INTERVIEW III

DATE: January 30, 1969

INTERVIEWEE: STEPHEN POLLAK

INTERVIEWER: THOMAS H. BAKER

PLACE: The National Archives Building, Washington, D.C.

Tape 1 of 2

B: Were you involved in the prosecution of the Liuzzo case and the case of the Philadelphia, Mississippi, murders?

P: No, I was not. I occasionally reviewed pleadings or briefs or materials that were being prepared in connection with the cases, but I did not participate in the fact-finding work or the presentation of those cases in court.

B: Related to that, how did the Civil Rights Division get along with the FBI in investigative matters such as in those cases?

P: I think the best person to ask is Mr. Doar.

B: He would have been handling the main aspects of those?

P: That's correct. And D. Robert Owen, who was in the division at that time and then became my first assistant. Mr. Owen replaced me when I went to the White House and when I returned as assistant attorney general, I kept Mr. Owens on as the first assistant. He worked directly with Mr. Doar on those cases. I believe that the Jackson, Mississippi, office of the FBI, which was in the charge of Special Agent Roy Moore, was established to work on civil rights matters. I believe they would and did put maximum effort into the investigation

and solving of the slaying of the three young men in the summer of 1964.

B: That same spring after the Montgomery march what became the 1965 Voting Rights Bill was drafted, was it not?

P: That's right.

B: And did you play a part in this?

P: I believe that the Voting Rights Act was sent to the Congress before I came over to the department from OEO. I did not play a part in the initial drafting of the bill, which I believe occurred in the Civil Rights Division and probably reflected major input of Harold Greene, who was the chief of the Appeals and Research Section and is now the chief judge of the Court of General Sessions here in the District of Columbia; David Norman, who is head of the Planning and Coordination Section in the Civil Rights Division now; and Burke Marshall; and others in the department including Archibald Cox, the solicitor general; and Mr. Katzenbach.

The initial draft, according to my best recollection, had already been transmitted to the Congress when I got there.

Upon my return from the Selma-Montgomery march, my assignment was to provide support for and manage that bill on the Hill, and to utilize the resources of the Civil Rights Division to back up the legislation.

B: Who was in charge of handling it on the Hill for the White House?

P: The White House was really not heavily involved. The handling of the bill was really in the hands of Attorney General Katzenbach--

for the President. He [Mr. Katzenbach] dealt with all the senators and representatives and managed the bill. As the bill ultimately moved toward the vote, I know in the Senate where we had the filibuster, Mike Manatos, the President's Senate man, played a role. But the real managing of it and dealing with the tactical decisions appeared to me to be in Nick Katzenbach's hands.

B: What particular difficulties did you have on the Hill with that bill?

P: The bill was almost revolutionary in nature in that it recognized the inadequacy of the litigation process to remedy the denial of the vote to blacks. I say inadequacy because the avenues for opposition through litigation were so manifold that the pouring of the Civil Rights Division's total resources into voting discriminations over the past eight years has succeeded in only miniscule advances.

B: You mean the process whereby the Civil Rights Division had to bring an individual suit in each case?

P: Yes. An individual suit in each county. And in addition, the U.S. had to show the court that particular individual blacks had been discriminatorily denied the vote. The division, I believe, did that task brilliantly and indeed the litigation records that it had assembled over the years in court in some seventy-seven lawsuits were the facts which convinced the nation and the Congress that further steps were needed. The nation made up its mind that this

denial, this unconstitutional action, which had gone on for a hundred years had to stop.

B: I've heard it said that in a sense passage of the Voting Rights Bill was, if not exactly easy, made less difficult simply because it was a voting rights bill, that there weren't many people who would just stand up on the floor of the Congress and say they were against the right to vote.

P: That's right. A number of factors brought about passage of the bill. First, there was the nation's recognition of the massive denial of the vote to Negroes throughout the six states of the South. The facts developed by the Civil Rights Division through these cases in the federal courts, the rulings of the Supreme Court of the United States in the United States v. Louisiana and the United States v. Mississippi voting cases, these rulings and the court records documented beyond peradventure the denials, the discrimination, the techniques. That was one factor.

Second, the fact of this discrimination was emphasized for the nation by the Selma-Montgomery march where persons from all over the nation--black persons, white persons--demonstrated their grievances.

Third, there was the fact that most Americans recognized the vote as the fundamental first right of all citizens and would not countenance its denial.

So these three things plus the still favorable Democratic majorities along with the liberal Republicans were the combinations that worked.

It was still necessary in the Senate to secure the approval and support of Senator Dirksen. Without that, we could not have passed the bill.

B: How did you get it?

P: It was gained by going through the process which I believe was gone through with the 1964 Civil Rights Act of very careful and time-consuming discussions of all aspects of the bill with Senator Dirksen and with his aide Neal Kennedy. Nick Katzenbach had to do that at the level of the Senator, and I worked with the Senator when he was working with Mr. Katzenbach. I went through an entire redraft of the bill with Neal Kennedy, with a group of persons including Bill Welch, who was there representing Senator [Phillip A.] Hart, Charlie Ferris, who was Senator Mansfield's man, Senator Hart himself, Burke Marshall, who although having left the Department of Justice had been asked by Attorney General Katzenbach to participate, and Neal Kennedy and two other aides of Senator Dirksen, Bernie Waters and Clyde Flynn.

The practice, which I think had been followed with the 1964 act, was followed here. The draft bill was sent up and there were hearings in the House. There probably had been hearings in the Senate, but it was not considered likely that the bill would be reported out by the Judiciary Committee with Senator Eastland; and therefore other routes to the floor of the Senate had to be taken. They necessitated the full support of Dirksen and Mansfield, and

therefore a Dirksen-Mansfield substitute had to be worked out meeting Senator Dirksen's objections, such as they were.

Shortly after I came back from the Selma-Montgomery march, I recall a couple of days where we went over the latest draft of the bill that was in typescript. I sat down in the Old Senate Office Building with Neal Kennedy, Burke Marshall, Harold Greene, Bill Welch, Charlie Ferris, Clyde Flynn and Bernie Waters; and we proceeded to go through every line of the bill to try to respond to the questions which Neal Kennedy would raise in behalf of Senator Dirksen. He had many things that he wanted done.

B: Were these generally legal type questions about the bill?

P: The questions were both legal concerns and also "why do you need to do that? Why can't we do it this way?"

B: Can you give an example of the kind of thing that Dirksen objected to and got changed?

P: The bill originally sent up by the President suspended tests and devices for at least ten years, maybe longer. Senator Dirksen questioned that length of time, and the Dirksen-Mansfield substitute reduced it to five years.

B: Tests and devices meaning the literacy tests?

P: Yes. The main thrust of the bill in states which came within the coverage formula--states and counties--was to suspend all literacy tests and devices for a stated period of time so that Negroes who had been kept from registering and voting by the discriminatory

application of the tests would be registered whether or not they met these literacy standards.

The standards were not only literacy. Within the definition of tests and devices were voucher requirements. One of the means of keeping blacks off the rolls was to require them to produce two voters who would vouch for their good character; and there being only whites on the rolls, none of them would act as vouchers.

We went laboriously through every line. I can recall that I sought to be the scribe. I had a yellow pad; and as we went through the bill and changes were made and portions were cut out--Neal Kennedy wanted to reverse the order in which various provisions occurred in the bill and this drafting committee would approve the redraft section by section--I would keep on the floor beside me all of the part of the prior draft which had not been included in the new draft. I would staple pieces of the old draft onto the new draft. I considered it my purpose to endeavor to include in the new draft all of the provisions that I piled or laid on the floor as the old draft was cut up. It was a long and complicated bill, so I would know by the number of items I had laying on the floor what provisions that had been part of the old bill were not as yet included in the new bill. My recollection is that although the form in which the bill was framed and the order of the provisions were entirely changed, virtually everything that was in my pile on the floor was ultimately incorporated into the next draft.

B: Did you keep a written record of these successive changes in the proposed bill?

F: Yes.

B: Are they in the Justice Department files?

P: I think that the files will include those materials. I was rather careful to try to record each step of the way.

B: That would be in the Civil Rights Division's files then?

P: Yes, or in what we call the D.J. file on the bill. I suppose that I may have some personal notes of my own at home on it as well. I tried to save this marked-up redraft so that one could compare it against the earlier draft and see what the changes were. I don't think that we had to give away very much, but it was important to Senator Dirksen to come forward with a changed bill so that he could justify to his party moving from a skeptic position, or an opposition position, to a supporting position.

B: Are you implying that at least some of the changes may have been just pro forma changes to save Senator Dirksen's face before his colleagues?

P: I think all I would say is that it was important to have Senator Dirksen's support, and yet it was also important to draft a bill which would do the job. The position of Senator Dirksen and Neal Kennedy, who was his main aide on this bill, was not ever that the job shouldn't be done; it was just to question everything that was in the bill. If we could support what was in the bill, they would agree to it. And while the process was laborious and tedious and sometimes fractious, it was also constructive.

B: Who devised that complicated formula of applicability in the bill?

P: That was devised at the department before I got there, and it held up through the various discussions.

One of the things that concerned us in the process, and concerned many of the senators, was how the formula would apply--what states and counties would come within the formula. The southern senators described the bill as one finding the states and counties that came within the formula guilty of misconduct. They said that those states and counties were being found guilty without a trial; that it was wrong to frame the bill in that way, that it should apply equally to all. My own view at the time was that the formula was framed to include within it those areas where the vote had been denied on the basis of race, and that the bill was directed at states and counties which had on the factual record before the Senate engaged in that conduct. There was some feeling at the Department of Justice that it was preferable to include a formula which would determine the states and counties to be covered by the statute rather than to name the states and counties expressly.

B: For what reason?

P: Because the formula had, it could be argued, a reasonable relationship to the existence of discrimination. The formula said that any state or political subdivision in which less than 50 per cent of the age eligible persons were registered for or voted in the 1964 presidential election would be precluded from making literacy tests a condition to registering or voting. The rationale was that where

less than 50 per cent voted or registered, the reason was that race discrimination kept the percentage low. The reasonableness of the formula was really not open to doubt. Included within its ambit were the states that we knew--and the records and the facts showed--were discriminating.

B: While you were in these discussions with Senator Dirksen and his aide, was it clear that Senator Dirksen was almost simultaneously discussing this matter with the President or with the White House?

P: Not to me. He may have been. Attorney General Katzenbach's posture at the time was as the President's emissary. I thought that he was taken by Senator Dirksen to be the representative of the administration.

B: Was the filibuster assumed by you people working on the bill to just be kind of something that you had to give the southern senators, not really a problem?

P: No. We took it very seriously. It was the first filibuster that I had dealt with, and so I had no prior experience to draw upon. We considered the matter in doubt until it ultimately passed. We worked with the care I've described on the Dirksen-Mansfield substitute. We worked with the same care on the draft committee report of the Senate Judiciary Committee. Now, Senator Eastland would not call a meeting to report out a committee report, so what came out was the "Joint Views" of twelve of the Judiciary Committee members which included a good number of the Democrats and a good number of the Republicans, including Dirksen. The twelve constituted a majority of the committee.

We attached great importance to that joint statement of views because it would be relied upon by the other members of the Senate. We would not have put the kind of effort we put into that report unless we had thought that every little bit counted to break the filibuster and to achieve the passage of the bill.

B: Who were some of your main allies among the senators?

P: The leading ally was Senator Hart. He was the most deeply involved senator. He sat in on some of the drafting sessions I've talked about. In my recollection he was the only senator who did.

B: Did any of the southern senators say something to the effect of "I can't openly support you, but if you really need help, you have my vote"?

P: I don't really recall that, no. But maybe I wouldn't know about it. Other allies were of course Senator [Jacob] Javits and Senator [Edward] Kennedy--I think it was Edward who was on the Judiciary Committee. Most of the people who were allies were those who were on the Judiciary Committee because that's where the bill was developed and redrafted. I think Senator [Roman L.] Hruska's support was important as he was a conservative Republican. When you've got a filibuster threatened, every vote counts. And Senator Mansfield and Senator Dirksen were important in lining up the votes.

My recollection is that Attorney General Katzenbach was being called to task by some of the black leadership and liberals like Joe Rauh, and maybe even Clarence Mitchell [of the Washington office, NAACP], who was always awfully sound in his evaluation of civil

rights issues in the Congress. But Katzenbach was being criticized for "selling out" on some things to Senator Dirksen. And the Leadership Conference on Civil Rights was pressing on Hart, Kennedy and Javits to go further than we in the Department of Justice thought we could go and needed to go. I thought that those who were pressing were insufficiently aware of the necessity of bringing Dirksen along. It was said at the time by some, "Well, let's put it to Dirksen, and if he turns his back on the bill, then let them take the consequences." My view at the time was that that would not have served the country; that the important thing was to get that bill then.

B: The "some" who said that were not anyone in the Justice Department?

P: No. This was all outside from the Leadership Conference on Civil Rights or other civil rights leaders who wanted, for example, to have the bill place federal examiners in every county in the South and make a more drastic substitution of federal for state authority over voting. They were concerned that the appointment of examiners to do the registering was left to the Attorney General, and that he would have to find they were needed to enforce the 15th Amendment; they wanted the appointment of examiners to be automatic. That criticism then carried over after the bill was passed with people saying that the Attorney General was appointing too few examiners, that they should be appointed in all counties. These critics failed to realize that there was a standard of need for appointment. The

record since passage shows that the bill went as far as was needed and the right route was chosen.

B: When did you realize that you had it won in the Senate?

P: I can't really remember. I'm sure we knew we had it won before the vote on the filibuster. Once the Senate has imposed cloture, then the only changes that can be voted on are amendments that have already been introduced. When we had cloture, we knew we had it won.

There were a large number of proposed amendments in the hopper, and a large number of them were called up for votes. I, with a couple of Civil Rights Division people, had an office across from the Senate Chamber in Paul Douglas' office. We were available to provide to senators, who had questions or who needed to respond to proposed amendments which would gut the bill, information to permit them to oppose those amendments. We made a major effort there to deal with that phase of the legislative process.

The very last amendment to be voted on was one that Senator Russell Long wanted, which lay down a standard by which a county in which examiners had been appointed could bring about the withdrawal of the examiner. We considered that the form of his amendment as he presented it would have permitted a county to force the examiner out prematurely. We worked with him to redraft it. I think the provision became Section 13 of the bill. When it was put in, there were cries of anguish by Joe Rauh and others that the bill was being totally gutted. I was confident that as we had drafted it, the

amendment was not going to undercut the purpose of the statute. That's the way it has turned out. Section 13 has never been utilized.

B: Your redrafting was designed to just keep Senator Long happy and still not hurt the bill seriously?

P: It was designed to insure that the examiners could not be forced out until the record of registration of blacks in the county was sufficiently comprehensive to signify the end of any need for federal officials to handle registration. I did not think those supporting the legislation would settle for anything less.

B: You got directly involved in the implementation of the bill too, didn't you? Did you make several trips to--?

P: That's right. I was deeply involved in that. That was probably my other assignment during this period of time. And it was the purpose of the Department of Justice in the Civil Rights Division to be prepared to commence implementation of the bill on the day that it became effective. We went to great lengths to prepare for that, and we accomplished it. It was signed and became effective on August 6, 1965. On August 7 we filed the poll tax suit in Mississippi, and we filed the three other poll tax suits--there were only four states that continued to have the poll tax--we filed the other three on August 10. There was a major amount of preparation that went into those cases. It was my responsibility in the ensuing year or so to handle the preparation and trial of those cases, although I didn't try all of them.

In addition, the bill provided for the assignment of examiners drawn from the Civil Service Commission and committed certain other responsibilities to the commission with respect to examiners and federal observers. During the month or so prior to the enactment of the law we worked with the Civil Service Commission to develop regulations and forms so that the federal registration could go on right after the bill was signed. We were ready to go with that, and I think the first counties were designated for federal examiners the very day the bill was signed.

B: How did you select those first counties?

P: We had standards--Mr. Doar was deeply involved in developing them--for what facts had to be found, what facts showing discrimination by the local registrars. The Department of Justice files on the designation of counties for examiners will show comprehensive justification memoranda that went from Mr. Doar to Attorney General Katzenbach who had to sign each designation.

B: Were there subjective factors too? Did you pick, beyond just the statistical information, counties in which you had some indication that perhaps you might be able to move an examiner in quickly and easily and get something done because you had contacts with moderate whites and so on?

P: No. The standards weren't limited to registration statistics. The standards of course included the statistics showing how many blacks and whites were registered. The standards also called for facts which showed that the blacks had been kept from registering by discriminatory

procedures. In other words, facts showing that whites had been afforded opportunities to vote which were denied the blacks; facts showing that whites had been allowed to meet a low standard or no standard of literacy, and blacks who were literate had been denied the vote; facts showing that those responsible for administering registration in the country were unprepared to bring themselves into compliance.

Immediately upon passage of the law, the very first couple of days after passage, Attorney General Katzenbach wrote every election commissioner in all of the counties covered by the act telling them what their duties were under the law, and what the Department of Justice standards for assigning examiners would be. Those were communications to the individual officials in each county. Over five hundred of those letters were dispatched immediately, and we worked quite a bit of time on what would be said in those letters.

B: Did those letters require an answer, some indication of--?

P: No. They were by and large information letters. We had attorneys who were in the counties where we were going considering the assignment of examiners. They were talking with the local officials to find out what their posture was going to be. One of the early standards for assigning examiners, in addition to those I've already mentioned, was whether the local officials were prepared to suspend their literary tests and devices. Some were not, and where they were not, examiners were sent in.

B: By attorneys in the counties, you mean the U.S. attorneys?

P: No. The Civil Rights Division attorneys from Washington. We sent our own attorneys down. That's the division's general practice in finding facts, either through the FBI--we had had the bureau collecting facts--and we also followed the practice in all of our matters and still do of sending down division attorneys to find facts.

B: You yourself went down to at least some counties, didn't you?

P: Yes. I cannot recall whether the first number of counties was five--I think it probably was five. We had proposed a slightly larger number to the Attorney General, and he had reviewed each of them. The names of the counties are printed in the Federal Register on the day the assignments were ordered.

We were concerned that the examiners be able to carry out their job without interference. We had alerted the FBI and alerted local law enforcement officials, and we had one of our attorneys down in each county during the first three or four days when the examiner was on duty. In some places no one in the county would rent the Civil Service Commission space for the examiner's office. In one or two counties, we had to move in trailers in order to have a place.

B: Do you recall where those were?

P: I know we moved a trailer into Lowndes County, Alabama. In one of the other counties, the General Services Administration condemned a couple of rooms in a motel in order to get a place for the examiner to do business. We preferred initially not to have trailers, because we thought they were somewhat vulnerable to interference, but it was hard to get space and the General Services Administration

cooperated quite well in working out contracts. All of this done was on very short deadlines.

B: Your phrase about the trailers is very gentle, "vulnerable to possible interference"--you mean physical violence?

P: That's right. We were concerned about that. In fact, it was only reasonable to be concerned. Our preparations and perhaps the national unity demonstrated by the adoption of the law were such that there was little interference.

We confronted many different problems at the time. There were state officials and county officials who went into state courts and obtained injunctions against putting on the state registration rolls the names of those persons who were listed by the federal examiners. We moved into federal court to dissolve those injunctions. You'll recall that the state of South Carolina immediately sued the United States in the Supreme Court to have the law declared unconstitutional. That was a very surprising action to us at the Department of Justice. We felt that it provided a very favorable opportunity for the law to be tested directly by the Supreme Court, as indeed it was. So tactically it was very good for the United States. The Supreme Court heard arguments soon thereafter. Many, many states filed amicus briefs in support of the law. Attorney General Katzenbach argued the case which is denominated South Carolina v. U.S. The entire statute received approval and confirmation by the Supreme Court shortly after passage.

It was our view in the Department of Justice, and it was a characteristic statement of John Doar, that in the area of law enforcement respecting civil rights, where historically there had been slavery and a long tradition of discrimination, it was important that all three branches of the federal government be lined up in support of a movement forward or a requirement for change. In the voting field, we had the optimum situation. We had the Executive Branch which sent up the Voting Rights Act and had shown the need for it by litigation long before its passage; we had the Congress which overwhelmingly passed the bill over filibuster opposition; and then we had the Supreme Court of the United States which confirmed the constitutionality of the law. American citizens around the country, and particularly in the South, had to recognize, whatever their personal prejudices, that the whole nation supported these steps, no matter how radical they were in terms of the formula and the suspension of the normal state authority to set conditions for registration.

B: What county did you go to that August?

P: I was recalling, and I'm not sure that I can say that I went down with any of the examiners who were initially assigned. My recollection is that my first trip with respect to the Voting Rights Act was probably when we assigned the first observers to an election. That was the following year in the Alabama election in May. We made great preparations for those assignments and had probably half or more of our attorneys down in the various counties in which observers

were going to be stationed. It was a massive task of finding out all of the polling places and all of the procedures for voting. We had an attorney in every county in which observers were assigned. I don't think that any of us in the leadership of the division thought it was necessary that we go down at the time the first examiners were assigned.

B: In this process of selecting the counties for the examiners and for the observers, did you run into direct congressional pressures? Did you ever hear anything from the congressman of the district involved?

P: We notified them that we were going to assign examiners. I don't think we've had pressure over observers. The Attorney General probably had some calls--I'm aware that he did. We did not refrain in any case from moving because of congressional concern. The standards we set for the assignment of examiners were proper, and before examiners went in, we had a full record of the need for them. The Attorney General had those facts in front of him, and the decision was clear in light of those facts.

My view at the time, and today, is that the implementation of the Voting Rights Act, the prompt implementation which called for cooperation between the Department of Justice and the Civil Service Commission and to some extent the General Services Administration, was as sound an action of government and as smooth as any that I ever witnessed. Under the Attorney General's leadership it was very deft. The fabric of relationships between the federal government and the southern counties was preserved to the maximum extent

possible. And yet all of the purposes of the law were carried out. While there was criticism that we should have assigned examiners to more states and counties--by persons who believed it--the approach that we took was the right one. The approach and the theory that we had was that there had to have been an active failure to obey the Voting Rights Act before examiners went in. What we sought to achieve was that the local counties would do the job themselves. We conceived, notwithstanding the power the act gave the Attorney General, that the nation was much better served if the localities would accept their responsibilities, and that blacks were better served if they were registered right on the state rolls rather than having to be registered by a federal examiner. But wherever the state or county people weren't doing the job, we would put in examiners.

You can find a report of the Civil Rights Commission issued shortly after the law was passed criticizing steps that were taken by the department. Attorney General Katzenbach answered it and was very displeased with the accuracy and soundness of the report. Historians can calmly analyze the report. I think it was unsound.

B: Did you get involved that summer with the Watts riot?

P: No, I didn't. The Attorney General sent Ramsey Clark out there. I became involved one summer for Attorney General Katzenbach in assembling information on possible federal help for the city of Chicago where there was an outbreak of disturbances--that may have been 1965.

B: During that fall of 1965, there was a major reorganization of the administration's whole civil rights activities, concentrating them more in the Justice Department. Did you participate in that?

P: Yes. I did participate in that. Up to that time, a coordinating body nominally under the Vice President, called the President's Council on Equal Opportunity, had existed. The director of the President's Council was Wiley Branton from Arkansas, and his main aide was David Filvaroff, who had been Nick Katzenbach's special assistant. Peter Libassi was on the staff. He later became the Equal Opportunity man for HEW and did a good job over there with Secretary Gardner.

The main assignment of that President's Council was the coordination of activities of the federal government to enforce Title VI, the provision of the 1964 act which required that federal funds not be granted to programs that were discriminating. The President's Council was thought to be operating in rather an erratic way, without sufficient facts to permit it to do its job.

B: Was that a general view of the people in the Justice Department?

P: That was probably the view of the Civil Rights Division, the Attorney General and the White House. I don't recall that I talked about it with anybody in the White House. There was a desire of which I was aware at the time by President Johnson that the Department of Justice and the Assistant Attorney General, Civil Rights Division, Mr. Doar, provide the leadership and guidance for the federal government's civil rights activities. The move with respect

to the President's Council was reflective of President Johnson's desire that each cabinet officer direct the activities within his ambit, and that there not be a lot of activities outside of the departments. As I understand it, President Johnson wanted to be able to look to his cabinet officers as the men who were responsible for all of the activities of the government. So the move wasn't limited to the President's Council. Similar actions were going on with other task forces and councils.

B: Did these men on the President's Council have any resentment about their functions being absorbed?

P: It was a delicate matter. I thought it was a sound action. I respected the strength of the Attorney General in dealing with civil rights because he had the fact-gathering capacity of the Civil Rights Division and, through it, the FBI. He knew what was going on. He was less subject to being pushed by pressure groups on one side or the other who presented their view of the facts. He could take their view of the facts and have it tested and then make his own judgment. The President probably felt that he had gotten good advice and constructive action by relying on the Attorney General in the field of civil rights, and he would continue to do that. He did that through the end of his term.

B: Were the FBI facts that good, particularly as to what was going on within the black community itself in the South?

P: No, I don't think they were. But the combination of Civil Rights Division attorney contacts and investigations and the FBI made a

good fact-gathering capacity. In the Civil Rights Division we knew what we could rely on the bureau for, and where we couldn't get all the facts from the bureau we would use division attorneys.

B: You had your own contacts in most southern areas with both whites and blacks, didn't you? "You" meaning the Civil Rights Division?

P: Yes. We sought to have communications in all of the counties to the extent we could. We maintained our independence, but we sought by being independent to have people willing to talk to us. We tried to maintain a posture where even white officials who were the object of lawsuits by us would respect the fact that we were not doing someone else's bidding but were carrying out the laws which was our responsibility, and they would therefore talk to us.

I wanted to go back to the transfer of that President's Council. The council was transferred to the department, and put in the hands of a special assistant to the Attorney General. Mr. Filvaroff was assigned that responsibility. He's a professor of law now, I think, at Pennsylvania. He continued in that position for about a year and said when he came over that that was about as long as he was going to handle it. After he left the position continued. I held it next, and then D. Robert Owen held it, and more recently it has been held by David Rose. Since Mr. Filvaroff's time, it has been operated more as a section in the Civil Rights Division. It has been my view that that's a better place for it than as an appendage of the Attorney General's Office. The problem is that the Attorney General has limited time and if something is an appendage of his office, it's

often left to operate with little direction. There's a very limited amount of direction the Attorney General can give it. During the experience with Mr. Filvaroff, there was some tension between John Doar and Dave Filvaroff because Dave was separate from the division and yet he was working directly in the area where we were his best source of information. That was a bit of a problem.

B: The general reorganization also involved eventually the transfer from Commerce to Justice of the Community Relations Service which ended up not in the Civil Rights Division, but as the kind of separate agency you're describing.

P: And quite properly so. My views should be clear. The problem with the Filvaroff operation was only that it was very small, that it had to draw on the Civil Rights Division for manpower, and that it dealt with matters which would come into litigation by the Civil Rights Division, and yet was operated outside often of Mr. Doar's knowledge and capability to comment and confer with the Attorney General about the decisions reached. The Community Relations Service was quite properly a separate entity. It had a different mission in the sense that it was not looking toward matters that would come into litigation. It was helping communities bring their white and black segments together in discussion and conciliation. The Civil Rights Division never thought that this function should be within the division. For it to have been within the division would have been contrary to our conception of our role, which was

to maintain an independence of both white and black contending forces.

B: Did you get along well with the Community Relations Service after it was transferred to Justice?

P: We did get along well. We had very high regard for Roger Wilkins [Director, Community Relations Service]. It was often hard to tell whether the service was successful in its undertakings. That is an effort which is on the frontier of knowledge of how to deal with race problems. The Civil Rights Division had some way of measuring its successes in lawsuits and in numbers of persons registered and so forth; the Community Relations Service has a much harder time.

B: That's inherent in their job. All they can measure is failures, I guess.

P: Certainly.

B: During all this time here in the fall of 1965 when this reorganization was going on, was there any conscious or even unconscious idea that the impetus was shifting from the rural South to the urban North in civil rights? I ask it because the Civil Rights Division up to this time has been active mostly in the rural South, whereas it's no secret that Roger Wilkins of the Community Relations Service was much more interested in the urban ghetto problems.

P: The Civil Rights Division through October of 1967 was focused most primarily on the South and the border states. In 1967, at the urging of Ramsey Clark, the division was reorganized, and the largest percentage of its resources was thereafter committed to

employment discrimination. That was employment, both North and South. Since that time and under my direction, the division committed a much larger percentage of its resources to problems northern than had been the case before.

The picture that I have had and expressed before is that during the period from 1957 when the Civil Rights Division was created through 1965 and the Voting Rights Act, the division's primary attention was on voting discrimination in the South. With the passage of the Voting Rights Act, we were able to cut back on the commitment of resources to voting. From the end of 1965 or middle 1965 through October of 1967, the primary emphasis was on school desegregation. Again that was southern. Then in October 1967 the reorganization forced the Civil Rights Division by shifting manpower to sections that had responsibility for geographic areas outside the South to devote more of its attention to the North and the West. This was done under John Doar's direction. At the time I was back in the department, but did not draw the reorganization. I believe it was excellently drawn.

B: Was Mr. Doar, or after him, Burke Marshall, agreeable to this shifting?

P: Oh yes. I don't think it was ever a matter of dispute. I'm not really a witness to this. Your questions could be directed to Attorney General Clark or John Doar. As early as summer of 1967, Mr. Doar was making plans to leave the department. He was ready to leave in the late summer and had advised the Attorney General that he would be going, but he stayed on to try the Neshoba

[County, Mississippi] case down before Judge Cox. I knew from Attorney General Clark and from President Johnson himself that the President intended to nominate me to be Mr. Doar's successor. The trial kept being postponed and carried along, and therefore, instead of going back to the department after the District of Columbia Reorganization Plan was adopted by the Congress as assistant attorney general, I went back as special assistant to the Attorney General. We said nothing about the Civil Rights Division position until the Neshoba trial was concluded.

B: Mr. Doar, I assume, knew this too.

P: Yes, he did. My relations with Mr. Doar were very close, and it was an easy matter to succeed him. Mr. Doar may have felt in that summer of 1967 that his tenure in the division, which began in 1960, had been one of focus on the South, voting and schools. That's not to say that he didn't deal with many other areas because he did. But that was his area of concentration, and as the scene shifted, he would take his leave, not because he was not interested in the North and indeed he went on to New York City and Bedford-Stuyvesant to deal with and learn about urban racial problems, but that his time had come to move.

B: We're getting a little ahead of the game here. But when President Johnson talked with you about your becoming Mr. Doar's replacement as assistant attorney general, was this issue itself brought up--the issue of emphasis on the northern problems?

P: No. It came up in my conversations with Attorney General Clark, but not those I had with the President shortly after I had succeeded--it's a little immodest, but I suppose it's true--in securing congressional approval of the reorganization plan. Even before that, I had recommended to the President that the position I held as advisor for National Capital Affairs be put out of existence. I believed, and still believe, that the way to make the District of Columbia government strong was to emphasize the importance of the mayor, and the existence in the White House of a man wholly devoting his time to D.C. affairs was going to draw power to the White House and away from the mayor. The President, I think, early on accepted my view that, if the reorganization plan creating a mayor and city council was not vetoed by the Congress, the position I held ought to be terminated. Indeed, that was what transpired. Shortly after announcing the termination of the position, the President advised me that he was going to nominate me to succeed John Doar.

Tape 2 of 2

B: Before we move into your activities as the advisor on National Capital Affairs in the White House, what else stands out in your mind in the Civil Rights Division activity?

P: The handling of the various poll tax cases that we brought was a major part of my effort in the latter part of 1965 and 1966. The first case to go forward and the one to which I devoted the most time was the Texas case. That was a massive task because the

Congress did not hold the poll tax unconstitutional or outlawed in the Voting Rights Act. It made certain findings and directed the Attorney General to sue, but the findings did not amount to an outlawing of the tax. In Texas we sought to find facts which would support allegations of unconstitutionality of the poll tax on three grounds: one, that it was administered in a discriminatory way against black registration; two, that it bore more heavily as an economic matter on blacks, and therefore was a denial of equal protection; and three, that it bore no reasonable relationship to the qualifications of voters and therefore was unconstitutional as a violation of due process.

Texas has two hundred and fifty-six [four] counties, and we sought to determine how the poll tax was administered in every one and how many blacks and whites paid it. It was a massive task, which we carried out primarily on deposition or by FBI investigation. There were three judges on the court which heard the case, Judge [Adrian] Spears, Judge [Homer] Thornberry, and Chief Judge [John] Brown--the latter two being circuit judges. Because there were three, they wanted us to develop the case on deposition and by documents so that we would take very little in-court time. That is what we did. In the end, the whole case was presented at trial in a morning. I argued the case against Waggoner Carr, the state attorney general.

Then the case came down, I think in February of 1966, with an opinion by Judge Thornberry holding the poll tax unconstitutional.

There had previously been a decision of the Supreme Court in a case called Breedlove v. Suttles in which the poll tax was held constitutional, so the Thornberry opinion was a significant victory. It was followed by a decision in the Alabama case which I also presented before Judge [Richard] Rives, Judge Frank M. Johnson and Judge [Walter] Gewin, holding the poll tax unconstitutional on grounds that it had been administered in a discriminatory fashion. We had considerably more evidence of discrimination in Alabama than we had in Texas. Indeed, the Texas decision was grounded on the due process argument and did not uphold our arguments or facts that the poll tax had been administered in a discriminatory way.

B: Did you have any qualms about prosecuting such a case in the President's home state?

F: None whatsoever. I should say I never had anyone raise any question with me or for that matter with the department that I knew of that we should not be proceeding with full activity in Texas. We did, and we were well received there. The thought never entered my mind.

After the poll tax was held unconstitutional, we proceeded to attack a law which Texas immediately adopted allowing fifteen days for people who hadn't paid the tax to register. We urged upon the court that that was too short a time for people to get word who had never registered to vote. We used the FBI to find some of the facts necessary to move; we had to move quickly. The Attorney General of Texas attacked us in the press for using the FBI, and it became

quite a cause celebre on the pages of the newspapers. But even then I don't think we had any problems from the White House.

I consider the poll tax cases really one of the most important parts of my service in the division before I went to the White House.

B: You also served on a task force on civil rights at this time?

P: That's right. Mr. Katzenbach having gone to the State Department, Acting Attorney General Clark was asked by Joe Califano for the President to head up the legislative task force in the summer of 1966 to develop recommendations for the President to send to the Congress in the early part of 1967. That was the traditional pattern of those task forces which were organized by Califano. Mr. Clark was acting as attorney general and had no deputy, and he asked me to be the working chairman of the task force. He said I would have to carry pretty much the whole responsibility.

I went forward to do that through the summer and early fall of 1966, and had representatives from HEW, HUD, the Civil Rights Commission, the Labor Department, the Bureau of the Budget, the Department of Justice, the Community Relations Service, on this task force. We proceeded to review every idea we could find to see what steps should be taken by the President or recommended to the Congress to be taken in the coming year. Our focus was on administrative action, executive action, and legislative action. I ended up submitting a lengthy report to Califano which covered a large number of areas in housing, welfare and education, juries, and employment.

B: Was this the genesis of what became the bill of 1968?

P: To respond to that, I need to go back. In the early part of 1966 the Department of Justice under Ramsey Clark's leadership, then as the deputy--it's traditional in the Department of Justice that the deputy heads up the legislative responsibilities and I for the Civil Rights Division was the legislative man working on civil rights matters--developed a bill which President Johnson sent up as the proposed Civil Rights Act of 1966. It had provisions on employment, schools, juries and interference with rights. That bill passed the House, but it died in the Senate. That bill provided a major part of the focus for the task force of the summer of 1966 which I headed. But our instructions from Califano were to consider broadly and widely all types of proposals and to come forward with a brief description of each proposal, the pros and cons, possible alternatives, and a recommendation. I did that with respect to over one hundred different proposals. I submitted those plus backup materials which included the comments on the bills from every agency which had been part of the task force.

B: What sort of ideas did you reject that were discussed and not included in the report?

P: We ranged far and wide. We looked at minimum federal welfare payments, we looked at federal compensation for all victims of civil rights violations, we looked at some radical requirements in the field of education, both aid to education and more mandatory requirements on desegregation. We considered various reorganization

proposals, the proposal to put the OFCC--that's the Office of Federal Contracts Compliance Coordination in the Labor Department--into the EEOC, the Equal Employment Opportunity Commission. I favored that, but it was ultimately determined, I think not unreasonably, that legislation seeking cease and desist authority for the EEOC should be urged upon the Congress and we should hold the other for a time. I can't remember all the proposals. I know those task force reports were all crated up and sent down [to the Johnson Library].

B: That's why I asked you what was not included in them.

P: I included everything in the report. What I did was include every item that we had considered and where we concluded to recommend against it, to include the item and the task force's recommedation against it. My participants in the task force sometimes had views at odds with those that we concluded on or with my own, and I included their papers in my backup volumes. Those were all submitted to the White House.

B: I didn't realize you'd been that thorough. I'm sure all of that will be in the Johnson Library.

P: Califano and Harry McPherson told me that it was the fullest task force report they'd ever gotten, or the best, I forget which--maybe they said both. I always thought that it was my performance as head of that task force that got me over there in the White House to aid the President on the nation's capital. I was not desirous of leaving the Civil Rights Division to do that job. I figured

that the reward of doing a good job on the task force was getting pulled out of the department to go do this other thing.

B: If reward is the right phrase.

P: That was kind of my view, too. I tried not to go. Maybe we're up to that point.

I suppose there were two things that got me over to the White House. I knew Charlie Horsky from the days when I practiced law at Covington and Burling. Charlie wanted to go back to private practice, and he needed a successor. Knowing me and knowing the activities that I'd had in the city when I was president of the Planning and Housing Association and had done various other civic things, he must have recommended me to Harry McPherson. Harry and Joe Califano knew me from my work on the task force report, and maybe they knew me from other activities as well. Harry invited me to come over and talk about something. He just invited me over. Then he and Charlie Horsky presented the question to me.

[End of Tape 2 of 2 and Interview III]

GENERAL SERVICES ADMINISTRATION
NATIONAL ARCHIVES AND RECORDS SERVICE
LYNDON BAINES JOHNSON LIBRARY

Legal Agreement pertaining to the Oral History Interviews of Stephen J. Pollak

In accordance with the provisions of Chapter 21 of Title 44, United States Code, and subject to the terms and conditions hereinafter set forth, I, Stephen J. Pollak of Washington, D.C., do hereby give, donate and convey to the United States of America all my rights, title and interest in the tape recordings and transcripts of personal interviews conducted on January 27, January 29, January 30, and January 31, 1969, in Washington, D.C., and prepared for deposit in the Lyndon Baines Johnson Library.

This assignment is subject to the following terms and conditions:

(1) The transcripts shall be available for use by researchers as soon as they have been deposited in the Lyndon Baines Johnson Library.

(2) During my lifetime the tape recordings shall be available only to those researchers who have secured my written authorization. Thereafter, the tape recordings shall be available to all researchers.

(3) Subject to the restriction set forth in paragraph (2) above, I hereby assign to the United States Government all copyright I may have in the interview transcripts and tapes.

(4) Subject to the restriction set forth in paragraph (2) above, copies of the trancripts and tape recordings may be provided by the Library to researchers upon request.

(5) Subject to the restriction set forth in paragraph (2) above, copies of the transcripts and tape recordings may be deposited in or loaned to institutions other than the Lyndon Baines Johnson Library.

Stephen J. Pollak
Donor

October 4, 1983
Date

Robert M. Warner
Archivist of the United States

October 31, 1983
Date