INTERVIEW I

DATE: April 12, 1969

INTERVIEWEE: LLOYD CUTLER

INTERVIEWER: WILLIAM J. HELMER

PLACE: Mr. Cutler's office in Washington, D.C.

Tape 1 of 1

H: This is an interview conducted with Mr. Lloyd Cutler, executive director of the Violence Commission, at his office in Washington, D.C., on April 12th, 1969. The interviewer is Bill Helmer.

Mr. Cutler, I just want to first of all ask you some questions that you can make fairly brief answers to, just to establish some background. Could you give me a very brief biographical sketch?

C: Sure. Well, I'm a lawyer. Unlike most Washington lawyers, I guess, I have not had recent governmental experience. I came here during the war as a youngster in a Wall Street law firm. I worked in the Lend Lease Administration, entered the military service, and then, as many of my friends, I discovered Washington was an interesting and exciting place to live. With several other refugees from New York, we started a law firm here. We have survived through the normal process of growth and merger, and we're now about a forty-five man law firm.

I'm politically a Democrat, and I have worked as an advisor on the edges of government and in various political campaigns, in the course of which I've come to know the president and also President Kennedy. I've worked in each of their campaigns.

H: You seem to have been recruited in a number of government capacities. How did you get from private law practice into the more public areas of government work?

C: It has been said, not wholly in an admiring way, that lawyers, private lawyers are really the fourth branch of government. But in some ways I think it is so. The lawyer's function, particularly that of the Washington or New York lawyer who advises companies on their dealings with the government, is really to interpret one to the other. The lawyer who lives with government problems comes to understand the government's needs, why it's attacking certain problems and demanding certain conduct from companies. And he comes to understand the companies' problems and their difficulties in adjusting their operations in the way that the government desires. His principal role is to explain the one to the other. He's just as useful in persuading companies and businesses to understand and accommodate themselves to the felt needs of the government, which no one talks about very much, as he is in persuading the government to appreciate and understand the needs of the business community, which everybody talks about a great deal and regards as a rather improper function.

H: You were one time chairman of, it says here, the Tightrope Committee to prepare a report for the Federal Aviation Administration. I'm just curious as to what that was and when that was.

C: That was a committee that Najeeb Halaby formed when he was the FAA administrator early in the Kennedy Administration. Its purpose

was to review the rules governing the disciplining of airline pilots and mechanics for violation of safety regulations; whether they had appropriate hearing procedures, whether they were treated fairly, et cetera. He asked me to be chairman of that committee, and I did. I was assisted notably in that by Louis Hector, a former CAB member.

H: In 1964 I believe you were connected with OEO, and as vice chairman of the Business Leadership Advisory Council in 1965.

C: Yes, I helped Mr. Shriver to organize a group of business leaders of the general business council type to act as an advisory group to OEO, particularly with respect to the Job Corps. Having got involved in it, although I'm certainly no businessman, I ended up as vice chairman, which meant I had to do the work.

H: In 1965 then you were secretary of the Lawyers' Committee for Civil Rights Under Law. Was this an outgrowth of that in some way?

C: The Lawyers' Committee goes back even earlier. The Lawyers' Committee was organized by a group of perhaps half a dozen private lawyers of New York, Philadelphia, and Washington with a good deal of encouragement from the Kennedy Administration, from President Kennedy, Bob Kennedy and Vice President Johnson, to act as a conscience of the legal profession in measures to guarantee civil rights to black people, and also to those engaged in trying to support the civil rights movement who found themselves arrested in the South and elsewhere. Early in the Kennedy Administration, at the time of the confrontation at Oxford, the Selma incident and

others, both the black residents of the area and the white young people who went down to help when arrested found they could not get counsel and could not have their legal rights adequately protected. Our primary mission was to furnish that protection and also to speak out on behalf of the leaders of the bar whenever we thought that rights or the law itself were being violated, as when Governor Wallace stood in the doorway at the University of Alabama. The principal leaders in that, and a good deal of this I think is already recorded in the Kennedy Oral History, were Harrison Tweed and Arthur Dean in New York, Bernard Segal in Philadelphia, and a number of us here in Washington.

H: In your work in this area of civil rights I would be interested in hearing your views on President Johnson and the Johnson Administration particularly. Do you have any opinions or feelings about President Johnson's motives and interests in civil rights, whether he had a deep personal conviction in this area or whether he was acting out of what he felt was more historical necessity in his efforts?

C: Oh, I have no question but that he had a deep personal conviction about the matter. When the Lawyers' Committee was formed in 1963, and perhaps two hundred leading private lawyers were invited to the White House for an organizing meeting, President Johnson, then the vice president, spoke to us and made really the most moving of the three talks we heard, that of President Kennedy, of Attorney General Bob Kennedy and the vice president himself. When he became

president his leadership was of just enormous importance: first, his legislative skill in enacting, obtaining the enactment of the civil rights laws in 1964, 1966; his sense of tactics; his use of the Selma incident, for example, as a means of getting the legislation through; his judgment as to how much could be obtained and what had to be bypassed. His commitment to the cause, I think, is one of the noblest and most successful aspects of his whole administration.

H: Do you think that this commitment that he had as a vice president and president was something new that he did not have in earlier periods of political work?

C: No, not in the sense you may mean that he changed whereas others of us knew all along what the right thing was. I think all of us changed over the years. It was a growing realization on the part of the white Establishment, if you will, how cruelly and unfairly the black community has been treated over the years. Certainly, even in my case, although I'm some twelve years younger than he is, my realization came fairly late in life. And I grew up in the North. I think by the time he felt the depth of the need and the importance of action he was, if anything, ahead not only of his own section of the country but of political leaders everywhere.

H: How did you come to meet President Johnson?

C: I had known him only casually as a congressman and as a senator, and in fact I never really knew him well either as vice president or president. I was recalling to somebody that I believed the

only occasion in which I was present at a social function in the White House during President Johnson's time was when a close friend of mine was leaving the Cabinet. I was one of the few people that this Cabinet member had suggested be invited.

H: You've had though, I presume, a good deal of contact with the Johnson Administration. I wonder if you have any views on Johnson's or his administration's particular strengths or weaknesses that you could comment on.

C: Well, I find that a difficult question, as I guess we all do. I think there were great strengths. There was extraordinary energy. Mr. Johnson always was a man, even though scholastically untrained, of enormous intellectual capacity and shrewdness. His grasp of any matter he looked into was remarkably acute. He had the misfortune to come to the presidency at a time of great social change and upheaval in this country and of great disillusionment among the young people about the way in which, as it appeared to them, the policies of the government appeared to vary from the professed ideals of the government and the society and their own ideals. We're all tempted to put the dissatisfaction of young people at the door of some of Mr. Johnson's personal qualities and weaknesses, and some of his particular weaknesses contrast with strengths in those very same personal areas of President Kennedy's. It's a temptation to think that had President Kennedy lived the disillusionment of young people would not have occurred, but I really doubt it. I think it might have been just the same.

H: Could you make some comparisons here?

C: Well, I could, but I don't think they're terribly relevant.

H. Bearing in mind that this is for posterity and can be closed?

C: I think they relate primarily to the different ways in which the two of them were brought up. Lyndon Johnson was a man who had to fight for everything he got. He had very little either formal training or other schooling in how to behave and what were regarded as admirable qualities of restraint and self-deprecation and moderation. In the part of the world where he lived and grew up those were not great qualities. Canniness, craftiness, exuberance were regarded as great qualities where he lived, and he showed that through his life. He lived by his standards. President Kennedy was brought up in the Establishment mold, and he had a strong family, a strong, very strong father and mother. He had a New England preparatory school and a Harvard education. He was in Britain as a young man. He had every opportunity to develop not only strong traits of character but of manners and affability and general likeableness. President Johnson never had that chance.

Now it's quite true there are men who also have little opportunity who display very likeable personal qualities. I think of Harry Truman, for example, of a man who will probably be more fondly remembered by more people than President Johnson. So you can't say that everyone of disadvantaged background is therefore going to have less likeable qualities. That's not true

at all. But if you turn it the other way around, almost anyone with President Kennedy's advantages is probably going to have very attractive personal qualities.

H: Do you think, then, that people who had personal dealings with Lyndon Johnson were frequently irritated by his styles and personality and behaviors?

C: Oh, yes. Oh, yes. I think that many of the people who worked closely with him felt offended by the way in which he treated them at one time or another. Although there's no question in the case of most of them that he probably praised them more extravagantly in some instances, in some situations treated them more generously than Jack Kennedy had. On the other hand, he criticized them or ignored them more hurtfully, I would say, than Kennedy. Kennedy was a much more even temperament in the way he dealt with other people. He was a man much more under control than Lyndon Johnson. When Lyndon Johnson was angry or hurt it came right out. You could see it.

H: Do you think of any particular instances of that particularly, that especially illustrate this? Any encounters you may have had or heard about?

C: Oh, I guess it would be too personal. I'd really rather not.

H: All right. There's been some commentary, maybe you could add something to this, that Johnson may be in a sense one of the last of the old-line, optimistic, liberal, New Deal politicians in the Adlai Stevenson and Hubert Humphrey, other people that thought

in older terms, [mold]. Is this [what you think]?

C: No. I don't really think that. He certainly was a product of his times. I do think of all the harmful consequences of Jack Kennedy's assassination the most harmful was not the transition from one man to another, but the fact that the whole country, or the leadership of the whole country, suddenly reverted back twelve years. Jack Kennedy was, I guess, forty-three when he was elected. He was my age. Most of his principal advisors and assistants were approximately of his age or younger, rather than of the age of Eisenhower advisors, or of the Democratic contemporaries of President Eisenhower, or mild juniors of his such as Mr. Johnson. But when Mr. Johnson came into the presidency we reverted back, as we naturally would. He naturally turned to his friends and the men upon whom he had counted over the years, men like Justice Fortas, like Clark Clifford. We literally went back twelve years.

H: And you feel that--

C: Not that the people Mr. Johnson picked were different in skill or devotion to the country, but that they thought like a different generation. You see these days that even two or three years among the young people is a generation, but twelve certainly is.

H: And having as a result perhaps somewhat less understanding of the current issues?

C: I would say not necessarily less understanding, but less willingness to change. I'm speaking more not of substantive legislative programs but of changes in institutions.

H: How did you happen to become executive director of the Violence Commission?

C: I wish I knew. Through the Johnson Administration I came to work a good deal with Joe Califano on various matters, usually cases in which the administration wanted the help either of the legal community, bar leaders around the country, or of business leaders whom I happened to know or could get in touch with.

I was almost finished with work on an earlier presidential commission, the Commission on Urban Housing headed by Mr. Edgar Kaiser, who is a very good friend of mine and whom I had helped persuade to take on the job. I had acted as his counsel. That had been quite a successful commission, unique in the sense that long before it finished its report it came up with some legislative recommendations that the president adopted and that the Congress passed. It doesn't happen very often.

H: This reminds me of another thing I wanted to ask you. How is President Johnson in dealing with the business community, and how did he go about recruiting people from other fields to work with the government?

C: He dealt with the business community the way he dealt with everyone else. When he wanted something from them, he was all over them. He had many friends in the business community. He was a businessman himself. He knew how to talk to business people. He was blunt and direct in what he wanted, and businessmen responded to him. In other contexts, such as the inevitable crunches that occurred

on wage policy and particularly price policy in an inflationary period, when the business community or parts of it took a step that he felt was harmful to the national interest his bitterness and his denunciation of the businessmen involved was vituperative to say the least. So that he alternately pleased and offended the business community. He was able to work closely with them but often turned on some of the people who had been of the greatest help to him, and whose integrity and public spirit he must have believed and did believe. Yet he had no hesitancy at all in calling them, in effect, "enemies of the people" when they raised a price.

H: Did this reduce his effectiveness in any conspicuous way?

C: I think so.

H: After an encounter there would be a reluctance--

C: I suppose on the whole his rapport with business was probably better than President Kennedy's and as good as that of any other Democratic president. But most businessmen are basically Republican, so that it was a relationship that was always tentative and full of tension. But he worked at it very hard, and there were many businessmen, such as Mr. Kaiser, who came to have a considerable admiration and personal affection for him.

H: Going back to the Commission on Violence, what in your opinion has the commission attempted to do and what is it accomplishing, or what do you feel it may accomplish?

C: Well, this could be a one hour answer, I guess.

H: That's what I'm hoping.

C: But, I hope not to do that. The commission has an almost boundless assignment--the causes and prevention of violence. You might just as well call it a study of man and his nature. We've been violent as long as we've been men living in society together. We thought our principal missions were, first, to try to understand ourselves, some of the main strands of violence as a means of settling conflicts historically, comparatively with other countries today, and the reasons for its existence on such a high order in our own society today. Our work in this historical and analytical field I think will be of value, we'll have a historical volume on violence in history, in American history and in world history and comparative violence of various societies, that will be unique. It's a subject that has never been really treated as such. I think we can contribute to public understanding of how violent we are today and how we got that way and why we do it.

When we come to the second part of our problem, how we lessen the degree of violence in the community, that's of course a great deal harder. Whether we will be able to make a substantial contribution, I'm not very sure. Violence exists essentially when people are dissatisfied, and not only when they're dissatisfied but when they have a considerable hope of improvement. I'm thinking in that sense primarily of what could be called collective or demonstrative violence. It also exists on an individual basis in societies in which the normal or the close societal structural

bands of family, community, church are weakening; where mobility exists; where upward economic progress exists; where people live in large, anonymous numbers more or less as strangers to one another; where you don't know the man walking down the street approaching you; where hostility and fear replace the normal elements of community.

All of these factors are not factors peculiar to this country. They're factors related to the growing urbanization and industrialization of the world, and the speed of technological progress contrasted with the traditional slowness of social progress. Our institutions just don't change as fast as the conditions that they're supposed to be managing change. On top of that, of course, we have the unique black problem in this country, what I suppose you might call the sins of the fathers visited from generation unto generation. But no country has ever faced the problem of absorbing a ten per cent minority of a sharply different color, and particularly of doing it after a century or more, several centuries, of slavery followed by the virtual equivalent of slavery in segregation and social and educational deprivation. It's a unique problem. Its solution is something we're on the way toward accomplishing, but we're going to have generations, I think, of bitterness and strain and adjustment before it is fully accomplished.

H: Do you see any new findings, new in the sense that they have been neglected or not given proper attention to in the past, coming out of this?

C: Yes, I do. One point I think we are going to make very strongly is the appalling underinvestment of resources, both in the administration of justice and in the prevention and treatment of juvenile delinquency and in providing opportunities for young people. We spend less than one-half of one per cent of the total national income on all elements of criminal justice, including the police, the courts, the correctional institutions and juvenile care, federal, state, and local. It's a good deal less than we spend on space, on agricultural subsidies, on any number of less trivial things, and far less than we spend as a country on cigarettes or alcohol. For it we get a system that is unique in its degree of inefficiency and inability to control crime as compared to the systems in most of the other modern societies of the industrialized world.

On this great issue which decided an election we can say with considerable justice to the American people that, "It's your own fault." And it's our own fault, not theirs but everyone's, that we've so long neglected the criminal justice system. The shabbiest buildings in any great city are the courthouses, the jails, and the police stations. I might add the juvenile receiving homes and facilities available not only for treating young offenders, who are the heart of the problem, but also for diverting them from lives of crime into more fruitful occupations. I think that's important. I think we will develop a set of statistics on guns that will be as compelling as the statistics on cigarette smoking

and health. I think we can correct some illusions about the role of the media. Also, we can do a good deal to emphasize how socially useful the media, and particularly television, can be in creating a public awareness of social problems that may break out into violence, and of the conditions in which various segments of the community live, segments that never see each other any more in daily life and literally see each other only on the TV tube.

H: Along these same lines, do you think of any other, perhaps, misconceptions or myths this commission may dispel?

C: Well, myths are very hard to dispel.

H: Or at least attack, then.

C: Like all commissions who've been in this area, we will probably recommend equal measures of greater social control on the one hand, such as stronger law enforcement, and greater social change to attack underlying causes of violence on the other hand. As in the past, the public will probably ignore both. But if they listen to either one it will be the plea for greater social control. Something we are studying, and perhaps this is the area where we can make a contribution, is what can be done to bring about public action on the recommendations that so many commissions have made. What can be done to make our political and social institutions more effective instruments of the felt need for change that exists throughout the country? Our institutions change very

very slowly. The political structures of cities, for example, is wholly inadequate to accomplish their purposes. Perhaps what we need is to get back the Founding Fathers and let them write a constitution for cities. It might be a very valuable thing to do.

H: Do you think part of the difficulty in dealing with the violence problem is that there is such a difference in the nature of violence in the cities and in the country that it's difficult to apply the same solutions in a blanket sort of way?

C: Well, the kind of violence that bothers us occurs almost entirely in the cities or where great clusters of people are together, as in the downtown metropolitan areas, in the universities. It's true that violence exists in the countryside, as it always has, but that's not the social problem that we're concerned about. We're really concerned about the conditions under which people live that drive them into various forms of either individual or collective violent conduct as a means of solving their own either personal or collective problems of life.

H: As you mentioned earlier, violence is an awfully broad topic. Do you feel that perhaps it's almost a misnomer, in the sense that violence encompasses a number of phenomena that have very little relation to one another except for the fact that people get injured? But that the dynamics are very different for one kind, so different that it can't really be lumped together with a different

type of violence and studied?

C: I think that's true, but when you get to the measures of control and prevention you find that they come back together again.

H: Essentially the same means of control?

C: The need for a social change, doing something about the conditions under which people live in great cities, is central to both the problems of collective protest and the problems of individual crime.

H: I'm thinking, for example, of something so different as the household shooting between family members in the West versus a civil disorder in a city.

C: Yes, I think that's true. I think maybe one way to say this is the kinds of violence that are of great current social concern are not in the area of homicide or assault among acquaintances, or husbands and wives, or lovers, or relatives. They are more the social forms of violence: crime in the streets, the assault on a stranger, collective protest either in the form of destruction or seizure of a university building or the just literal destruction of shops in the ghetto, assassination. These are social aspects of violence, violence for a purpose, a social purpose other than conflict resolution among acquaintances. That has been with us. It probably will be with us. The most effective measure of relief, I suppose, is to lay our hands on all those guns which aggravate both the number of opportunities for violence and the degree of injury that results.

H: I'd like to explore that area a little bit. I'm not sure where to start. That's such a big thing. We'll ignore it for the time. Could you give me some comments on the make-up of the commission? For example, Arthur Schlesinger has had unkind things to say about the make-up of the commission.

C: Well, Mr. Johnson boxed the political compass I think quite carefully in picking this commission. We have almost every spectrum, every part of the political spectrum in it. We have Judge Higginbotham and Ambassador Harris, two very distinguished but very liberal and in their day very, relatively, militant blacks. At the other end we have Senator Hruska and Judge McFarland, who are certainly conservative. We have bar leaders like Mr. Jaworski and Mr. Jenner. We have Archbishop Cooke. We have both a liberal and a conservative Republican legislator, a liberal and a conservative Democratic legislator. We have a psychiatrist. We have virtually every political grouping or social grouping you might think of among the members of the commission. We have Dr. Eisenhower, whose name and views I think command great respect throughout the country, as our chairman. We don't have sociologists or law professors or historians as commissioners, but we have drawn very heavily on men of these and other scholastic professions as our consultants and principal staff leaders.

And whereas Arthur Schlesinger might have been quite critical of us at the beginning, we really swapped constituencies when the Walker Report on the Chicago disorders was put out. The

conservative community, who had expected us to come out for law and order as we undoubtedly will in the end, were painfully disappointed. The intellectual community, who were afraid that we would never talk about social change or be critical of existing legal institutions and policies, were I think happily surprised by the Walker Report and its ability to call a spade a spade when both the police and the demonstrators had been acting, as we thought, irresponsibly. So at the moment it may well be that our standing in what you might call the liberal academic community is higher than our standing among conservatives, which is not where we started out. And it may not be where we'll end up either.

H: Well, there's quite a disparity of views among the commission members. Is this going to moderate the commission findings in any way? Is there much of an effort being made to reach a consensus?

C: In the last few meetings of the commission there has been far more consensus than disparity as we have come to see the work papers of the staff. I think most of us now are far more concerned about the sheer difficulty of articulating a report and devising recommendations than we are of internal disagreement. I think we all take more or less the same view of the underlying problems. There are differences, but we find, meeting after meeting now, that Eric Hoffer and Ambassador Harris are really walking down the same intellectual aisle hand in hand.

H: Do you see some of the changes occurring in the opinions of commission members as they become more familiar with the subject?

C: Oh undoubtedly, undoubtedly. Mr. Hoffer is a very good example. He says he's had an excellent education out of all of this, particularly about the problems of black people.

H: Well, that's different. What are some of the areas of new agreement or of continuing disagreement?

C: We will always have disagreement, I think, on gun controls with Senator Hruska and to an extent with Judge McFarland. We will have less important, or perhaps more adjustable, areas of disagreement on the rapidity of needed social change, that is how rapid it must be. I think we have no disagreement on the importance of a respect for law and an improvement both in our substantive legal institutions and in the capability and resources of the men who administer them.

H: On the subject of gun control, I have to inject a personal observation here that may give you a thought or two to add to it. It's my feeling that Senator Hruska and other members of the commission are not nearly so far apart as they themselves often think they are. [They] are frequently quarreling over how to go about accomplishing essentially the same thing and are reacting to a great extent out of convictions that the other side doesn't want the same thing that they want, namely the--

C: There is no question [there is] the fear of the camel's nose under the tent and "Once regulation starts where will it stop?" But I do think there's a fundamental disagreement relating to the number of handguns that should be allowed, and in particular whether law abiding, respectable householders or young men without

criminal records should be allowed to own handguns. That is, I think that a restrictive permit system based on need for handguns which would deny the existence of need on the part of the ordinary householder is something that Senator Hruska cannot support. Yet, it's something that a number of the other commissioners think is essential. This is an issue we will have to compromise, and we're planning to compromise it based on the local preferences of particular communities and states.

H: You think this will open up the old problems, though, that the '68 Gun Control Act has tried to solve by having a lenient law in one place and a stricter law in another place? The result of a defeat of the stricter law is that these things [guns] will stay in circulation.

C: It would depend. There are probably large areas of the country where views are essentially the same and where the danger of leakage into the states that prefer strict gun control is relatively minor. I would suppose that the danger of leakage from the states west of the Mississippi River into Chicago or New York or New Orleans is not very great. And on that same token I would suppose that the states bordering on New York would have about the same view as New York does on the need for controlling guns. So I don't think that the leakage problem is that serious if we could find a way to make every state impose some form of handgun licensing, except those states that literally do not have a serious problem, as in the Middle West or Far West. It seems to me that's manageable.

It's not as good as a uniform system throughout the country, but it may be politically a great deal more feasible and still workable.

H: From the studies conducted by the Firearms Task Force, it's been very apparent that the gun problem and the public interest in the gun problem is quite a cyclical thing. Do you think this is partially a publicity phenomenon, or just that it's very closely related to increasing and decreasing public concern over violence generally that happens to focus a course?

C: Oh, I think it's the way in which particular incidents capture public imagination and obtain action. Possibly a good example is thalidomide, an episode which led to the drug control amendments of 1962 which might not have passed if that incident had not occurred, even though the incident was one with which the existing law was fully capable of coping and one with which it had coped very successfully. That is, the sale of thalidomide in this country had not been permitted by the Food and Drug Administration under its existing powers. But the general horror of what had happened in Europe, where sale of the drug had been permitted, galvanized public opinion to do something about American drug laws in other areas. This happens over and over again. I mentioned earlier the Selma incident. The use of the cattle prods on the bridge at Selma just galvanized the public; the spectacle of Bull Conner, the sheriff of Birmingham, I think, galvanized public opinion and led to the passage of the Civil Rights Acts. The shooting of Mrs. Liuzzo was a similar event. No question that gun

control gets stimulated by waves of particularly dramatic robberies or other crimes, or by the occasional but highly dramatic assassination, usually done with a handgun.

[End of Tape 1 of 1 and Interview I]

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