

PHOENIX HOUSE FOUNDATION ORAL HISTORY PROJECT

The Reminiscences of

Frank Barron

Columbia Center for Oral History

Columbia University

2015

PREFACE

The following oral history is the result of a recorded interview with Frank Barron conducted by Lance Thurner on March 6 and April 7, 2015. This interview is part of the Phoenix House Foundation Oral History Project.

The reader is asked to bear in mind that s/he is reading a verbatim transcript of the spoken word, rather than written prose.

Audio Transcription Center

Session #1

Interviewee: Frank Barron

Location: New York, NY

Interviewer: Lance Thurner

Date: March 6, 2015

Barron: It certainly wasn't a major factor.

Q: Well, we'll get to that. I'd like to get this started because I know we're going to be running short on time. So, this is Lance Thurner and I'm in the offices of Cravath, Swaine & Moore in midtown Manhattan. It is March 6, about 10:30 in the morning, and I'm here to interview Frank [Francis P.] Barron as part of the Phoenix House Oral History Project. So, part of this interview certainly is going to be a little bit of your life history, Frank. Can you begin with where and when you were born and how you got involved in law?

Barron: I was born in Boston, Massachusetts, believe it or not, in a part of Boston, Dorchester, called Mattapan, which is now known as the drug capital of New England. And at that time, it was a working class neighborhood. My grandparents are Irish immigrants. My father was the seventh of eight children, first of his family to go to college. And the reason he went to college is because he left high school—he went to Jesuit high school in Boston—he left high school in February of his senior year to join the Navy during World War II. And when he got out, he was entitled under the GI Bill to go to college. So he went to Boston College during the day and moved furniture at night to make ends meet.

And by that time, he was married. He graduated from college when he was twenty-five because he had been overseas in the Navy. And I was six months old at the time that he graduated.

And I have forty-five first cousins. All live in Boston. My father and mother were the only ones who moved away from Boston, and they moved to Cleveland because my father got a job there.

I was the second member of my family to go to college. I don't know how much detail you want, but anyway, I went to college at Harvard [University], where my grandmother, my Irish immigrant grandmother, had been a maid in the 1920s. I didn't learn that until about five years after I graduated.

And then I worked for a couple years in the broadcasting business in Boston. And then decided to go to law school for reasons that I can't remember. But I went to law school also at Harvard Law School. And Cravath was the place where I ended up after law school.

Q: So you went to college through the '60s, is that right? Late '60s?

Barron: I started in 1969, in September of 1969, yes. And graduated in '73.

Q: In '73, yes. So, when you were in college and thereafter, did you have a sense of American drug culture and how drugs were changing American society at this time?

Barron: Oh, yes. I was at Harvard College in the early '70s, during the Vietnam War. I was one of the lucky members of my generation who got a relatively high, although only barely high enough draft number not to be drafted. I came very close to being drafted but I missed by about three numbers. I was in the first draft lottery and my birthday, fortunately, came up about three numbers higher than the last guy who was taken off my draft board. My draft board was Stamford, Connecticut. I only learned that about fifteen years later, and how close I'd come to being drafted. But I was one of the very lucky members of my generation who didn't.

But I was a freshman at Harvard the year of the Kent State [University] incident. And, of course, there was a big blowup. Outside my dorm, a police car was overturned on Mass Ave [Massachusetts Avenue] in Cambridge and set on fire. I was in a crowd of people that tear gas was fired on. And there were a lot of people smoking dope because that was part of the culture.

Q: Right. And was this a moment of political awakening for you as so many people describe 1968 and '69, or—?

Barron: Yes, I think it was. I became more politically aware. First presidential election I ever voted in was George [Stanley] McGovern. I voted for George McGovern and I had the obligatory bumper sticker on my beat-up old car that said, "Don't blame me. I'm from Massachusetts" when Nixon [Richard M. Nixon] was in office.

I was a real lefty, as were all of my friends. I'm still kind of a lefty on most things. But yes, I would say that was a time when I became aware of that. And we thought, "What's wrong with smoking dope? Our parents are drinking alcohol. It's no worse than—"

Q: Was there alcoholism in your family?

Barron: There was, actually. My grandfather, my father's father, who, as I said, was an Irish immigrant from Donegal, was an alcoholic. And he abandoned the family. My grandmother raised eight children by herself, basically. I never met him. He died when I was four, but as far as I know, he never laid eyes on me.

My father was always petrified of alcoholism. In fact, I remember him lecturing my children—not lecturing them, but telling them to be very careful because there was alcoholism in their family, and that they should be very, very careful with alcohol. Which they weren't, because they're kids. And fortunately, I think they're all through the time period when they're likely to get hooked on either alcohol or drugs. And I'm very proud of my kids. They've been very successful so far. But I think my father was petrified of alcoholism.

Q: And did that come to you? Did you adopt the same—?

Barron: Oh, yes. My dad—this is actually quite remarkable. My dad asked me when I was fourteen, I think, to promise him that I would not drink until I went to college. And for some reason that I'm not sure I understand, because I was a very rebellious kid until I got to high

school, and that kind of straightened me out. I went to a Jesuit high school and that straightened me out. But I was a pretty rebellious kid. And I kept that promise. I kept that promise. I never—I was a designated driver in high school because everybody knew that I didn't drink.

And then in my freshman year of college—I still remember this, geez—one of the kids in my dorm floor got a bottle of sloe gin and we started drinking it. And I got so sick. I was just so sick that I spent the night sleeping around the toilet bowl. [laughter] And I was never tempted by—you know, I drink wine and beer. But I was never—after that, I said, “Man, I don't know what people see in this.” Because I really, really hated being drunk. I've been drunk maybe three times in my life. And the reason was because I just lost track of how much I was drinking and then, all of a sudden, I was drunk, right? And I hate it. I absolutely hate being drunk. I just don't like the feeling. And so it's never been a problem for me.

Q: Well, to get back to the career track, so how did you decide to go into corporate law?

Barron: Well, that's a good question which I've tried to answer for myself, and here's what I think, as I try to reconstruct it: in my senior year of college, I was very interested in the broadcasting business. My father was in the broadcasting business on the business side, on the sales side, and he had an absolutely meteoric career. No matter how successful I am in my life—and I told him this when he was dying, in the last week of his life. I said, “Dad, you know, no matter how successful I am in life—and I've been very fortunate; I've been pretty successful, thanks to you—I can never be as successful as you have been because of where you started.”

When I was five years old, my dad and mom were living in a one-bedroom apartment in, basically, a housing project in Cleveland. And my brother and I slept on a pull-out sofa in the living room. My third brother, who was just an infant, was sleeping in a dresser drawer in my mother's and father's bedroom. And literally, six years later—and this is when my father first got into the broadcasting business, obviously, at the right place at the right time—six years later, we were living on four acres in Greenwich, Connecticut, and my dad was a member of Winged Foot Golf Club. Six years later. And he would tell you that he was the luckiest guy in the world.

And, by the way, if he wasn't the luckiest, he was one of the luckiest. Because you talk about a square peg falling into a square hole just by accident—and that's exactly what happened to him. He had such a talent for what he did. He was a salesman in the broadcasting business, and he went from pounding the pavement selling radio time to car dealers in Cleveland, Ohio to being the president of the sales subsidiary of a company that owned seven television stations in New York City.

Anyway, so I was interested in the broadcasting business, but I wasn't interested in the business side. I was interested in the production side. And Boston is a very, very intensely competitive market for broadcasting. B.U. [Boston University] has a big broadcasting school. Everybody wants to work in the broadcasting business, or at least that used—I don't know if it's still the case. Probably not, because broadcasting's become less important. But back in the '70s, that was the place everybody wanted to be. And I was one of those people.

And fortunately, my father knew a few people, so he got me some interviews. And I went and I interviewed with these people who ran the major network television stations in Boston. And all of them said, “Listen. We’d love to give you a job, but we don’t have any openings.” So I was very disappointed. And then about a month later, the guy who ran the ABC [American Broadcasting Corporation] affiliate in Boston, a guy named Bob [Robert M.] Bennett, called me up and he said, “Listen, I can’t give you a job. But I can give you an internship. I can’t tell you it’s going to be the most exciting thing in the world, but would you like to do it?” I said, “Sure.” Because I just wanted to get my foot in the door.

So I went and I took this job. And it was basically being the gopher on a program that was called the Arnold Zenker Program. You’re not going to want all this detail, but there is an interesting story about Arnold Zenker. But that program eventually evolved into Good Morning America on the network.

So I did this job while I was a senior in college, and I worked every morning. And my basic job was to make sure that the guests on the program were happy when they actually went on the air, so they weren’t all pissed off. And they tended to be pissed off because this station had its studios in Needham, Massachusetts, which was about fifteen miles from Logan [International] Airport. And these really important guests would fly into Logan Airport and then they’d have to fight through rush-hour traffic to get out to Needham. And by the time they got to Needham, they were so pissed off that they really weren’t very good guests on the program, right?

So Bob Bennett said, “Hey, listen. We need somebody to entertain these people, make sure they’re taken care of, get them coffee and donuts, blah, blah.” So I would sit in the green room. All sorts of Hollywood people, Henry [Alfred] Kissinger, all sorts of people came to this program and I would sit there and talk to them. It was wonderful. And I had long hair and a moustache. I’m not sure why they wanted to talk to me. They probably didn’t.

But anyway, in the spring of my college year, the program manager of the station comes to me and says, “Listen, I understand you play baseball.” I said, “Yes.” He said, “Would you like to come out for our softball team? We have a very competitive softball team.” And there was a very, very competitive league of all the TV stations and radio stations and ad [advertisement] agencies in Boston, and they took it very seriously. And I said, “Well, I don’t know. I’ve never played softball. I only played baseball.” And he said, “Well, you know, softball will probably be pretty easy for you.” And, by the way, it was, because if you ever played baseball, a softball is pretty easy to hit.

So I went out for their Saturday morning practice, and every ball I hit over the fence. So this guy comes back—and by the way, my internship was expiring. So this guy comes back—it wasn’t the program manager, it was the producer—he comes back and he talks to the program manager. And he says, “Listen. I understand this kid’s internship is going to end, like, in two weeks. We need him for the softball team. So you got to invent a job for him.” So they literally invented a job for me. The job was called assistant film director, and they were going to pay me. And it was a job that I had after I graduated. And my only job was to play softball. I would just sit at a desk all day.

And I said to myself—I was young and at least somewhat ambitious—I said, “This is really stupid. I’m going to try to learn as much as I can about what these people do and make myself as useful as I can.” So I did that. The film director was a guy who was in charge of managing the photographers and the film guys, the cinematographers, the editors, the sound men. And they would go out on location and do the programming, right? So I started following them around, figuring out what they were doing, being as helpful as I could be.

And about three months into this, the film director, the guy I was assistant to, up and leaves to go to Los Angeles to become the program director at KABC in Los Angeles. And everybody looks around and says, “Where are the keys to the file cabinet?” And they’d say, “Well, there’s this kid. He’s the assistant. Maybe we should make him the film director.” So they did. Like, six months out of college, I’ve got this job that—it’s paying \$18,000 a year, which, in those days, was a lot of money, particularly if you were only six months out of college. I think I was probably the highest paid member of my college class other than Al [Alan Stuart] Franken, who was also in my college class. Possible that Al was making more money than I was, because he was working on Saturday Night Live.

And I said, “Wow. This is really crazy.” Because I got this job—I don’t really know what I’m doing. And these resumes are pouring over the transom from people at B.U. with graduate degrees in broadcasting who want to be my secretary. This is really a crazy business, right? So I did it for two years, and then I said, “You are the luckiest guy on the face of the earth, and you know what? The problem with luck is that good luck can turn to bad luck.” And I said, “I don’t

really want to be in this business. It's too dependent on luck. And there must be some other thing I can do where hard work pays off and where luck isn't as big a factor." And for some reason, I thought that law, that being a lawyer, was that.

And it turns out I was right. And it's not that luck is not a factor in being a lawyer. Luck is a factor in everything. But it's less of a factor. In the legal profession, if you really, really work hard, it'll pay off. And there will be some good luck and there'll be some bad luck, but basically, it'll pay off. It's not like your whole career is going to depend on whether you're in the right place at the right time. And it turned out that that was really true.

So I applied to law school. I didn't want to leave Boston, so I went to Harvard Law School. Because I love Boston—still my favorite place. And then I got out of law school and I decided I was going to be a litigator. And the reason I decided I was going to become a litigator because I thought that's what lawyers did. I didn't know that they did anything else. I still don't know what corporate guys do. I mean, they do deals, but I don't understand how they spend their days.

Q: Mergers and acquisitions [M&A] guys, yes.

Barron: Yes, exactly. I know a little bit about it, obviously. I've been here for forty years. But basically, again, and it was just luck that—the only thing I knew that lawyers did from watching TV was go to court. And so that's what I decided I wanted to do. And it turned out I was good at it. Was that because I was smart? No, it's because I was lucky. So that's how I ended up doing it.

Q: And then you come to Cravath and go up the system.

Barron: Yes, I spent seven years as an associate and I had some great, great mentors. David Boies was my principal mentor, and is still one of my best friends in life. I had some wonderful experiences, and then they made me a partner.

Q: So I'd like to turn our perspective a little bit towards Phoenix House. As you're joining Cravath and becoming a partner, Phoenix House is a client of Cravath. How did you first get to know about Phoenix House and the relationship?

Barron: Not sure I really remember. And I had a misunderstanding about Phoenix House until, actually, fairly recently about how the relationship started.

When I was a summer associate between my second and third year of law school, I came to Cravath as a summer associate, basically an intern. And I worked for a really wonderful, very senior partner at Cravath named Ralph [L.] McAfee who was this crusty old east Texan. Like a lot of Cravath partners, grew up poor. Self-made man. And it was always my understanding that the way the relationship started was that Ralph McAfee had a son who had a problem with drugs, and that Phoenix House saved him, and that Ralph was somehow responsible for the relationship with Phoenix House.

Now, I told this to Mitch [Mitchell S. Rosenthal] a short time ago, and he said, "Well, no, that's not actually true. It is true that Ralph's son came to Phoenix House, and that he was a client of

Phoenix House.” But he told me the relationship actually started because Dewey Ballantine [Dewey, Ballantine, Bushby, Palmer & Wood]—Tom [Thomas Edmund] Dewey, Governor Dewey, who ran for president, his firm was representing Phoenix House on, I assume, a pro bono—I don’t assume. It has to have been a pro bono basis. And that something happened, some political thing happened where there was a conflict, and Dewey told whoever his partner was who was the principal lawyer for Phoenix House to drop Phoenix House. And Mitch came to Ros [Roswell Leavitt] Gilpatric, who I was telling you about earlier and said—now, I guess maybe Cravath had done a couple of little things here and there for Phoenix House—and he said, “Would you be willing to take us on as a full-service client?” And Gilpatric said, “Sure.” And that was, I think, probably not long before I came to the firm permanently which was in October of 1978.

And Mitch has told me the story about how Gilpatric had a reception at his apartment—I’m sure it was a palatial apartment; I was never in it—at Mitch’s request for all the people at Cravath who had done work for Phoenix House. And there were something like thirty lawyers at this reception. And Mitch tells a story about how Gilpatric came up to him and said, “Geez, Mitch, I think there are more lawyers working on Phoenix House matters at Cravath than there are working on IBM [International Business Machines Corporation] matters.” And at that time, IBM was Cravath’s biggest client. It was kind of a smile, but it became very quickly, I think, a very, very valued client of the firm that drew a lot of interest from both the partners and the associates.

Because one of the things you have to understand about lawyers who work in these kinds of firms, they’re always looking for something that they can do in terms of pro bono work that

makes them feel good. Because we spend a lot of time working on things that involve big dollars and big corporations and big issues, because we get hired by big companies that have venture company type things—big deals or big litigation.

And some of the most memorable and enjoyable and satisfying things that I've done in my life have been things that didn't have billions of dollars at stake; that had people's real lives at stake. And a lot of lawyers, particularly young lawyers, like to do that. It makes them feel good. And so having a client like Phoenix House where you could really feel like you were doing some good—you weren't getting paid, but you could really feel like you were putting your legal education and your legal talent to work for a real life human being and a real life organization that helped other human beings, was a good thing.

Q: Yes. Did Cravath have other non-profits under its wing in this way or did Mitch manage to create this relationship that was unique?

Barron: No. We have many, many—we take pro bono really seriously around here. In fact, we don't have any monopoly on that. Other firms do, too, because it's important. Covenant House was a client of Cravath as well. And we have a lot of others. Although what we try to do in terms of pro bono work is do stuff that we can do that others can't do, like big mega things that have a real impact. But having said that, I think that between Mitch and Ros and some other very, very prominent partners at Cravath like Bob [Robert F.] Mullen, who passed away, tragically, of lung cancer—he was a heavy smoker—when he was in his early fifties. Who, by the way, was also born in Mattapan in Boston. There were two of us Irish Catholic guys born up there.

Bob Mullen and Tom [Thomas Delbert] Barr, who was one of the most senior litigators who ran our litigation group for many, many years—probably one of the great trial lawyers of his generation—and Tom took a very active interest in Phoenix House. And I think to a very significant extent, it was a—I'm not sure triumph is the right word—a coup that Mitch got these guys interested in this organization, and I think to a very significant extent. Because these guys have a lot of interests. They have a lot of ways they can go with their lives, but there was something sort of magnetic about Mitch and Mitch's story and what this organization was trying to do in the late '60s into the '70s when drug addiction was a really, really serious problem, particularly in this city.

And so again, it was right place at the right time, and Mitch had this sort of personal magnetism and this story that just grabbed the interest of these very, very important guys.

Q: Right. So you—correct me if I'm wrong—you came to New York City to join Cravath, is that right?

Barron: I did. Well, I came to New York City because I met my wife on the first day of law school. She was born in New York, grew up in Ann Arbor. And I fell in love with her. It made my law school experience absolutely wonderful. I was a terrible student in law school. Not terrible—I was a mediocre student in law school. Nowhere near as good as I should have been, because I was so head over heels in love with my wife that I didn't pay attention to law school.

But about three or four months into it, when everybody's starting to think about, "OK, what are we going to do for the summer?" Because law students look for jobs during the summer. And my wife came to me—my then girlfriend, now wife—came to me and said, "Well, you know, I'm going to New York." She was born in New York, and she loves New York. And she said, "I'm going to New York." And, by the way, it wasn't, "I'm thinking about going to New York. What are you thinking about?" It was, "I'm going to New York." And I said, "Well, geez. I guess if you're going to New York, I'm going to New York, too." That's how I ended up in New York.

Q: So can you describe a little bit what the city was like to you at that moment? You know, the issues of urban decay, of drugs, and—

Barron: Well, I knew the city because my dad worked in the city for the last twenty years of his life. He commuted in from Connecticut. And I came into the city all the time with my friends and all. So I knew the city. And at the time that I was in high school, I can remember my dad taking the train into New York City, the New Haven line, going through Harlem, and having bullets fired at the train, or bricks thrown, and the windows would shatter.

And one of the most stunning things to me about New York now, because I come in on the train sometimes—now I have an apartment in the city and a home out in Connecticut. But I come in, and you look at Harlem along those train tracks— And any city you go to, if you're by the train tracks chances are you're not in the nicest part of the city. But you come in on that train line now through Harlem and it's bustling with activity.

Q: New construction, too.

Barron: Refurbished homes and offices and buildings. The difference between then and now, it's just unbelievable. When you came in on the train through Harlem from Connecticut to Grand Central, I would say, like, eighty to ninety percent of the windows along those train tracks were boarded up. The buildings were abandoned. And what's happened in New York is just incredible.

And then, of course, we would take the subway. I always take the subway. Still take the subway. I hate taxis. I wouldn't take taxis if they were free because I can't stand being stuck in traffic. I love the subway.

But the subways were very different then. Everything was covered with graffiti. I can remember in the really, really hot summer days—like when I was a summer associate here in 1977, we were downtown. And my wife and I lived in SoHo for that summer. And you get on the subway platform and you would look for the trains where all the windows were shut because you knew if you get on a car where all the windows were shut, there was a ninety percent chance that it was air-conditioned. Because all the trains weren't air-conditioned then. So in the late 1970s, we were looking for trains that had the windows shut because that was an air-conditioned—and if you get on a car that wasn't air conditioned, particularly if it was one of the, like, ten percent where all the windows were shut but it turned out the air conditioning wasn't working, by the time you got to the office you were soaked.

So it was very different. And when you went out on the street, One Chase—and this was two blocks from the New York Federal Reserve Bank on Maiden Lane—and you’d come out after dark, the only people who were on the street down there were people who wanted to sell you dope. You could walk out of the offices of Cravath, Swaine, & Moore or the Chase Manhattan Bank or Davis Polk [Davis Polk & Wardwell LLP] because we were all in the same building and after dark, in thirty seconds, you could buy all the marijuana you wanted. And I’m sure they were selling other drugs, too.

Q: So did you want to be in New York, or did you ask your wife, “What are we doing here?”
[laughs]

Barron: I wanted to be in Boston because I love Boston. But I love New York, too. It’s my second favorite city. But, by the way, that also turned out to be very lucky. Because it’s less the case now, but it is still the case that as wonderful and important a city as Boston is, in terms of the legal profession it was pretty provincial, that if you wanted to be in the center of the legal profession—and it is still largely the case—you wanted to be in New York.

So I always had in my mind, “OK, look. I’m going to start my career in New York because that’s the best place to start my career anyway as a lawyer. And then maybe I’ll persuade my wife at some point to move back to Boston.” I never tried because I came to Cravath. I love Cravath. I became a partner at Cravath. And we only have one office—well, we have two offices. We also have an office in London. But we only have one office here in the United States. And I’ve never

regretted it. And it turned out to be very, very lucky for me because I would have had a very different kind of career if I had stayed in Boston.

Q: So then, as you're developing your legal career and you're becoming a partner and a very important lawyer, did you develop something of a sense of citizenship or stewardship of the city? Of identifying as a New Yorker and seeing yourself as having special responsibilities because of your position in the city and what you can do to help the city?

Barron: Yes, but not as much as I should have. It's one of the sort of minor regrets that I have in life, is that I didn't become more involved in that.

I had a mentor who's a very—in fact, my wife and I are going out to dinner with his wife and him tonight and then going to the theatre—Fritz [Frederick A.O.] Schwarz. Fritz has had just a—he was the first partner I worked for when I came to Cravath. Absolutely wonderful, wonderful man. And the absolute paragon of what a lawyer should be and what a legal career should be, because Fritz has moved between a very successful career in the private sector here at Cravath and a very, very important career in the public sector as well. He was corporation counsel of the City of New York for a while, the head lawyer—essentially the attorney general of New York City. And he was the head of the charter revision commission for New York City when the charter was revised. I think Fritz is getting close to eighty years old, and he still works full time at the Brennan Center [for Justice] down at NYU [New York University] on very, very important social policy and political issues.

So he was a model. And Fritz always encouraged me to get into more things. And I did get into things. I did work with him on the Vera Institute [of Justice]. I worked for an organization that essentially tried to advance the interests of Vietnam vets who were down on their luck. You did the Phoenix House thing. But I did all my things of that nature within Cravath as opposed to leaving the firm the way Fritz did and sort of moving back and forth. And what he did was pretty rare because it's very hard. As an associate, it's virtually impossible, because when you come to this firm—and again, we don't have any monopoly on this—or a firm like it, it really is very, very demanding, particularly if you have the ambition of wanting to become a partner and spend your career. You're working, essentially, \$3,000 a year. So you don't have a whole lot of time. There are pro bono opportunities, but they tend to be within the structure of the firm. You know, getting involved with a partner at the firm representing Phoenix House or Covenant House or something like that.

But to get back to your question, I wish I had done more than I did. I spend a lot of time working with my high school, which is in Fairfield, Connecticut. And that's been, over the last ten years, been my main pro bono activity, because it was such an important factor in my life that I like to help them continue their mission of taking kids who were the first members of their family to go to college, basically, and helping them do that.

So, the answer to your question is, I wish I had done more of it, but I did some.

Q: So what was the first thing you started doing for Phoenix House? When did you first get involved?

Barron: It was in the 1980s, early 1980s. And I don't remember the specifics of what it was. I can sort of reconstruct that it was probably—I think it was Bob Mullen who was handling some kind of a litigation matter for Phoenix House. And a note came around—this was pre-email—a little memo came around that said, “We've got this case and anybody who has some time and would like to get involved in representing this organization,” and their little description of what the organization did, “let me know.” And I signed up for it because I was one of these young lawyers who was looking for something to do other than representing big corporations.

And I can't remember anything about what it was, but Bob was, at that time he was a young partner. I think he was probably in his early forties—late thirties, early forties. And he had become the point person for Phoenix House. You know, somebody like Ros Gilpatric who was a corporate lawyer, not a litigator, was the nominal relationship partner with Phoenix House. But Bob was the point guy, the way I was for ten or fifteen years, twenty years, almost where if Phoenix House had an issue, they would call me. And it didn't necessarily mean that I was going to do it—although I did quite a few of them—but I was going to find somebody, put together the resources within the firm to do whatever needed to be done.

And sometimes it was corporate. Like, they were looking to acquire a piece of real estate or they were getting a NIMBY [Not In My Backyard] pushback from some real estate that they already owned that they were trying to develop into a Phoenix House facility.

Or they have, over the years, acquired other organizations, both here in New York and in California, Texas, and needed, essentially, M&A assistance. And that's not what I do for a living, so I would find somebody here and say, "Hey, here's an opportunity for you guys to do something that'll make you feel good for a good client." And never had any problem finding—sometimes somebody would say, "I'd love to do that, but I just can't do it right now." And then I'd go find somebody else.

Q: And so you became involved in litigation matters instead.

Barron: Yes, yes, because that's what I do.

Q: Right. And so before we started this interview you were describing to me, a little bit, the nature of these. Can you explain that again for the tape?

Barron: Yes. The kind of lawsuits that Phoenix House gets with some regularity are lawsuits from clients or former clients—they tend to be former clients—who might have some kind of grievance. It generally tends to be a personality conflict, a grievance, a gripe about a particular Phoenix House staff member or somebody who ran a facility, and in almost all of these cases—in fact, I think virtually all of them—they were people who actually were incarcerated at the time.

So these are people who are at some correctional facility in New York and they have access to a law library. And they probably don't have enough to do. And so they would gin up a pro se

complaint saying that—the example I cited for you was a recent one that we just resolved last year, where the guy’s complaint was that there was no lock on the bathroom at the Phoenix House that he had been sent to on the orders of a judge, who basically said, “Look, here’s your choice: I can send you away for three years or I can send you to a Phoenix House facility.” And Phoenix House facilities have rules. And one of the rules is there can’t be any locks on the doors for obvious reasons, right? Because you can’t create a space where somebody who goes off the rails can go into a room and lock the door and be up to shooting up or whatever they’re doing.

And so this guy’s grievance was that, I guess on more than one occasion, he had been in the bathroom and somebody came in without—somebody knocked and then opened the door. And he considered this an invasion of his privacy and a violation of his constitutional rights. And he sued, I think, seeking \$3,500,000 in damages.

And somebody’s got to represent not only Phoenix House, but also the employees of Phoenix House who were named as individual defendants.

Q: And so through this process, obviously, you must have gained quite a good understanding of Phoenix House’s methodology, the therapeutic community [T.C.] model. And Phoenix House not just as any drug treatment center, but as a quite unique one.

Barron: And very successful one, yes.

Q: And a very successful one. Can you describe a little bit about learning about the therapeutic community model that they were doing and how you went about learning about Phoenix House?

Barron: I sort of learned that by osmosis. I never had a tutorial on the way in which it worked, but strangely enough, the way I learned about the therapeutic community model was not as a result of working for Phoenix House.

Literally the first day that I came to Cravath and I started working for Fritz Schwarz was October 11th of 1978, a day I remember very, very well. The first case that I worked on with Fritz was representing *Time* magazine in a libel case that had been brought by an organization called Synanon. And Synanon—you stop me if you already know all this—but Synanon was an organization that was founded by a guy named Chuck [Charles E.] Dederich [Sr.]. And I'm pretty sure Mitch knows Chuck. I think he's since passed away. And Dederich was this enormously charismatic guy who founded Synanon in a garage out in, can't remember if it was Santa Monica—someplace out in California—and apparently had enormous success. And he kind of went off the rails because he basically became this sort of megalomaniacal cult leader. He turned Synanon into a cult. I never talked to Mitch about this, so I don't know what his perspective is, but my perspective was that Dederich had turned this into a cult.

And *Time* magazine did an investigative piece. A young reporter by the name of Doug [Douglas] Brew wrote a story about what had happened to Synanon. And Dederich had three residential communities and he forced people to swap wives, and—it was quite a lurid story. And Synanon, which had become very, very litigious—sort of pre-Scientology. Scientology, I think, sort of

adopted the Synanon bit—you just sue everybody, right? If they say anything that you don't like, you sue them.

And Dederich sued *Time* magazine, and he claimed that every single sentence of this article—and there were about fifty-eight or sixty sentences including the caption under the picture of Dederich and two young women who were members of Synanon—he claimed that every one of them was false and defamatory. And the suit was brought in in Oakland County in California. And the lawyers who represented Synanon in this were members of Synanon.

And two of those guys ultimately went to jail for attempted murder—lawyers! Well, actually, they didn't go for attempted murder. They went for soliciting or conspiring to commit murder because a guy by the name of Paul Morantz, a lawyer, represented a Synanon member who wanted to leave. And Synanon wouldn't let their members leave at that time. By the time it had become this sort of religious cult. And he made a sort of small-time practice out of representing members who wanted to leave and wanted to get their belongings back.

And he was on his way to go to the second game of the New York Yankees/Los Angeles Dodgers World Series in '78. And he decides to stop off at home before going out to the stadium for the game. Sticks his hand in his mailbox and a rattlesnake clamps its jaw onto his hand and pumps its venom into—and somebody, two Synanon members, one of whom was the son of Stan [Stanley] Getz, the jazz musician, a Synanon member, had clipped the rattle off the rattlesnake and put it into this guy's mailbox.

That had happened literally the week before I started at Cravath. Anyway, long story. We ultimately won that case for *Time*. But that's how I learned about the therapeutic community because I had to learn all about Synanon. So that when I started representing Phoenix House, I actually knew something about that culture and that model. Because there was nothing wrong with the model. Dederich was one of these guys, like Mitch, who was using this and using it very successfully. It's just that unlike Mitch, Dederich went off the rails and became this cult leader.

Q: So that experience didn't make you necessarily apprehensive about Phoenix House or what you were getting involved with here?

Barron: No. No, because it was a very admirable and successful theory of how you deal with alcoholism and addiction. It was just interesting that I learned about it in the context that I learned about it, and then it became very, very relevant to my experience when I started representing Phoenix House. And basically, people didn't have to tell me the whole theory of how it worked and the importance of rules and discipline and respect and all that. I understood it.

Q: This is fascinating. I want to—I don't have a watch on me right now. How are you doing on time? Because I know you have to be somewhere.

Barron: Yes. I didn't put on my watch this morning, so let me see what time it is. [typing] Yes, as I said, we can get together again any time you want. I just changed my password and now I can't remember what it is. I think I got it here. Hold on a second.

I'm still representing one client. I have to go to Switzerland, actually, every five or six weeks.

But other than that, I've got a lot of time.

Q: Good. Well then, to pick up where we were, learning what the T.C., the therapeutic community model—is this also when you first met Mitch?

Barron: It's not when I met Mitch. I don't think I met Mitch personally—I knew about Mitch. Mitch was kind of a little bit of a legend within Phoenix House. And I probably spoke to Mitch over the course of fifteen years or so on the phone a few times, usually with Fred [Goldstein], who was the in-house general counsel at Phoenix House. He subsequently moved out to the west coast. Very, very good guy. In fact, he's somebody you probably should talk to.

I have in my mind a recollection of a few times over the course of when I was doing things for Phoenix House where Fred would call me, and Mitch would be on the phone, and I was trying to learn about some aspect of what I had to deal with in the case. And Mitch was an encyclopedia of knowledge about the history of Phoenix House and the way that Phoenix House did certain things. And, more importantly, why they did certain things. Because in a lot of these cases, I had to explain to a judge—there was some rule that some former client found offensive, some restriction on his freedom that he found offensive—and I had to be able to explain to a judge why that particular rule was important to the therapeutic model and why the exception that this plaintiff said should have been made for him, but was not made, could not be made, consistent with the therapeutic model.

And so I would have, from time to time, a conversation with Mitch. But I don't remember ever meeting him in person until—maybe once at a social occasion—but I don't think I met Mitch until sometime after 9/11.

Q: So Mitch never came to testify about what Phoenix House did.

Barron: No, you know what? Because we never, ever had a case that got past the motion phase of litigation. We never had a case that actually ever went to trial. We were always successful in getting the cases dismissed on legal grounds as opposed to after a full trial. And so I don't think we ever even actually needed a written affidavit from Mitch. We would get affidavits from other people in the—an affidavit being sworn, written testimony that you would submit to the court in support of a motion to dismiss the case on legal grounds or a motion for summary judgment. And I don't think we ever actually needed one from Mitch.

And that's something we would have been very, very careful about. We would not have asked for one from Mitch unless we really, really needed it.

Q: Why is that?

Barron: Because as a legal matter, once you submit that kind of an affidavit, if the court allows discovery to go forward—that is where there would be depositions and the taking of oral testimony—you've exposed that person to having to have their deposition taken. And it's the sort of thing—but this is not in any way something that's Phoenix House-specific. It's just sort of in

the handbook on how you litigate if you're representing a corporate entity, that you don't expose your higher executives to—never mind the substantive, just the procedural mess of having to show up for a deposition in which they're quizzed for a full day by an opposing lawyer. You don't do that unless it's really necessary. And fortunately, it was never necessary for us to expose Mitch to that.

Q: Yes. So as you're explaining to a judge, then, what Phoenix House does and that these certain rules are necessary because they fit the therapeutic model, do you think that you had to explain it in medical terms, that this was medically necessary? Or was it simply that this is what the institution is and this is the model that's been created, and the judge would buy that as being why it is the way it is?

Barron: I think there is a tendency on the part of judges to sort of intuitively accept the notion. And maybe it was just intuitive, and maybe it was intuition and common sense informed by casual reading that many of us, particularly in New York, would be exposed to—you know, just reading the *Times* [*New York Times*] or the *Journal* [*Wall Street Journal*] or the *New Yorker*—to the therapeutic model. So that if you explained to a judge, “Judge, the reason that there are no locks on the bathroom doors is because it's very, very important for a Phoenix House community to be completely open and transparent. And yes, there's a sacrifice of personal privacy, but it's very important in the therapeutic model for the following reasons—” And most judges would just intuitively grasp it. “Oh, yes. That makes all the sense in the world, that in a community like this where you're dealing with people who are wrestling with this horrible problem of addiction,

you can't have some private space where they can go and lock the door." And that really wasn't that hard a concept to convey and to fit into the model of how a Phoenix House—

It really wasn't medical, although I'm sure somebody with the expertise of Mitch Rosenthal could fit this into a medical model. But it was really just a common sense model that was pretty easy for a lay lawyer to convey to a lay judge—lay in terms of no medical training—that discipline and rules are a very, very important part of the therapeutic model.

Q: Right. So this is a fascinating issue because one of the bigger themes about Phoenix House and about addiction treatment in the last fifty years or so is that when Phoenix House was starting, addiction treatment was largely seen as part of the criminal justice system. And now it's seen more and more as part of the medical system. And so I'm wondering a little bit, as you're talking to these judges and stuff, whether or not it's a criminal justice vocabulary, an idea that they are thinking about when you're explaining the therapeutic community to them—and whether it's that language that you're using that makes sense to them instead of using a medical justification.

Barron: Well, it's very interesting that you mention that because the judicial system and the correctional system are, to a very, very significant extent, Phoenix House's biggest client. They are, in effect, the client, right? It's a bit of an overstatement, but Phoenix House has become very, very much part of that correctional system where judges, beginning—and I'm not sure I could pinpoint when—you may be able to discover this from talking to other people—when, all of a sudden, judges had another option. Another arrow in their quiver, if you will. And, "How do

I deal with this person who's before me who has now gotten in trouble in the criminal justice system as a result of substance abuse?" Because, in a way, they were compelled either because their judgment was adversely affected by whatever substance they were taking, whether it was alcohol or some drug, or because of the expense involved in having to acquire the drug they needed to engage in criminal activity in order to generate the money. "But I'm dealing with somebody who, unless they solve that problem, yes, I'm going to send them away to jail for six months or for a year or whatever it is. And then they're going to get out and they're going to do it again."

And so to get back to your question, there are two aspects of it. Number one, it is part of the judge's view of the options that are available to her or him in terms of how to deal with the problem that they're faced with in terms of this individual. But the other thing is that—and this is a little bit of an advantage in terms of litigating these issues on behalf of Phoenix House—and here, no judge has ever told me this. But when you say to a judge, "Hey, this person who is suing Phoenix House and the staff members of Phoenix House is complaining because his—" And it's always been men. I've never had one where the plaintiff was a woman. "—is complaining because his freedom was restricted in some way by Phoenix House is a person that the alternative to him was to have his freedom restricted a whole lot more than that. Because the alternative was incarceration." And so you have a little bit of a leg up when somebody's complaining, "Hey, judge, I was made to do something that I didn't want to do."

We have a case now where somebody's saying, "I was made to do chores at Phoenix House, and I wasn't paid." And so he brings a claim under the labor law. This is literally a case. We have it

right now. Some guy brought a claim for back wages. He said, “Phoenix House made me do chores. Clean the dishes. Make the beds. And they didn’t pay me. And I was effectively an employee, not a client. And therefore, please pay me my back wages under the New York laws relating to labor and wages.” And we’re actually litigating that now.

Q: Is this a unique—or have there been cases like that in the past? Is this the first one?

Barron: This one, I believe, is the first I’ve seen. There may be some other cases out there, but this is the first one where—and it’s very creative. This is a guy who was in jail and had access to the law library, and he came across the New York labor laws. And he was upset—he didn’t want to be in the Phoenix House program. He also didn’t want to be in jail.

And the judge said, “Well, you’ve got a choice. You can either be in jail or you can be in the Phoenix House program.” And so he went to the Phoenix House program and he was kind of a rebellious guy. Very difficult to manage. And he didn’t want to be there. And he was being made to do chores because everybody who’s in the facility is made to do some work. And he came up with this innovative theory that he was actually an employee and that he should’ve been paid.

Q: This is probably the point where we should stop because I think you need to leave. But we’ll pick it up here. It’s a fascinating question about this because the line between being a client of Phoenix House and being an employee is often very blurry, because clients become employees quite often.

Barron: Exactly. I think a lot of the staff members, maybe most of the staff members, are former clients. Maybe not the guys at the top, but people who are running the houses, yes.

Q: Well, thank you so much, Frank.

Barron: Sure.

[END OF INTERVIEW]

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Session #2

Interviewee: Frank Barron

Location: New York, NY

Interviewer: Lance Thurner

Date: April 7, 2015

Q: So, this is Lance Thurner. It's April 7, roughly 11:00 in the morning. And I'm at the offices of Cravath, Swaine, and Moore on Eighth Avenue in Manhattan, and I'm here to interview Frank Barron for the Phoenix House Oral History Project. [pause]

So Frank, last time I was here we left off kind of in the mid-'80s, and you're beginning to work for Phoenix House as a litigator pro bono. And we talked a little bit about the kind of cases that would come up. I'd like to stick with that time. During this period, you said that you hadn't met Mitch [Dr. Mitchell S. Rosenthal] for a while, that you were involved for a while, but he had something of a reputation that preceded him. Can you explain a little bit about that reputation and then what it was like to meet Mitch for the first time?

Barron: Yes. Let me see if I can remember. I'm trying to put myself back in that time period to remember what was in my head. I think Mitch was this sort of mythic character, sort of the Wizard of Oz. And I'm sure there were people who were more senior to me around Cravath, the other partners, who knew Mitch and with whom he was even a friend. I'm not sure anybody was a close personal friend of Mitch, but business friends, right?

But I didn't really know him. But he was this guy. And I had only the vaguest notion of how Phoenix House came into being, but I knew that it had something to do with—I knew Mitch was

an M.D. [Doctor of Medicine] I knew he was a psychiatrist. I knew that he had been in the Navy and that he had gotten involved I think on the west coast, in San Diego or someplace where there's a Naval base, in trying to help people overcome their own substance abuse issues. And that it had grown into this highly successful model of—you know, on a relatively small scale, was my impression. I always thought it was mostly centered in New York, and that somehow, Mitch was the progenitor of this thing. But I didn't really have a sense of the extent to which he was really hands on involved in the organization. He was just sort of the guy who thought this up, you know?

Q: Yes. And so when did you first meet him?

Barron: You know, I honestly do not remember. It is certainly possible that I may have met him in passing at a fundraising event. You know, a social event to raise money for Phoenix House. I have a feeling that that may have been the first time I met him.

But the first time, I think, that I really got to know Mitch, and actually sat down and talked to him at some length, was after I went on the board. I don't think I really knew Mitch before that. I knew who he was, and by that time, by the time I went on the board, I'd probably been with him in meetings and things either related to an issue or a case or trying to find somebody within Cravath who could handle some kind of corporate transaction for him. And I certainly had a substantial number of phone calls with him. But I don't think I actually ever had lunch with Mitch—you know, just the two of us—until after I went on the board.

And now we have lunch two, three times a year. But that's when I really got to know him. And what I remember—you know what my first impression of Mitch was when I first met him? I said, number one, this guy is very small. [laughter] I sort of had expected a bigger—

Q: Big presence, yes.

Barron: Yes, a big presence. And number two, he's very well dressed for a doctor. Doctors aren't known as being—M.D.s aren't known as being masters of sartorial splendor. But Mitch is a really dapper, impressive guy in a way that not many M.D.s that I've met are. He has a charisma and enthusiasm. And when you meet Mitch, you start to understand why he was able to generate this program and this organization because he's a very, very charismatic, dedicated guy. And people who meet him and hear about what he's trying to do want to help. If they have the means to help, they want to help. He's a magnetic guy.

Q: Yes. So then back in the '80s, when you're beginning to get involved in this litigation work, you worked a lot with Fred Goldstein.

Barron: I did. Yes, I worked with Fred quite a bit.

Q: Yes. And who else? Was there anyone else?

Barron: Fred, at some point, had an assistant general counsel whose name I can't remember now.

Do you remember—when did Fred leave and go to the west coast? I think he went out to the west coast, didn't he?

Q: I don't know.

Barron: Yes, I don't know. But this was a unique experience for a young lawyer because Fred didn't have a big staff. I don't know how many people he had working in his group, but I'll bet it was only a handful. And there was really only, that I know of, there was really only one other lawyer. And now I can't remember who that was. But for a young lawyer, it was kind of fun because there weren't layers of bureaucracy like there were— Like, if you were doing work for IBM [International Business Machines Corporation], the chances, if you were a young lawyer, that you were going to meet the general counsel of IBM, never mind the chairman, were pretty slim.

And here with Phoenix House, one of the things that made it fun was you could be an associate and you'd be working directly with the general counsel of Phoenix House. The guy who basically ran the show from a legal perspective, which is, from the perspective of a young lawyer, that's the part you care about. So that was fun. And it was one of the aspects of working on Phoenix House that made it fun and interesting for young lawyers, is that you had a lot of responsibility and you were working directly with the guy who was in charge. So it was good experience.

And I actually don't know much, if anything, about the circumstances under which Fred left. But I enjoyed working with him a lot. I actually have no idea, even to this day, whether that was a, what I'll call a friendly parting of the ways or something else. My impression was that it was friendly, but I don't really know for sure.

Q: So during these years Phoenix House is expanding quite a bit and moving into California and then, eventually, developing these prison programs. So certainly that affected your role as far as finding people to help with the mergers. Did it affect your role otherwise?

Barron: Well, certainly the development of the programs with the correctional department, principally in New York, but also elsewhere, had a significant impact on both the volume and the nature of the litigation work that we did for Phoenix House. Just because of the particular difficulties and challenges that you face as a lawyer, on a number of different levels, dealing with litigants, many of whom either are incarcerated at that very time or have been. And those present a special kind of challenge.

And for the most part—it's not for the most part, it's a hundred percent—you're dealing with litigants on the other side that the courts tend to be very protective of. They're proceeding pro se. Many of them, essentially their hobby while they're incarcerated is to learn the law, particularly the law as it relates to them. And a lot of them get pretty good at it, because you meet some—I don't mean you meet them personally, although some of them, you do meet personally—you encounter some incredibly talented, intelligent people whose life just went off in the wrong direction.

And sometimes it almost makes you want to cry, because you read a paper submitted by a pro se incarcerated plaintiff, and you say, “You know, this is a little rough, but it’s pretty damn good.” And you say, “This guy—” And I think it’s been all men. I don’t think we’ve had any female plaintiffs. And you say, “This guy, if his life—if he’d had more opportunity or if his life had taken a different course, actually could have been a pretty damn good lawyer.”

So it made for a pretty colorful, interesting addition to what I was doing as a lawyer, to do these cases. But it did present challenges just in terms of human relations, in terms of the way in which you relate to judges, the way in which you litigate. When you’re up against another big firm in front of a judge, you can pound the hell out of the other guy, right? I mean, that’s what the judge expects you to do. And that’s what you’re expected to do. But you can’t do that when you’re dealing with one of these plaintiffs because the judge won’t like it. If you take advantage, undue advantage, of the fact that you know what you’re doing and he doesn’t, judges really don’t like that. So you’ve got to figure out some way to walk that line.

Q: Did you ever just settle?

Barron: It’s interesting. The answer is yes—never for money. We’ve never settled for money. But my perspective on this has always been, let’s see if we can resolve this in a way that makes it go away; in a way that, a) doesn’t cost Phoenix House money, b) doesn’t hamstring Phoenix House in the way that they conduct their programs—like agreeing to do something that is going to impair the ability of the programs to function—and that makes the plaintiff happy. They’re

never going to be completely happy because one of the things they want is money, and they ain't going to get it. And also that makes the judge happy. Makes the judge feel like, "OK. These people have been dealt with fairly. And Phoenix House and their lawyers have taken a constructive approach to try to resolve—"

Now, some of the cases are just ridiculous and you just try to blow them out of the water. But some of them, it's not that you think that Phoenix House or its people have done something wrong, but you understand why the person has a grievance. Like the guy who was complaining that people were walking in on him in the bathroom while he was, you know, taking care of his bodily functions. OK, I understand why that's—on the other hand, I can't enter into a settlement with that guy that says, "OK, fine, we're going to install locks on all the doors. Does that make you happy?" No, I can't do that, because that's inconsistent with the properly functioning program.

But in that case, we actually did work out a settlement. And the settlement—we actually didn't sit with the judge. We were on a conference call with the magistrate judge, involved this guy—and he was one of the ones I was talking about. This guy was really, really smart and articulate. And the judge recognized it, and I recognized it. The deal we worked out with him—and I actually negotiated with him—was, "I'll tell you what. You're a smart guy, and you've thought a lot about this. You sit down and write a letter to the board of directors of Phoenix House and tell them what you think the problems are and what your solutions would be. OK? What your proposed solutions would be. I'm not promising you or anybody that the board is going to do

what you want, but I will promise you one thing. The board will read your letter. And they will think about it. And then I will communicate to you within one year where the board came out.”

Q: Did you personally bring the letter to the board?

Barron: Yes. I presented it to the board. And that was the deal; that we had one year to do that. If he didn't send us a letter— Well, the case was over at that point. It was a settlement. But we committed to do certain things. If he didn't send us a letter, then we were done. If he did send us a letter, then we had a certain period of time to present it to the board and then to get back to him.

And I said, the sort of jailhouse lawyers who bring these cases are almost always interested in money. And they are, obviously. They, like the rest of us, would like to hit the lottery. But in some cases, and this guy was one, I think the other motivation was just to feel vindicated. Just to feel that you'd been listened to and that your concerns had been taken seriously, and that you actually accomplished something as a “lawyer,” as a jailhouse lawyer—that you actually got something out of Phoenix House.

And you can't always do that, but in this case, you did. And you know what the irony is? We actually did consider what he said. And I don't remember whether the board actually decided to do anything, but if it did, it was a relatively minor thing. And then I wrote him a letter explaining what had happened just as I had committed that I would do. And the letter got returned. It never reached him. And we tried three or four different—because by that time, he had been released

from prison and nobody had a forwarding address for him. So we followed through on all our commitments, but presumably he's moved on in life. I hope his life has taken a positive trajectory. I'm not sure it has. But the letter never reached him, as far as I can tell.

Q: So were there any cases that did significantly impact the treatment method?

Barron: You know, I don't think so. I don't think so. Most of the cases are what most lawyers would describe as nuisance cases. A lot of these guys are very, very crafty. They would like to figure out some way to turn their lives around quickly. And Phoenix House is an inviting target because—I mean, you and I know that Phoenix House is not a particularly wealthy organization, but they don't know that. Phoenix House is this sort of corporate entity—to them, like a symbol of corporate America. There must be a lot of money in there, like Fort Knox. And if I can just figure out some way to convert—I'm not saying everybody does this. But the guys who come out of the woodwork and bring these lawsuits tend to be people who are looking to strike it rich by asserting a claim that some judge, some court might take seriously, and, if they can get in front of a jury, end up with a big verdict.

And we've never, ever had a case that went to trial. We've never had a case that—by definition, we've never had a case that actually went to a verdict. And so that is sort of a downside from an associate or lawyer's perspective in terms of the experience, is that the cases never really go very far. There are a lot of interesting issues and challenges and everything. But procedurally, other than, for the most part, going into court to sit in a judge's chambers and talk to him or her like I'm talking to you about the case, and how are we going to resolve this, and maybe getting to the

point where you have to make a motion to dismiss and actually get on your hind legs and argue to the judge why the case ought to be—but it doesn't get beyond that stage. Because I think every one of these cases has either been resolved fairly early on—by that, I don't mean in a short period of time, because the judicial process can go on for a long time even where it doesn't get very far—or they've been dismissed.

Q: What about in other states? Were you only involved here, or—

Barron: I don't think we ever did any cases in other states. There must be cases in other states, but no, I've never done any. And I assume that Fred and now John [phonetic] had counsel in the various states, in other cities where they had facilities. And they've got a pretty good lineup of very prestigious law firms that do work for them. And part of that is we got some of the firms that we work with, like in L.A. [Los Angeles], we got O'Melveny [O'Melveny and Myers LLP], and I think there's some other places where we essentially—I won't say strong-armed—but persuaded some of our colleagues in other cities to take Phoenix House on as a pro bono client.

Q: What about the other firms here? I know, for instance, Wachtell [Wachtell, Lipton, Rosen and Katz] has done some stuff. Is there a relationship that gets strange there?

Barron: Well, I think—no, not really. I mean, lawyers are used to that kind of stuff. No. I think Wachtell got involved because there was a guy who was an associate here at Cravath and then left—

Q: Larry [Lawrence] Lederman.

Barron: Yes, exactly. And I think, although I'm not sure—you'd have to check this, so don't rely on me for this—but I think Larry got involved here when he was an associate, and formed relationships within Phoenix House. And then when he went over to Wachtell, bless his heart, he got Wachtell involved in doing some work for Phoenix House as well.

Q: Yes. I know Herb [Herbert Maurice] Wachtell was on the board for a while also.

Barron: Yes. And I know Herb very, very well. I've litigated both with him and against him. He's a real character.

Q: Yes. What about adolescent programs? Were those ever on the docket?

Barron: I'm trying to—I think the answer is yes, but I'm having trouble remembering. We had some sort of a case, or it might have been more of a corporate matter, having to do with the school up in Yorktown Heights. But I can't remember what it was. I can't remember.

But I don't think we ever had any litigation issues relating to the adolescent programs. And I'm just speculating, but one reason for that may be that the kids that are involved in the program, that's a very, very different group than the people who are in the grips of the correctional system. They're younger, obviously younger, and there's less of that culture that I think gets created and passed on within a lot of the correctional institutions, of what I call the jailhouse lawyer culture.

“I don’t have a lot to do. This is interesting.” For the ones who are bright enough and energetic and committed enough to want to do it, “I’m going to go read, I’m going to go to the—” Almost every correctional institution now has a law library. And if the people there are interested enough and motivated enough, they can spend all day in the law library.

Q: So during these years, just to switch to a slightly different path and trajectory, New York City’s changing incredibly, the ’80s and the ’90s.

Barron: It’s amazing.

Q: Yes. You know, there’s the [David N.] Dinkins and [Rudolph W.L.] Giuliani, and before that, [Edward I.] Koch. How did you see the city changing, and in particular the drug problem changing here? I suppose during these years, your office moves right up next to Times Square.

Barron: We were the pioneers here. Yes, it was interesting. You know, I’m not sure how valuable my perspective is on that, but as somebody who lived in the city for many years—although in Brooklyn, not in Manhattan—and came into the city for my entire career, even when we didn’t live in the city, I think one of the main changes is the city just got to feel like a far less dangerous place.

And to some extent, I think that was related to what was going on with respect to addiction, but I’m not sure that I know enough to really put my finger on what it was that was actually happening in the world in which Phoenix House was operating on a day-to-day basis that caused

the perception that it was a less dangerous— Part of the reason was it was a less dangerous place. I mean, the murder rate went from—I can't remember what it was—like, twenty-five hundred or twenty-eight hundred people a year getting murdered down to, like, three hundred. So there was sort of demonstrable, statistical evidence that the city not only felt less dangerous, it was less dangerous. And it's now one of the safest big cities in the world.

And the graffiti on the subway, which, you never really thought about it, but in some ways was kind of psychologically threatening. It's sort of emblematic of a city that was somehow out of control. And I don't know what it was. There was a time—and I'm sure there must be still neighborhoods and places where it's true—but there was a perception that even if you didn't see it yourself, that there were places in the city where if you walked, there would be needles on the sidewalk. Including in relatively nice neighborhoods on the Upper West Side. You might walk onto a block and there would be junkies sitting around sharing needles, unfortunately, with all the adverse consequences that that had, and still has.

I can't remember where I just—I just read an article where there's been an epidemic, outbreak of AIDS because people are sharing needles.

Q: Because heroin's coming back, yes.

Barron: Yes, because heroin—exactly—because heroin's coming back. But I guess I'm not able to describe to you what Phoenix House's role was.

Q: Yes. But was its profile changing? Phoenix House's place in the city is, instead of being in the '70s, some organization started by some ex-junkies who are trying to put their lives together, into a part of a city in bloom.

Barron: Yes. Well, one of the interesting things about it was that when I first got involved—I wasn't involved in this aspect of representing Phoenix House, but Phoenix House was very much a victim of the NIMBY [Not In My Backyard] phenomenon. Phoenix House wants to open a facility. "Yeah, OK. Good, I'm all in favor of organizations that are successfully helping people overcome addiction. But I don't want that on my block because it's going to attract unsavory elements to my neighborhood. And I don't want that." And that was a real challenge for Phoenix House. Is it still a challenge? Like if they wanted to open up a facility? My guess is probably yes, but not to the same extent.

But you're right. When I first started doing work for Phoenix House, it did have this kind of funky reputation that it was a bunch of ex-junkies led by this Oz-like character, Mitch Rosenthal, who were helping each other to overcome their addiction. And it did kind of evolve over time into this organization that's supported by the fashion industry and sort of more of a corporate entity. And I don't mean that in a bad sense, but that it's more institutionalized as opposed to catch as catch can.

And I guess to some extent that sort of relates to the phenomenon of New York becoming a city that people perceived as more in control, more—for better or for worse. Some people think gentrification is great and some people think gentrification sucks—and it's actually somewhere

in the middle—but it's a city that, for better or for worse, feels safer, cleaner, and more in control of its own processes and destiny. And Phoenix House is part of that.

Q: Yes. It certainly seems that way. So one of the ways in which Phoenix House gained a greater and greater presence in the city was through very careful cultivation of the board. And so can we talk a little bit about the board, maybe before you joined it, and your interactions with the board and how it seemed to work, and what kind of board it was at that time?

Barron: Well, I had relatively few interactions at the board level prior to actually going on the board. Really only a handful. The only real reason for me to meet the board was if Fred, and then later, John, wanted me to make a presentation to the board about a particular litigation matter. And that only happened, as I say—I don't need all the fingers on one hand to count the number of times that happened over the course of twenty years. So I really didn't have much interaction with the board.

And the Phoenix House board—I don't know the members of the board very well because, basically, I don't move in the same circles that they do. And I see them and I enjoy being with them when we have meetings. And then there are certain things, like Mitch is in charge of the speaker's program at the University Club. And he invites me and he invites other board members to come to hear Bill [William Joseph] Bratton or Jon [Ellis] Meacham or whoever's going to be the speaker. And that's kind of fun. I enjoy that very much. And it's more of a social chance to get to know some of the board members.

But I think it's like any other [unclear] board in New York or any other city. There are a certain number of people who are on the board because they are financial supporters and they like being involved, but not too involved. And they certainly are very generous financially. And then there's a smaller core of people who are the people who not only support the board financially and come to board meetings, but actually dig in. And those are the ones who are on the Executive Committee and really, really devote—they're generous not only with their money but also with their time. I don't think the Phoenix House board is different from other philanthropic boards in that respect.

Q: Yes. So how did you become a board member?

Barron: I got asked, I think, by Mitch himself. Or maybe it was Mitch and Howard [Meitiner] together. I don't remember. But you know what I think happened? And this is just a guess on my part because I don't really know. People don't tend to ask their lawyers to go on the board. It just doesn't really occur to them.

And I think what happened was I made this decision to go over to Morgan Stanley, and I was suddenly one of the guys at the top of Morgan Stanley. I was on what they call the—it's really the executive committee. They call it the operating committee, but it's the CEO [Chief Executive Officer] and six or seven people around him who actually run the place. And I think the light bulb went on in somebody's head and said, "Wait a minute. We've known this guy for, like, twenty-five years, and now all of a sudden he's near the top of Morgan Stanley. We ought to have him on our board."

Now, again, I'm just kind of speculating. And by the way, it didn't—that doesn't bother me at all. I think I was very flattered to be asked to go on the board. And I like being on the board. It makes me feel good.

I think it's a great organization and I like the people involved. I've become much closer to Mitch than I certainly ever was. Mitch has become a personal friend of mine, which he was not before. He was somebody that I knew vaguely and respected for what he had accomplished, but I didn't really know him, and now I do. It's been a wonderful enhancement of my life. And now my wife has gotten to know him, and she likes him immensely. And so we have a new friend, and that's fun.

Q: So as you joined the board, having been legal counsel for so long, did you feel you had a particular perspective on the organization that was important to bring to the board?

Barron: [pause] I don't think I have a particular perspective as a result of handling the litigation for the organization. But I actually think it's a pretty good thing for any board to have at least one lawyer on the board. And actually not so that they can, in any way, usurp the role of the general counsel as the counselor and advisor to the board, but because lawyers have a certain way of thinking about things. And there are a lot of good things about it. There are also some bad things about it.

But I'll give you an example. My wife, whom I met first day of law school, she spent a number of years at Davis Polk [Davis Polk and Wardwell LLP] as a tax lawyer. And then we had children and she decided she didn't want to do that anymore. And she's actually spent most of her time now as a bioethicist. But one of the things that she did was she started an educational foundation with some friends of hers. And she came home from a board meeting one time and she said, "You know, it's actually a little frustrating sometimes." I think almost all of her board members were women. Not that that's the reason for this issue, but—and she said, "You know, I'm the only lawyer on this board. And a lot of times, our meetings go on and on and on. And people are talking and talking and ideas are flying: "Here's this problem. Here's ten—why don't we do this? Why don't we do that?" And there's no organizational structure to it.

And she said, "And my role has become that I kind of sit back and listen. And then after we've talked for an hour and gotten nowhere in terms of an action plan, then my job is to say, "OK, look. Here are the issues that come out of this discussion, and here is the decision tree. Here are the possible solutions." She said, "And I realize that that's just the way we're trained as lawyers, is to take this unbelievable mess of a mélange of information and organize it."

Q: Into a few decisions.

Barron: Yes, that here are the issues. And she said, "I don't ever want to stifle the conversation, because these are very smart people, but they don't think the way we think." Again, for better or for worse. Maybe that we're far less creative because that's the way we think. But we have analytical training that I think—and some people have this without going to law school. They

just naturally have it or they have some other training that causes them to be able to do this. But lawyers in particular are trained to sort of distill a mess into a—

Q: Into a brief, yes.

Barron: Into a brief. And I probably could be more helpful than I am, in some ways, to the board. And maybe that's like a failing on my part in terms of not doing as much as I could. And the board meetings are generally very, very well organized. And the presentations—whatever shortcomings Howard may have had, he did bring in some really, really—by the way, he has some enormous strengths, too, as a leader. And one of them is, he did bring in some very, very talented and dedicated people. That sort of management cadre of Phoenix House just below the CEO—now co-CEOs—is a pretty talented group of people. Could it use some enhancement? Obviously. Every organization could. But they actually run a pretty good board meeting. And I've been involved in a lot of philanthropic boards which were like my wife's, that were just complete chaos, and nobody would impose structure on it.

Q: So before we got this tape rolling, you had mentioned that when Howard came in, Phoenix House was in need of some business acumen because the organization had become so large, so sprawling, spanning the country. Can you explain a little bit more about that?

Barron: Well, yes. There comes a point where your organization is large and complex enough that you really do need a sort of structure on it, a sort of corporate structure, for better or for worse. Because otherwise you could drive the thing into a ditch and not even realize you'd done

it. So the financial aspects of it become very complex and very critical to the future of the organization. And also, probably even more—it's hard to say something's more important than the financial aspects of it, because if you don't have solid finances, you go out of business. But also, just the challenges of managing a bigger and bigger group of people in a more widely dispersed geographic area. I think you do need somebody who doesn't necessarily have to have an MBA [Master of Business Administration], but has to be capable of at least thinking like an MBA.

Q: Yes. And so you mentioned in many ways Howard was a great fit for that moment.

Barron: I think—my impression is yes, that he was. From my perspective, I thought he did a good job. And the sort of recent blow-up, the one that was the catalyst for the board going in a different direction, I don't have a complete understanding of what went wrong there. I'm pretty confident that there's probably a political element to it, but I'm not sure I could explain to you what it is. And by that, I mean politics in sort of New York State politics as opposed to Phoenix House politics, although I'm sure there's politics involved at both levels. But look, I would not want the responsibility of trying to deal with a government bureaucracy and keep them happy to the extent that the people who run Phoenix House have to do, because I don't think that's easy. I don't think that's easy.

Now, it appears to me that somehow the organization failed to keep their most important client, which is the government, in shorthand, happy. And to what extent is that a function of their taking their eye off that particular ball, which might be the most important one? Or some unfair

process that was going on within the government bureaucracy? I don't really know. But the unfortunate fact of life is that when something as dramatic as that happens, you almost always have to make a change.

Q: Yes. Well, leading up to that, from the time you get on the board until—before that starts to blow up, certainly one of the biggest challenges facing Phoenix House was what the Affordable Care Act [ACA] [Patient Protection and Affordable Care Act—PPACA] was going to mean. Did that really rise up to the board level?

Barron: Oh, absolutely.

Q: OK. Can we talk about this a little bit then?

Barron: Absolutely, yes. I mean, I think there is a very, very keen awareness and appreciation for the fact that the world has changed and will continue to change in ways that Phoenix House has to respond to in order to survive and be able to continue its mission. Again, my impression at the board level—and we fly at fairly high altitude; we're relying on what we're told by the people who are actually running things—is that a very, very concerted effort has been made to get on top of just data management. And that that was a very, very important component—not the only, but an important part of the component of responding to this changing world, that somebody, or a group of people within the Phoenix House management, had the foresight to recognize that, “Look, the way the world is moving and the way it's going to likely move as a result of the ACA

is that we've got to be able to control our information in a lot better way that we have been, or we're just not going to be able to survive."

Again, my impression is that on that particular challenge, they've done a pretty good job of actually getting on top of that. But the other big initiative has been to move more towards—well, it's not really "move"—but to add the business model that includes private insured clients because of the recognition that, over the long run, the funding that comes through the government is not going to be sufficient to enable Phoenix House to continue to thrive.

And that's a real challenge because when you're serving clients who are either in the correctional world or essentially being supported in some way—either voluntarily or not voluntarily—by the government, your facilities can be of a certain quality. But if you start saying to people, "If your sons or daughters or husbands or wives have problems with addiction, we're here to help," then you have to have a sort of level of service that is a little different, right?

And to me, that's the challenge that I see as being a very, very difficult one for Phoenix House. Because if you're talking to a parent who grew up in New York and has an image in their mind of what Phoenix House is from the '70s, '80s, even '90s, and you are maybe not affluent but in the middle class, and your child has an addiction problem, the first thing you're going to worry about, "Well, wait a minute. Yes, I want them to get help. And I know Phoenix House has this wonderful reputation of being able to help people. On the other hand, I don't want my child consorting with people who are on parole."

Q: Right. And I suppose it also presents a challenge, though, to the general egalitarian spirit of the therapeutic community [T.C.].

Barron: Exactly. Exactly, yes. You're risking the model if you say, "OK, look. The rich suburban kids are going to be in this room and you guys who are just out of jail or still in jail, you're in this room." You can't do that either. So you've got to figure out some way to navigate those issues.

Q: That is a great challenge. Has that come up in particular decisions yet for the board, or is that something that's kind of looming?

Barron: Well, it's come up in—the clinical aspects of it, I don't really know. I don't know the answer to that. My guess is it's come up a lot within the management but not yet presented to the board. Where it's come up is in the discussions at the board level of facilities, and renovation of facilities, which obviously gets into, how are we going to finance renovating facilities so that we can present ourselves to clients and their insurers as an attractive solution to the problem that they're facing? And so I think one of the big challenges that the board has been addressing lately is just upgrading facilities.

Q: So one of the other impacts of the ACA, or one of the implications, is the mental health exclusion, which is a big issue for Phoenix House and other providers, that the ACA technically, at least from the beginning, doesn't fund what are considered mental health programs. So there's

some question about, well, how do we shape Phoenix House to deal with that? Has that come to the board level?

Barron: Yes. There's been discussion of that. I probably should have a better feel for that than I do, but I don't have a good feel for what the management-proposed solutions are for dealing with that. But I do know that that is a very serious subcomponent of this broad theme that the world is changing and moving in ways that we not only have to respond to, we have to get ahead of. We have to get ahead of the curve, because otherwise we can be left in the dust.

Q: I know there's some efforts to lobby regarding that issue in particular. Is the board involved in that, in decisions about lobbying?

Barron: No, no. Not involved. Only we would receive reports on what's being done in the context of the management giving us reports on, "Here are the challenges and here's how we are trying to address them." And one of the ways you try to address them is by staying close to people in the government who will have an influence on the way in which things get shaped. And hopefully in a way that helps Phoenix House—and helps Phoenix House not just because it's helping Phoenix House, but because it helps Phoenix House to actually perform its mission, which people believe is a mission worth performing.

Q: Well, I have just a few more questions. One is, so the nature of the board, of what it does for Phoenix House and how it works, has changed a lot over the years from the beginning to now. Can you describe a little bit about how the board works and what its responsibilities are in this

time that you've been on the board? How does it operate? How much influence or power does it have over what happens at Phoenix House, and what are the kinds of decisions that the board really has to deal with?

Barron: Yes. Well, I think that the Phoenix House board isn't unique in this respect, but as I mentioned earlier, I think that the board as a whole is a sounding board for the management in the first instance, and a generator of ideas. And you have people coming from all different backgrounds. And it is interesting that things come up in board meetings that maybe people haven't thought about because of somebody's particular perspective.

There are some—and it might even be a majority—of board members whose function is not much greater than being a sounding board, a potential contributor of an idea, or maybe even a veto. And I don't mean a veto in the sense that one board member can stop something, but say, "You know what? That doesn't sound right to me. Based on my experience, that concerns me and here's why." So everybody on the board is performing that function.

And then I think as with most boards, certainly most philanthropic boards, but even most corporate boards in my experience, there's a nucleus of people who—and they tend to be the people on the executive committee. And by the way, I'm not on the executive committee. And those are the ones who go beyond being just a sounding board, people who show up at a meeting, listen to reports, react to them, approve plans, et cetera. And those are the people who actually roll up their sleeves and—

Q: Like Nancy Hoving or—

Barron: Yes, exactly. And those are folks that have my admiration, and have some combination of both the inclination and the interest and the drive plus the time to be able to actually get into really being involved in generating ideas, generating plans, addressing particular problems.

Q: Yes. And what about the relationship of the board to Mitch and to Howard? What has that relationship been like?

Barron: Well, I haven't really been close enough to understand what was going on there. My sense is that it really wasn't a personality thing, that everybody liked and respected everybody, but that there were some differences of view as to emphasis. And that there are board members—and I probably wouldn't be able to tell you who they are—but my sense, just listening to the discussion, that there are board members who felt that the organization had perhaps lost sight or lost its emphasis on the clinical aspects of what it was doing, as opposed to the business of running Phoenix House. And of course, everybody, I think, understands that you have to pay attention to both of those. I mean, the two things go together.

But I think that there may have been a sense on the part of some board members that the problem, the very serious problem that was encountered with OASAS [New York State Office of Alcoholism and Substance Abuse Services], was a result of having not paid as much attention to the service aspects of what Phoenix House does as opposed to worrying about the business aspects. Nobody's saying you can't—you have to do both, but that there was an imbalance—the

balance was tipped in the wrong direction. And I think you might, if you spoke to some board members, you might hear them say, “Look at the senior management within the organization, the people who are running the place on a day-to-day basis, and how many of those people actually have clinical experience? How many people actually have some sort of formal training in what it is that we do?”

I guess my own view on that is that it would be very, very good if the next permanent CEO of Phoenix House, in addition to having some serious business jobs, also had some background in the clinical aspects of what it is that Phoenix House does. Where do you get that person? I don’t know. Hospital administrator? There are not an awful lot, but there are some in the corporate world, in the private sector, M.D.s who get M.D.s and then become very, very accomplished businessmen and women, who run big corporations.

Now, you can make a pretty good argument that just being an M.D. doesn’t mean you understand what Phoenix House does. In fact, there are a lot of people who aren’t M.D.s, as Mitch is, who have a better appreciation of the clinical aspects of what Phoenix House does than some guy who graduates from medical school, right? And in fact, you can make an argument that they’re more likely to understand than somebody who just graduates from medical school. But finding that person who is the right combination of a leader with charismatic leadership ability, business sense, and an appreciation and understanding for what Phoenix House does from a clinical perspective—that’s a pretty rare human being. I don’t know where we find a woman or a man who does. That’s a real challenge.

Q: Right. Well, one of the questions—this is a little out of place. This is something I wanted to try to get at earlier. When I interview board members who were on the board, say, in the early '80s or the late '70s, they often describe knowing Phoenix House pretty much only through Mitch. That they knew Mitch, and they knew Phoenix House because they knew Mitch, and that was kind of what they knew. Do you think the board is still like that now?

Barron: That's a really, really good question. And the short answer is, I don't know the answer because I don't have an appreciation for the personal relationships that each of the board members has with Mitch and how each of the board members came to the board.

My sense is that there certainly are board members who are very close and loyal to Mitch and who got involved in this because of their sense of admiration, and in some cases, appreciation for Mitch because they perceive that somebody in their family was very much helped by Mitch and by Phoenix House. That's my impression. Again, I couldn't identify for you any particular board member, but I just know from things that I hear here and there that that's part of what's going on.

But my impression from relatively afar is that this transition from the founder and the founder generation of leadership on the board, and even in the management, to the next generation, I think is a difficult one. It's difficult for Mitch because this is his baby, right? And it's difficult for other people. How do we make this transition and take advantage of all the wonderful talent and knowledge and inspiration that Mitch provides while also recognizing that Mitch isn't going to be with us forever? And we've got to somehow institutionalize this thing. And somehow,

within an institutional framework, capture the sort of inspiration that Mitch brought to it without Mitch. It's not easy.

My impression is that there are board members who thought, "Hey, look. The solution to this problem's really easy. Bring Mitch back. Have him run the place." But that's not the right answer. I don't know what Mitch's view is on that, but that's not the right answer because it's not a long-term answer. And it's not an institutional answer. It's a stopgap.

And do you want to, at a time of crisis, which the organization has just gone through and is hopefully coming out of, do you want to tap into Mitch's knowledge and experience and all that? Yes, absolutely. But the solution to the problem isn't bring Mitch back. That's not the right one, as tempting as it is. Because in many ways, it might actually tap into some feelings of nostalgia that some of the people who have been with the organization for a long, long time feel: "Geez, I wish we could go back to what we used to have." You can't really go back to what you used to have because you don't have it anymore. It's a different world. It's a different organization. And so you can't do that.

Q: Yes. Well, thank you for this interview. Is there anything you'd like to add? Any last comments about your experience with Phoenix House or particular memories that struck you? Fundraising galas or something?

Barron: [laughs] No. You know, I generally don't go to fundraising galas for anything, Phoenix House or anything else, if I can avoid it. I mean, I send the checks in, but I don't generally like going to the galas.

But look, it's been a wonderful privilege for me to be involved in this organization. It's something that really, really, you can feel good about, that you've taken your talents—in my case, training as a lawyer—and actually put them to some good use. And I don't mean to suggest that what I'm doing the rest of my life isn't good use. It is. But this is one about which you can have a really, really good feeling about what you're doing. So it's been a privilege for me.

Q: Yes. Well, thank you for your time, Frank.

Barron: Thank you, Lance.

[END OF INTERVIEW]