on “Don’t Ask, Don’t Tell” before I arrived. But, it was no more than that, just a phrase. It fell to us to reduce it to a piece of paper that the Chiefs could agree on. That was a page-and-

a-half long. And then after that, we had to put it into a form that the military – 1.5 million strong – could live by. Getting to that broader understanding with the Chiefs was a remarkable experience. I sat in the Tank with the Chairmen and the Chiefs, who were backed up by their TJAGs, or sometimes with just the Chairman and the Chiefs. We sat together and hashed this out. I got to know them very well. I tried to make as much progress as I could. It was hard for me, very hard.

Rhee: You mentioned this, so let's fast forward because the coda to this is in this Administration, in the Obama Administration, where you see the end of "Don't Ask, Don't Tell," and the firm did play a role and you played a role, so tell us about that and give us your thoughts on closure here, twenty years later.

Gorelick: The very same Rudy DeLeon who was the Special Assistant to the Secretary and Deputy Secretary and ultimately became Deputy Secretary of Defense later, was at the Center for American Progress during the Obama Administration and saw the opportunity to reverse "Don't Ask, Don't Tell." The problem was that the President had asked that a Commission study the effect of repeal on unit cohesion, and the study was going to be completed at the end of the year. The Senate was very likely going to change hands in the election that fall, switching the Senate from Democratic to Republican. So the vote needed to happen before – I think it was October. They couldn't get the members of the Senate who opposed removing the ban on gays serving in the military to vote before the report was completed. Rudy asked my advice. I said, "Why can't we have a vote that is subject to a certification by the Chairs of this Commission that such a change would not be harmful to the good order and discipline and unit cohesion in our armed services?" He went away and came back and said, "Well, we're told by the Administration that the Office of Legal Counsel at Justice does not agree that this process is lawful." I said, that I thought that was wrong. So we developed the argument that you could pass legislation subject to a certification and that doing so was not delegating the legislative authority of Congress to a person in the executive branch. We argued that out with the Office Legal Counsel and we spoke with the General Counsel of the Defense Department and we helped present the idea to members of the Senate. The Senate, with some very hard work by several senators, agreed and it was passed. A short while later the report came out, the certification was made, and the ban was lifted.

Rhee: And the composition of the Senate changed.

Gorelick: Yes, yes. This was a combination of Rudy's political good sense and our lawyering.

Rhee: Having worked on this in the 1990's and then to see it again come back....

Gorelick: It was great. It was great mostly to see the country change so quickly. Nothing would have happened without that, but we were able to take advantage of that change. You can have a majority in Congress and a change in viewpoint, and still have a set of laws that don't reflect those changes. It was quite interesting how many Republicans in the Senate went along. Some actually supported rolling back the ban and others who might, in another era, have been vociferous opponents, simply receded. That was remarkable. I think that it was a reflection of what they were hearing from their own kids and what they were seeing in the larger society. It was wonderful.

Rhee: Circling back to the very beginning of our sessions, where you reflected on coming of age during a period of real political change and your own philosophy, as it were, to be incremental and to look for change in institutional ways. As you reflect on your experience around this set of issues through that lens, is there anything you would have done differently? Thoughts on the speed of progress, the ways in which progress happens or doesn't happen?

Gorelick: Well that's a very good question, and one I'm going to have to think about beyond this interview. I don't know. Clearly, change is hard and to achieve it, you have to have a pretty accurate sense of the audiences you need to convince. The learning of "Don't Ask, Don't Tell" is that if you just make a pronouncement without laying groundwork, you're going to fail. As I said earlier, I don't know whether we could have reached a different result if we had laid that groundwork. But, in the circumstance where that groundwork was not laid, the question was what could we do to make more progress? And the politics of our country just wouldn't allow for more at that time. It's a very good question and one we deal with in Washington and in the state houses of the country and in communities every day. People express needs. Other people have feelings or views in response. How can progress be made? What is possible? That's what politics are about. Although the President could have issued a directive, he would have had legislation reversing that action in two seconds. Very often, an ideological position -- even if it might be right -- is the enemy of progress. You really have to think clearly about how to make progress and to bring people along. See, e.g., Ruth Bader Ginsburg on *Roe v. Wade*. There are trade-offs in each method you might use.

Rhee: Tailhook was another hot button. Talk about what it was like at the DoD at that moment in time.

Gorelick: Tailhook was an annual event at which Naval officers celebrated in what turned out to be, in some instances, very gross ways. Before I arrived at the Pentagon, an investigation had been undertaken. The report detailed really gross, sexist, drunken, appalling behavior. Indefensible and unbecoming behavior.

Rhee: Some characterized it as criminal.

Gorelick: For a variety of reasons, the decision on how to discipline people and who should be disciplined, did not happen quickly. There were many discussions among the Secretary, the Deputy Secretary, and the senior people in the Navy about what to do. Here we were in September of 1993, and there had not even been an intent to nominate someone as Secretary of the Navy. I called the White House as this report was about to come out and said, "You have to have a Secretary of the Navy when you're dealing with a crisis like this. It's eight months into the Administration. This is a terrible situation." They had been waiting for various other cards to fall into place for those who would not get the position of Secretary before announcing the President's choice, but they promptly announced the nomination of John Dalton, who then became Secretary of the Navy. The second aspect of my involvement arose out of Secretary Aspin's decision that the CNO (the Chief of Naval Operations), who was a really lovely person, needed to go, as this had occurred on his watch. John Deutch and I negotiated this exit, to make sure it was done gracefully and appropriately.

Rhee: You're a woman in a very senior position in a massive agency. How do you advocate from within to address something like this? There's the immediate crisis, and the resulting public relations and institutional crisis. Also, this particular year's event happened to be captured on film, but query how much of this misbehavior was occurring in other years and/or elsewhere within the other services?

Gorelick: I didn't realize it until I saw these files. I assumed that the military was no different from any other part of society in that it had its sexist and brutal elements, but I came to believe these behaviors were more a part of the culture in a way that I had not previously understood. I don't know if there would have been a reason for me to understand it, but I didn't. I really viewed the people who served in the military as moral and upstanding and, in many ways, better than the rest of society. This underbelly that was revealed in Tailhook was shocking to me. I have no way to quantify whether the military was better or worse, but this was really gross and it was widespread. After that, whenever I went out to a military installation, which I did, I made a point of talking to servicewomen, particularly young women, and asking them questions in a situation where I felt that they could be candid with me. The number of women who had had bad things happen to them -- from something simply icky to actual rape -- was astounding.

My colleagues who read these files were as appalled as I was. The Secretary, the Deputy, the Under, the Secretary of the Navy, nobody thought this was something that could be tolerated, nobody. What could be done about it was another story. And we've had promises for the last

20 years that this would be addressed. We've had programs to teach people not to be jerks and bullies. Really?

Rhee: Circling back to another campaign issue that some would say actually reinforces the issues brought to light by Tailhook – I'd like to discuss the exclusion of women in combat. Again, in that moment, what were your thoughts on how women were perceived to have a role in this very disciplined organization?

Gorelick: I don't recall if we talked about this, but when I was in high school, I submitted an application to the Naval Academy.

Rhee: No.

Gorelick: I did. I got the application that one fills out to seek a nomination to the Naval Academy.

Rhee: How did this escape our....

Gorelick: Oh, I have lots of stories that you haven't asked about. But I got an application to be nominated to the Naval Academy and I filled it out. You put in your grade point average and your SAT's and the like and then it had your bicep measurements and things like that on it. Because they didn't ask if you were male or female, and I have a name that could just as easily be a man's name, I got back something that said that I didn't meet the physical requirements – probably because my biceps measurement was really low.

When I arrived at DoD, there were women who played various minor roles in the military, but a woman could not be a war fighter. The Secretary very much wanted to open up to women as many roles as he could. We set up a task force that I was part of. What was interesting to me and encouraging to me was that the strongest voices for opening up the most roles were 2- and 3-star generals who were the parents of daughters who wanted to be able to follow in their fathers' footsteps. When someone said, "Well we can't have a woman driving this truck in combat or we can't have this woman flying this supply plane," these senior military leaders asked, "Why not? Of course you can." Watching that debate was instructional for me and edifying. I came to believe that what has now happened, what Secretary Ash Carter has done, by opening up everything was inevitable.

The military services have artists whose work depicts the life and work of servicemembers in every setting. These paintings grace the walls of the Pentagon. I could choose paintings for my office suite. I asked for paintings that included women. You could see that, historically, women may not have been in combat but they were certainly in harm's way.

I had the feeling that the transition we are now seeing would take place. I didn't know how long it would take, but I saw the role of the fathers and just thought that a generational change would make it happen.

Rhee:

When we talk about integration, which is essentially what this is, when you circle back to Tailhook which is objectification in its most raw way, in your mind can you see any interplay there, and when you talk about progressive change in a culture like that?

Gorelick:

All I can say is that it's hard. And it is really hard for the pioneers, really hard for the few women in a military academy or the one woman or two women in a unit. It is tough. One day, other women will look back and say, "I can't believe that this woman did that with so little support." This is true in all kinds of jobs in our society. Certainly, I've seen an enormous change in the practice of law, as well as in the national security and law enforcement communities in just the relatively short span of my life and my career. My hat goes off to the women who have been the pioneers in these areas, because it is tough.

A position can be opened to somebody but being the somebody who fills the job is hard. There's no doubt there is more progress to be made.

When I was at DOD, I flew out to an aircraft carrier to see a trial at sea and stayed there overnight. I met women pilots. You watch what a pilot has to do, which is very hard, and then you watch the support that they got or they didn't get from their colleagues and that makes it even harder. One of the reasons that our military is successful is because there is unit cohesion. If you lose that, you are losing one of the military's key strengths. If women don't have the benefit of that unit cohesion, or if units lose their cohesion because of these gender-based issues, it's scary. One of the reasons, going back to our conversation about "Don't Ask, Don't Tell," that there was salience to the argument that this was too much change too quickly, is that this issue of unit cohesion is real. The gay community said it was just a sham and a shield for prejudice, and I am sure that some people used it as such a shield. But unit cohesion is a strong bond among people who need to work together. It's very hard to tell what makes up that cohesion, but it is a very strong element of a strong fighting force. It's not something you want to mess with lightly. That is yet another reason for gradual change. You need to make sure that women benefit from that cohesion and support and that you don't break a real strength of our military.

It is also not unexpected that, if you put genders together in places where they haven't had to work together before, you're going to get sexual misconduct. We see this all over our society. So, these are hard issues. I must say that having served at the Pentagon even for that year, I saw some of society's hardest issues play out. These people work and live together.

They live in a submarine, they live in a forward position, and if they're not working together closely and with mutual support, they're dead, literally. Making sure that you make progress in that context is really, really hard. Harder than in any other place.

Rhee: I want to transition, because as you mentioned, you had a rather short tenure there because you got tapped to become the number 2 at the Justice Department in pretty short order. There are a lot of questions to ask about that, but in carrying on this theme, you talk about how hard it is to be anywhere first as a woman. Here, you have not just the first female Attorney General, but now you have a female one-two combination. A lot has been written about the phenomenon of the tipping point, or how institutional decision-making changes when there is not just one lone voice, but there's back-up. Just thinking back on that, do you think there was any appreciation for what it meant to have more than just one female at the top of the Justice Department?

Gorelick: When Janet Reno called and asked me if I would agree to have her submit my name to become Deputy Attorney General, I was very surprised. I told her this was impossible to imagine -- that nobody would put two women at the top of the Justice Department. I told her that she was, of course, welcome to try, and that I would be honored to serve, but that this was very unlikely to happen. That was my judgment. Then when the President said 'yes,' I was amazed. When I got to DOJ, we had many women in the senior leadership of the Department. I'm sure it had a different feel from previous Justice Departments.

Rhee: She calls you up -- was it really out of the blue?

Gorelick: Well, I'd been hearing rumors and gripes about how the Department was, or wasn't, being run. Some of this had spilled over into the press, focusing on dysfunctionality at the Department. I called Janet a couple of times to tell her what I was hearing. In one of those conversations, she said something like, "Stay tuned." So, I knew that something was up, but I didn't know what. Then, she called and said, "Phil Heymann (the then-Deputy) and I are going to announce that he's leaving."

Rhee: What were the gripes?

Gorelick: That the place wasn't running, in short.

Rhee: Why?

Gorelick: I didn't know why.

Rhee: What was the gossip?

Gorelick: Well, the gossip was that she wasn't running the Department well. It's always the same. If the Department isn't running, it's the Secretary's fault -- or in this case, the Attorney General's fault.

Rhee: There's an announcement that the Deputy is stepping down.

Gorelick: Yes, then she called to say that she would like to submit my name to the White House to succeed him. I told her I was very happy with my job. I really loved my job, and I particularly loved Bill Perry, who had by that point succeeded Les Aspin as Secretary. We had a very good working relationship and I admired him a great deal. But I didn't think that I could turn the position down if the White House wanted me to do it.

That was all I heard, but soon after it was announced that Phil was leaving, the mentioners were naming people who could succeed him. My name was out there. I called White House Counsel Bernie Nussbaum and asked, "Whatever you do, don't let me hang out there. Please, just make up your mind about what you want." He said, "I hear you." Not long thereafter, he called and asked if I would accept this nomination.

Before I said "yes," I had a conversation with Janet and told her what I was hearing about what was wrong with the management of the Department. I said, "If you want to fix it, here's what you have to do," and I laid out a plan in which all the components of the Department would have to report to her through me. At the time, some parts of the Department reported through the Associate and then to her, and there were countless other people who went directly to her for decisions. I suggested to her that we have a joint staff that I would run -- which she would have total access to -- but I would organize it; and that she would have to let me address each decision and make sure that all the relevant voices had been heard before the decision came to her. I promised her that she would actually make the decisions, but I would prepare them properly. That is the right division of labor.

Rhee: Was this in reaction to the things that you had been hearing when you did your due diligence?

Gorelick: Yes.

Rhee: Was this something that you just thought as a general matter, was the way this Department should be run?

Gorelick: It was a combination of what I was hearing and the difference between what I saw there and what I saw at the Pentagon. The decision-making at the Pentagon didn't run in exactly the same way, but it was much more regularized. The Secretary made all the important decisions, unless he delegated to the Deputy. You knew exactly who disagreed and on what

grounds. You knew if a decision were implemented one way, this is how the order would look and if it were implemented another way, this is how the order would look.

What I was hearing was that there was no similar process at the Justice Department. When I asked Phil Heymann – whom I had known as a teacher at the Law School -- whether I should take the job, he asked what Janet wanted me to do. I told him that she wanted me to organize the place so that she could make decisions on key policies. He asked, “Why would anyone want that job?” I said, “Well, that is a Deputy’s job, usually.” He said, “Well, the most interesting thing is to make policy.” I said, “But you can’t have two people making policy. It’s not as if the person in the Deputy’s role has no voice in policy. You actually have a quite an important voice, but you’re not the decision-maker.” He said, “I don’t think that’s interesting at all.” He was communicating, basically, that he didn’t think that that way of running the Department was good and he had thought his office should – for the good of the Department – be more of a policy-making enterprise.

I knew very clearly what she wanted. I knew that there was a big backlog of decisions that needed to be made and decisions that were coming to her without all the voices being heard. It seemed to me pretty straightforward. She agreed, and she stuck to her commitment the whole time I was Deputy. With that commitment, I accepted and then the President nominated me. I had a relatively short confirmation process and I was there in maybe a month or so.

Rhee: Reflecting on what Phil Heymann said, how much of the decision to accept the offer was because it was something that the Administration wanted and needed for the good of the agency, and how much of it was that you wanted to take it on?

Gorelick: I wanted to see Janet succeed, number 1. Number 2, I had grown up at Miller Cassidy with a reverence for the Justice Department. Jack Miller had been the head of the Criminal Division. His closest friends had been his fellow Assistant Attorneys General and U.S. Attorneys and the Deputy Attorney General, Byron White, and those were the people who were the grown-ups in my life when I was a young lawyer. The honor of working there was considerable, and the Deputy Attorney General job was a wonderful job. I had imagined myself in that role briefly when the White House had talked to me about taking it at the outset of the Administration.

I did hesitate, though, because I felt that I knew the General Counsel job, I loved it and I thought that there was much more to do. I was a little afraid too, because I thought that the Deputy Attorney General job was hard and presented political exposure in a way that even the General Counsel of the Defense Department did not. I had not been really buffeted in politics and

I had seen -- in the course of my then-career, which was then approaching 20 years -- that it could be very dangerous. I worried about it.

I asked my Military Assistant, Colonel Dennis Corrigan, whom I mentioned earlier, what I should do. He was a thirty-year Army JAG Corps veteran, a white Republican male, older than me, whether I should do it. He said something the equivalent of, "Are you crazy? This is another glass ceiling you have to break through. Of course you have to do it." Later that evening, I said to my husband, "It's really bad when you're having to be encouraged to crack through a gender barrier by a 50-year-old white male." Of course, Dennis was right.

Rhee:

Pausing here, you have a very young family at this time, and you are contemplating taking one enormous job and one where as you put it, there's real exposure. Any hesitation on that front? Any comments on just how hard in the day-to-day it was to juggle all of these things?

Gorelick:

I did think about it. The one thing we didn't talk about was that the prior August, our daughter, Dana, arrived. We had a four-year old and an infant. It was pretty daunting from a family perspective. I sat down with Janet to talk about that and I told her the limits of my ability to do the job. I said that I would need to go home at around 6:00, barring some emergency, and that I would get back online after the kids were in bed. I told her that I would set it up so that there was real coverage for her for anything that she needed. We talked about the staff changes that we would make. My husband was just wonderful about it and said, "We'll make this work." We did, but it was hard.

When I was General Counsel of the Defense Department, I found that being a mom was actually quite a blessing, because it gave me some basis for comradery with other mothers and fathers. Unlike a lot of people who felt that, at the time, that you shouldn't talk about being a parent, I talked about being a parent all the time and it humanized both sides of the conversation. But it also kept my head in the right place. The General Counsel of the Pentagon is a 4-star equivalent. That meant that people of lesser rank stood up when I walked in the room, and almost everybody I dealt with was of lesser rank -- not everybody, but most. If you walk into a room ten times a day and everyone stands up, you get to thinking that you're pretty hot stuff. But if you go home at night and your kids don't stand up, and if you want to see them you get down on the floor, you get a very different perspective on life. That perspective was very important to have. You can see people all over town who get to be quite full of themselves, and it creates a major problem in the way they do their jobs and the way they relate to people. If you have something that brings you back down to earth like a family does, it's a great blessing.

Rhee: What do you remember about the confirmation and swearing-in process, and then the first day on the job?

Gorelick: The confirmation process was relatively straightforward. I had, as we discussed, a prior relationship with Senator Biden who was the Chair. I had worked with him and for him. My law firm had represented Senator Hatch on a matter and I had come to like him very much. Many of the other senators were lovely and thoughtful and encouraging. The only senator who had any issue with me at all was Senator Grassley, who has a proprietary sense of the qui tam laws and was close with the qui tam bar. He had this worry that, because I was coming from the Defense Department to the Justice Department, I would be less than full-throated in support of qui tam relators. I didn't feel that there was any reason for him to be concerned, but he was. He asked for a number of documents, which we gave him, and then he said he wanted to question me at my hearing.

The hearing itself went very smoothly. My family was there. During the questioning, we discussed a number of issues that were pending at the Justice Department, as well as my background on certain issues. The Chair and Ranking Member asked a couple of questions and soon it was Senator Grassley's turn. He asked me a number of questions about qui tam cases, but then his time ran out and he indicated to the Chair he would like to have a second round. Senator Grassley then left, figuring that there was a full bench of senators to ask their questions and that it would be his turn again in some period of time. Pretty much as soon as he left, everyone else left – which I suspect was pre-arranged by Chairman Biden. He then noted that there was no one else who wanted to ask any more questions except for Senator Grassley, so the Committee took a minute to see if he came back. The staff reported that Senator Grassley wasn't to be found. Senator Biden pronounced the hearing was closed. The hearing ended.

Rhee: A little anti-climactic.

Gorelick: Yes, it was. That is what you want a hearing to be. It was Senator Joe Biden at his best.

Rhee: Were your kids at the actual hearing?

Gorelick: Our son was there. We also had my niece there, because I thought this would be a good civics lesson for her.

Rhee: You don't remember any good family stories about them being rambunctious?

Gorelick: No. The kids were pretty good. Dana was an infant. Dan was pretty well-behaved at things like that. I do recall Senator Specter telling me that

that I should keep time for my family, which I thought was a strange thing to say. I thought that he wouldn't have said that to a man. He gave me a lecture about how important it was for me to maintain family time. Richard took great offense at this, on my behalf. And about four months later, we were taking our week on Cape Cod and I was down at the beach with the children and Rich was up in the cottage reading a book. The phone rang. It was Senator Specter. He asked for the Deputy Attorney General. Rich said that the Deputy Attorney General was at the beach with the children and he said, "Well, could you call her?" And Rich said, "Well, I might remind you that you told her that you have to keep time for your kids, so she'll have to call you back". And that was the end of that.

Rhee: Do you have any sense of what the kids made of your job and the weight of your job at the time that they were quite young?

Gorelick: Well, certainly, Daniel was pretty cognizant of the changes in our lives. I remember driving with him one weekend to the Pentagon, early in my tenure there, and he asked me why I had lost my job at the law firm. His view was if you had to change jobs, you must have been fired.

And later he came to speak of the Army as, "Mommy's Army." He really liked all the gizmos and trinkets that I would bring home from the Pentagon. He liked going up and down the long hallways and he really liked the chicken fingers that they served at receptions. That was a really big deal for him.

When I was at Justice, he came to the Department fairly often. I had him in on many weekends. And I have a lot of pictures of him running around at Justice. Both kids loved Janet Reno and she loved them. They would come in and she would take them on little walking tours. The Justice Department, as you know, has gorgeous old murals that tell stories and that have lessons in them. We had a very large replica of the Statue of Liberty which they really liked. Dan really liked the Command Center because one whole wall was a wall of televisions. And the guys in the Command Center, who were just wonderful and with whom I spoke nearly every night -- because if somebody was trying to reach me they were the interface -- they came to know me and my family very well. If the kids were around and there was no crisis in the Command Center, they would turn on a wall of cartoons. And that was really fun for them.

Dan was a Power Rangers fan. The Power Rangers "controller" was named Zordon. He operated out of the Power Rangers' Command Center. We were home one night when the phone rang and Dan picked it up. When he brought me the phone, his hand was shaking and he looked very scared. And I said, "Dan, what's wrong?" And he said, "Mom, Zordon is on the phone!" I said, "Zordon is on the phone?" He said, "Yes, he's

calling from the Command Center.” It was really funny. We had a fully integrated life between home and work.

Rhee: Okay, so, you get through the hearing and a non-eventful vote and what do you remember of your swearing-in?

Gorelick: I don’t remember much about my swearing-in other than that I had asked Justice Ginsburg if she would swear me in. She is asked all the time to do things like that and I was honored that she agreed to do this. She didn’t need to speak but wanted to do so. She gave the loveliest remarks, starting out with a comment on how amazing it was that on that stage were a woman Supreme Court Justice, a woman AG and a woman Deputy. It was a wonderful occasion and it was very moving for me. I am forever in her debt for doing that.

Rhee: And it took a whole other political generation to get the same point that we’re now in again.

Gorelick: Indeed, indeed. The other high point of the swearing-in was that John Deutch, who was by that point Deputy Secretary of Defense, came and spoke for me and there was a kind of funny hand-off from John Deutch to Janet Reno. He took it upon himself to warn everybody there about me.

Rhee: What did he say?

Gorelick: I think he tried to make me terrifying. It’s hard to do, but he did.

Rhee: Let’s get to that. You had already told us a little bit about the circumstances under which you had come in, with the resignation of Phil Heymann. And, at the same time, I think what you didn’t touch upon was that Webb Hubbell, who was the Associate Attorney General, had also resigned. You had already been hearing the Washington chatter about the state of the Justice Department, so tell us your observations when you actually arrived.

Gorelick: There was a sense that the Department was drifting. I remember the questions that were asked by the press when I was nominated, and that the commentary in the press was all about the disarray in the Department. And, to a certain extent, there were also charges that the Department had been politicized because of the relationships between Webb Hubbell and the White House. And what the Attorney General said privately to me was, “We need to have regular order here. We need to have order. We need to have a sense of purpose and mission. And I need to be freed up to do what I do and you do the rest.” And I think I described the conversations I had had with her about what was needed.

I was a disciplined person going into the Defense Department. I was double-disciplined coming out, because all the systems at DoD are just that way and the pace of decision-making is brutal. There is no opportunity to sit around and chat about great ideas. One of my friends in the press had contributed to a profile of me in which he described my speaking in clipped tones. He was finding my interactions with him as a friend to be clipped. That took me aback but I think I had just integrated into my persona that snapped high up-tempo of the Pentagon. I brought a little bit of that with me to Justice, which was a culture shock to people.

I started off with all kinds of prescriptions as to how issues would move through the Department and up the chain for decision-making, which I think a lot of people thought was just mindless, militaristic folderol. But, we used that system to move things along. Once people could see that decisions that they needed us to make were actually getting made, there was a sense of relief. I also spent a *lot* of time just going out and talking to and listening to people. I tried to meet with every unit within the Department. The Department of Justice was then, and is still today, a very horizontal organization. By the time I arrived, it had lost its Associate Attorney General, which is the only other intermediate level of supervision over all the litigating divisions, all the programmatic offices and all the U.S. Attorney's Offices.

Rhee: How quickly did you hire and create what is still known to be an extraordinary staff surrounding you in the Deputy's office?

Gorelick: Well, for years, I had kept a list in my head the people with whom I would form a law firm if I ever went out on my own. I had my dream team list. And so ...

Rhee: And how long had you been carrying that around?

Gorelick: A long time. I mean, Seth Waxman and I talked about starting our own law firm. I really thought it would be fun. When I got to the Deputy's Office, I thought, "Well, here's a way to start your own law firm." I could hire most of the people I'd wanted to have on my dream team. Bill Bryson, who was on that list, was already at the Department in the Criminal Division and I suggested him to be Acting Associate Attorney General. Merrick Garland was already there, also in the Criminal Division. He was an easy selection for Principal Associate Deputy Attorney General. I begged Seth to come in as an Associate Deputy, but the only substantive area I had for him was the Associate Deputy AG handling all the immigration issues. I persuaded him that that wouldn't be all that he would do. I told him, "Come in and we'll make it work," and it did, of course. Amy Jeffress had been one of my Special Assistants at Defense. She was natural to bring over. Same with Mike Vatis. Casey Cooper – now District Court Judge Cooper – was a star at my old law.

firm, Miller Cassidy. David Ogden, whom I had hired as a summer associate at Miller Cassidy, joined us. Michael Bennet – now Senator from Colorado – was recommended to me by Lloyd Cutler. I had asked David Margolis – the senior career prosecutor in the Department and an Associate Deputy AG – to find me the two smartest and most able AUSAs in the system. I interviewed his candidates and picked Paul Fishman and Jon Schwartz. Jon (now the General Counsel of Univision) came in from the U.S. Attorney's office in the Southern District on New York. Paul Fishman – whom I had met when I taught at Harvard Law School - joined from the U.S. Attorney's office in New Jersey. He is now the U.S. Attorney there. Kent Walker (now the General Counsel of Google) came on detail from a U.S. Attorney's office in California. I could go on and on -- but they were just wonderful people. I had to move people who were already in those slots and relocate them. Some, I kept, because they were really good. Tony West (now the General Counsel of Pepsi) stayed, as did Lucy Koh (now a District Court Judge in northern California). I was determined to have my own team in place and I had license from the Attorney General to do so. She met all the senior people because it was our understanding that these folks would be her staff, too. She agreed with all of my recommendations. She had known Merrick since the confirmation process because he had helped on a number of issues. Seth Waxman, she hadn't met and she said she thought he was very smart, but she worried that he might talk too much. And I said, "Don't worry, you will be happy to have him talking to you as much as he does." So, we had a really good group.

Rhee:

We happened to be talking the day after the President announced his nominee to the vacancy on the Supreme Court and that is Merrick Garland. A lot of focus around the rollout was his time at the Justice Department. You say this was a team that you had already formed in your head for some time. Seth Waxman, Merrick Garland, these are all people you went to college with, kind of harkening back to some of our early sessions, yes?

Gorelick:

I'd gone to college with Merrick and Seth, but others I either had met more recently or hadn't known at all. David Ogden, I knew from his having been a summer associate at Miller Cassidy. I then had recruited him to the DoD General Counsel's Office. But certainly, the relationship among me and Seth and Merrick was long-standing and completely trusting.

I looked at the extremely horizontal organization of the Justice Department compared to how vertical the Defense Department was -- and I concluded that I could not run the place effectively unless I either went to Congress to get additional Associate Attorneys General, of which there was only one in the org chart, or I needed to bring in in alter-egos who would have the same judgment that I would have, whose judgment I

trusted and whose ability to execute was flawless, who would know what I would want, who could speak credibly and say the Deputy wants X or Y. They were grown-ups, with independent reputations in the legal profession and the Department. In having Merrick and Seth, but also the other more senior people like David Ogden, I had a phenomenal team. The younger lawyers all grew enormously, as they were handling tremendous responsibilities.

Rhee: So, let's talk about the tension that had existed or had started to come between the White House and the Justice Department. You made reference to some ... at least some public rumblings about the recently departed senior officials that had close ties to the White House at the time. What do you remember about this from the time you came in, given your relationship with the Administration?

Gorelick: I thought the White House was making itself vulnerable to charges, which by and large were unfounded, that it was interfering with the proper execution of the law. The concerns arose after Vince Foster, the Deputy White House Counsel, committed suicide and then White House Counsel Bernie Nussbaum interacted directly with the FBI. There was nothing illegal about what he did, but it allowed questions to arise about the proper relationship between the White House and Justice. A question arose during my confirmation about what I would do to make sure that there was no political interference with the enforcement actions of the Department. I drafted a letter between me and the White House Counsel that laid out the principles and the processes. They weren't particularly onerous. They were very straightforward, but consistent with what most people would consider to be best practice. We were pretty careful and I think it worked well.

There is a lot in the way of communication between the senior leadership of the Justice Department and the White House that has to happen – whether it is a program-wide initiative – such as the community policing program, the COPS program – or whether it is a discussion about a position on a Supreme Court brief. Those are highly appropriate conversations to have, but you want them to take place in a regularized and understood way. We did that and I don't recall a single issue during my tenure.

Rhee: So, talking now substantively, there are some big historic events that occurred on your watch. Let's just start with things that were really attention-grabbing at the time, and that was domestic unrest. In two incidents, in particular, Ruby Ridge and then, obviously, the domestic terrorism event of Oklahoma City. So?

Gorelick: The atmosphere in the country in the mid-1990's was pretty frightening in that there were militia groups and others who were very concerned about

the government's exercise of power and authority and also very paranoid about the government. The shooting at Ruby Ridge, which had occurred in the Bush Administration, fueled concerns that federal law enforcement was out to punish its enemies. Ruby Ridge, to remind, was a stand-off between the FBI and a man who was the target of an investigation. At one point in the stand-off, FBI snipers, aiming for the man, shot his wife. The initial internal investigations by the prior Justice Department and by the FBI itself were later found to have been inadequate. And so, new investigations were begun and it fell to me to assess those investigations, including what changes in policy should be made and what consequences there should be, if any, for the individuals involved.

At the same time, there were bombings at abortion clinics, bombings of black churches, mostly in the South but in other places around the country as well, and then there was the bombing in Oklahoma City in April of 1995. All of these were, in some ways, violent expressions of objection to the federal government, to racial equality, to abortion rights.

Rhee: I just wanted to pause a minute. Looking back now with the benefit of time and perspective, what about the circumstances in the country do you think fed that particular moment of violence and paranoia?

Gorelick: First, there was great hostility toward Bill Clinton. There was a sense in some quarters of the country that the presidency should naturally be in Republican hands, which it had been for twelve years, and that a Democratic President was an interloper. So that was part of it. The kind of hate mail that he got and vicious threats that he received were stunning. The same was true for the Attorney General. The right wing whipped up concerns around gun rights which was focused on President Clinton's proposal of an assault weapons ban. I would have thought that a ban on assault weapons would not bother a legitimate gun owner, but there was a subculture of people who said - whether they believed it or not - that the federal government was going to come and take all their guns and take all their liberties. This was a pernicious undercurrent that had started with Ruby Ridge, at the tail end of the Bush Administration, and was exacerbated by the calamity at Waco at the very beginning of the Clinton Administration. This undercurrent grew exponentially in the first few years of the Clinton Administration. I haven't studied why this occurred, but you could feel it.

Rhee: Talk about the Department's response to all of that and your perspective before you really had to own these issues and your perspective after you took over and started to really centralize the response to these kinds of incidents and the Department's investigations and actions in response.

Gorelick: The Ruby Ridge case was a real learning experience for me because the various investigations showed that, in that case, there was a lack of

discipline in the FBI and an arrogance that it knew what it was doing in such a confrontation. The FBI had thought about how to deal with events like this and had trained for them, but when investigators in two administrations tried to understand how an unarmed woman came to be killed by an FBI sniper, the trail of evidence was extremely muddy. The FBI snipers were very credible in saying they were just following orders and that the rules of engagement that they were given told them to shoot when they did, but there was no clear record of who had provided such rules of engagement. By the time we were able to do what was the third or fourth, depending on how you count, investigation, the waters were so muddied that there was no way to provide accountability when accountability was really required. Whether it had been intentional to give a shoot-to-kill order or whether it was a muddled chain of communication, we're never going to know. There was no accountability to speak of. That was not what most people thought appropriate when an innocent woman was killed. This was the subject of conversation among us at DOJ, the FBI, the Marshals Service. We came up with a plan and a set of prescriptions and policy changes, but the desire for accountability was frustrated.

Gorelick:

There was an extensive Senate Judiciary Committee hearing on this, at which I testified about the investigations, what they had found – and not – and the policy changes that we had made. The actions that we took were strong and I do think that the Bureau learned important lessons. Indeed, I can't imagine that you would see what happened at Ruby Ridge replicated today. At Ruby Ridge and then Waco, the federal government could have been smarter and more careful. At Waco, the government would say, correctly, that the Branch Davidians immolated themselves and their kids. But sending tanks into a place where people are living was heavy-handed and not at all thoughtful. Many people in the country were upset about this. On the two-year anniversary of Waco, we had Oklahoma City. And in between, we'd had the abortion clinic bombings and the church bombings, which only escalated over time.

This was a very, very hard set of issues for us to deal with. These issues were popping up in many different areas. We brought consideration of them into the Deputy's office, and then up to the Attorney General, so we could get a unified direction on them.

Rhee:

You made reference to a counterpoint that happened just in the past few months, the Oregon standoff, which is really, at least to my recollection, the first time since Ruby Ridge and Waco that you had this kind of domestic standoff with the U.S. government.

Gorelick:

Not exactly. We had the Montana Freemen, which is a good counter-example to Waco and to Ruby Ridge. The Montana Freemen had basically declared themselves not part of the United States. They

wouldn't pay taxes, they questioned the legitimacy of the federal government, and they called for militias from around the country to come and support them in their standoff with the FBI. The FBI, after conversations with Main Justice, took the initiative to go to militia groups to say, "Look, we are not coming after you. We don't care if you exercise your rights to use weapons, if you want to exercise in the woods, but if you do something dangerous to life and limb, if you threaten young children in a way that the children of Oklahoma City were made to pay for this fanatical hatred of the federal government, we'll come after you. But if you don't, we're going to leave you alone." When the Montana Freemen put out this call, we wondered what would happen. Pretty much nobody showed up.

I think the lessons were learned. I also think that, when people saw the horror of Oklahoma City, it caused them think about their rhetoric a little bit more, to think about what they might say to a friend or a brother who is in a militia group. I imagined that some of them would reach out and say, "Look, you're not going to do anything like this, are you?" The attack had a very sobering effect.

We used a similar approach after a particularly horrible abortion clinic killing outside of Boston. We said to the local clergy, "We know that you are anti-abortion, but you're also pro-life". We noted that these killings were happening in the name of religion. We asked for their help. We said, "It would be enormously helpful if you could talk more publicly about the need to keep protests non-violent." And they did.

So, here too, the combination of the horror of the event and society reflecting on itself helped a lot. I came away from those experiences with a profound sense of how much words matter. Obviously, the government can't legislate what words people say or don't say, but as citizens and as government leaders, we can change how we talk about one another.

Rhee:

Let's turn to Oklahoma City. Do you remember where you were when you heard the news about the events that morning?

Gorelick:

I was in a secure facility ("SCIF") in Main Justice, so I didn't have my communications equipment with me, but someone came and got me. By the time I got to my office, Merrick and others were there looking at the television and they were on the phone with the U.S. Attorney's Office, with the FBI, with ATF, DEA, anybody who had an office in Oklahoma City, to try to get a sense of what was going on. A lot of the federal offices were actually in the Murrah Building, and the U.S. Attorney's Office was not very far away and so getting a read on what had happened was extremely challenging.

Very shortly after I got to my office, Rahm Emanuel called from the White House to ask what we knew. I told him that we were trying to find out, but that it did look like a bomb, not an accidental explosion. And, I said, "We have people on the ground. They're investigating" and, he said something like, "This is big." I think that he wanted to me know that this was a matter of urgency, which I did understand!

It was obvious that the President and the American people were going to want to know who did this, how it happened, and whether we could apprehend the people responsible for it very quickly. The appetite for justice was going to be huge. You could begin to see bodies being pulled out of the rubble, including the bodies of young children. Merrick and I both had young kids about the same age as those kids, so it was especially affecting. Merrick really wanted to go out to Oklahoma City. He said something like, "You've got to send me. I have got to get out there and help fix this, help address this."

The Attorney General wanted us to be very involved in the response. Within a very short period of time, we had, I don't recall the exact number but around a thousand agents, all over the country, following leads everywhere. We had an FBI command structure in Oklahoma, which needed beefing up because there were not massive numbers of agents, particularly counter-terrorism trained agents, in a town that was as relatively small and peaceful as Oklahoma City, and the same was true for the U.S. Attorney's Office. There were a lot of people in both of those offices who had relatives and friends in the building. So, they were outnumbered and overwhelmed and bereft. We formed a team that included them.

We very quickly swooped in and found space in the Southwestern Bell Dispatching Station that was very close to the Murrah Building. The Salvation Army set up a feeding station, and we set up our headquarters on the next floor. So, everybody was all in the same place; the victims' families were there, the first responders were there, the agents were there. Donna Bucella, a really seasoned Assistant U.S. Attorney (and later a US Attorney), was in the leadership of the Executive Office for US Attorneys. She arrived first. Then Merrick arrived.

They set about the task of bringing all of the different investigative resources together. Our job at Justice was to make sure that there was justice. We wanted an effective investigation but one that hewed to the letter of the law. We wanted to make sure that every single search warrant and subpoena was issued according to the law and that every witness and lead was followed, appropriately.

The Attorney General wanted to showcase the American system of justice because the history we have just spoken about – the hostility toward

federal law enforcement would cast our law enforcement agencies, our processes and our courts as corrupt and overbearing, and neglectful of people's rights or worse. She said, "This has to be a demonstration of the rule of law." A lot of that fell on (now Judge) Merrick Garland. I stayed very much involved. I barely went home for three weeks. When I did go home, our son Daniel would ask, "Did you get the bad guys?" Children were very, very frightened by this.

There was a lot of coordination that had to take place. There were jurisdictional arguments between the ATF and the FBI. We had to make sure that the site could be treated as both a crime scene and a recovery site. The area was flooded with first responders and with investigators, federal, state and local. We were very fortunate to have as Governor of Oklahoma Frank Keating, who had served as Associate Attorney General in the Reagan Administration and had headed law enforcement at Treasury with oversight of ATF and Customs. He'd been an FBI agent and a US Attorney. He understood better than anyone the relationship between his resources as Governor and ours federally, and he was a very good partner in working out who would do what.

Rhee: I just want to pause. Just by way of context, so many children ended up losing their lives because there was a day care facility on site, right?

Gorelick: Yes. On the first floor.

Rhee: So, the devastation was quite...

Gorelick: It was brutal.

Rhee: And then, this was all before the real advent of the Internet, and instant communications, and 24-hour news coverage; so, just make concrete for us how that affected your ability to actually coordinate an operation of this scale. You alluded to it in the sense that at that time, there was such a thing as a Command Center, which actually involved human beings and not so much telecommunications.

Gorelick: The FBI and others set up a space in which all of the relevant agencies met, and the senior leadership of each of the agencies and offices discussed how to address leads and what investigative steps to follow. Our communications were generally by hardline telephone. Our insight into what was happening on the ground was sometimes dependent on what was on television. The middle of the city was largely a wreck. To say that we were affected by the fog of war would be an understatement.

Some of the leads that we followed were not fruitful, but the appetite for concrete progress was so profound that people jumped on them. For example, so we tracked someone of Muslim descent who had left

Oklahoma for London; the word went out that this was foreign terrorism. That was wrong and we quickly addressed that perception.

We also had the risk of reporters getting to witnesses before we did, so speed was really necessary. This investigation was done largely the old-fashioned way. There were very few whiz-bang techniques. The axle of the Ryder truck had been located in the wreckage. The VIN number could be identified and that led to the Ryder rental truck contract. The various threads of the investigation – including its nationwide nature – are laid out in incredible detail at the Oklahoma City National Memorial Museum. It is a wonderful memorial for the people who died but it is also an explication of how the city responded, how law enforcement responded. It also presents terrific debates on issues like the proper balance of security and liberty. But, if you want to understand how the various agencies of government came together to solve this crime, you can find it laid out in the Museum.

Rhee:

Before we turn on to the next subject, looking back on Oklahoma City, is there anything that you would have done differently?

Gorelick:

I hadn't been at the Department during Waco, so the date of the Waco event was not seared in my mind. But, if I had spent time thinking about the date of the Oklahoma attack, April 19, I would have understood the likely relationship to Waco sooner than I did. I think Janet knew, but I didn't. She, of course, lived with the anger over Waco in a way that I did not. She received the hate mail and the angry questions.

Other than seeing the Waco connection more quickly, I am not certain that there is something else that I or we should have done differently. There is little that law enforcement can do to detect a very small cell such as the one that Tim McVeigh had. We certainly had no hints of what Tim McVeigh was up to beforehand. After Oklahoma City, we discussed with the Bureau ways in which it could build better communications with the militia groups operating in the country, and with the people who supported them.

One thing that I think we did right is communicating with the President, to whom the country turned for leadership. He was very certain that this attack was the result of right-wing militia activity because he had seen the hate up close as Governor and as President. His desire to have information about this was very intense. I needed to make sure that he had the information he needed but also that our investigative resources were allowed to do what they needed to do. I interposed myself between the White House, on the one hand, and the Bureau and the Justice Department on the other. I told the President and the Chief of Staff, Leon Panetta, "We need time, we need some space to do this investigation, so let's get you what you need without summoning to the White House the senior

people who are working on this. Otherwise, they're not going to get it done. I promise you, I will tell you the minute I know anything, but it will be self-defeating for you to try to be in control if that means taking off the field the very people who have to be doing the investigation." The President understood that. Chief of Staff Leon Panetta was wonderful in giving us that space.

If you had been around Washington for a while, you knew that you had to anticipate the political reaction, which would quickly turn from concern for the people of Oklahoma City and interest in the investigation -- to blame and fault. It was pretty easy to tell where the issue would go. When there's an event like this, whatever the event, Congress immediately looks to what it can do, and since it can't run anything, it often looks for fault in the policies. That's why you often get legislation within weeks of a bad event. We got criticism over whether the FBI had been hamstrung by Attorney General Guidelines, the so-called Levi Guidelines, which outlined the predicates for an investigation, indicating what law enforcement could and could not investigate. We did get ahead of this by working with Director Freeh and the head of the Criminal Division on whether there were any changes that needed to be made in those policies, a process that had been underway before but needed to be speeded up.

Rhee:

Fast forward to lessons learned. You see in today's political environment quite venomous hate that is manifesting in the public domain. Any observations, just thoughts on things that we collectively could and should be drawing upon from the mid-1990s and the manifestation in Oklahoma City?

Gorelick:

Yes. First, words do matter. When hateful speech is used, there will be people, maybe not sane ones, but there will be people who act because they believe that their actions are sanctioned by those who are using the hateful speech. The cultural atmosphere makes a difference. I saw this in the bombing of the abortion clinics and the black churches. I saw this in Oklahoma City and in the aftermath of Ruby Ridge. I saw it in the reaction of the militia groups to the Montana Freemen.

Second, law enforcement needs to be mindful of how it is viewed, and it needs to have the support and faith of the people because if the people view law enforcement as "not them," law enforcement is not going to be able to do its work and it will be cabined in a way that will make it less effective. So, in the aftermath of Ruby Ridge and Waco, there was a lot of talk about "jackbooted thugs" and the FBI coming in to take over communities and using black helicopters and military equipment, to take over our communities. In a different context, today, you can see that lesson playing out in the streets of our cities. If you have a breach between the people and those who are supposed to keep the people safe,

we are not going to be safe. Those are the two lessons, I think, that are very pertinent today.

Rhee: Turning to another topic that has clearly come to the fore yet again, immigration enforcement or non-enforcement. This was clearly something that was an issue that presented itself.

Gorelick: At that time, the Immigration and Naturalization Service had long been an element of the Justice Department. It had two missions. One was to keep people out of the country unless they were lawfully able to be here, and the other was to have a well-run system for the path to citizenship for those here lawfully. And both of those processes were broken. While the INS had good people in it, it had also been, in many ways, a dumping ground for people who couldn't make it in other parts of the government. I'm sorry to say that, but it really was a neglected area. Most Attorneys General tried to distance themselves as much as they possibly could from the INS's work because there was so much that could go wrong. Neither Attorney General Reno nor I believed that that approach was working. I thought, "I may get tarred by this, but I have to try to fix it." I knew it would take a long time to fix it. We had very porous borders. There is much talk now about building a wall. When President Clinton entered office, we had only periodic fencing across the border, and so the Border Patrol would pick people up and escort them back over the border, and then they would just come back again. We hired thousands of Border Patrol agents. We obtained very sophisticated sensors and other equipment from the Defense Department to help us monitor and restrict traffic coming across the border. We built fences in more significant ports of entry. But, as you can see even today, that is a very daunting task as we have an extremely long border. There are many obstacles to a perfect immigration system.

On the service side – that is helping qualified people to become citizens – the backlogs were horrendous, and it just wasn't fair to people. The way in which the service part of the Immigration and Naturalization Service worked was dysfunctional because it did not have resources matched to the task. We had some well-meaning leaders at the very top, but it was an enormously difficult mission.

Rhee: So, why take it on?

Gorelick: Because it would have been a default of leadership to not take it on. It was just that simple. It's the way I felt about working on "Don't Ask, Don't Tell." I didn't want to do it, but it came with the territory. You had to try.

Rhee: And similarly, fast forward in time and you see the same set of issues being played out today because of the nature of the physical location of

the United States and the Southern border. Is there anything else that could or should have been done back then, and what do you believe should be done today?

Gorelick:

Well, I don't know. Each of us serves for a limited period of time, and there's a limit to how many resources you can actually integrate in a fixed period of time. We had the budget that allowed us to hire. We just couldn't hire and train fast enough. There were limits in our training academies, there were limits to how fast you could bring people on board. Our military sees this from time- to-time when it has to surge. You can't just hit a button and have thousands of trained Border Patrol agents show up the next day. It is actually easier to build fences, although, in the long run a fence takes a long time to build. These questions have bedeviled us for a very long time. If you look at Simpson-Mazzoli and the other efforts that were made over time to create compromises and make plans to fix these problems, you can see that it's hard.

Let's look at the Syrian refugees, people with no place to live. If you put yourself in their shoes, and you think about children with no roof over their heads and nothing to eat -- what are you going to do? You're going to do what you can. There is desperation there. I do think the much-debated NAFTA trade agreement created better economic circumstances in Mexico and other places, and that job-oriented migration has abated some.

I don't know what the answer is. I'm not an expert on this. All I know is that we have significant managerial issues that we need to try to address and I did what I could with what I had. I thought the demagoguery on this issue was not very helpful to solving these problems. I did get into an argument with then-Governor of California Pete Wilson because I felt that he was using inflammatory rhetoric to no good end.

Rhee:

The last substantive topic I want to discuss regarding your time with the Department was an initiative to expand the footprint of DoJ overseas. Tell us, why did you take that on?

Gorelick:

Crime and terrorism were international challenges. The FBI recognized this and proposed to build out its capacities outside the United States. This was the right thing to do but it raised all sorts of issues.

Gorelick:

Then there was a parallel desire to expand abroad on the part of the Criminal Division.

This made a whole lot of sense, except that it created a huge problem with the State Department, because the State Department was having its budget and we in law enforcement were becoming a larger and larger proportion of a smaller and smaller platform. It was feeling to State as if it was a

mere service organization to the Department of Justice. And exacerbating this perception was the fact that our agents housed in our Embassies wouldn't tell the Ambassadors about the investigations they were doing. Our agents were trained to keep that information secret.

We had a very intense negotiation with State, with Deputy Secretary Strobe Talbott and Tom Donilon, who was then Chief of Staff to Warren Christopher, the Secretary of State. Merrick Garland and I had this very detailed negotiation with them. They were very spun up and very angry and kept pointing to the statute that says that the Ambassador is the representative of the President in whatever country they're in and therefore their view was whatever happens in the country, the Ambassador needed to know about it. We were wanted to protect law enforcement-sensitive information. We ultimately ended up with running rules for the agents stationed in an Embassy, laying out what they could and should tell State Department personnel and what they could share.

We also ended up with a channel that was modeled on a CIA channel -- the Roger Channel -- within State, where the CIA information would go directly to the Ambassador or the DCM (Deputy Chief of Mission) and not through the chain of command. Merrick named it the "Jamie Channel" which was some sort of acronym. It was a detailed way for law enforcement to provide information to our ambassadors without prejudicing that work.

Rhee: Just to provide the context, my recollection is that the public perception was that international terrorism was a problem that belonged to all the other countries and that the United States actually was an ocean away.

Gorelick: That was true. We didn't really have very much in the way of actual terrorism here. There had been an explosion in the garage at the World Trade Center before my time at Justice. The other terrorist actions were abroad -- the bombing of the Marine barracks in Lebanon in the Reagan Administration, the attack on the USS Cole in the Bush Administration, but there had not been significant attacks inside the United States.

Rhee: I take it that this effort to really establish a law enforcement infrastructure overseas was based on information that just wasn't in the public domain.

Gorelick: Well, a lot of it was about international crime. It was just about thugs stealing money, cars, moving money around; it was about the international drug trade so, quite apart from whatever anybody might have thought about terrorism, there was a need for international law enforcement cooperation and we focused a lot on that. When a Justice Minister would come to visit the Attorney General, it was mostly about that. You had Director Freeh's personal involvement with the eradication of the Italian

mafia. It was much more about international crime than it was about terrorism.

Rhee: Helpful. Just talking through the internationalization of domestic law enforcement efforts, thinking back, was there more that we should have been doing? What do you say to the accusations that – given the reach of U.S. law enforcement around the globe in vindication of U.S. laws which are often not in sync with other countries or other jurisdictions – it has gone too far?

Gorelick: In the mid-1990s, these concerns were really at a very nascent stage. Corruption that affects the United States or entities within the United States, but which originates someplace else, was something that we did not want to ignore and we supported all of the FBI's efforts to expand abroad and to develop relationships with law enforcement and intelligence counterparts. I thought that we were behind by a lot but that the Department had a plan to catch up.

Rhee: In your years at the Department, what are things that you're most proud of and what are the things that you would like to have had an opportunity to do over again?

Gorelick: I was proud of the efforts that we made to connect domestic law enforcement to the US national security community. When I arrived at Justice, there were a couple of different places in the Department that touched the national security and foreign policy communities, but there was no point of coordination for our disparate efforts and no clear path for elevating issues to the Department's leadership.

I spent a lot of time trying to make sure that we were connected to the national security capabilities and that we were responsive to those agencies. Working with the FBI and the CIA, I set up a joint intelligence community law enforcement working group that met twice a week at the level of Deputy CIA Director and Deputy Director of the FBI. We worked through any number of issues. On the 9/11 Commission, I looked back on that and saw ways in which problems that we thought we had solved weren't solved. We had wonderful agreement at the Deputy level between the CIA and the FBI. But in the bowels, they were competitors and you saw it in the 9/11 story. Culture takes a long time to change and you can't just do it by edict. That's a real lesson.

I am proud of the hard decisions we made, for example, to encourage the publication by the Washington Post of the Unabomber's manifesto, which led to his apprehension after over a decade of terrorizing people. There were those in the Department and particularly the FBI who worried that it would look as if we were giving into a terrorist demand, but we felt that it was the right tactic, and that turned out to be correct.

I was proud of our decision to re-open Centennial Park at the Atlanta Olympics after the bombing there. The FBI advised that there would be too much of a risk in allowing the Park to re-open. The city argued that the Park was the heart of the Olympics and needed to be re-opened. And we agreed – taking a risk of another event – but feeling that the city and the Olympics needed this. There were many, many hard decisions that we confronted. I am sure that we did not get all of them right but we heard all of the points of view and came to the best decisions we could, on the merits.

The U.S. Attorney's offices flourished during my tenure. I think they had a lot of autonomy, but there were things that we brought up to my office to make sure they got special attention. When people in the defense bar and judges started to say that our Department was targeting the lawyers who were our adversaries with subpoenas or search warrants or worse, with indictments, we took a hard look at that and I pulled into my office any decision to subpoena or to charge a lawyer in a case. All that did was make people really review those decisions and make sure that they were not being taken for vindictive purposes or to gain leverage but really for a serious and legitimate purpose.

I tried very hard to get the balance right between a large field organization and the central functions of Main Justice. I don't think I was overly deferential, which I think is a danger, but I don't think I was so intrusive as to break things that weren't broken. That's the trick. I'm speaking more in management terms than I am in policy terms because frankly, that's the way I saw my job. We tackled a ton of issues. There was one after another of hairy and hard issues. A lot of that was fun and interesting. Needless to say, I am proud that there were no scandals or investigations of the Department during our tenure.

I think that the esprit-de-corps within the Department was high. I think there was tremendous integrity in the decision-making. I'm certain that we did not get everything right because you can't move at the speed we had to move and get everything right. But we did make decisions quickly and to the best of our abilities. We spawned an awful lot of very wonderful, brilliant careers.

Rhee:

Yes, you did.

Gorelick:

I am very proud of our team members who are judges, general counsels, senior government officials and prosecutors, partners in law firms and public interest lawyers. I'm just really proud. I haven't begun to mention half of the people who were part of that team. Watching them grow up in life is a source of great pride.

The goal I set for myself when I took on the Deputy's job was to let Janet Reno be Janet Reno. She had had wonderful experience and had great judgment and tremendously admirable values. I saw our job as making sure that she got a chance to actually make the decisions, fully informed and well-advised. That was a decent ambition to have.

Rhee: How did you know when it was time to leave?

Gorelick: I was tired.

Rhee: That's a pretty extraordinary statement coming from you.

Gorelick: Well, it is a job that you can only do, in my view, if you sprint. There is just so long that you can sprint. I had been sprinting since the '92 election. I had two young kids, one of whom, Dana, had arrived during my government service. Dana was getting a little older and there were more things I wanted to do with her and I didn't want to miss that time with her. Dan was the same. I wanted more time with him. I did make a point of coming home for dinner. I only went out one night a week. I didn't travel very much, so I think I was a decent mom for that period of time, but not the mother I wanted to be.

I came back from Christmas vacation at the end of 1996 and I told the Attorney General, "I can't keep doing this. I don't have to leave immediately, but this spring, I'm going to leave." She completely understood. And we had a good crop of people from whom to choose a successor. I immediately identified Eric Holder, which may have been an action-forcing mechanism.

It just was time to go. I think that I had my reputation intact. I had good relationships with others in the Administration and there were people with whom I wanted to continue to have good relations – and you just never know how long you'll be able to do that. I thought I would perhaps come back into government at some point.

I couldn't sprint much longer. If you try to do it at a jog, you're just not going to do it as well. I thought about it and I made my decision and helped with the transition and bid the Department farewell.

Rhee: Where we last left off was your transition. Your decision to announce your departure and your motivation behind that. Talk about your decision-making that led you to accept the job at Fannie Mae.

Gorelick: I had really liked the managing part of the job at DOJ and so I was open to the possibility of an in-house position. I had gotten calls from the president of a university, from the C.E.O. of a west-coast company and, earlier in my career, I had discussed with GE becoming the head of

litigation there. I had toyed with this in the past and at that point in my life, I thought that helping to run something in the private sector would be fun and something that I could do well.

I had inquiries from a number of other enterprises, but none of them were in D.C. Rich was in the leadership at Georgetown University Hospital. The kids were in school in DC. We had lots of friends in Washington and a babysitter who was part of the family. In the end, I decided that I did not want a job that would require us to move, however interesting some of the possibilities were. I met a number of times with the leadership at Fannie Mae. I had not known Jim Johnson, who was then the CEO and Chairman, but we did have a lot of friends in common. I was intrigued by the hybrid nature of the company – that it was a business, but had a very special government charter and mission.

Rhee: You were talking about the hybrid nature of the...

Gorelick: Yes. I liked the fact that Fannie Mae had a mission, to promote home ownership and affordable rental housing, as well as community development. These were issues on which I thought I would enjoy working.

Rhee: Did they reach out to you?

Gorelick: Yes.

Rhee: Was this a position that had been vacated?

Gorelick: The Vice Chair had been Frank Raines. He took the job of Office Management and Budget Director. Fannie Mae had had a long search. The position had been vacant for a while when they approached me.

Rhee: This is a hybrid entity that at the time that you were talking to them was not all that familiar to the public, notwithstanding its charter and its size. It obviously became quite prominent in the news. Tell us just what it was like when it was still relatively below the radar and what you found in terms of the operation when you got there.

Gorelick: Fannie Mae was in the business of guaranteeing the payment of principal and interest on mortgages – so that those mortgages could be sold into the marketplace to replenish the funds available to lenders to lend again. Fannie Mae took the power of capital and put that power into home ownership in America. It was and is a very powerful model. It's one of the reasons why we have a high rate of home ownership in this country. Fannie Mae and Freddie Mac also provided a standard-setting mechanism for so-called prime mortgages. This also made that market very liquid. If you think about it – why would an investor in China want to invest in a

mortgage in Cleveland? It is because the system that was created actually worked. I liked that very much.

But while the benefits to American society were very high, they were not very concrete in the minds of individual consumers. People had no idea why it was that they were able to borrow money easily and readily, but they knew they could. When I got there, one of the efforts that was being launched by the company was to make more apparent the benefits that Fannie Mae brought to society. We did that in two ways. One, we experimented with ways in which to broaden home ownership by doing underwriting in a more experimental way. Not on a broad scale, but just to see how different approaches to underwriting might work. For example, if you didn't have a great deal of savings, but you regularly paid your bills and never missed a payment, that would be a pretty good indicator that you would be a good credit risk. And yet, there was no mechanism for people who were underwriting mortgages to see that. We tried different ways of determining who would be a good credit risk to buy a home, even if they didn't meet some of the traditional requirements. These were small pilot projects, but they were informative. We also launched projects in various cities to help community development. We did that both through Fannie Mae and the Fannie Mae Foundation.

Rhee:

By the late 1990s, the mortgage-backed securitization market had come into its own. It was a relatively new creation, but we are now talking about hundreds of billions of dollars' worth of assets that are flowing and securitizing products that are out in the market. Fast-forward 20 years from that point. When you look back on your time at Fannie Mae, did you have any inkling that it could get manipulated as the market expanded?

Gorelick:

When I was there, the products that we had were quite vanilla. In fact, they were called "conforming," meaning that a mortgage conformed to the very strict standards that Fannie Mae and Freddie Mac had imposed. Had the market continued like that, where the bulk of the market was in conforming mortgages, we would not have had the meltdown that we had.

The banks felt that they should have that market and that Fannie Mae was crowding them out. The aspect of the mortgage market that the banks could dominate was the subprime market, because Fannie Mae and Freddie Mac had come to define the prime market and were not in the subprime market.

Looking back, you can see that the bulk of the marketplace growth in the early to mid-2000s was in subprime and indeed Fannie Mae and Freddie Mac's market share went down drastically. That should have been a warning to somebody. I had left Fannie Mae in mid-2003, before this explosion of subprime mortgages in the marketplace and before Fannie Mae decided to purchase some of those mortgages.

I don't understand why nobody spoke out and said, "This is dangerous." Nobody from the Fed, nobody from Treasury, nobody from HUD. If this was said by Fannie Mae and Freddie Mac, I didn't hear it. That is a shame because you could see the data and you could see that Fannie Mae and Freddie Mac in some respects might have been chasing market share by getting into that market themselves. I personally believe that the takeover of Fannie Mae and Freddie Mac was unnecessary and that it was partly fueled by a belief that a hybrid company like that should not exist, which is an argument I can understand but don't agree with. Fannie Mae and Freddie Mac have repaid the money that the government put in and then some at this point. The mechanisms that were in place for the government to advance funds in the event of a crisis actually worked.

Rhee: Similarly, these allegations came to light after you had left.

Gorelick: Yes.

Rhee: They did not really touch you, but certainly the CEO and others subsequently got caught in the cross-hairs of various government inquiries around compensation and around...

Gorelick: There were two issues that hurt Fannie Mae after I left. One was a question of accounting and as I understand it, the basis for the concern about the accounting in essence, ultimately went away. I'm not an expert on this, and the issue arose after I left, but it is my impression that the position of the Finance folks at Fannie Mae was sustained. And the other was the purchase of subprime mortgages in the 2006-2007 time frame – there was a higher level of default on those purchased mortgages.

Rhee: Yes.

Gorelick: To answer your earlier question, which I think is appropriate, I did not see anything, any inkling of either problem. It seemed to me to be a very tightly run company with all the appropriate controls. Certainly, if I had seen anything, or had an inkling of these issues, I would have said something.

Rhee: I think the lens of the question is as follows. This is all pre-Sarbanes-Oxley accounting inquiries that at least according to some of the public accounts of the allegations, related to individual compensation based upon the meeting of expectations. Which is not so dissimilar from a number of accounting-related allegations in this era, particularly before or on the eve of Sarbanes-Oxley. You can argue the compensation practices at the time were perceived as fairly common. Maybe one wouldn't go so far as to say they were permissible, but certainly they were happening across lots of different industry sectors. I'd like to pause on this moment in time where

you went essentially in-house – at the dawn of the era of internal accounting-related investigations.

Gorelick:

You know, it's interesting. I saw this throughout my career where a practice that was common in an industry and lawful suddenly became unacceptable. It's the nature of the democracy that we have, which is pretty raucous both in terms of politics and press and that's how change occurs. That's fine, but every once in awhile there are casualties. Look, for example, at GE. GE met its earnings targets lawfully, in large part by the disposition of assets in its broad portfolio at key times. That subsequently came to be viewed as inappropriate and the practice was stopped there and everywhere else.

Rhee:

How did you come to leave Fannie Mae? Tells us how you came to serve on the 9/11 Commission.

Gorelick:

At the time of the attacks of September 11, 2001, I was serving on the National Security Advisory Panel (the Director's outside advisory group) at the CIA. I was also a member of the group that President Bush had asked to look at the structure of the intelligence community, a group led by former National Security Adviser Brent Scowcroft. In that panel, we had discussed the need to have greater coordination and cohesion across the community, particularly given the dual roles that the CIA Director then had – both directing the CIA and coordinating the Community, as it was called.

After 9/11, I thought that there was a lot that we could do to make our country stronger, but that had to start with an assessment of what, if anything, had gone wrong. Efforts to make that assessment in Congress had not been entirely effective. At the end of 2002, over a year after the attacks, Congress established the bipartisan National Commission on Terrorist Attacks on the United States.

The leadership of each of the two political parties was given the authority to appoint half the members, with the Chair being selected by President Bush and the others being selected by the House and Senate leadership in each party. Very quickly, George Bush named Henry Kissinger as Chair, and the Democratic leadership of the Senate selected George Mitchell as Vice-Chair. For various reasons, neither was able to serve, and former Governor Tom Kean and former Congressman Lee Hamilton were picked for those roles. I was identified as one of the Democrats to fill out the Democratic seats on the Commission. I had served at Defense and Justice and in an advisory capacity at the CIA, so brought those experiences to the table. I was the only woman on the panel.

I could not serve on the Commission and continue as an executive at Fannie Mae and it was a good time to leave Fannie Mae in any event. I

decided that the best course was to return to the private practice of law part-time, to enable me to devote a significant portion of my time to the Commission, which I viewed as a tremendously compelling assignment.

Rhee: How did the Commission decide to proceed?

Gorelick: Kean and Hamilton were determined that this Commission would not have the flaws of so many that had preceded it. They decided, and we all agreed, that we would have one staff – not a Republican staff and a Democratic staff – and that those staff members would be selected based upon their experience and not their politics.

We also agreed that we would have a very transparent process, unlike most commissions that meet in private and then emerge with findings and conclusions. We decided to have hearings as we went along, so that the American people could form views of the facts themselves. They would be brought along as the Commission's work was progressing and they would see the facts as they were established, in hearings with presentations from witnesses and the staff. We also agreed that, in any public appearances, such as interviews after hearings, we would appear only in bipartisan pairs. This had the effect of moving the commissioners together in their factual presentations and making sure that we were not partisan in our presentation.

Rhee: How did you decide what the report itself would look like?

Gorelick: First, we knew that we had to hash out a common view of the facts, that it would undermine our work if we were to have competing views of the facts. We spent an enormous amount of time together, reviewing testimony and documents to come to common views.

Second, we decided to publish our findings in a book that would narrate what had occurred. We did this because we felt that our recommendations would have a greater chance of being implemented – as opposed to sitting on a shelf gathering dust – if we and the nation had a common understanding of what had gone wrong. The staff and leadership felt that publishing this story as a book that would be readily accessible and readable – not like usual government reports with redactions and footnotes -- would bring the American people into the story. And it did. It's a very readable book and it is still used in classrooms across the country because it is the broadest, deepest look at the national security apparatus of the United States ever undertaken.

The modalities that we used were designed to lay the ground work for our policy recommendations, though we did not know what those would be. For the most part, we did not come into the process with strong views as to what those recommendations should be. We decided that our policy

prescriptions would follow from the facts, not the other way around as so many commissions had in the past.

Ultimately, we also decided we would campaign, if you will, for the adoption of the recommendations. Every one of us had served on some panel, or more than one, that produced a report that sat on a shelf and we did not want that result here.

And, importantly, the families of the victims were not going to have it either. They were going to make sure that other families would not have to go through what they had experienced. They pressed, both publicly and privately, for the entire truth to come out and, once they assured themselves that we had done a credible job, they were the single biggest reason that the recommendations were considered and adopted.

The biggest challenge for us was making sure that the families agreed that these were good recommendations and that they backed them. We carefully reviewed the report with them and asked them for their help. At the announcement of the report, the leadership of the families was there and they spoke about the importance of action. They were remarkable. They and the then former commissioners campaigned across the country to ensure the adoption of the recommendations. We set up a privately funded foundation to permit us to continue that work. We traveled the country in bipartisan teams and made our case. And we were, in large part, successful.

Rhee: How did you manage to avoid the politics that make such cohesion impossible today?

Gorelick: By the end of the process I have described, there were bipartisan bonds that held us together. Former Senator Slade Gorton and I helped draft around some of our disagreements – mostly by taking out adjectives and adverbs and sticking to the facts. You see the opposite happening in Congress now, where members barely know each other and certainly don't sit in a room to hash out differences the way we did. It's very hard to demonize someone if you are actually working together.

Slade talked with me about this when we first met during the very first dinner the commissioners had. He had heard a lot about me and I heard a lot about him. What we had heard about each other was the same – this person is very smart, very able and very partisan. I don't think either of us can properly have been characterized as very partisan but that is how a Republican might characterize me and how a Democrat might characterize him. But when we started working together, we found a lot of common ground and we became good friends.

Rhee: I'm struck by the impact of the informal contact that you had.

Gorelick:

Breaking bread together also helps. Justice Ginsburg talks about how meaningful it was to her working relationship with Justice Scalia that they are their spouses dined and cooked together. It didn't change that many opinions, but it helped them work together. In the case of the 9/11 Commission, we spent a lot of time together. I had the Commissioners over to our house for dinner on a number of occasions when we were gathered in DC. We got to know each other during our meetings and in our social engagements and that helped us reach agreement or figure out a path when someone was adamant about a particular issue.

Rhee:

Looking back now, is there anything that was particularly challenging?

Gorelick:

There were a couple of areas in which we did compromise. The President and his advisors did not want to provide the Presidential Daily Briefings (PDBs) to the Commission. One PDB had gotten a great deal of attention, as it had been mentioned in the report of the Joint Committee of Congress that preceded the Commission. This was a Presidential Daily Briefing in August 2001 -- which was viewed as having provided a warning to the President and his advisers that the country might be attacked domestically. At some point, Governor Kean and Congressman Hamilton told the White House that the Commission would not accept being denied access to these materials.

The White House offered -- instead of giving the full Commission access -- to give access to two people from the Commission. Our Staff Director, Phil Zelikow, who had served under Republicans, and I were given access. I was honored that the Commissioners saw me as someone who would be both fair and trustworthy in this process. Phil and I spent a number of days locked in a SCIF in the Old Executive Office Building, reviewing these memos and we wrote a memo about what we saw.

We thought we would be able to provide that memorandum to the Commission, but the White House absolutely refused. I don't know what the reason was. That memo is sitting in some archive somewhere in a specially marked envelope. Phil and I decided that we could convey what we learned in a shorter version which we would then provide the commissioners along with other materials from the CIA that the Commission already had. These materials allowed us to convey what the White House knew in the run-up to September 11. That is reflected in the Report.

We were also not permitted direct access to the detainees, several of whom were knowledgeable about the attacks. We were permitted only to forward questions to the interrogators, which we thought would not be as effective as being able to ask follow-up questions ourselves. We now know, of course, that the intelligence community had many reasons for

keeping the detainees from us. In any event, I don't think that would have changed the narrative.

Rhee:

We were talking about the completion of the Commission work that you did, but of course, during that same time you had transitioned back into private practice. Walk us through your thinking about how and why you decided it was time for a return.

Gorelick:

There were a couple of reasons. One, I feel and felt most naturally comfortable in the practice of law, which was a surprise to me when I left government. I had really thought I would like to try management in the private sector, because I liked the management challenges when I was at the Department of Justice. But I missed the law. I missed the variety of matters and the intellectual challenges. To be sure, at Fannie Mae, there were intellectual challenges. But it was as if I had only one client. I realized that, for me, it was more fun to have multiple clients with an array of problems and issues and personalities.

When you combine that with the impossibility of being on the 9/11 Commission while a full-time very senior executive in a company, I concluded that I should return to the practice of law if I could find a law firm that would understand the nature of my commitment to the 9/11 Commission. I talked to many law firms and they all said, "Please come and we will understand and we can make whatever arrangement you like." But in the end, I felt that then-Wilmer Cutler & Pickering, which I had known for many years, was the firm that would most clearly understand the nature of the public service commitment with which I would be joining the firm. And, of course, I had many friends at the firm, some of whom I had suggested join Wilmer when they were leaving Justice.

Rhee:

Let's just talk about the intervening time and how the practice of law in law firms changed. When you departed in the mid-1990s from Miller Cassidy, there was a Miller Cassidy and there was still a real place for a boutique litigation firm like that. Fast forward to when you are thinking about the return to private practice. The legal environment, and certainly the legal market, had dramatically changed. Can you just reflect on what your observation was having taken essentially almost a decade off?

Gorelick:

At the time, I had actually very little insight into how different it was. Even if Miller Cassidy had still existed, and I had tremendous fondness for Miller Cassidy – I don't think I would have gone back. I knew that, at that point in my career, I would benefit from a broader base, a greater range of skills, a greater geographic footprint. I wasn't at all sure what kinds of things were going to come to me. I wanted to make sure that – beyond superlative litigation skills – I had people available to me in every regulatory or other specialty that I might need to back me up and work in concert with me on the matters that might come my way. As it turned out,

that was a correct prediction. I knew that Wilmer had great litigators, many of whom I had worked with in various ways in the past. Whether at Miller Cassidy itself, or at the Department of Justice, Howard Shapiro, Randy Moss, David Ogden, Seth Waxman, and others, I was completely comfortable with the people who did, in essence, what I used to do I and was very impressed with the people who did things that I hadn't done but I thought I might need.

Rhee: You started talking to and came to Wilmer right before a big merger occurred. Once you got to Wilmer, what observations did you make about just how much the practice of law had changed in the decade that you were not in a private law firm?

Gorelick: The understanding that I had with the firm was that I would not have to pay any attention to administrative matters or management. Indeed, those who recruited me to the firm said things like, "You could be running the firm if you would like, some day." With all due respect to the people in our firm who take on these management responsibility, I thought that was unappealing. I wanted to return to the practice of law in order to practice law.

I was thrilled to have the kinds of resources that a high quality larger firm can provide in the way of support and colleagues. To the extent that I focused on anything other than the matters that came my way, it was on the 9/11 Commission. Honestly, I was fairly oblivious to (a) the changes that had taken place in the decade that I had been away from the practice of law, and (b) what a merger meant or could mean. Bill Perlstein, then Managing Partner of the firm told me, "We are contemplating this merger with Hale and Dorr and you may know that it is run by Bill Lee, your former college classmate." I responded, "Bill, I've known you almost your entire career and almost all of mine. And I've known Bill Lee since we were kids in college. If you two think this is a good idea, I'm sure it is." That was pretty much it.

Rhee: Fast forward another decade or so. Notwithstanding the promises you extracted about not having to get involved in administrative management, lo and behold, you're now running a department and you sit on the Management Committee of the firm.

Gorelick: Well, first let me say that the merger, I think, worked beautifully. For example, we ended up marrying up Hale and Dorr's intellectual property litigation capacities which were best-in-class, with our appellate abilities, which were best-in-class, to become a juggernaut in the development of intellectual property law. And there are so many other examples of ways in which the two firms culturally and in terms of the business of law have done so well together. The warnings that many people gave me after the merger was announced – that mergers are hard, mergers are dangerous,

most of them don't work – were not borne out. I think this was due in large part to the very high degree of intentionality within the two firms in addressing a multitude of issues.

Turning to the management issues, Wilmer was, I think, in the view of many people, including many of the partners at Wilmer, under-managed or highly democratic – however you want to characterize it. While legacy Wilmer Cutler was lovely in many ways, one of the benefits of merging with Hale and Dorr, which was managed, was that we could simply adopt many of their modalities for management. Some of that presented cultural challenges to an enterprise that was really loose and had to become tighter, but if that hadn't happened I don't know how legacy Wilmer would have managed that transition. The practice of law, as you noted in your question, was changing substantially and you couldn't run it as if the business end was an after-thought.

When I started, one of the fun parts was inventing new practices. Not because someone said, "Do you have any new practices you want to invent," but because I had a very broad view of where and how lawyers could help clients at that moment in time. I had been exposed to issues and people, to corporate and non-profit challenges, to where the government was going to need to evolve. I brought those back to the law firm and said, "This is an entirely new area of practice that we should be in." For example, almost immediately after coming to the firm in 2003, I said, "My work on the 9/11 Commission is leading me to the conclusion that there will be a fundamentally different relationship between corporate America and the government, because our national security sits on a bed of privately owned and run enterprises, which are not working in coordination with the government. That's going to be hard to work out. The rules would have to be established. There will be bumps along the way, but it's important both for our national security and our country, and for the companies that call the U.S. home, that we get this right." The firm said, "What is a national security practice? We've never heard of one." I said, "That's a good reason to have one, not a good reason not to have one." Management said, "Well, we have a government contracts practice." I said, "That could be a piece of it but really, that's the tail end. The front end is, what should be the running rules for how the government should relate to those enterprises – the companies that control our telecommunications or our power grid -- that are, for the most part, not government contractors?"

We created a National Security Practice, which I think is best-in-class today. It evolved into a really first-rate and serious practice before the Committee on Foreign Investment in the United States. It evolved into, I think, a first-rate cybersecurity practice. And there was no one better than our colleagues at figuring out the rules that should govern what our government should be allowed to ask the private sector to do. Our "ex-

Office of Legal Counsel” lawyers were perfect for that work. We were a bit ahead of our time, so we created capabilities and for a bit of time, no one came. But I think the firm’s prescience and the firm’s investment in that practice really paid off. It has been a fun, interesting and meaningful area of work.

The same thing happened when I saw how frequently we were asked to handle, for lack of a better term, big messes. I saw other firms advertising that they had crisis management practices, when I knew that we did more of that than anyone. Indeed, maybe the reason we didn’t have such a named practice was that a big proportion of the firm was already working on such high-profile and high-stakes matters, so it didn’t occur to anyone to name it as a practice. But we did. We institutionalized learning from each one of those experiences and we have a fantastic practice today.

I say all this only because, despite my desire not to have any administrative responsibilities, I ended up running these two practices. I really thought that the practice of law could help people in ways that we weren’t, or weren’t doing as effectively as we could. Then, when our dear friend Randy Moss, with whom I had worked at the Justice Department and whom I love dearly and respect enormously, joined the District Court bench here in D.C., the firm asked me to take over the Regulatory and Government Affairs practice and join the Management Committee. My view, at that point, was that the firm had never really asked me to do anything and if it really wants me to do this, I would. And it has been interesting. I don’t think I ever would want to run a law firm, but it has been interesting to see the kind of talent we have, consider how to make best use of that talent, observe how the practice of law is changing. The management of a law firm calls for tremendous creativity and the ability to steer to financial success a group of people who are mission-driven and mindful of their ethical obligations – and who, in essence, run their own businesses. It also has given me a window into the lives of lawyers I would not have gotten to know. That’s been a lot of fun.

Rhee:

Circling back to the very beginning. Now that you are perched really at the very top of this enterprise to when you started as a baby associate back in the day as the sole woman hire at a firm that had to deal with you as an actual lawyer and not as a secretary, what advice or what observations can you share with the women who are all the way behind you? Starting right at the beginning in a profession that looks both very different and yet faces very much constant and similar challenges to the ones we’ve discussed.

Gorelick:

This is not a hypothetical question, because I am often asked to give advice to women coming up in the law and I draw on all of my 40-plus years of experience practicing law, both in and out of private practice. Today, we have many more women in the profession, and we have many more women in senior leadership positions – although not nearly the

percentage that is in the profession as a whole. Women have particular challenges, and there are special challenges for women who want to have families. Although this is changing, the women in our profession bear disproportionately the burden of caring for families.

My career advice has several aspects to it. First, make sure that you are in a position in a law firm or wherever you are practicing law to learn all the time. If you aren't on a steep learning curve, you need to make a change. The change can be within the institution that you're in or it can mean making a change.

The second bit of advice is to take risks. I joined a small law firm because I thought I would personally do better there. But I was taking a risk because I was making a bet on a small group of lawyers in a pretty focused practice. A lot of my friends joined larger organizations -- whether the government or a corporation or a larger law firm -- thinking that those choices were less risky. But there were risks in those choices as well. You have to understand the risks and the potential benefits of each of your choices.

Third, I think it is important to go deep early in one's career. I was in private practice for the most part for the first 18 years of my career and one of the things that I learned is that there is no substitute for knowing what you're talking about.

Fourth, a corollary to that, is that it is important, at some point, to go broad. That means to see across issues so that you can give your best advice to your client, whether your client is an institution in which you work or whether you're outside.

While I have many other pieces of advice, I'll give you just one more. The last one would be this. In the end, what people want from their counsel, in whatever setting you are in, is judgment. You have to have good judgment. In order to have good judgment, you have to have exercised your judgment. If you have not found yourself in a place professionally where you can exercise judgment, make mistakes, do things well, correct mistakes, learn from them, then you will never be the person who can exercise judgment. Finding that place where you have the guidance you need, but you also have enough room to grow and exercise judgment is one of the most important things that you can do to have a rewarding career.

All of this adds up to joy in your work. We spend most of our time working, so you'd better like it. And you'd better find people you love to be with and fights you like to fight. Simply being dutiful about your work isn't satisfying in the end. Look for pleasure and joy and excitement and the feeling that you are making a difference.

Rhee: Sitting here today, looking towards the future and not the past, are you hopeful about the state of the practice of law and its prospects for greater inclusion, greater diversity? Are you neutral? Are you pessimistic?

Gorelick: I'm naturally optimistic, but I also see a lot to be optimistic about. The diversity of people, whether it's gender or race or simply point of view, in the practice of law is high – relative to some other institutions – and growing. Our clients are now pressing us to be more diverse and our profession will respond to that.

The ability of institutions like ours to outsource much of the work that would be tedious is a really good development. To be sure, it has limited the number of jobs in the practice of law, but the jobs that remain are interesting. I would prefer that quality over quantity.

That transition also is inevitable as institutions become more business-like. Many of us who have been around for a long time pine for the days when there was a more trusting relationship between client and lawyer, but my view is that it is important for clients to know what a project is going to cost and to be able to make sensible choices for themselves about what they want to do. On both sides of the lawyer-client relationship, it is important to maintain personal trust, so that when there are business issues, they can be worked amicably and well.

Finally, I think the shrinking world makes the type of problems that lawyers have to deal with that much more interesting. For example, today, we need to understand the implications of introducing a technology that's going to go into every country on earth on the day it's released into cyberspace. Even twenty years ago, companies would introduce products jurisdiction-by-jurisdiction and their lawyers would make sure that every "T" was crossed and every "I" dotted. That is a vastly different way of operating and thinking. That dynamism in the marketplace is what makes practicing law fun.

Having noted the changes, I think that the core skills for leaders in the practice of law will always be the same -- the ability to analyze and think, the ability to exercise judgment, the ability to set a strategy by being both deep and broad, the ability to advocate effectively for your client, whether she's a CEO or a homeless person. Those are all really important core skills that are not going to change. The settings will change and success will come to the agile. But seeing both the change and the constancy -- that's the fun part.

Rhee: Picking up on going broad, which is really reflective in this last lecture that you gave, you're one of the very few practicing lawyers who also serves on a multitude of boards. We're not talking obscure boards, we're talking the boards of Amazon and other big Fortune 100 companies, as

well as some of the most significant nonprofit organizations around like the MacArthur Foundation, the Carnegie Endowment and the like. What is that perspective like, where you're often one of only a handful of women, often the only practicing attorney, watching the world change around you?

Gorelick: Each of those involvements, whether it was the Harvard Board of Overseers, or the Carnegie Endowment, or the Washington Legal Clinic for the Homeless, or the Urban Institute, or the MacArthur Foundation - or countless others - or whether it was the Amazon board, or United Technologies, or Schlumberger or Verisign - each one of those experiences has given me and continues to give me insights that inform everything else I do. Every activity that I have ends up cross-pollinating every other activity. I love that portfolio. My practice of law is home base. It is, by far, where I spend the most time. But the other activities, the other commitments, are enriching in ways that I would not have predicted.

Rhee: When you sit on these boards, particularly the for-profit, the big multinational corporations, what is the vantagepoint there in terms of your perspective on looking forward? What does the state of the economy look like to you from that vantagepoint? What does the role of lawyers in this evolving marketplace look like to you? Maybe the ultimate question: what is the place of the United States in this evolving dynamic in light of how quickly things seem to be moving on all those fronts?

Gorelick: I served on the United Technologies board for nearly fifteen years. I watched the globalization of the economy. This is an iconic, wonderful, U.S.-born-and-bred manufacturing company. It makes elevators and air conditioners and aircraft engines. I could see the globalization of the world economy in front of my eyes. I saw how UTC's customer base, its production, its regulatory and policy challenges were all becoming global. I had a bird's-eye view of this. And if one could step back and analyze these developments, one had insights into how the practice of law might need to change in order to help clients think through those problems.

When I sat on the Schlumberger board, I saw what was, in essence, a stateless company. It was born in Alsace. It moved to the United States to escape the Nazis in World War II and complicity with the Vichy Regime. It reincorporated afterwards in the Netherland Antilles. It had its meetings in New York and in Houston and in Paris, as well as Norway, India, Russia, etc. It had an extremely varied board, with no majority from any one nationality. That is the face of the future. That's a tremendous insight to bring from a board to the rest of your life.

I sit on the Amazon board and I see the growth of cloud computing and the rise of the impact of artificial intelligence and machine learning.

These are things I never would see as immediately if I were simply practicing law.

The latter insights were what prompted me to suggest that we should have what I think is the first Big Data practice. Why? Because I saw how our clients were slicing and dicing data and analyzing and using it for many different purposes. I think we can contribute mightily to the cross-disciplinary thinking about the complex issues that are embedded in that data acquisition and data use.

Those are just a few examples. I suggested an education practice based in part on my service on the Harvard Board of Overseers, and, in part on my work for Duke and for MIT. I asked about our work for educational institutions across the firm and saw how tremendously deep and broad our education practice is – but we had not named it or brought our practitioners together. Now, we benefit from working together to address these clients' issues and we share insights from our experiences.

Each of the boards on which I have served has been important to my work as a lawyer – and to my work for other institutions. Whether it's at the Urban Institute where I learn about health policy and criminal justice issues and income inequality, or the Legal Clinic for the Homeless where I saw the pervasiveness of homelessness and how lawyers can help both individuals and the system improve the lives of people in communities – each of these experiences enriches the others. I love the combination. It enlivens everything that I do.

Rhee: Bringing this back around to legal practice and the legal profession. In the face of globalization, notwithstanding all of the changes that have happened in the business of law, the profession actually is still run in much the same way that it always has been. People are barred and licensed in their states. At the end of the day, notwithstanding globalization, you have a very old-fashioned profession that continues to do as it has always done. Thoughts on what that means for the profession in light of all these things that we're talking about happening in the world?

Gorelick: It's interesting that you are still using the word "profession" as opposed to legal "business," which I really like. I feel that we must protect the "profession" or we become just another widget in the economy.

Gorelick: A few years ago, I was asked to co-chair the American Bar Association's Commission on Legal Ethics 20/20, which was to look at the impact of globalization and technology on the legal profession as it would be seen and as it would act in the year 2020.

Rhee: We're coming up on that.

Gorelick:

I am already there – two of the questions on the table were whether we should have one national bar and abandon the state licensing system or should there be an international bar and no national licensing. We looked at whether we should have any constraints on people moving from state to state or country to country to practice law.

In the end, I felt very strongly that there was a real value to the profession to stay as a profession and in having our regulatory regime be based in the courts. Having the courts supervise our admission to the bar, our bar discipline, our obligations, and our rules and ethics, is in my view critically important to distinguishing us from bankers, accountants, doctors – you name it – other professions that are buffeted by politics, regulated by whoever says they want to regulate them -- often nonsensically.

Whatever complaints one may have about the complexity that is imposed on a lawyer who is in New York and who wants to move to Illinois is nothing next to what would happen to us if we were simply another group of widget-makers regulated by state, local and federal authorities, however they would like. I like the profession the way it is. We are the only profession that imposes on itself an obligation to provide pro bono service. Some other business and professions do some public service, but nowhere near what we do. We hold the keys to the courthouse door for so many people. This may sound antique and corny, but I did not and do not believe that a wholesale set of changes is warranted, particularly given the trade-offs. That may change in the future, but I hope it is after I've left the profession. I like it the way it is and think that is better for our society.

Rhee:

In the last decade, you have shepherded some very notable cases. Cases that have made headlines and that have been scrutinized in some case studies. Let's just talk a little bit about some of the most notable representations. I want to begin with BP, perhaps because it's the largest. It's the largest in just about every category of largeness that we can come up with. Why don't you just walk us through? How did that come in the door?

Gorelick:

After the Deepwater Horizon exploded, BP hired Kirkland & Ellis and Arnold & Porter, two long-time law firms of BP, to handle litigation and investigations on the one hand and the environmental issues on the other. I had worked with BP in the aftermath of the Texas City Refinery explosion, which had occurred about four years before the Deepwater Horizon had blown up. My advice to BP was this, "You need a strategy that connects the different workstreams, if you will. You have several different regulatory investigations, you have investigations on Capitol Hill, you have civil and criminal investigations in the United States, you have parallel concerns being expressed all over the world. All the while, you are trying to stop the flow of oil. This is different from many cases where whatever bad thing has happened, it is over. Here, it is not over.

That changes everything.” The leadership of BP understood this and the General Counsel basically set up a virtual law firm – merging all of the resources it needed – guided by a steering committee of which I was a part.

The fear that was engendered by the flow of oil closer and closer and closer, and ultimately upon the shores of the United States was incalculable. That fear drove almost everything. The need for coordination, the need to see across each of these efforts, the need to maintain and rebuild, where possible, the reputation of the company over time, those were things that transcended the normal roles of lawyers who have responsibility for individual tasks. Normally, you find facts, collect data, interview witnesses. You look at whether you are in regulatory and legal compliance. And you set the strategy for that particular matter. But BP knew that it needed to take it up a level. And it did.

Rhee:

Turning to some more recent high-profile engagements, you are now representing a slew of cities who have been subject to DOJ investigations in the aftermath of police violence. Why don’t you talk us through how that came about? It’s not the most obvious place for the role of a private practitioner.

Gorelick:

The issue of the relationship between our communities and the police who protect them is one of the core issues of our time. If we don’t get this right, we will be riven as a society. I knew that from my time at the Justice Department. I knew it from my work at the Urban Institute and the Legal Clinic for the Homeless and from my service on the 9/11 Commission.

I had had the experience of being part of the team assisting Puerto Rico in a “pattern and practice” investigation by the Civil Rights Division into whether Puerto Rico’s police were guilty of discriminatory use of force. I saw how that investigation could have been done so much better, both from the point of view of the Department of Justice, which I know and love, and from the point of view of the communities that were being investigated.

After Freddie Gray died in the custody of Baltimore police and there were riots in Baltimore, the Mayor asked the Department of Justice to come in, which is not common. I suggested to the City Solicitor, whom I did not know, and that Baltimore might be a candidate for a third way of doing such investigations. Typically, these investigations go on for years. Typically, they are enormously costly. Typically, the city waits to make changes until after the investigation is done. Typically, problems are allowed to fester. I knew the leadership of the Department of Justice and the Civil Rights Division and I thought that, in the circumstances, they might see the wisdom of doing things differently, bringing this

investigation to a close in a much more sensible timeframe, implementing changes as we were responding to the investigation. I thought that, if we had a cooperative posture with the Department of Justice, they would understand we are trying to improve. I talked with the Mayor, and the city retained us to help.

When a similar set of tragic events occurred in Chicago, I reached out to describe our experience with Baltimore. Chicago came to the conclusion that it, too, wanted to try to do things differently, to get off on a better foot. Though that investigation is behind Baltimore's by many months, I think they're on a good path.

This is a work in progress, but it's the sort of matter that benefited from the talent and insight that we have. We had Debo Adegbile's experience in the civil rights community, we had Brent Gurney's experience with the police community, we had experience with similar investigations, we had had experience with senior people at the Department of Justice that led me to think that perhaps they would like to reengineer the process to better align cities and the Department with the same goals.

I'm very proud of the team. I'm especially proud that we have been able to do this in a cost-effective way for these cities. We've done that by driving work down to the youngest lawyers. Our young lawyers have been phenomenal. They have rewritten Use of Force policies and other policies. They have become experts in de-escalation techniques. They have ridden shotgun with cops on late night patrols. They are sympathetic both to the needs of the police departments and the needs of the communities. It has both ratified what I thought and it has taught me, yet again, that our young lawyers have talents that we need to let them use to produce the best results for our clients.

Rhee: I want to end with what's going to happen this evening, which is pretty historic. It will be the acceptance of the Democratic nomination by a woman. One with whom you've been personally aligned with for the better part of your career. Given that this is the Trailblazer's Project, I thought that was an appropriate way to conclude.

Gorelick: I couldn't go to the convention, but I've been watching it every night. I've been weeping all week because I am so moved by the possibility that we will have a woman president. It's a moment that I've been so looking forward to.

Rhee: I think that's a wrap.