

Morton Silberman

Oral History Interview
with Morton Silberman

*Interviewed by Jeffrey A. Kroessler & Larry E. Sullivan
on February 22, 2007*

Justice in New York: An Oral History

Preface

President Jeremy Travis initiated Justice in New York: An Oral History in 2006. Based in the Lloyd Sealy Library, the project was made possible through a generous grant from Jules B. Kroll, President of the John Jay College of Criminal Justice Foundation. The goal was to interview criminal justice leaders – district attorneys, police commissioners and members of the department, elected officials, defense attorneys, and advocates, individuals concerned with the workings of the system.

Each interview is recorded on cassette tapes and/or a digital recorder. The original is deposited in Special Collections in the library. Each transcript is bound and the volume is cataloged and placed on the shelves. A digital copy is available through the library's web site, as are selected audio clips from the interviews (<http://www.lib.jjay.cuny.edu/>).

Oral history is a problematic endeavor. The interview is only as good as the questions asked and the willingness of the interview subject to be open and honest. Some remain guarded, others become expansive. Sometimes memory fails, and details, names and dates are confused. Some individuals have their own set story, and an oral history will add little that is new or especially insightful. Other individuals use the interview as an opportunity to sum up a career; on occasion that means gliding over unpleasant or difficult details. Our purpose was to allow each individual to tell his or her story. In each case, the final transcript has been approved by the interview subject.

Even with those caveats, what emerges from these interviews is more than a collection of personal reminiscences. The interviews shed light on controversies and policy decisions of a particular historical moment. At times, the interviews verge on the philosophical, as with discussion of capital punishment, race relations, or the decriminalization of controlled substances. Always, the interviews contribute to our understanding of the many facets of the criminal justice system – law enforcement, prosecution, incarceration, prisoner re-entry, and electoral politics – and reveal how New York has changed over the decades, as have social and cultural attitudes.

Justice in New York: An Oral History stretches across more than half a century, from the 1950s to the 2010s. Those years saw an unprecedented rise in social unrest and violent crime in the city, and then an equally dramatic drop in crime and disorder. If the interviews have an overarching theme, it is how the city – the police, courts, elected officials, and advocates – addressed and, yes, overcame those challenges. These men and women were actors in that drama, and their narratives stand on their own. The truth or mendacity of the story is for the reader to assess.

Chief Librarian Larry E. Sullivan guided this project from the start and participated in several interviews. Interim Chief Librarian Bonnie Nelson oversaw the creation of a new website for Criminal Justice in New York, a portal for the oral histories, trial transcripts, images and documents from Special Collections, and other resources. Special Collections librarian Ellen Belcher, cataloging librarian Marlene Kandel, and emerging technologies librarian Robin Davis contributed to the success of this project.

Jeffrey A. Kroessler
2013

Morton B. Silberman
Chronology

February 1, 1923	Born in Brooklyn
1943	B.A. Bucknell University
1948	Graduated from Columbia University Law School
1948	Admitted to the Bar
1960-1965	District Attorney of Rockland County, elected as a Republican
1962	New York State Legislature passed a law to permit members of the New York City Police Department to live beyond counties immediately adjacent to the five boroughs; at least 1,000 NYPD officers moved to Rockland County by the end of the year.
September 1963	Began investigation of Nyack Urban Renewal office
1964	Elected vice-president of the New York State District Attorneys Association
Nov. 1965	Elected County Court Judge, Rockland County
1968-1979	Justice, Supreme Court of the State of New York
1975-1978	Justice of the Appellate Term, Ninth and Tenth Judicial Districts
1978	Member, New York State Commission on Judicial Conduct
1979	Retired from New York State Supreme Court with three years remaining in his term.
1979-2005	Joined the firm of Clark Gagliardi and Miller in White Plains.
1995-2005	Judicial Hearing Officer, State Supreme Court, White Plains.
2005	Retired.

Morton Silberman
February 22, 2007

JK This is for the John Jay College Oral History of Criminal Justice. If you could introduce yourself.

Silberman Morton Silberman. I was District Attorney in Rockland County from 1960 through 1965, six years. It was pretty much a rural county at that time before it became a suburban county. I had one assistant DA, but by the time I finished, I had three assistants. My salary was twelve thousand dollars, and my second term it got very big, fifteen thousand dollars. During the six years, I didn't have one case involving a sale of narcotics. I didn't even have one case involving possession of narcotics.

JK It is a different world now.

Silberman Now, there must be from probably thirty assistant DA's, and they have what they call a Narcotics Taskforce loaded with cases. During those six years, I was permitted to have a law practice.

JK As District Attorney?

Silberman Yeah.

JK You were permitted to have a separate law practice?

Silberman Yes.

JK That would be unheard of today.

Silberman Oh, yeah.

LS So would a twelve thousand dollar salary.

Silberman But they also have a salary equivalent to a Supreme Court judge, which is a hundred thousand plus. But we had very few crimes of violence. A lot of burglaries of vacant homes. A lot of automobile theft, driving while intoxicated. It was a quiet county, as far as criminal cases.

JK It's a quiet position. The salary is decidedly modest.

Silberman Yeah.

JK Why did you decide to run for the office?

Silberman Because I wanted to be a judge, and after I finished two terms, I became a judge of the County Court. And three years later, I became a judge of the Supreme Court.

LS You were climbing the political ladder.

Silberman Yeah, it was.

LS You had to be elected District Attorney.

Silberman Right.

LS And so you started that way. So what kind of politics were involved in this type of a position?

Silberman At that time the county was very, very Republican. Today it's very, very Democrat. So I became a Republican. And it worked. And now I'm retired and I'm a registered Democrat.

JK In doing some background research for this, one of the problems I saw you had to deal with was the drinking age problem.

Silberman Oh, yeah.

JK New York at the time was eighteen.

Silberman Right.

JK And New Jersey was twenty-one.

Silberman Right. I strongly believed that it should stay at eighteen. One night, I took a young couple into Bergen County, New Jersey. We stopped at a few bars and I told them, "If they ask your age, tell the truth." They were both under twenty-one. At no bar, and we stopped at four or five, at no bar were they ever asked their age and they were served. They were both under twenty-one. I mean, people were going into military service at eighteen, voting, and that's where I stood on the age difference. It has since been raised to twenty-one and probably cut down on some car accidents.

JK As the District Attorney of Rockland County, you took some underage individuals, who were legal in New York.

Silberman Yeah.

JK But you took them drinking in New Jersey.

Silberman Right.

JK I can imagine how a stunt like that would play in the papers today. I mean, at that time you were making a point.

Silberman Yeah.

JK And did you in fact publicize this ever?

Silberman No.

JK No, this was for your own—

Silberman Yeah, to see what they should enforce, enforcing their age limit.

LS Did they have an ID cards or were they ever asked for ID?

Silberman No.

LS Not once.

Silberman No.

JK But you must had drunk driving or driving under the influence cases. That seemed to be where some of this was coming from.

Silberman And occasional bad accidents, yeah. And that was the main point.

LS Palisades Parkway isn't easy to drive at night when you're sober. So you can imagine if you're drinking.

Silberman Palisades Parkway I don't think was here yet.

LS 9W then.

Silberman Right. The Tappan Zee Bridge wasn't in. They both opened up Rockland. Today it's a very, very, very different county.

JK You did have a very low crime rate.

Silberman Yeah.

JK What were your relations like, as District Attorney, with the local bar association and the local attorneys?

Silberman Good. Good. Never a problem. I believe strongly in taking pleas, rather than trial. And we worked very, very well. The then County Court Judge would usually accept my recommendation on sentencing. We worked very well.

LS How many cases did you have to take to trial every year? Since you only had one assistant and yourself. Not like today.

Silberman That assistant mostly covered the town and village justice courts and many of those were at night, and so I would say on the average no more than five trials.

JK A year?

Silberman Yeah.

JK All the rest were pleas that the defendants entered.

Silberman Yeah. We had, I think, one homicide that went to trial and resulted in a guilty verdict.

JK One homicide in two terms in office?

Silberman Yeah.

JK So it doesn't sound as though you were compelled, as District Attorneys today are compelled to push for pleas from defendants, rather than going to trial.

Silberman No.

JK But it sounds as though you saw that it was a very sound policy to get pleas, rather than trial. Why was that?

Silberman Because justice was done without the expense of going to trial of both the DA and defendant. And there was always, almost always, some mitigating circumstances, and I always felt that justice was done by compromise.

JK Do you think you had a reputation as a severe District Attorney? I don't mean an avenging angel. But some would not compromise, they would ask for the maximum and so forth.

Silberman No. I did not have such a reputation, no. I think I was considered fair. Fair.

LS You brought up an interesting point a minute ago, a case that was going to trial and you said most of them were night courts and local courts. Now, given that you are a professional District Attorney and former judge, how do you feel about

these local Justice of the Peace that we have a lot upstate, that were not really trained and they try cases and, well, you've read about them.

Silberman There's an article in today's *Times* about it. They removed a woman up in a small town near Syracuse. I sat for several years on the State Commission on Judicial Conduct, so I saw many of such cases. We in Rockland are much more fortunate in that regard. I think all of the town and village justices are lawyers, where upstate many of them are not lawyers.

LS Some are mechanics.

Silberman And those are the ones that get into trouble.

LS Well, what do you think that we should do? Should they pass some kind of legislation that all of these Justices of the Peace should be lawyers? Can you do that?

Silberman Very difficult. Many communities upstate, they don't have lawyers and that would be the idea.

JK And they're such small places that if the lawyer in town is the judge, he makes it difficult to dispense justice and to have a practice.

Silberman Right.

JK What kind of practice did you have when you were District Attorney?

Silberman Very general.

JK Did you do criminal law before you became District Attorney?

Silberman No.

JK You did civil and personal matters?

Silberman Yeah. Except matrimony. I had one matrimonial case and I swore I would never have another one. And I didn't.

LS Ha. I can understand that.

Silberman As a County Court Judge, for three years I presided at three murder trials.

JK More murder trials when you became a judge.

Silberman Right.

JK I guess all hell broke loose after you left office.

Silberman Ha. Whatever it was, I presided at three murder trials. I am very, very proud of the fact that of the hundreds of criminal and civil trials that I presided at, and the hundreds of decisions that I made, not one of the trials or the decisions was ever reversed by an Appellate Court.

JK These are your decisions on the County Court?

Silberman Both.

JK Both County and Supreme Courts.

Silberman Yeah.

JK That's quite a record.

Silberman It is. Not one.

JK But several were brought up on appeal.

Silberman Oh, many, many. All the criminal cases. It was a most enjoyable career. It was.

JK I saw reference to one episode in Rockland County, which was an investigation of urban renewal in Nyack, but I didn't see whether it went anywhere or whether it was just a brief flurry.

Silberman No.

JK It didn't go anywhere?

Silberman No. It wasn't in my time.

JK Oh. Why did you decide to go on the bench when you did? I know it was your plan.

Silberman Yeah. I felt that was my calling. I felt that's where I belonged.

JK On the bench, as opposed to prosecuting or defending.

Silberman Yeah. I enjoyed being a judge. In all immodesty, I was good at it. I had a very good reputation for settling cases. I was good at settling cases. The lawyers had confidence in me and totally trusted me.

JK Did you see a change in the nature of the crimes that came before you, from the time you began in criminal court? It was from the 1960s to the late '70s.

Silberman Well, I only sat on criminal cases as a judge for three years. I still didn't see one narcotics case, even in the three years.

JK So for six years.

Silberman Nine years.

JK Nine years as a District Attorney and as a County Court Judge—

Silberman Right.

JK You didn't have one narcotics case.

Silberman Exactly, yeah. They all came later.

LS Are there any memorable cases you'd like to tell us about? I know you mentioned three murders. Are there any that stick out in your memory for a variety of reasons of interest?

Silberman I tried, as District Attorney, we had a case of a man who was found dead in a pond. At that time, we didn't have medical examiners, we had coroners. The coroner decided that it was a homicide. Our investigation clearly showed it was a suicide. The coroner was a physician. The decedent had been a patient of his and his widow was a patient. There was a very large insurance policy involved, under which the widow would not get any recovery if it was a suicide. The coroner clearly had a conflict of interest. I asked him to recuse himself. He refused. I brought in Milton Halperin, who had been a very well-known medical examiner for New York City. He looked at the body and definitely said "This fellow was alive when he went into the pond, based on stuff in his lungs." Everything pointed to a suicide but the coroner said homicide. The widow then brought a lawsuit against the insurance company who refused to pay based on a suicide. They wound up dropping the lawsuit, it was so clearly a suicide. Now, we had some fun with that one.

LS The widow didn't, though. You did.

Silberman No.

JK But that was, it seems as though that's a moment where old, rural Rockland County is meeting new, developing Rockland County.

Silberman Right. It was. Today it wouldn't have happened because today we have a medical examiner.

JK Did you institute any changes in the District Attorney's Office in the time you were there? How was it different when you left office, from the time you walked in the door?

Silberman I pushed hard for a medical examiner that resulted in our getting a medical examiner. I also pushed hard for a Code of Ethics for county, town, and village employees to avoid conflicts of interest. That was adopted by the county, town, and village.

JK But that, that's an achievement, getting that Code of Ethics through.

Silberman It was. The city had it; we were the first county to adopt it, and it helped. We were just beginning to grow, population. Probably helped.

LS Was there a lot of resistance to adopting this or pushing through a Code of Ethics? And also to bringing in a medical examiner instead of a coroner, because I know that in a number of counties and jurisdictions, they still just have coroners, who are not really, they don't have the credentials, medical credentials.

Silberman No. In fact, it was broadly supported.

LS We have a coroner on our faculty at John Jay College. Because I did an encyclopedia of law enforcement and he's the one who wrote the article on coroners, how they often got the job without medical credentials, it sounded like a good retirement job.

Silberman Yeah.

JK You were a Republican when you were here.

Silberman Yeah.

JK What were your relations like with the county Republican Party? Did you have any dealings with them?

Silberman No.

JK There weren't people clamoring for the District Attorney's job?

Silberman No.

JK Did they ask you to run or was this your idea?

Silberman There was one other person that sought the endorsement. He was an Assistant Attorney General and he was very active in Republican politics. But I had been an Assistant DA for six years before being elected.

JK Here in Rockland?

Silberman Yeah. I was *the* assistant. One.

JK You were *the* assistant.

Silberman Yeah.

JK So you spent quite a long time in the public sector of law, between being an Assistant District Attorney and the District Attorney, then County Court Judge and then Supreme Court Judge.

Silberman I did. Right.

JK When did you leave the bench?

Silberman I left in 1979. I decided to retire. I still had three years left on my term as Supreme Court Judge. I then became associated with a law firm in White Plains as counsel to that law firm.

JK What firm was that?

Silberman Clark, Gagliardi and Miller, a very fine law firm. Mainly because Henry Miller, who is the senior partner, I had great admiration for.

JK It must have been a difficult decision, since you had spent your entire life in the dispensing of justice, so-to-speak.

Silberman I had had enough. It was very satisfying, but now I wanted to do something else. And I'm glad I did.

JK It was a good moment to do it.

Silberman It was.

JK Because you had a full career, but you were still a young man.

Silberman I was only fifty-six when I did it.

JK Was it a difficult decision to leave before your term was up?

Silberman No. It was time. The time was right.

JK Did your wife encourage you to leave the bench, or was this a decision that was all ours?

Silberman My decision. I was also getting a little tired of listening to too many automobile accident cases. Alleged herniated discs. I knew the question that was going to be asked and I knew the answers. No, it was enough.

JK What kind of law did you practice after you left the bench?

Silberman Mostly counseling on personal injury litigation and malpractice.

JK Did you try any cases yourself?

Silberman No.

JK No, not at all?

Silberman No.

JK This was just your expertise.

Silberman Right.

JK And you stayed with that firm for how long?

Silberman Until the end of 2005.

JK Really?

LS So recently!

Silberman The last few years I had a driver who brought me to White Plains and back. And for the last ten years, I sat for the last ten years from '95 to '05, as a Judicial Hearing Officer in White Plains in Supreme Court. I ran the calendar part and settled many cases. What couldn't be settled I sent them to get a jury and then to send them to a trial part. I did that in White Plains for at least ten years.

JK It sounds as though your reputation as a fair judge comes back again on that.

Silberman It was. I did have the art of being able to settle many cases. Many cases. Lawyers had confidence in me.

JK So you've had an entire life in the law.

Silberman Yeah.

JK You were never a defense attorney, though.

Silberman No.

JK How did you personally cope with the changes in the law, going into the world of computers and computer research and electronics and all the rest?

Silberman You are speaking to a total computer illiterate.

JK And proud of it.

LS I just want to turn the clock back a little bit.

Side 2

LS What got you going in this direction, law, and what part of Brooklyn did you grow up in?

Silberman Crown Heights. A little different today, they tell me. My wife also grew up in Brooklyn. We've been married only sixty-three years.

LS Only?

Silberman Yeah. And they said it wouldn't last.

JK Well, the jury's still out.

Silberman Yeah.

JK But that must have been unusual for a Brooklyn boy to go to school at Bucknell.

Silberman Yeah, it was.

JK How did that happen?

Silberman I was a counselor at a summer camp before going into my last year of high school. There were two brothers who were twins, also counselors, and they were at Bucknell. So I heard all about Bucknell.

JK You probably wouldn't have heard about it otherwise, I would guess.

Silberman No. And during my senior year at Bucknell, I had enlisted in the Army Air Corps. This was 1943. I went into service in March of '43, came out in January '46 and my father wanted me to go into his business, which was a wholesale milk business. I wanted no part of it. My dear wife said, "Why don't you think about law

school?” And I thought about it, I applied, and I was accepted at Columbia Law School.

JK You went there on the GI Bill, I take it.

Silberman Yeah. Oh, very much. That’s how we found Rockland County. I had never been to Rockland County, but Columbia had made an agreement with the federal government to convert what had been Camp Shanks here in Rockland County into apartments for veterans. Columbia told us about it. We already had an infant daughter and that’s how we stumbled into Rockland County.

JK Where were you when, where did the army send you?

Silberman I spent a lot of time in Texas and then went to the Philippines. I was there about eight months, never saw any real combat.

JK A lucky man.

Silberman I was very lucky. Very. Yeah.

JK And you stayed here after Columbia Law School.

Silberman Yeah.

JK Was that inertia or did you just like the place?

Silberman My wife loved it, loved it.

JK That’s unusual for a Brooklyn girl.

Silberman She was smart enough to know that it was the right place and I agreed. We stayed. A carpet-bagger from Brooklyn became the DA of Rockland County.

JK Well, what else should we ask you? What have we not asked you about? Were there any cases when you were a Supreme Court Judge, that stand out?

Silberman There are a few, but I’m getting tired.

JK Well, then we will thank you for giving us your time.

Silberman I hope it adds something to your project.

LS Oh, it does.

JK It does, indeed.

Silberman Good. Good.

JK Well, thank you very much.

End

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