

**David L. Bazelon, Oral History Interview – 3/5/1969**  
Administrative Information

**Creator:** David L. Bazelon  
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**Biographical Note**

Bazelon, member of the District of Columbia Circuit Court of Appeals, from 1949 to 1986, chief judge from 1962 to 1978, and member of the President's Panel on Mental Retardation during 1961, discusses his work on the President's Panel, including the Task Force on Law and Public Awareness, the fragmentation of services for mental illness and mental retardation, and the Panel's recommendations, among other issues.

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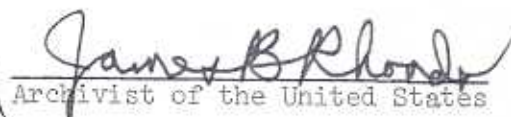
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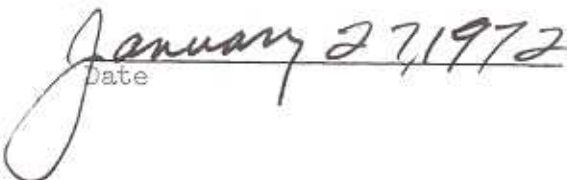
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Oral History Interview

with

David L. Bazelon

March 5, 1969  
Washington, D. C.

By William McHugh

For the John F. Kennedy Library

McHUGH: Judge Bazelon, can you tell us whether you had any involvement with mental retardation before 1961?

BAZELON: Well, it's hard to answer that. I suppose I did, but in kind of a tangential way. As a judge I've always had a special interest in criminal responsibility of the mentally disabled, and in 1954 I wrote an opinion that established a new rule for determining responsibility in the District of Columbia. The McNaghten Rules [Daniel M'Naghten] had been the test here, as in the English-speaking world, for about a hundred and fifty years. That rule excused a man for his unlawful act only if he was so deranged that he did not know the difference between right and wrong. It assumed that man was governed by intellect alone, not by emotions and feelings and so forth, as if there were a little man called Reason, who told another little man, Emotion, what to do. We may not have learned much in the last fifty or a hundred years, but we have learned that man is an integrated personality and that emotions and reasons are mixed in people. In 1954, I wrote an opinion for the Court of Appeals for the District of Columbia which held that the test for deciding when a man should be held criminally responsible is not whether he knows the difference between right and wrong, but whether the act in question is the product of mental disease or mental defect. In other words, if the act was the product of mental disease or defect, then the actor was not responsible. I suppose it could be said that that was the start of my concern with mental retardation.

McHUGH: Had you known the President [John F. Kennedy] or the Shriver  
[Eunice Kennedy Shriver; Robert Sargent Shriver, Jr.] prior to the time  
you served on the

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President's Panel on Mental Retardation?

BAZELON: I had met John Kennedy [John F. Kennedy] many times. I can't say I  
was a close friend of his; I wasn't. But I've been in Washington for  
twenty-two years--twenty-three years now, so I saw him on a number  
of occasions. As a matter of fact, I always remember he drove a roadster. I think it was a  
Buick or a Mercury--anyhow, he drove a convertible car. And somehow or other, a few times  
a week going down Pennsylvania Avenue we just happened to be driving together--when he  
was in the House and the Senate--our cars would come along side of one another. God know  
how many times we met.

McHUGH: So in general you knew him in a social way, casual, social way?

BAZELON: Casual.

McHUGH: How did you come to be invited to be a member of the Panel  
[President's Panel on Mental Retardation], do you know?

BAZELON: I suppose it arose out of my early concern for the mentally disabled  
and the law.

McHUGH: You don't know who recommended you particularly?

BAZELON: I'm not sure. I think there were three or four people: Reginald Lourie  
[Reginald S. Lourie], the Chief of Psychiatry at Children's Hospital;  
Dr. Seymour Kety [Seymour S. Kety], who was then head of the  
Department of Psychiatry at Johns Hopkins, now the head of the Department of Psychiatry at  
Harvard; there were one or two others who were interested in having me on the commission.  
They had spoken to me about it.

McHUGH: At the time that you came to the Panel, was the purpose of the study  
clearly defined?

BAZELON: As far as I'm concerned, it was not clearly defined until the report was  
written.

McHUGH : Is that so?

BAZELON: I think that's to be said in its favor. Nobody was pinned down to any particular pet approach.

McHUGH: I see.

BAZELON: We were divided into task forces, and I was chairman of the task force on law.

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McHUGH: But before that, there was the setup on research and services--it was broken into research and services. Did you....

BAZELON: No. There were different task forces. There was a task force on research and a task force on services and so forth, and I was chairman of the task force on law and mental retardation.

McHUGH: I see. How did things go at the beginning? What were the first problems? Do you remember early what the problems were of the task force on law in particular? Staffing?

BAZELON: Yes. One of the things that concerned our task force was the wish of parents of retarded children to dispel the public impression that retarded people are law violators or offenders. We wanted to use this important educational opportunity to make people aware that a mentally retarded person put in a protected milieu will not offend against the law any more than the rest of the population. At the same time, we sought to bring to public attention that if that mentally retarded person were put in a unprotected milieu, in a ghetto, slum, or any other unprotected milieu, he would have less capacity to withstand the stresses and strains, and he could develop a psychological overlay to the retardation, so that there would be resulting aberrant behavior. It's really not the retardation as much as it is the psychological distortions that can arise by reason of the retardation.

McHUGH: Were you concerned initially about the idea that the study should be done in a year? Did that seem an inadequate amount of time?

BAZELON: Yes, it did seem inadequate, but not too much so. There was great pressure, and I think in the end that was helpful.

MCHUGH: Really?

BAZELON: Yes, I think it was. Since then I've served on other panels, and that experience now looks better than it did then.

McHUGH: Why do you think that was helpful, having that pressure?

BAZELON: Well, it made us devote time and depth. In other words, you had to set aside a bulk of time. If you had a long time, you'd give it an hour here, an hour there, and you'd wait until next month or next year and so forth.

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McHUGH: Was the staff adequate for your needs?

BAZELON: The staff was never adequate for the needs, never. But there was a great organizer, and that was Mike Feldman [Myer Feldman]. Mike had a genius for seeing what there was to pull together, which is very important. In other words, Mike could always see the forest from the trees.

McHUGH: I see. You feel that he played a fairly large role here?

BAZELON: I do. I think Leonard Mayo [Leonard W. Mayo] did, too. I think Bert Brown [Bertram S. Brown] did some very important work in the beginning.

McHUGH: What was his function then?

BAZELON: Well, he was kind of the head of staff.

McHUGH: I see.

BAZELON: And then something happened. I don't know what it was. I did know at the time, but I've forgotten--some kind of a clash and he was out. There was a fellow at the University of Wisconsin....

McHUGH: Yes, Rick Heber [Rick F. Heber].

BAZELON: Yes, Rick Heber. What ever has happened to him?

McHUGH: I think he may be back teaching there now.

BAZELON: He was good. But in my area none of these people really.... In my area of law and mental retardation, I called on people from some of the universities.

McHUGH: I see. You mentioned that Bertram Brown left. Did it take a different direction under Rick Heber, particularly, do you recall?

BAZELON: No, at least I wasn't aware of it, if it did.



McHUGH: Did you feel that talent on the Panel was well balanced?

BAZELON: Yes, but, you know, you can always do better if you want to increase the numbers.

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McHUGH: Some people felt that there was inadequate labor or educational representation. Did you feel that?

BAZELON: Well, I wasn't aware of it. I mean, I wasn't focusing on that. Educators were called in as consultants. Labor people were consulted. Who were the labor people again?

McHUGH: Well, I don't believe there were any on the Panel

BAZELON: None on the Panel?

McHUGH: I'm fairly certain about it. I can find out.

BAZELON: Well, there was consultation with all the labor groups. That I know.

McHUGH: Did you know initially that there would be a task force dealing with law?

BAZELON: No.

McHUGH: I see. Do you recall how that came about?

BAZELON: Well, they decided they were going to operate through task forces and that they ought to have one on law, and they selected me as chairman. I didn't have anything to do with that.

McHUGH: I see. Was there any opposition to having a task force on law particularly, do you recall?

BAZELON: No. No, as a matter of fact, everybody thought that was important. But people have different ideas when you talk about law. Some thought we should draw up statutes and so forth, you know. Lots of people have the naive idea that all you've got to do to solve a problem is to pass a law.

McHUGH: Yes, I see.

BAZELON: And I saw it differently. I saw it as a way of examining the problems;

for example, how does retardation affect questions that come before courts, and also to explore the whole business of guardianship. What kind of guardianship do you provide for the mentally retarded, and what kind of principles do you follow, for example, in searching out the areas in which the retarded can function; in other words, to give the law the kind of flexibility--when I saw the law, not only statutory law but judicial decisions--develop the kind of flexibility so that a retarded person may be

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free to marry or drive a car--I mean, depending on what his condition is. We wanted the law and society in general to recognize that mental retardation differs both in degree and in the way it manifests itself, so that flexible solutions tailored to the individual's need are called for.

McHUGH: Yes. Was the concept of guardianship a particularly thorny problem?

BAZELON: No. No, except that we tried to give it a different emphasis.

McHUGH: In what sense was that so?

BAZELON: Well, one generally thinks of guardianship as guardianship of the person's financial affairs. And we were trying to develop something beyond that, a guardianship of the person's welfare, his health, if you will; in other words, something of a real foster parent.

McHUGH: Yes, I see. I believe you suggested a periodic review of the necessity of guardianship. Was it considered whether you should get into how often that should be done, how often that review would take place?

BAZELON: Yes, but that's all in the report that we wrote. I take it you have a copy of it.

McHUGH: Yes. Yes, we do have a copy.

BAZELON: I honestly don't remember that kind of detail.

McHUGH: I see. Generally, you were concerned with giving more freedom to the retarded person, and I was wondering....

BAZELON: We were trying to tailor the law to the individual condition rather than lump all the retarded together.

McHUGH: Yes. Was it considered unusual that the court would make a decision as to what type of, say, residential care the person would get or whether the guardian should do this?

BAZELON: Well, the court wouldn't do that. We recommended, I think, that each state have a kind of state guardian who would develop the know-how and the resources for prescribing what was best for the individual. The idea was to individualize, recognizing that everybody had a different need; just because they're retarded doesn't make

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them all the same. And that problem of individualizing ran through all of it, everything that we did. It was the purpose.... Guardianship was one of the means to that end. We looked into laws governing marriage licensing...

McHUGH: Sterilization.

BAZELON: ...sterilization. We went into all of these questions but I don't think that we ever recommended anybody's sterilization.

McHUGH: Did you recommend that it not be done without voluntary consent?

BAZELON: I think our recommendations were limited to urging that the operation not be allowed to result from misjudgment as to its scientific need or from inadequate opportunity for review. As I recall, we did not take a position for or against sterilization--but for this kind of detail, it would be best to refer to our report. All I can do here is to elaborate on the background learning which went in to it, on the points you raise.

McHUGH: Did your recommendations meet much criticism?

BAZELON: No. They were applauded. Nobody argued with them. As a matter of fact, it's amazing that this should have been....

McHUGH: Even the recommendation, say, that confessions of a mentally retarded person should not be accepted?

BAZELON: We did not say that *all* confessions by mentally retarded persons should be excluded from evidence. We urged instead an understanding and analysis of whether, in each individual case, the accused's state of mind was such that he was able to give a voluntary confession which could fairly be used against him. People generally are very sympathetic, and people generally have a great understanding or think they have a great understanding when you're talking about a retarded person because they see something that the person has absolutely no control over. He's retarded because he has a brain lesion; he's retarded because of some defect at birth, and he can't help it. And intelligent people understand that with a retarded person it's usually easy to impose on him; that it's hard to be sure whether he's telling you what he thinks you want to

hear because he wants to please you, or whether he's really telling the truth. Intelligent people understand that the thing that makes us a sensitive, good society is our understanding of people's inadequacies and incapacities.

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McHUGH: Yes. Were you surprised that they combined the task force on law with public awareness, particularly?

BAZELON: Well, no. I wasn't surprised. As a matter of fact, the law is where you get public awareness. I think they're almost--not quite, but almost synonymous.

McHUGH: Were there any particular problems in actually writing the report on law?

BAZELON: No. We had a lot of help on it. We were helped by a man by the name of John R. Seeley, who was then a professor at a university in Canada, later became head of the Department of Sociology at Brandeis, and is now the dean of faculty at the Center for Democratic Institutions in Santa Barbara.

McHUGH: Oh, really? And he helped in the writing of this?

BAZELON: Yes. He helped, and there were some others.

McHUGH: What particular area did he contribute in?

BAZELON: Well, kind of pulling together. He had been interested in the work that I had been doing and--you talk about public awareness--he and I had both been interested in creating a sensitivity to all human disabilities. Mental retardation was just one of them.

McHUGH: How did that come about?

BAZELON: Well, he's a sociologist, and we had a mutual friend, Dr. Leonard Duhl [Leonard J. Duhl], who was then at NIMH [National Institute of Mental Health], a psychiatrist. They had worked together, and I'd meet John Seeley through him, and we'd had this interest.

McHUGH: Excuse me.

BAZELON: And we had had this interest.

McHUGH: Was that as a result of working on the President's Panel?

BAZELON: Well, no, I met him before that, but it was a result of the work on the President's Panel that we became very close friends and pursued our interest together after that.

McHUGH: I see. I believe you had other professors--Henry Weihofen who also helped you?

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BAZELON: Yes. Yes.

McHUGH: Do you recall what area he contributed in?

BAZELON: Well, he's done a lot of writing in the field of insanity and the law. He was a winner of an Isaac Ray Award, although he was a law professor. There was also another law professor who helped us, Professor Murray Schwartz [Murray M. Schwartz] from the University of California at Los Angeles.

McHUGH: I see. What was his area of specialization?

BAZELON: Well, criminal law generally. He had been a law clerk for Chief Justice Vinson [Frederick Moore Vinson] --I think it was Vinson, yes--and he was a very bright fellow. Now, I also had an assistant working with me, a research assistant by the name of Mrs. Wendy Weinberg. I suppose she did more consistent day-to-day follow-through than anybody on the report.

McHUGH: Is that so?

BAZELON: Yes. She was a lawyer. She's an English girl who met her American husband at the London School of Economics. They returned to the United States, and they both entered the Yale Law School. They both graduated near the top of their class. They came here; he practiced, and she was my research assistant.

McHUGH: Where is she now?

BAZELON: After she was with me five or six years she left and she went to the Georgetown University Institute of Criminal Law to do research work, and now I understand she's just playing mother.

McHUGH: Is that right?

BAZELON: She was very bright and very interested.

McHUGH: Yes. Were these outside consultants--how much were they able to work on this?

BAZELON: They were all very helpful. They were all very helpful. They were helpful by criticizing, by pointing out, you know. We don't have any minutes of our meetings, and maybe we should have had more of a record of it, but I really don't think it adds anything. Sensitive people are sensitive people no matter what they're working on. And you give them the problem of mental retardation, they're going to see its relationship to, certainly to all human problems.

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McHUGH: When you wrote the report, who did you aim the report at? Who was it written for?

BAZELON: There was a very broad aim. I wanted lawyers and judges and legislators to read it. And then I had hoped that somehow or another it would seep through to the public. We sought to develop greater public understandings of retarded people. As I put it in the report, if you have a short person and he has to reach for something, you just give him a box to stand on, whereas the tall person can reach it without needing the box. They're both reaching for the same thing: life and a fair chance in life. And some people are just short, so as I say, you use the expression "you give them a box to stand on", and the box we were giving the retarded was an understanding of their condition.

McHUGH: Yes. Was there any problem of how specific you should be in the report, particularly?

BAZELON: Well, no. But I thought, for myself, I thought creating a sensitivity was much more important than any particular provision.

McHUGH: I see.

BAZELON: To make people feel about a problem, you don't have to cross all the t's and dot all the i's there are before you start on any particular problem. But if they're sensitive and aware and want to do the right thing, you know, have a little guilt operating....

McHUGH: Did you feel that this was what you were trying to do in your report in particular?

BAZELON: Yes.

McHUGH: I see. What was Elizabeth Boggs' [Elizabeth M. Boggs] role on the Panel, on the task force?

BAZELON: Well, she knew more about the mentally retarded than any of us. That was her life's work. She was the only one among us who really lived and breathed it all the years of her life and all her days. We all wanted to do good and do the right thing, but she saw it much more clearly in terms of actual people.

McHUGH: Did you agree on all her recommendations?

BAZELON: I don't think so, but I don't think there was any sharp disagreement. I think Mrs. Boggs, Dr. Boggs, didn't like to emphasize the retarded and the criminal

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law. She wanted to make double, double sure that nobody gets the idea that retarded people are criminals or that they're likely to become criminals so you've got to watch them. And I think we did try to negate any such impression, but I don't think you could do enough to negate it for her because she's been associated with parent organizations, which are very sensitive on the subject.

McHUGH: Do you remember anything in particular that she wanted you to go further into?

BAZELON: I don't remember that detail.

McHUGH: Was there any discussion of whether there should be a program of birth control for older mothers, for instance, as a way of preventing mental retardation?

BAZELON: No. Not on our task force. I don't know that any other task force discussed it either. Maybe they did, I don't know.

McHUGH: How about problems of sterilization or abortion. Were those brought up? Were they considered particularly controversial?

BAZELON: Yes, they were. Now that you mention it--if I had known that you were going to ask me specific questions about abortion and sterilization, I should have gone back over this. Let's see, how long ago was the

Panel?

McHUGH: Well, approximately eight--seven or eight years ago.

BAZELON: Yes. You'll understand why I cannot recall each recommendation. I would have to find out from Mrs. Weinberg, really, what--you might talk to her about this.

McHUGH: Yes. Was there any concern particularly about the President's religious sensibilities on this?

BAZELON: That's what's going through my mind. I just don't have enough recollection.

McHUGH: Were you aware particularly of differences of opinion between people engaged in biological and behavioral research on the Panel?

BAZELON: Yes. And the interesting thing about that--the thing that really stands out in my mind--was that the people who were interested in research, who were there as research people, had a sharper awareness of the question of civil liberties and the social problems than the sociologists

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and educators. Seymour Kety, Dr. Kety, who was chairman of research and a very famous brain physiologist, was much more concerned about that, and we had many conversations about it. I recall one time talking about the need for bringing or taking services to the poor retarded, to the slum, the ghetto areas where this kind of help is viewed with suspicion, and the problem is always how do you get to them, how do you get them to come for the service, how do you administer the service. To the surprise of some of the research people, Shriver's attitude seemed to be: Well, you just go in and you just do it without worrying about the question of whether or not it's acceptable on the basis of civil liberties. In other words--and this is an understandable position--he's saying: sometimes you have competing values in a society, and the value of bringing this service and trying to help these people has a higher priority. I'm not saying which one was right and which wrong, but it was interesting to me that the research people seemed to be or talked more like civil libertarians than you would have expected them to.

McHUGH: Yes. Were there any differences between the medical people and educators that you recall, particularly?

BAZELON: No. That I don't recall. But there were discussions about allocations between research, meaning prevention, on the one hand, and care, meaning care of these presently mentally retarded, on the other. You talk about priorities--that was the real struggle, as far as I was concerned: you want to be humane to those who are here and take care of them, but you must be careful to leave plenty of resources for prevention. You have to stop the flow. And you can only do that by prevention; you can only get prevention by research.

McHUGH: Do you know how people lined up on that particularly?

BAZELON: Everybody was for everything on that one. I think Dr. Wiesner



[Jerome B. Wiesner] said the most persuasive thing on the subject to us one day at a meeting. It seemed to come through to us, I mean after.... When he said it and the way he said it made the decision for me not easy but less uncomfortable.

McHUGH: Yes, I see. Did he have much of a role to play as far as work of the Panel is concerned?

BAZELON: He did as far as I was concerned because I knew him and I had the greatest respect for him both as a scientist and as a humanist.

McHUGH: Did you discuss the work of the Panel with him very often?

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BAZELON: I wouldn't say very often, but I did. Well, we had discussed many things so that I knew his point of view.

McHUGH: I see. Do you remember any of the issues that you discussed with him other than that one?

BAZELON: Lots of things. One thing that I learned from my experience on the President's Panel, and that has been reinforced time and again since then, is that in the search to find out something about mental retardation, one discovers information relevant to every other human condition, not the least of which is cancer. In other words, in studying the, cell and studying genes, in studying the transmission of retardation; you're talking about very basic information that spreads much wider than the question of retardation.

McHUGH: Do you remember at the time of the Panel any particular conflict on the matter of basic research versus target-oriented research?

BAZELON: Yes, there was a lot of discussion. The people who were engaged in education and care of the mentally retarded obviously wanted to do the very humane thing of taking care of them. The other people had a hard time--they also were humane beings--but they had a hard time convincing the others that you had to do research. Yet, the caretakers knew there had to be research, and the researchers knew there had to be caretaking.

McHUGH: What was the role of Mrs. Shriver in the work of the Panel?

BAZELON: Well, that's like a spark plug. There's no doubt about the fact that she sparked it and made it spark. She was deeply interested, deeply involved. I honestly don't see anything about it except advantage, you know. It was on the plus side.

McHUGH: How about Sarge Shriver?

BAZELON: Well, I didn't see much of him, He did come to the meetings, but, as I say, he.... Was it the President or Shriver who said to us, "Think dangerously. Dare to think. Don't be timid."? I think both of them said it.

McHUGH: Did you have any occasion to have any direct conversation with the President?

BAZELON: No. Only at the meetings, I guess, one or two questions. We only saw him two or three times. I think we went

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around the table once or twice, something like that.

McHUGH: I see. Anything stand out in your mind about those meetings?

BAZELON: No. You're always impressed when you're in the presence of the President, and you were particularly impressed when you were in the presence of President Kennedy, so it almost shuts out all other things. The only thing I thought was: he's got so many problems and he's so busy, for him to come in and at least look interested and relaxed--almost relaxed--was quite a knack..

McHUGH: You say it was quite a knack?

BAZELON: Yes, because I'm sure that he must have had a million other things on his mind. But I thought, too, I trusted his sincerity particularly because I knew the reason for his interest--his sister [Rosemary F. Kennedy]. And the whole family had this concern and this involvement so it wasn't a question of putting on a show.

McHUGH: Yes. What about his staff, people that the Panel dealt with at the White House?

BAZELON: Well, the only ones we ever dealt with that I remember were Mike Feldman and Jerry Wiesner.

McHUGH: I see.

BAZELON: Oh, and the President's doctor, Janet Travell [Janet G. Travell].

McHUGH: How would you characterize her contribution?

BAZELON: I don't remember the details, but all I know is that you had a great feeling of her wanting to be very helpful.

McHUGH: Yes, I see. How about government agencies? Did they give you as much help as....

BAZELON: Well, I didn't use them, but the others did.

McHUGH: I can see where you wouldn't.... Well, after you drafted these recommendations, did you consult with these agencies, particularly, as to what....

BAZELON: No.

McHUGH: I see. Were you dealing with the states at all?

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BAZELON: Well, wait a minute, maybe we did. Yes, I think we dealt with some people at HEW in the Children's Bureau about the guardianship problems.

McHUGH: Oh, I see. Do you remember anything in particular you were doing?

BAZELON: No. Again, Mrs. Weinberg would be the one that would really know that.

McHUGH: Yes. I see. You don't recall what particular part of guardianship you would have had occasion to deal with them?

BAZELON: No. I can't remember that.

McHUGH: Now, you--in fact, the day before the President died, there was a story in the *New York Times* that you had criticized the fragmentation of efforts in mental retardation.

BAZELON: Was it the day before he died?

McHUGH: Well, I believe it was November 21st, 1963.

BAZELON: Yes, I did. That's right.

McHUGH: What were you referring to? Can you elaborate on that at all?

BAZELON: Yes. Now you're hitting the most interesting part of this whole thing. Well, I began to have a feeling that people were trying to push their particular interest--all understandable.

McHUGH: Surely.

BAZELON: There was the National Association for Mental Health which was interested in mental illness and which had pushed mental retardation into the basement and didn't want to be identified with mental retardation.

McHUGH: Really?

BAZELON: They certainly did not.

McHUGH: Why do you think that was?

BAZELON: I don't know. Well, because they thought there was more of a stigma to retardation than there was to mental illness. On the other hand, the mentally retarded group thought, or believed they thought, that mental

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illness was more of a stigma and didn't want to be identified with it.

McHUGH: Do you remember any particular persons who held these views?

BAZELON: Oh, everybody had that. I mean, you're just talking about everybody now.

McHUGH: I hadn't heard before that the people involved in mental retardation had felt particularly that mental disease was more of a stigma.

BAZELON: Well, that was my impression. I was sympathetic to the mentally retarded group because they said that they had suffered, that they were shunned, that their problem was put in second place.

McHUGH: What evidence of this did they give you?

BAZELON: Well, at the National Institute of Mental Health, Mrs. Shriver felt, and others felt, they were not devoting themselves to the problems of the mentally retarded but were devoted almost exclusively to mental illness. Congress had provided money for the mentally ill, but not for the mentally retarded.

In other words, they thought they were the forgotten stepchild. And I think they had a point, I really do. But I didn't think the answer was to separate--and since that time, I've made speeches, for instance, about the idea of separating alcoholism from drug addiction. You know, one group doesn't want to be identified with the other, which is perfectly silly. That's the reason why I said to you earlier I'm not interested particularly in retardation, mental illness, drug addiction, or alcoholism; I'm interested in all human disabilities and wherever they come from. That's the important thing and how you deal with them because all these conditions, even cerebral palsy, these things all have psychological overlays. Whenever a person is disabled, the only thing we can do is try to understand him, his problem. And even if we can't do much more than that, that's important. At least he feels he's in touch.

McHUGH: Do you remember what precipitated or caused you at that particular time to....

BAZELON: Yes. I had not been involved in this thing, and I began to see--well, organizations and people were talking to me about it, and I could see what was happening. Everybody around the country felt that now that the Kennedys were in the saddle that mental retardation was

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going to take precedence over mental illness and that kind of thing. So when I was asked to address the National Association of Mental Health at their annual convention here, I thought it was time to tell them this one-up-man-ship was silly business.

McHUGH: What kind of response did you get?

BAZELON: I thought it was very good. As a matter of fact, this thing has been published and republished and I still get requests for it and it's used as teaching material. In fact, I have it here and I'll read you a little of it. I said, talking about what our court had done, "Our concern is with mental afflictions, not their source." And then I went on to say that the focal point of my remarks was "the current tendency to separate mental illness from mental retardation. It seems that much is being said about this in private but little in public. I am very much a layman in the subjects of mental illness and mental retardation, but from my year-long service as a member of the President's Panel on Mental Retardation I did gain some knowledge concerning the interrelations of the two disorders. And my remarks today are as much addressed to the partisans of the mentally retarded as they are to you who have been primarily concerned with the mentally ill and mental health generally."

McHUGH: Did you feel there was any change subsequently in the attitude of the National Institute of Mental Health?

BAZELON: I don't know. Oh yes, they cried bitterly that they hadn't shortchanged mental retardation and that....

McHUGH: What did they offer as proof of that?

BAZELON: Well, I was trying to think. I forget now, but I remember Bob Felix [Robert H. Felix], who was then head of it. He protested loudly that he was the first to push for attention for the area of mental retardation. At the time I wasn't interested in how he evidenced his interest. The point is, I think, that we are all learning and we're learning that you can't separate the disabilities as we did in the past. If the people are hurt, you help them; you don't start this business of pigeon-holing them.

McHUGH: I understand that some of the parents were concerned about the idea that, if you had one state protective agency, mental retardation activities would usually be under the direction of a psychiatrist.

BAZELON: Well, let me hold off on that for a moment. We found that where there was a department of health and a department of education, the mentally retarded kids were often falling in between; that there was a justified complaint.

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McHUGH: I see. Was this....

BAZELON: As I recall, another thing we were most anxious to avoid was having children pushed into slots, because there happened to be a facility which would take them at the time but was not appropriate to their needs. When a kid comes in, you don't put a label on him, at least not until you're damn sure. And we were concerned over the whole business of whether mental retardation should be under the department of education, the department of health, or in a special department, and all that sort of thing. I just haven't refreshed on all the details, but not that we're talking a little while, some of these things begin to come back.

McHUGH: You mentioned the department of education and so forth. I was wondering, what was Wilbur Cohen's [Wibur J. Cohen] role in all of this, do you recall?

BAZELON: Wilbur has a role in everything that has anything to do with people. Wilbur and I knew each other at that time but we were not close friends as we have since become. But he was the fellow that was really turning HEW inside out for the Panel. Ribicoff [Abraham Alexander Ribicoff] gave the authority and....

McHUGH: Ribicoff gave him the authority for that?

BAZELON: Oh yes, Ribicoff was interested in that.

McHUGH: That's interesting. How were you aware of that?

BAZELON: Well, I know him very well.

McHUGH: And he told you that this was so?

BAZELON: Oh yes. And he came and addressed the Panel the first time, and he was....

McHUGH: That's interesting. I wasn't aware of that.

BAZELON: Well, have you got contrary information?

McHUGH: No, no. Well, let us say that some people felt that he wasn't that involved; that is Ribicoff.

BAZELON: No, that's right. In other words, he wasn't involved in the sense that he didn't show up at meetings--he isn't that kind of a guy. He decides that this is something important and Wilbur was the fellow who was providing all the detail.

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McHUGH: Do you remember getting much opposition from, say, the National Association for Retarded Children when you proposed putting retardation under one state agency, which probably would be headed by a psychiatrist?

BAZELON: I don't think we recommended that, did we?

McHUGH: Well, that there be one state protective agency.

BAZELON: Yes, but we didn't say that it should be under a psychiatrist.

McHUGH: No. No. But given the fact that in most states that retardation seemed to come under mental health....

BAZELON: Well, no. What they were objecting to was that in some states or a great many states the retarded were under the jurisdiction of the department of mental hygiene, and the department of mental hygiene had always had a psychiatrist at the head of it. And the psychiatrists were to blame. They weren't much interested in mental retardation, you know; they didn't know how you could effect improvement. There was neglect of the problem. It probably stemmed from the feeling

of resignation, you know, "Can't do much for them, so let's just go on to something else. Let's turn to those we can really help."

McHUGH: I think one of the purposes of the White House Conference was to try to involve governors in these problems. Do you have any particular remembrance of that, or were you there at the White House Conference on Mental Retardation?

BAZELON: Was that after the Panel?

McHUGH: That's a good question. I think it was right after the Panel.

BAZELON: I don't remember it.

McHUGH: Did the bar associations differ with recommendations that were made by the Panel particularly?

BAZELON: No. I don't think they were involved at all. I don't think they had any.... The bar associations aren't particularly interested in this problem--at least, they weren't at that time.

McHUGH: I see. No, I thought that after the recommendations were made you might have got some feedback from them.

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BAZELON: I don't think they were interested enough to respond.

McHUGH: Is that right?

BAZELON: I could be wrong, but I doubt it because I certainly would have had some--I mean, if there had been approval or disapproval, I think I would have remembered it.

McHUGH: Yes. Do you think the trips that were made overseas were particularly worthwhile?

BAZELON: Yes. They're always worthwhile. They really are. I just came back from Russia with a U.S. mission: six people to study the delivery of mental health services in the Soviet Union. And you always learn something. I was supposed to go to Russia with this group, but I couldn't go.

McHUGH: With which group is that now?

BAZELON: With the President's Panel on Mental Retardation.



McHUGH: Oh yes, yes.

BAZELON: I was assigned to the Russian group, and I didn't go. The people that were going were really the researchers. For me to go through a laboratory where they're studying the brain, I might as well not be there. In any case, it didn't sound as if there would be enough time to really go out and find out something about the social aspects.

Now, on this last trip we were there for five weeks and I spent a good deal of that time away from the group, from the mission, because they were all psychiatrists. And I went to the places where the courts were involved, the institutes where they, were examining offenders, the Serbsky Institute [Central Serbsky Forensic Psychiatry Research Institute] in Moscow. And I met with the Supreme Court of the Republic of Russia, and met with lawyers and professors. The psychiatrists were not meeting with them. But I've talked to some of the people who went on the President's Panel mission. That's one thing I'm convinced of. They are not--what do you call it, boondoggles. What do they call them?

McHUGH: Junkets.

BAZELON: Junkets, yes. Kety, Lourie and these people really learned something. I know from their descriptions. It was very important for them to touch base.

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McHUGH: Generally, what was your impression of the way the Russians handled – or do you recall – handled the problems of mental retardation?

BAZELON: Yes. Yes, it was very good. See, there's another thing. I don't know whether or not I would have gone on to all those things but for this experience.

McHUGH: Is that right?

BAZELON: Yes, because the Panel was the first time I really got steeped in it. Now you ask me about Russia: I didn't get the feeling at all they had this kind of sharp dichotomy between the retarded and the mentally ill. And, by god, everything I've learned since then shows the wisdom of not making such a dichotomy. Particularly when it comes to children--anybody who thinks he's sure about a child's disability at an early age is a dangerous person because he's a fool. You've got to have great humility.

McHUGH: Can you compare, or do you feel you are able to compare, President Kennedy's interest in the problem with President Johnson's [Lyndon Baines Johnson] interest.

BAZELON: No. I watched from afar. I don't accuse President Johnson of having no interest in retardation--that would not be fair; I have no basis for it, though I sometimes wondered whether or not he maintained the thing because it would have looked so rotten if he didn't. Here a thing was going full blown, and if he let it fall on its face, it wouldn't do him any good.

McHUGH: In retrospect, did you feel that you would have changed any of the recommendations that you made?

BAZELON: I haven't been over them lately. But I would be surprised if I wouldn't make some changes--you know, you learn something, you see something else, and probably you would do it a little differently.

McHUGH: Yes. I see. So, after 1963 then, you didn't have any further contact with the work of the Panel, is that correct?

BAZELON: Very little. I see George Tarjan all the time, who was connected with it. I see Leonard Mayo once in a while. I see Reg Lourie all the time. I see Mrs. Boggs quite often. And they are still involved in it, but I am not.

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McHUGH: Well, are there any points that come to mind that we haven't covered that you'd like to mention?

BAZELON: No, but I want to emphasize my concern over the splintering, the fragmentation in the approach to disabilities. I became very aware of the dangers involved in it during the retardation study and I keep coming across the problem. I went to a meeting of the American Medical Association concerning alcoholism. Many people there were worried lest alcoholics be associated with the narcotics addicts. But we can't take a unitary approach to disabilities--that's no good; that's not the cure. We must avoid concentrating only on the disability of greatest concern to the public at the moment: we must take a unified approach to mental disabilities--and I learned this from the President's Panel on Mental Retardation.

McHUGH: Yes. Well, do you have any other remarks about the President's Panel, or we'll turn out here.

BAZELON: Well, this is the first time recently that I've sat for an hour really thinking about it. All I can say is that it was a very important experience for me. It certainly had a great influence, almost unconsciously, upon what I did afterwards and the things I'm involved in now. It had much more of an influence than I was really aware of at the time.

McHUGH: Yes. Well, thank you very much, Judge Bazelon. [Tape off]...

BAZELON: When we were off the record, you asked me about the present concern with the disturbed child, and that recalled to mind that it was the President's Panel where I first really grasped the idea which now everybody accepts--that mental retardation is largely a social, economic, and cultural problem because the greatest number of mentally retarded come from a poor socio-economic and socio-cultural background: prenatal problems of the mother who cannot afford adequate medical care, and many other factors can and do affect the brain. The President's Panel--at least for me--was the place that made that point sharply and certainly made the point identifying the problem with social cultural conditions. Not that the middle classes don't have mental retardation and mental illness, but not to the degree at all that the deprived and underprivileged groups do.

McHUGH: Well, thank you very much, Judge Bazelon.

[END OF INTERVIEW]

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