

**Edwyn Silberling Oral History Interview – RFK#1, 03/22/1971**  
Administrative Information

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**Biographical Note**

Silberling, Assistant Attorney General for Organized Crime and Racketeering, 1961 – 1963, discusses the breakdown of work in the Organized Crime Section of the Department of Justice, and relationships with the Federal Bureau of Investigation, among other issues.

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## Edwyn Silberling – RFK #1

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Oral History Interview

with

EDWYN SILBERLING

March 22, 1971  
New York, New York

By James Oesterle

For the Robert F. Kennedy Oral History Program  
of the Kennedy Library

OESTERLE: Mr. Silberling, why don't we start out with a biographical sketch on your part.

SILBERLING: I was born August 4, 1924 in Jersey City, New Jersey and resided there for the first six years of my life. After that I was raised in Brooklyn, went to the Brooklyn public schools, and attended Harvard College, class of 1945—had my college career interrupted by the Second World War. I was in the Air Force for close to three years, came back, finished my last year at Harvard College and then went on to Harvard Law School. I graduated from the law school in June of 1949, having been married in January of 1949.

I came to New York City, passed the bar, and went into private practice with the law firm of Reed, Mulligan, Crane & McGovern. Then William G. Mulligan, who was the trial partner of the firm, left the firm and I went with him. This lasted for close to two years, and I entered the office of Frank Hogan [Frank S. Hogan], the District Attorney of New York County. I was in that office for five and a half years from October 1951 to March, I believe, of 1957. While I was in the District Attorney's office, I was chief assistant in the indictment bureau. I tried a number of jury trial cases involving serious felonies and conducted various investigations into welfare abuses, to licensing problems for psychotherapists, waterfront racketeering, baby black marketing.

I left the District Attorney's office in New York County when I was appointed as an assistant to Edward E. Rigney,

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who was then appointed as a special prosecutor to the Governor of New York to investigate and prosecute local corruption in Suffolk County. I eventually was appointed in charge of that special prosecution. That was in 1959 I believe, in March of 1959 that I was in charge. At that time I believe Governor Rockefeller [Nelson A. Rockefeller] was the Governor of New York although the special prosecution had started under Governor Harriman [William Averell Harriman].

In the course of that special prosecution I believe we put an end to the one party that had lasted through this century in Suffolk County and caused a political revolution: the Republican Party was defeated at the polls for the first time. The county executive was elected; he was a Democrat, and seven of the ten town supervisors were Democrats. In the course of that, there were convictions of judges, state assemblymen, deputy county treasurer, the commissioner of public welfare, the administrator of the board of tax arrears, and several political leaders.

During the course of this special prosecution, I met Robert Kennedy [Robert F. Kennedy] and Byron White [Byron R. White]. This was in 1960. At that time I had never been engaged in political activity. While I was special prosecutor, I felt it was improper to engage in any political activity, but the presidential campaign was going on and I became county, I held a county position in terms of the independent "Citizens for Kennedy." This was an organization of which Byron White was national chairman. I guess Byron and Bob both came out to Long Island and I met them, and I believe we attended a number of political affairs together where Bob Kennedy spoke and then Byron spoke. Subsequently John Kennedy [John F. Kennedy] came into Suffolk, and I spoke again at a giant rally for John Kennedy.

The special prosecution came to an end through cutoff of funds by the state legislature, and this occurred at the end of 1960. I was then interviewed by Bob Kennedy and Byron White for a position in the administration. They had asked me to come down, and there was discussion as to whether or not I would be the United States Attorney for the Eastern District of New York or not. The result of those conferences made it pretty clear that I would be the United States Attorney for the Eastern District. All it required was Bob Kennedy checking with the leaders in New York to make sure there would be no serious problem he would face.

After such a weekend of conferences, I was offered the position of chief of this organized crime program. Bob was very high on

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the possibilities. He made a commitment that if I were to take this post, I would have carte blanche in the hiring of the attorneys who would be in the program, and that this program would be beefed-up and be the spearhead of a national drive. I was eager to accept that position and I did.

I came down to Washington not knowing exactly what my status was in terms of the organization of the Department of Justice, but I understood specifically that I would be reporting to Bob Kennedy and be working directly with him. I guess we had these conferences in December and January of December 1960, January 1961.

OESTERLE: Pre-inauguration?

SILBERLING: Pre-inauguration. I then went on a short vacation into the Caribbean, received either a call or a wire that it was urgent I get back and get started, and I came back February first. I arrived in Washington on February 1. There were, I'd say, no provisions then made for what this new program would look like, nor even where my office would be. What happened was that we eventually took over some of the offices that the organized crime unit then existing had. Bill Hundley [William G. Hundley] was then in charge of the section—and I must tell you I was not aware of the difference at that time between a section and a division. I came down to Washington as a Special Assistant Attorney General. At the same time I was designated as chief of the section on organized crime and racketeering. So I ended up being in both what you might consider a line and a staff position. It was always very fuzzy.

The first thing that I did, I guess, was prepare a budget for the new staff. Henry Peterson was then the deputy to Bill Hundley [William G. Hundley], and I had him stay on with me as deputy. I believe the section had ten or eleven attorneys in it, and all but about one or two of those fellows stayed on. My recollection is that that first budget called for about forty-five to fifty attorneys positions in the section. And while I was down there, I believe, after several months Jack Miller [Herbert J. Miller, Jr.] was appointed as the Assistant Attorney General in charge of the Criminal Division, which was a matter of no moment to me at that time because I had no idea that there would be any relationship in a superior-subordinate fashion between Miller and myself.

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I started hiring men from all over the country, based on letters of inquiry on the part of these applicants. Some people I was searching for. I was looking for men who had experience as trial attorneys. I envisioned setting up a group of men who would be based in Washington who would be capable of going into the field at any point in the country and working together with investigative forces from each of the agencies, heading up the investigations, presenting cases to grand juries. Originally what I had wanted was to have a separate investigative group assigned solely to the Organized Crime and Racketeering Section. This, of course, had grown from my experience in Hogan's office and as special prosecutor where investigators were under the direct control and direction of the attorneys who were responsible for mounting prosecutions. I was rapidly disabused of that approach as the argument Bob put forward was that, my God, here you had all these thousands of investigators already on the payrolls as part of existing agencies: the FBI [Federal Bureau of Investigation] being the single largest agency that would be working on organized crime; and then Treasury Department had the Internal Revenue Service, the Secret Service [United States Secret Service, the narcotics group [Bureau of Narcotics]; there's Customs, Alcohol



and Tobacco Tax Division [Bureau of Customs, Alcohol and Tobacco Tax Division]. That left the organization at this early stage in this position, where as attorneys were coming on I was dividing the country regionally, in terms of these attorneys picking up information about racket activity in particular regions.

Before I had arrived there the FBI had gotten a list of the top racketeers across the country. The attorneys who had been working in organized crime before I got there had gone over these lists and had arrived at a final list which would set forth the top men in organized crime and in addition those who were also known racketeers.

The section, prior to my coming there, was a review section more than anything else. One of the large part of the duties of the men in the section was to review certain categories of criminal indictments that had been returned in local United States attorneys offices across the country to determine whether there was validity or propriety to the indictments in these various crimes. I saw that as a passive function, and I was opposed to our doing that kind of thing. I wanted to have our men generate fresh cases, review intelligence reports received from all the agencies who were doing the investigating, and analyze those reports with a view to prosecution.

OESTERLE: And then that they would prosecute these cases themselves? Locally?

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SILBERLING: No, this was going to be....The decision as to who would prosecute would depend upon the kind of work that was done in advance. For instance, if I had men in Washington who were just receiving reports and analyzing those reports, that wouldn't be enough in my opinion to justify their going out to prosecute. However, if after receiving reports they then went out to those areas and dealt with the agents who were conducting the investigation, that point when they'd familiarized themselves with the investigation, were participating in it in effect—then I would expect those men to continue and prosecute.

OESTERLE: I see.

SILBERLING: This technique had two results. One was just plain objection on the part of those local United States attorneys who felt very strongly that any cases that were going to be made in a particular jurisdiction ought to be tried by the local United States Attorney. There were other United States attorneys who welcomed this and looked at it as if it were additional manpower, in fact, in their jurisdictions.

I guess one of the early disputes that Jack Miller and I had was on this subject—and it was a fairly frequent one—where he felt strongly that the local United States attorneys should do the presentation of the grand jury and the prosecution. I recall a narcotics case for instance, in the Southern District of New York, where the attorneys in my operation had gotten together all the material and worked together with reports and agents from Narcotics in New York [Bureau of Narcotics], the Sûreté in France, the Sala de Finanza in Italy, some Canadian, I guess the RCMP, the Royal Canadian Mounted Police, and the sheriff's office in

Westchester County. When they had everything ready the attorney was prepared to go and present it to the grand jury. The local United States Attorney objected and Miller supported the local United States Attorney and told him that it was all right to send the lawyers from organized crime back—the lawyers were already in New York—send them back to Washington and have the local United States Attorney present the matter. This was done by him without clearing through me first.

OESTERLE: Did John Reilly [John R. Reilly] play a role here in support of, or representing the United States attorneys?

SILBERLING: No, not in this particular one. In fact in none of these situations as to who was going to do what, did Reilly have any impact as far as I can see. We never had any meetings or disputes about it.

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I think the problems that we had with Reilly were none of them serious. They were mostly budgetary matters, as I recall, as to whether there was sufficient money in the local United States attorneys office for them to have additional assistants where we thought they were necessary.

Then we had another kind of operation where our attorneys would stay out in the area, move out for a protracted inquiry, such as Kansas City where we had several of our lawyers go right out to Kansas City, and stay there for months doing these preparatory jobs of interviewing witnesses and preparing cases for grand jury. We did the same thing in Indiana. Some places where the assistants would go out and do the work, it was a tandem, where if there was going to be a trial they would be trying the case together with the local United States Attorney. Chicago was another area where there was a very strong resistance on the part of the local United States Attorney to anybody from Washington doing anything independently in the jurisdiction. There there was some compromise reached where there was an organized crime unit set up in Chicago made up of attorneys from Washington, but those attorneys ended up being under the direction and supervision of the local United States Attorney, so that they were, in effect, additional assistants added to his staff, supposedly limited to the field of organized crime. This is an approach that I was strongly opposed to. I objected to that.

I would say in the course of this, Bob Kennedy's primary concern was the results to be obtained in the particular cases. But he did not want to antagonize local political leaders and get involved in this kind of dispute which looks like a power play, which I think, and still think very strongly, is required if you're going to get investigations that aren't going to be affected by local politics.

It is my belief in this entire organized crime operation, that organized crime, the business of crime, can't operate without effective links between public officials and the racket operations; and local political connections are likely to affect who's going to be prosecuted and how they're going to be prosecuted. So the only safety factor you have here are men who are independent, who have no political future in the particular locale; in other words, somebody from Washington going into Kansas City conducting his investigations and

prosecutions. Then he knows when that's over he's going to be reassigned someplace else and not going to be a part of any political operation.

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OSTERLE: What was the resistance of the U. S. attorneys locally?

SILBERLING: Well, I think the basis of the resistance, as I saw it, was one of pride, a feeling that here it is, this is a local matter, here is a local United States Attorney. You can make a number of assumptions: first, that he was interested in his political future, and it certainly would assist him in his political future if he mounted a successful prosecution against a racketeer; or fear of criticism that he wasn't a capable or competent local United States Attorney because here are these outsiders coming in and handling these cases. It's quite different from a local United States Attorney's point of view than an antitrust case. In antitrust cases there was a custom of having Washington-based attorneys come out and handle the case. But there there was an expertise that was considered necessary to try an antitrust case, where there wasn't any special expertise in trying a tax evasion case, let's say, or a racketeer, or an extortion case. So that was one of the problems I ran into, and it was never resolved. It was almost on a case by case basis. Where there was a local United States Attorney who was willing to have our people in, willing to be cooperative, there were no problems.

OSTERLE: Now, it was unusual, too, to appoint you first, and then for the Attorney General to appoint the man that would have oversight over your section. This was a difficult position for Jack Miller, if indeed he was going to be responsible for the work of your section. At what point did you realize that you would be reporting to Jack Miller rather than to the Attorney General?

SILBERLING: Well, I think that was after about four or five months of my being there. In a way, even then, it was kind of glossed over in that, well, the way Bob put it to me was: "Yes, you'll be reporting to me, but you'll be reporting to him too, so that whenever you report to me he gets a copy, and whatever I get from you he gets." But that slowly changed to where the desire was that the reports were to be to Jack Miller in fact. The copy to Bob was, I'd say, almost surplusage, because Jack then would discuss general matters with Bob—specific cases, no.

Specific performance and operation of the section, for instance, was a matter that was directly between Bob Kennedy and myself.

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For instance, Bob showed great interest at the outset and diminishing interest as time went on just in terms of the time allocated. I'll give you some examples. Bob wanted to have the section as whole meet with him at his office. I had instituted a system where there were regular section meetings, and at these meetings the men would report to me and to all others what progress they had made, what techniques they had used, what types of cases they were

able to make, what problems they were running into with various investigative agencies. And then Bob had—I shouldn't say "and then." Bob also then had us up in his office—apparently this was quite new in Justice—where the attorneys supposedly down on the line were meeting with the Attorney General of the United States and reporting to him on what they were doing in the field. That had a marvelous impact on the men—the morale was very high. And it had an impact when the word spread out in the field that, my God, here's this lawyer from Washington who's coming down to see what you're doing or to work with you and he's asked you to do something. This man, this very same man will be talking to the Attorney General of the United States, so let's be as cooperative and helpful with him as possible. I'd say that worked in all cases except in the FBI.

Now, the meetings with Bob of the entire section were not frequent. They started with frequency and then tailed off so that months then would go before there would be additional meetings and the months would spread to six or eight, six months, for instance.

OESTERLE: Of course, in the meanwhile though, the Attorney General was going out to the field and visiting FBI offices and U.S. attorneys offices and discussing cases and traveling with Reilly and Courtney Evans [Courtney A. Evans] and so forth.

SILBERLING: Oh yes, that was having, all of that was having a tremendous buildup in terms of the prestige and importance of this work. And it affected the amount of time that various investigative agencies were spending on organized crime cases. The best example would be Internal Revenue Service, where when I got there, I discovered there was a very small percentage of the time being spent on making cases against racket fees. The emphasis was on making cases where there would be the most money obtained if there were findings of evasion and with penalties and fines. And after discussion with the assistant commissioners, after conference directly with Mort Caplin [Mortimer M. Caplin]—and I know

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Bob spoke with Mort Caplin directly, and I think even the President himself got involved in this one—the shift that I had requested was made and that was a significant shift with the amount of time to be devoted to organized crime cases coming up in percentage from ten, I think, to over fifty. I don't know how high it got, but I know it kept growing. And Internal Revenue Service, the intelligence division was extremely cooperative. They were, I think, highly motivated. They wanted to show results in this field, and I think it was more intriguing to the agents working in it that they were working against more, working on more meaningful cases.

Back to the workings of this, the significant hang-up in this entire operation was caused by the attitude of the FBI. One of the things that I was doing, having the lawyers do, was get information from as many places as they could get it, and then distribute that information to as many places as could use the information effectively.

OESTERLE: Intelligence information?

SILBERLING: Yes, right. To give you an example, Internal Revenue picks up information about something and Narcotics does, the local police do, and the FBI picks up other information. Now, it's possible the FBI has got information that's of no meaning to the FBI, but it would trigger a response from an intelligence agent in Internal Revenue for the possibility of a tax case. Internal Revenue may be picking some stuff up which is again of no use to them but, by God, could make a labor violation case that would fall under something where the FBI might better conduct the investigation.

Well, the problem was that the FBI did not want to have the information it obtained pooled with the information obtained from other agencies and then distributed. The claim on the part of the FBI was that there were confidential informants whose safety would be endangered if information that they obtained was given to others, where either the source itself would be revealed or if not the source, then leads to the source. There was also something which wasn't spoken of in these conferences that I had set up with, I guess it was Courtney Evans, for FBI... I'm trying to recall the name of the fellow from Internal Revenue, he was an Assistant Commissioner for Intelligence, subsequently went down south as a regional commissioner.

OESTERLE: I don't know who that was.

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SILBERLING: But when these conferences took place, with the Internal Revenue willing to share information and work on joint teams and the FBI not, what was unspoken by the FBI was their lack of confidence in the honesty and the tightness of the security in these other agencies.

OESTERLE: Was that most especially local police agencies?

SILBERLING: No, no.

OESTERLE: That included IRS [Internal Revenue Service] and . . .

SILBERLING: Oh, yes. The big problem wasn't the local police agency. What I'm talking about, the bulk of the interaction I was looking for was really Internal Revenue Service and FBI. That's where we had most of our manpower. I was disappointed in the FBI at the outset in their lack of experience and what seemed to me significant information in connection with racketeers. I don't think—I know for a fact they had not had much experience with organized crime. I think one of my feelings was that the excellent record the FBI had of lack of corruption was directly connected with the fact that they had very little to do with crimes where there were substantial amounts of ready cash constantly on tap, gambling, let's say, or any of the—or narcotics.

In criminal activity where they were dealing with bank robbers who weren't very bright or terribly, sophisticated, this was very easy kind of police work. But racket activity

which is a multilevel dealing with public-official covering is a very difficult thing, and I think the FBI, Hoover [J. Edgar Hoover] in particular, was not terribly eager to get involved with people who were in political office. The FBI had avoided that over these years, avoided the charge of being political police. My own impression was that he did not want to get too close to making cases against public officials.

But one thing he was sure of was that he would not let the attorneys in my operation know the sources of information that were in the reports. One thing that I find very hard to forget was the code that was used in FBI intelligence reports, where the code would appear in this fashion: T-5 reveals that such and such is the amount of money this man has, and T-2 is the source of the statement by the—or information that this man is dealing with a third person. Now my concern was, for God's sake, for a lawyer who's trying to prepare a case to see whether he's got anything, he's got to know what's hearsay, what's admissible and what's not.

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OESTERLE: What's a reliable source, what's an occasionally reliable source, and so forth.

SILBERLING: You couldn't, you know....Just who was it? What is it? You know, is this something mechanical? Is it overheard? Is it somebody who's in the operation? And I was told flatly that that would have to be concealed, and the FBI would know what was admissible and what was not admissible. They'd had a lot of experience in being able to tell what was useable in court.

One day, by accident, a cover sheet of one of these reports came into my possession. The cover sheet is the one that had the explanation of the key symbols, and of the forty some-odd key symbols they broke down into something like....A number of the symbols were bank officials, and it was just a routine thing, for the bank official would be talking about this is a depositor here and this is what kind of account he has; or another symbol would be a local police officer, a lieutenant in a squad and he was a covered symbol. So that the bulk of these symbols were in no way any kind of confidential informants and after I had gotten that cover sheet, in the future the number of symbols that were in each report were reduced substantially, and we were then getting information that such and such a police officer was the source of such and such. . . .

OESTERLE: From then on they dropped this?

SILBERLING: No, they did not. What I'm saying is that they reduced the number of coded sources. We still had coded sources, you still didn't know who the code was, but at least the number of the coded sources were reduced substantially after that point. But that situation of the FBI not willing to work together with other agencies, as well as pool, continued.

When I say "work together" the other kind of thing I was thinking about was having, let's say, the FBI and Internal Revenue work in tandem on gambling cases. I wanted to do that, for instance in a place like Cincinnati and Covington, where there was an operation

going on there where the racketeers may have been headquartered in Cincinnati and their activity may have been across the river or vice versa. At any rate, in terms of manpower, there was sufficient manpower to crack the entire operation if we combined Internal Revenue and FBI. And the local know-how was important to me. I don't picture an FBI man from Michigan being effective in

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Cincinnati as compared with an FBI man who's in Cincinnati. So increasing the manpower for a short time from someplace else was no solution.

Let's say there were kinds of raid activities that had to take place. I wanted them together; you know, have the FBI, Internal Revenue Service together. Internal Revenue Service was perfectly willing to have an FBI agent in charge of the entire operation. The FBI took the position, "No, we'll be responsible only for members of our own organization. We will not be in charge of a multiagency operation."

I wasn't interested in just getting the head of an operation. For instance, it seemed to me if you say, "Here's the top racketeer in Cincinnati; let's get him," that did not impress me as much as saying, "Okay, let's get the head, let's get as many of his lieutenants as possible, because if we lop off the head somebody else can easily step in there. The structure of an organization exists, so let's try to decimate that structure as much as possible and do as much vertical work as possible." That kind of operation requires a great deal of full-time activity by attorneys as well as investigators, in trying to assess the possibilities of making cases against these subordinates as well as just the top man. You're not going to have just one or two agents working then; you're going to have a large number of them.

Let's see what other general problems we had. Well, let me come back to the beginning and to the commitment of Bob Kennedy on hiring staff. Kennedy held to that commitment in the case of everybody that I hired. He did not require, he did not reject anybody on the ground that he was either a Republican or an Independent or non-political person. I think only once did he try to have me hire somebody who really was just getting a political patronage spot. I resisted it. Finally, I came back from a weekend in New York and found the fellow had been placed on the payroll by Jack Miller. I did not do it. I talked to the man. I assigned him to the most humdrum work and told him that's where he would stay, and I thought it wasn't a wise thing for him to be on in this situation. Then he left, I'd say inside of a week or ten days. That was the only time. And I don't know to this day whether Bob worked that out with Jack or Jack did that to satisfy Bob, and whether Bob Kennedy was aware of the fact that it happened in that fashion. There was only one instance of that among all the hirings I had.

I know another problem I had in hirings was that I had done all the hiring, and then Jack Miller wanted to do the hiring,

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and it never did get to that. Jack never did hire men for the section while I was there. I felt a very strong feeling in the area of selection.

OESTERLE: When you first came on, and this of course would have been before Jack Miller had joined the staff, did you have occasion to spend some time with Bill Hundley and discuss the work of the section? Was there a transition study?

SILBERLING: No. I'd say that in effect that happened with Henry Peterson and myself. Henry had been Bill's deputy and I gathered had been with him all along. Bill had a very high regard for Henry Peterson, and I found that justified. He was an excellent man and quite reliable. I got most of my information, almost all of it as a matter of fact, on how the section operated in the past from Henry.

OESTERLE: Was it your impression that Bill Hundley accepted this as the necessary political spoils game, in a sense: not that he would not have high regard for your background and so forth but rather that a new administration comes in and consequently new people.

SILBERLING: Oh, I'm sure of that. I never sensed on the part of Bill Hundley any serious resentment. I think he almost expected this to happen. I think he had told me that over the history of organized crime activities in the Department of Justice there had always been a very short period of tenure for anybody heading up that operation. So he expected it. Whether he was pleased or not, I don't know. I do know that he was pleased with the arrangement which kept him on as a Special Assistant Attorney General and in effect, a troubleshooter, a job at which he is very good.

OESTERLE: All right now, at the outset how did you proceed before Miller came on? What was the work at hand—I guess, primarily finding out what the section had been doing and catching up with cases that were pending.

SILBERLING: Well, you see....Yeah. A good part of the early time was spent in getting staff together, getting budget together, and then finding out what was done in the past. What I discovered about what was done in the past was that the section wasn't geared toward

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making cases and prosecuting them. The section was primarily geared to review of non-racket cases that fell in certain categories, like all extortion cases or all narcotics cases. There was a portion of their time that was spent reviewing intelligence reports, but I didn't see that that kind of work was being directed toward prosecution more than just a grasp of what were the conditions in existence. The result of reviewing those reports, I would say, brought about this business of deciding who were going to be targets of intensive investigation by all governmental agencies.



OESTERLE: How did you go about trying to establish a consortium of efforts on the part of the various investigative agencies even though it was not to really come about? How did you attempt to do this at the outset?

SILBERLING: Well, we had received.... The first thing that I did was after this group of targets was assessed then that information was given to all the agencies that might be doing investigative work in any field—the SEC [Securities & Exchange Commission] for instance, the military, the Communications Commission [Federal Communications Commission], as well as the Treasury agencies if it was FBI, and vice versa—then I'd get reports from each of those agencies as to what they were doing, or what additional information they had obtained, what activity there was. Then seeing, after getting those reports—looking at the possibility of likely results. For instance we discovered there were a number of racketeers who were listed as big racketeers who appeared to be absolutely dormant or not engaged in any kind of activity.

I then assigned a number of racketeers to a particular attorney, and I would also assign him a region. In other words, I would take a group of racket figures who came from one region and give those racket figures to a particular attorney to look very closely into the reports to try to direct agencies to get additional information, or try another approach in terms of coming up with information in connection with that racketeer, or the activity in which he was engaged. This would then mean that the particular lawyer would have to get out into the field because they had discovered—I had known for years—that you get so much in a report that's written; you may find out a great deal more by talking to the men who are in fact running the investigation.

So I had these men in a position where if there was anything that looked hopeful in the reports, to get out to the area

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where the work was being done and be on the spot, even if it was only for a couple of days. If it was really worthwhile, I'd send them out with instructions to stay in the preparation of a particular case. Philadelphia, let's say, or Reading that would happen. Detroit, it did not work that way. In Detroit the attorney would go out and come back, go out and come back. But by going out there he stimulated activity on the part of these agents and they were reporting to him directly out there. He was in a position to know whether he was likely to be coming up with anything or not.

And, I guess the smaller the United States Attorney's office, the greater the likelihood of the attorney from Washington having an impact and having a likelihood of staying on and doing something. The bigger the office, the tougher it was to get in, and almost impossible to stay.

I guess the example that makes the exception was the one dealing with New York where I received information that there was some fellow in a jukebox racket who was complaining about his sentence, and it looked like a phony. The case was going up before the United States Supreme Court. It just seemed very odd the guy would be complaining about a sentence he got where he'd pleaded guilty.

And so I sent one of my attorneys down to New York without prior notice to any of the local United States attorneys and that's what developed into the case against Judge Keogh [J. Vincent Keogh] and Tony Corallo [Anthony Corallo]. Eventually that case was presented to the grand jury by an assistant from Washington, and then Bill Hundley was assigned to try the case. Now, had that not had all the explosive overtones, there would have been a great deal of difficulty in having the local, not a local, having one of my men from Washington go down and stay with that kind of thing.

OESTERLE: Yes, I understand. How did—when Miller came in, what was your first indication that there was disagreement on the manner in which you were proceeding? Or would you classify your...

SILBERLING: Yes, there was disagreement. I would say the first specific instance of that was that instance in the Southern District of New York where what happened was the local United States Attorney talked directly to Miller in objecting to what I was doing, and then Miller changed things, without my consent and over my objection. As a matter of fact, after he did that I went to see Byron White and complained and asked that Jack come up and have this thing

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straightened out. What happened was that, just in this specific instance, White said, "Well, you've already made the commitment, but in the future if there are attorneys from Washington in the organized crime group who've done the work in the field, isn't it a waste of manpower to have somebody else do the same thing over again?" But there was no final resolution of just how we were going to be approaching each of the United States attorneys in the country. It was the same generalization: everybody's on the same teams, and we'll work and do our best.

I had little or no regard for Jack Miller's capacity. I felt that he was inexperienced, not knowledgeable in the field of prosecution. I would imagine that Jack resented what he thought was most likely a highhanded approach. I never considered Jack Miller my superior, and I suppose what I did was—without this clear organizational arrangement—never felt that I was required to report to him, required to obtain prior approval from him. And in fact, I never did seek to obtain prior approval from him for any prosecution that was mounted, or proposed prosecution, which left us a fairly vulnerable target for Hoover and the FBI.

For instance if the FBI was unhappy about the amount of pressure they were receiving from my lawyers, or unhappy in any way about what was happening, what they would do was go and speak to Miller to have things changed. Or if a local United States Attorney, for instance, was unhappy this would come to Miller and not come to me directly from the local United States Attorney.

OESTERLE: When you went down to Washington, did you have any reason to believe that quite apart from reporting directly to the Attorney General that indeed you were being placed at the head of the Criminal Division?

SILBERLING: Well no, I didn't, I wasn't thinking in terms of Criminal Division at all. I remember my first conference with Bill Hundley was kind of strange. It must have been strange in his eyes. He asked me what I was, and I said, well, I was the Assistant Attorney General in charge of this organized crime program; and I thought it was the "Organized Crime Division." That was the way I was thinking. And he looked at me kind of peculiarly, and then, I gathered from what Henry Peterson said was, "Well there's a big strong rumor around that the organized crime section is going to be a division."

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OESTERLE: Yes, I've heard that too, that in fact there was quite a bit of talk about that during your tenure, wasn't there?

SILBERLING: Right.

OESTERLE: And a likelihood of this perhaps happening?

SILBERLING: Yes, because I think, in terms of numbers, the number of men who were in the organized crime section was at least as large if not larger than the number of men in all the other sections making up the Criminal Division combined. And I suppose—not I suppose, I know I looked at the operation as something separate and apart from the Criminal Division, because the Criminal Division operated in sections that had limited functions—such as there would be an appellate section, or there'd be a section dealing with a certain number of crimes.

I looked at organized crime as not being concerned with particular crimes, but with particular conditions, and that any crime or any violation committed by any person involved in this kind of criminal activity would be within our jurisdiction. So for instance tax cases would be handled in the Tax Division. Now, that isn't how I looked at organized crime. I looked at organized crime as saying, "Okay, let's try to make cases against these men any way we can. If we can make an income tax evasion case, fine." As to whether it ought to be tried by someone from the Tax Division, or a local United States Attorney, or someone from the section, that would depend in my opinion upon the nature of the case.

For instances if it were a net worth case—that's a technical type of tax evasion which would require experienced knowledge—that's the kind of case I would have expected to have been prosecuted by an attorney from the Tax Division. The same thing if it were an antitrust case, somebody from the Antitrust Division. However if it were a tax case which was an evasion because the man did not report bribes he had received, or did not report payoffs, or did not report illegal income that he'd gotten from racket activity, that seemed to me the kind of case that could be tried by somebody not from the Tax Division.

OESTERLE: Was there an attempt early on to either restructure or come to an understanding of the operations within the existing structure...

SILBERLING: Yes, yes.

OE:STERLE: ...so that you could avoid this kind of jurisdictional dispute?

SILBERLING: Yes, there were conferences. I had conferences with Lee Loevinger, I guess, with Lou Oberdorfer [Louis F. Oberdorfer]. My original idea was to have men in organized crime who were in fact previously members of these various other divisions. So I'd have in organized crime somebody from Antitrust, somebody from the Tax Division, and have them in the section. Instead, what we did was have men in the various other divisions, who were assigned to be readily available for consultation and conference in connection with cases that might be made in their jurisdiction.

This kind of jurisdictional problem would be resolved on an ad hoc basis. For instance, I had a man in Indiana who had conducted substantial investigations into the activities of the mayor of Gary, Indiana, and a number of people around him. And they uncovered various payoffs to the mayor. Now, at that point I expected that my lawyer would present the case to the grand jury and would go on and prosecute. The Tax Division instead was asked to provide a lawyer to do this. This occurred after there were complaints by the local official under investigation to the Department of Justice and directly to Jack Miller, as a matter of fact. As I say, the matter was resolved by having my attorney taken off the case. He'd made the case working together with Internal Revenue people, and now the prosecution subsequent to indictment would be taken care of by someone from the Tax Division. This had the effect of assuaging the political objections of the local mayor who was a strong figure statewide. So it satisfied him, and it satisfied the department; somebody who was first-rate was taking it over from the Tax Division.

I was unhappy with it. I felt that it would have been better off in terms of morale and in terms of the skill of the man who had the matter—to stay with the lawyer from organized crime. That had a happy ending so far as Justice was concerned because—in part I should say it had a happy ending—the mayor in the Gary situation resolved it by his conviction, by plea (of guilty).

But a side effect of it was that there was another city nearby, the name of which I cannot recall, where I think the entire, or the overwhelming majority of the city council or board of aldermen, I forget which title they had, were in a situation

where we would have and should have made cases against them. But the same kind of imaginative, or gung-ho, or highly motivated approach was not used once the lawyer from organized crime left.

You see, there was one significant difference, I think, between the attorneys in organized crime and the attorneys in various other branches of the government. These men were neither political appointees nor, in most cases, were they men who were looking upon this as a lifetime career, that they would be in the department, eventually get their pensions in

the Department of Justice. These were men who were excited by the prospects, who were committed to this program, with the belief they thought they were going to be doing something significant, but who did not look upon this as something that would be a lifetime's work. At the moment they had thought it was that, "Okay, I'll be doing this and who knows for how long," but it was not part of their thinking that they would stay on at the Department of Justice no matter what happened, and move to another division if this thing petered out, or shift to another agency if this thing petered out.

That kind of difference in attitude produces a difference in the kind of work that's done: the hours that are put in, the effort that goes into it. I don't see how that kind of work product could compare with any other. It's got to be better, too, than I'd say the local assistant United States attorneys who were there on a political patronage basis in most cases, who we were not going to want to overstep the bounds if it means that it's going to antagonize the people who have been responsible for their appointments.

OESTERLE: I'm trying to understand this other breakdown in communications, or lack of development in communications between yourself and the Attorney General's office, and/or yourself and Jack Miller. Did you have the feeling that you were being left out of the weekly or bi-weekly meetings that the Assistant Attorney General shared over luncheon in the Attorney General's dining room?

SILBERLING: Yes, I did. I went to several of the earlier ones, and then I did not attend any more.

OESTERLE: This was after Miller was appointed you did not attend any more?

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SILBERLING: That's correct. One, I think, after Miller was appointed.

OESTERLE: So in your efforts to work across the board with the various divisions in order that your division would have access to this expertise there was, perhaps, a breakdown at the higher level at the Assistant Attorney General's level with these various divisions.

SILBERLING: I'd say so, yes.

OESTERLE: Did you talk to the Attorney General about this, or to White? You mentioned the one specific conversation that you had with White in regard to that one matter.

SILBERLING: No, I'd say what I did more than anything else was try to maintain my relationships with the assistant attorneys general in charge of the divisions that I was interested in. For instance, I never had any problem of access to Lou Oberdorfer and so there there wasn't a serious problem. There were disputes perhaps which Lou and I had about what ought to be done in a particular matter, but

that was just something dealing with the merits of the situation and not with who was talking to whom.

OESTERLE: Which would be normal in the course of any conference that lawyers, attorneys might have about the merits of a particular case.

SILBERLING: Correct. And as I say, it was not done on the basis of—the conferences that I would have with Oberdorfer didn't take place on the basis, "Well okay you and I are saying this, but now let's see what Miller has to say, or let's hold off until he says so."

OESTERLE: It seems so unfortunate, if this had been a firm, a law firm, it would seem to me that it would have been resolved very early on because you just couldn't go on working in this manner. Why couldn't it be resolved?

SILBERLING: Well, I don't know. I would imagine that part of the problem would have to be a personal one. For instance, I could not picture myself, and I suppose I was never prepared, nor did I accept the idea that I was a subordinate to Miller. That may have been a significant hang-up.

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I suppose, if it had gone the other way, and I had been offered a position as the head of a section to be working for somebody else, I'd have said no. I wouldn't have taken the job because describing it in that fashion would not seem to me to offer me this *carte blanche* which is the way I felt I'd have to operate. I'd been in charge of my own operation for years before I got there. When I was in Hogan's office, everything was done on an autonomous basis.

OESTERLE: Is this indicative, do you think, this matter, of a lack of familiarity with the Justice Department on the part of the Attorney General right at the outset?

SILBERLING: I'd say so, and I guess it was exacerbated by a lack of familiarity on my part. If I had known it, and he had known it, then this would never have occurred. But once it was in existence—now you're talking about a number of strong-minded men each of them struggling to get results and trying as hard as possible under these, I'd say, unfortunate circumstances, best of all. And it was odd too because the....It was almost a sense of an absence of an alliance.

It's kind of crazy looking back at it now, but I know this: the feeling that was engendered....For instance, if there was a conference taking place among Courtney Evans, Jack Miller and myself, I would have a feeling that here was Miller and myself who should have been on the same side of the fence because here we are representing the department with the toughest nut it had to work with, the FBI, and it wasn't that way at all. It was Miller

and I opposed, and then Evans picking and choosing, and inevitably and consistently picking Miller's position.

[BEGINS SIDE II, TAPE I]

SILBERLING: I think the thing that had the greatest impact on me in terms of my professional experience was the total independence of the FBI from the attorneys in the Department of Justice. For instance, I had been in positions where investigators were investigating at the request and direction and under the instructions of the attorneys who eventually were going to be responsible for prosecution. It was a situation where the attorneys would say, "Well, don't go any further along that path. Follow this route. This isn't information that looks worthwhile. Dig that up."

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With the FBI it was completely different. The position the FBI took was that the FBI were the professionals, these were the men who were going to be there after the lawyers who were in the Department of Justice were gone; as a matter of fact, you really couldn't be too sure about trusting the lawyers in the Department of Justice because while they were with the government this year, next year they would be in private practice and who knew what relationships they would develop while they were in private practice which might take advantage of information they had obtained in the Department of Justice.

OESTERLE: I guess there's a certain amount of truth to that, too. A man in the Criminal Division might very well be taking on a criminal case two years, three years hence.

SILBERLING: But it would be anticipating improper activity on the part of the lawyer in the Department of Justice. This would be contrary to law, this would be something for which he could be subject to prosecution. I think the history across the country has not shown that there is a great danger with the district attorneys leaving office and then taking advantage of the information they had while district attorneys and defending somebody. That just has not been the American experience.

We have had experience where there have been corrupt district attorneys while in office. That has not been widespread, but it has existed. We've also had situations where there have been corrupt investigators, but the system as such, it seems to me, requires that the attorneys in fact be the ones in charge of the investigators.

I'm not talking about the situation such as safety in the streets where there are police officers observing behavior which may or may not be criminal and having to make instant arrests. I'm talking about the kind of cases where intensive and widespread investigation has to be done, in matters where there are sophisticated prospective defendants, where there are sophisticated operations. It's not a question of seeing one man hit another over the head or count the stitches. It's a situation where, well now, does he have a stock ownership in this organization,

or does he really control who's going into that public office; who's been making the contributions under what guise to this sheriff? So, given that situation it seemed to me essential that the attorney be in charge.

It just wasn't that way with the FBI. The FBI would give information to the attorneys in the Department of Justice, which the FBI thought the attorneys should have. That to me was incredible, that the attorney could not require the investigator to tell him everything the investigator knew. That could not be done.

Another aspect of this was the belief that Hoover had that any FBI agent was the same as any other FBI agent, that they were really units that were transferable, replaceable, and uniform. I'll give you an example of this. There were racketeer operations that had New York- Miami axis, let's say, or New York and Miami contacts. The bulk of the activity, let's say, would be in New York. Now, somebody from New York would go down to Miami among the racket guys, or there would be a witness who was in New York who'd go down to Miami. Well, I wanted an FBI agent in New York who'd done a great deal of work, who was aware of all the nuances, to conduct an examination or question this witness or these people down in Miami. I felt that there would be much greater likelihood of beneficial results of this investigation if this experienced, knowledgeable, savvy FBI agent who had already done the work on it would go down to Miami to conduct the further investigation. That was absolutely opposed by Hoover. He had an agent or agents in Miami and those were the ones who were going to do the questioning. Now, this isn't a matter of judgment.

OESTERLE: Who would you discuss this with, for instance, your desire to have an agent go down? Would you discuss with an Assistant Director of the Bureau?

SILBERLING: Yes.

OESTERLE: Can you cite an example?

SILBERLING: I'm trying to recall. I know I had such a discussion with Courtney Evans.

OESTERLE: Clyde Tolson [Clyde A. Tolson], did he ever come into this?

SILBERLING: No. I remember having general discussions. I had two or three with Hoover in his office. That of course was.... You have again an interesting proposition that here's a general discussion taking place between

an attorney from the Department of Justice and the head of an investigative agency; well, there was no doubt that that discussion would take place in the office of the head of the



investigative agency. This seemed natural to everybody else and a part of the normal practice, and it struck me as quite odd.

Hoover was a man who had very strong opinions about the nature and quality of his organization, which he kind of extended from his own experiences. The simplest thing, for instance, would be the fact that Hoover had a physical examination, and his doctor had the chart worked out which showed what weight men ought to have if they were so tall and had such a particular body structure. Once Hoover had that from his doctor then every FBI agent had to meet those standards within a small tolerance. And instructions went out that had to be done. And it was done. Either agents got within those weight limitations, or they were bounced from the FBI. It made no difference how effective they had been as FBI agents.

Again Hoover had a very strong feeling that FBI agents should be physically courageous, and that they should be in a position, the top man in any position, should put himself in a position if there was something really dangerous, of being the first man, of being the leader in the assault, let's say. And my own feeling was that these were matters that were so extraneous to the effectiveness of the organization in terms of producing results, and they all stemmed from the personality and ego of Hoover, and in my own opinion, to the detriment of the organization.

What he did have though, I thought at the outset, was an excellent esprit de corps in the FBI. And I discovered from my travels around that that really wasn't so, that FBI agents were very much concerned and upset about the strictures of their regulations, and the movement to which they were subjected if there were any criticism or complaint of their performance. So I think that overall I did not have a sense of FBI agents being expected to exercise their judgment in matters. They were expected to react in a predictable fashion. They were expected to adhere to the regulations, but they were not expected, from what I could see, to really use their own initiative.

OESTERLE: Was there any feeling, to your knowledge, within the Justice Department that it was just a matter of time and the President of the United States would ask the Director to retire? Perhaps with a new term in office, or....It was much too early, I guess that first year, but...

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SILBERLING: Yes. We're talking the first, really the first couple of years of the Administration when I was there. I know at the outset there was. I was disappointed. I had hoped that the President would take the opportunity to fill that office with somebody else. I had had an almost negative attitude toward the FBI because of my past experiences as a local prosecutor where FBI agents would come in looking for information on the waterfront, let's say, but they would never exchange information. It was what we called a one-way street, and the answer was, it was always, "You know, these are Hoover's directions."

Or when I was a prosecutor and I did get information from the FBI, or did a prosecution, I subsequently got a request from the agent to forget what he had told me. And I refused to forget it. I wanted to hear from his superior that they were suggesting that I drop

the prosecution and why, and of course that never did happen. And the agent who had given me the information was transferred from the area.

So perhaps my orientation was negative toward the FBI before I got there. From all I had heard, I'd hoped that the President would take the opportunity with a new administration of removing Hoover. The answer to that was obviously no. The President having just a narrow mandate, he wasn't about to take on this terribly difficult problem where Hoover had such strong support in the Congress. I suppose I hoped—I know a number of others did too—that if the President gathered strength and it looked as if he was going to be doing that, and he was re-elected, that at that time he'd take the opportunity of replacing Hoover.

OESTERLE: Do you ever recall a discussion, perhaps one of the early luncheons, about the problems that the various divisions within Justice were having with the Bureau?

SILBERLING: No, but I had discussions with Bob Kennedy, a number of them about the difficulties with the Bureau.

OESTERLE: Can you recall any one of these?

SILBERLING: It's hard to do because I just have a general impression. One specific thing I recall was this resentment on my part at their refusal to turn over all the information they had to us. One of the few times I would describe Bobby as gleeful was the day that I had gotten the cover sheet to that report I mentioned earlier, and

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he took a look and saw that in effect what they were saying was Dun & Bradstreet is a confidential informant, and blasted this myth. But, I never—Bob was aware of this refusal of the FBI to go along with Internal Revenue, I'd say. I know I had....It never went further than my attempt to get these fellows together, and then beyond that, there was never a push beyond that. There was never a directive from Bobby to Hoover saying, "Now you do it that way. Now you work on a joint team." It never happened.

OESTERLE: You had occasion to observe the relationship between the Attorney General and the Director. Do you have any impressions of that, or of a changing over a period of time?

SILBERLING: No, the only impression I have that lasts with me was Bobby pressing for activity and pressing for results and being dissatisfied with what the FBI was producing in terms of racket cases. I remember the response of the FBI to all this was, "Well why don't you just conduct grand jury investigations? Why don't you have all these matters placed before grand juries?" Now, I know I opposed that because my belief was that grand jury is not a place where you can get at information. All that a grand jury inquiry does is excite the public into believing that

something is being done so you can get headlines. You're going to be disappointing everybody because nothing substantive would come out of it. My belief was, and I made this point clear to Bobby, that the press by the FBI for grand jury investigation was just to shift the responsibility from them to get information to the attorneys in the Department of Justice to get information.

Another area where I know that Bobby was pressing more and more was the—he wanted the FBI to use electronic devices to get at stuff. You never knew whether they did or they didn't. It was impossible from these reports that I got to know whether something was a result of a wiretap, whether something was the result of a bug, or whether something was the result of one person overhearing what was taking place. But I know that he pushed the Bureau to do more on electronic surveillance as they called it, and I know that the....In my presence, Courtney Evans said there had been increased activity. But we could never—never did see the results. I never did.

OESTERLE: This of course leads us into the whole area of electronic eavesdropping and the dispute that was later to come about between the Director and the Attorney General as Senator.

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SILBERLING: Yes.

OESTERLE: I believe that I came across some mention that a reporter had asked you if you felt that the Attorney General had knowledge of the difference between these various devices, and did have the sophistication to know that the Bureau was conducting bugging. Is that correct?

SILBERLING: Well no, what.... I say that Bob Kennedy knew that there were electronic devices being used; I don't know whether he knew whether they were taps or whether they were bugs. You couldn't tell from the reports that I received whether there were taps and there were bugs. I would not know what was told Bob directly in terms of reports from the Director or from Courtney Evans. Now, the...

OESTERLE: Were you pulled into this controversy later?

SILBERLING: Yes, I ended up—I testified at the Senate subcommittee hearing, in part, on this subject.

OESTERLE: How did that come about? Did you have any—well, how did it come about at first?

SILBERLING: As to how I got...

OESTERLE: Yes.

SILBERLING: ...called down? I'm not clear. I know that this was in connection with Senator Edward Long [Edward Vaughn Long] from Missouri, his subcommittee. I think they were making inquiry into labor matters primarily and got into this electronic business off on a secondhand basis, if I recall correctly. As a matter of fact, now I'm not sure whether...I think that I do have a copy of my testimony there. I'm not clear now whether they did go into the electronic business. I know that they were interested in the part of our operation that dealt with the labor racketeering and the structure of organized crime so far as labor racketeering was concerned.

Now, that part of it had to do with a unit in the Department of Justice that worked primarily on Jimmy Hoffa. A number of those men, not a number, I think all of the men working on Hoffa were listed as part of the organized crime or racketeering section, but in fact they were not under my jurisdiction. They were working for Walter Sheridan [Walter J. Sheridan], who was a Special Assistant to Bob, and they were working solely on labor cases that had Jimmy Hoffa contact.

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OESTERLE: I'd like to read your testimony at some point. That might in itself bring to mind some questions. Do you have any recollections of discussions regarding wiretap policy with the Attorney General or in concert with Miller or any of the other assistant attorneys general?

SILBERLING: Well, there were two areas: one was proposed legislation which I know I worked on and did have conferences with the Attorney General, Byron White, I think; Archie Cox [Archibald Cox] was in on those as well. There it was a matter of prospective activity. I had specific conferences with Byron White in connection with wiretapping that occurred, what could be called wiretapping. This occurred in a case involving telephone company employees who were using the back room down in...

OESTERLE: This was in New York wasn't it?

SILBERLING: No, that was in New Orleans. They were using the long lines division, the back room—that's not the—the frame room I guess it's called, and making long-distance calls between Cincinnati and Nevada for instance, through New Orleans, without recording the calls. In the course of telephone company activities they would listen in every now and then to see how their employees were conducting themselves, and they came across these conversations over the long lines. As a result of that, that opened up this entire picture of these top layer men across the country making unrecorded calls, long-distance all over the place, through paying off telephone company employees.

Now in that case, even though the Federal Communications Act of 1934 prohibited interception and communication and then divulgence, it was my opinion that as a matter of law that evidence was admissible because it wasn't subject to the tariff controls or Federal

Communications Act; it was all internal. Byron White was very concerned that none of this was taking place at the direction of the Department of Justice, that we hadn't asked them to do this, that they weren't carrying that out as part of our policy. They were not by the way. I think he got fairly strong about it. One phrase if I recall correctly was, "I'll kick your ass if I find out that you've been responsible for their making these interceptions." So that so far as Byron was concerned there was a very strong feeling against using any kind of procedures that he considered improper.

There was no specific discussion with Bob Kennedy about using improper evidence. Now, so far as the general discussion of

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wiretapping being done by investigative agencies, I don't recall a specific conversation. I'm trying to think back. I know we had some problems with Internal Revenue in discovering that they had done that and destroyed a case which never was presented as a matter of act. I would say though if you've got something more specific.... You know as time goes on, as these years go on, I'm less and less precise.

OESTERLE: Well, did you ever get involved, in the course of your tenure, in criticism of wiretapping and bugging as it was being used or that maybe you suspected that it was being used by Internal Revenue or the Bureau?

SILBERLING: Did I? No. I don't recall that I was ever...

OESTERLE: For the most part everyone at Justice was pretty much in favor of legislation in support of this as a weapon.

SILBERLING: Absolutely. I felt very strongly. We drafted legislation with the....I guess the key to the legislation was that the wiretapping was to be restricted under conditions similar to search warrants, where it would have to be obtained by court order, and it would have to be, I wanted to have it, limited to specific crimes.

Part of the problem there, and I recall this very clearly, was that Hoover would have opposed, made it very clear that he would have opposed, our obtaining this kind of legislation with court orders and court control unless we exempted matters concerning foreign espionage or sabotage from the group of crimes that were going to have to have court supervision. He would have been in favor of no legislation; but if there was legislation, then he wanted this exemption very clear where matters affecting the national defense or national security, that the FBI could tap by obtaining the prior approval of the Attorney General without going through any kind of court procedure. I gather he felt it wouldn't be safe to have the judges even aware of the fact that they'd be tapping in these very delicate and sensitive security areas.

OESTERLE: Was it your impression that in every case that the Bureau did install a tap or a bug that the Bureau did have the prior consent of the Attorney General?

SILBERLING: Well, I would imagine they would operate that way, but not that specifically. I think you know part of the problem in dealing with the Bureau was that you'd be talking about something and you could never be sure,

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for instance, that what was being transmitted to you were all the details. You were in a position, for instance, where you might have a generally acceptable proposition and then find out subsequently that it might be different in detail from what you'd had. I never saw any of the requests from the FBI to the Attorney General for prior consent. But I would imagine that the Attorney General, you know, could not know every tap they would have in.

For instance, let's take.... I would imagine they would operate on a case basis, that they want to put in wiretaps in a case involving, oh, pick a name, Antonio "Ducks" Corallo. Well, all right, you'd say—this is highly speculative and supposititious because I'm not aware that any such thing happened.

OESTERLE: I understand.

SILBERLING: But assuming that's the way they presented it to you and you'd say "All right, here's my prior consent. Go ahead and tap on the case of Corallo." It suddenly would appear well, they're not only tapping Corallo, but they're tapping these eighteen other guys who are all in their opinion connected with Corallo. And that's the Corallo case to them.

Now, I can see that happening with FBI operation, going on without an attorney being aware in fact of what actually is happening. By the way, that kind of condition could not exist if the FBI team in the field were operating under the direction of the lawyer who would know what they're doing and who would be getting their reports.

Now in my opinion I think Bobby knew the Bureau was tapping, had to know that; or if not tapping, at least using bugs. You could use—we were in the position where bugging was legal and admissible as long as there was no trespass involved. Wiretapping was not, in terms of what you could use it for in court.

OESTERLE: The difference was understood by everyone at Justice.

SILBERLING: Oh yes. Oh yes.

OESTERLE: I mean that you didn't have to be terribly sophisticated to understand the difference between the two in terms of law.

SILBERLING: No, but you see, not in terms of law, but in terms of language I can picture a number of things happening. I can picture the FBI making a request, you know, for use of electronic devices, let's say.

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Now, that could cover tapping, it could cover bugging. I would imagine though if the FBI made a request they were only making a request in an area where it was felt they had to, which would be wiretapping. They didn't have to request prior consent to bug when bugging was perfectly legal absent of trespass. So that if they're talking about. . . . In general discussions of using more electronic devices, you couldn't tell whether they're talking about spike mikes, bugs, or taps, and they most likely were talking about all of them. If they're talking about prior consent, then they're talking about taps only.

OESTERLE: I see. That's very interesting.

SILBERLING: I know Bobby was pushing them to use more electronic devices.

OESTERLE: During your tenure, the question of tapping civil rights leaders had not become a question. This was only after you had left.

SILBERLING: I know I found it almost impossible to believe that Bobby was involved with tapping civil rights leaders. I remember almost the first thing that we had to do with each other was the day involving those calls concerning King [Martin Luther King, Jr.] being released from prison down in, I don't know whether it was Alabama or Georgia at the time.

OESTERLE: Alabama.

SILBERLING: It was Alabama. [It was Georgia]. But I know how strongly he felt about that, so that struck me as an almost impossibility. I suppose anything is possible.

OESTERLE. : Did you happen to read the recent Victor Navasky [Victor S. Navasky] article on the relationship between RFK and Hoover and the controversy regarding electronic eavesdropping?

SILBERLING: No.

OESTERLE: It's going to appear in a book entitled *RFK and Justice*. This one article appeared in *Harper's*. I have to see that you get a copy of it. I wish that in fact I had it so that you could read it over. Then you might give me your opinion on the accuracy of his piecing this together.

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There are a number of areas that I would like to pick up on that you've touched on, but what we might do is continue with your biographical sketch, and then go back to some of these areas. So you bring us up to the point where you joined Justice, and where Miller is brought in as the Assistant Attorney General in charge of the Criminal Division. Why don't you sketch out the sequence that follows?

SILBERLING: That follows while I'm still in Justice, or after I've left Justice? I'm not clear.

OESTERLE: Well, that follows roughly in Justice and then after you leave Justice, and we'll discuss cases at a later point.

SILBERLING: Well, what I did was I rearranged somewhat the structure of this organized crime section by having both a deputy and an executive assistant. Those were just titles. In fact what I did was split the work and have the deputy handle a certain number of regions and racketeers, sitting on top of the lawyers who had that, and then had the executive assistant handle the other group of lawyers who were handling another group of racketeers and regions. So there were men—in other words a pyramid approach with myself at the top and then two men under me, one handling one half the work, one handling the other half of the work, and again the same thing down the line where I had senior attorneys responsible for activity of let's say two or three attorneys if they were in the same region, if they were active. This had a way of providing experience and direction and rapid review of matters that were occurring in each of these regions. Instead of waiting for everything to come through, let's say, for my final review, that screened away things before I would touch them.

So I dealt with problems of policy and then particularly sticky legal questions. The kind of thing, for instance, which resulted in our going into Campbell County, Kentucky when there was a frame-up of a reform candidate for sheriff. Now, that was a case where we took a look at the information we'd gotten from the investigative reports; and then when it got up to where I was sitting, it was a question of dreaming up what kind of federal jurisdiction we could have here that would justify our getting directly involved in this situation, at which point I dreamed up the theory of oppression. In fact, since the local police had made a raid and it was all a frame, this was in effect oppression under the civil rights acts, and we were entitled to have jurisdiction.

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OESTERLE: Did this also include working on drafts of legislation?

SILBERLING: Yes. We had.... A small part of the section, by the way, continued to work on the review status in connection with the new legislation that went into effect in 1961 dealing with traveling to further racketeering, interstate transmission of gambling information. So here I think I had a unit perhaps of three men whose function really was the same as the prior section had operated in terms of review



of proposed prosecutions and authorizing proposed prosecutions because this was new legislation. We did not want to have bad cases made at the outset. But that is—that group was really the only exception to the prosecution-oriented kind of operation the section had. And the work then—the men were working directly on possible cases.

My time was spent, a great deal of my time was spent trying to iron things out inter-agency, or intra-agency so that the men could function at the highest level of efficiency. I wanted to make sure, for instance, that there were no problems with the SEC, or the Federal Housing Administration, if my men wanted information that we were getting it. The kind of activity that again resulted in cases.

For instance, a young lawyer is out of the section down reading the material on racketeers in New York and discovered from something else he had picked up, that this racketeer had been unemployed, he had no work. He [the lawyer] had gotten [this] from Internal Revenue. He knew the guy had no job and no visible source of income. Then from another place he picked up the fact that the man had made application for an FHA [Federal Housing Administration] loan for a house. The loan application showed that he listed employment, that he gave a job where he was working. It's part of the form that FHA had. The fact was he wasn't working. So we had a false statement case which was a felony, on the ground that this was a statement made to induce the loan.

This was such an outrageous concept the local United States Attorney refused to even present the case to the grand jury. He thought the matter would be laughed out of court. Here's a top racketeer, not a top racketeer, but a violent racketeer, involved in homicides, or suspected homicides: the case was presented to the grand jury. We got an indictment, and then the racket fellow pleaded guilty rather than face trial. But all of this, because of this kind of stimulation on the part

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of these lawyers, to look to every possible source of information, and every possible kind of crime.

We did not have universally perfect results. For instance, when we tried making some labor violations in Pennsylvania we had great difficulty even though a great deal of time was spent. There was a question of getting witnesses to cooperate without....We were unable to overcome their fear, I think, of retribution.

But at any rate what was happening was that there were just more and more cases building up in terms of investigative work, and more and more intensive investigations started by attorneys moving into the field. I believe the attorneys were building rapport in their various regions with the investigative agencies that were out in the field.

Finally the....I don't know what triggered the very end of this thing, but I was called in one day and asked to resign.

OESTERLE: Right. By who?

SILBERLING: I'm trying to recall now.

OESTERLE: Did you see Miller first and then the Attorney General later?

SILBERLING: I'm not clear. I don't recall seeing Miller about that. I think I saw the Attorney General, He asked me if there was anything else I wanted to do in the Department of Justice or anything else I wanted to do in any of the other agencies of government. I told him I'd think about it. I came back and told him I didn't want to stay in Justice, and I might be willing, depending on what there was, to see what I could find in another...

[INTERRUPTION]

OESTERLE: Anyway the Attorney General offered you the possibility of something else in the government.

SILBERLING: Right.

OESTERLE: What happened when you said that, you low, you didn't really think that you wanted anything else in Justice, but perhaps elsewhere? Was there any offer forthcoming?

SILBERLING: Yeah, he then said he'd look around and find out what I wanted and then come back to him and he'd help me get it. I had nothing specific in mind at the time, nor did he. And so I then went ahead and

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made inquiries. I was interested in moving out of the field of criminal law completely and getting into something in the international domain, particularly interested in the Peace Corps and in the Agency for International Development. I came close to being counsel for the Agency for International Development except the fellow who was the head of the agency left several days after we had our meetings. And in the Peace Corps there were—I was considering whether I would be going to Africa, or I guess Shriver [R. Sargent Shriver, Jr.] asked me whether I would be interested in becoming Inspector General of the Peace Corps. I wasn't too eager about becoming Inspector General of the Peace Corps. This was an unknown, newly created position; it sounded to me like it was "super-cop" all over again. I wasn't interested in that. And then on the African part of it, suddenly I had family problems. I think my mother-in-law was almost at the terminal stages of cancer. I finally decided to pull out of government completely, come back to New York, run for Congress, and get into private practice locally in order to be able to do that. That's what I did. I left February 1, '63 which is two years to the day after I'd started in Justice.

The last few months I was there, Bill Hundley replaced me as operating head of the section, and I stayed on while looking for other positions, and then finally left. Bob Kennedy was particularly gracious. There was no pressure on me to leave at any given time, and he did make a number of calls to a number of agencies to see what, if anything, he could do.

I then came back to New York, got into private practice, ran for Congress in 1964 I guess it was, the next, the very next election available, got 49.3 percent of the vote in a

heavily Republican area, running as a Democrat. Bob Kennedy came out campaigning for the Senate. I ended up well, I guess, introducing him in a number of places and arranging a number of appearances and then ran substantially ahead of him in that area where he was looked upon as an interloper because he was from out of state.

I'd say that after 1964 I don't think I saw Bob Kennedy again on any personal matter or any business matter. I still remained in contact with a number of men who had been in the Administration, a number of people in my section. I guess Bobby's administrative assistant was a friend I'd made in the department, Joe Dolan [Joseph F. Dolan].

OESTERLE: Yes.

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SILBERLING: I guess I visited Byron down in Washington, but no real contact from that point on with anybody in the Administration on any kind of a business basis.

OESTERLE: All right, let's pick this up tomorrow or the next day. We'll work this out with your schedule. This might be a point to stop.

[END OF INTERVIEW]

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Edwyn Silberling Oral History Transcript – RFK #1  
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