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Interview with

James Kura

Conducted by James Neuhard
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James Neuhard:

Can you state your name?

James Kura:

I'm Jim Kura. I'm the public defender in Franklin County, Columbus, Ohio.

James Neuhard:

(inaudible).

James Kura:

I'm a product of my environment. I grew up in the north part of Columbus, Ohio. A little suburb there. Part of the town now called Clintonville. Still live there. I'm 46 years old. I have been a public defender for all my professional career, which is 19 years now. Catholic kid that grew up through the Catholic school system. Went on to college, degree in psychology at Ohio State in Columbus, Ohio. Degree in law from Columbus state in Columbus, Ohio. Public defender's office in Columbus, Ohio. And that's my history.

James Neuhard:

(inaudible).
James Kura:

I moved to Washington state once and took the Washington state bar because I thought it was God's country. Still do. But I couldn't stand to be away from my friends.

James Neuhard:

(inaudible).

James Kura:

Did that around 12 -- I don't know around 14 years ago now. Quite some time ago. And I still pay my $35.00 a year in honor of being a member of the Washington state bar.

James Neuhard:

(inaudible).

James Kura:

Went to college in '64. Became a public defender in '73 in the same office I'm in now.

James Neuhard:

(inaudible).

James Kura:

Yep.

James Neuhard:

(inaudible)
James Kura:

No. Didn't do any clinic. So actually my specialty was corporate tax law. And what happened was that my girlfriend at the time was working for somebody who also a public defender. An older gentleman who became a public defender almost as a hobby. He still does public defender type work as a public attorney. And got a hold of me and he said, "Why don't you come down and volunteer? We need somebody." So I came down.

James Neuhard:

(inaudible).

James Kura:

Mm-hmm. They sent me into the old county jail. Typical of many county jails built at the turn of the century like a dungeon. My job was to go in there and see the clients. The clients had been in there -- in county jail -- some of them up to a year. Most of them half year waiting to see their lawyer -- their public defender. They never seen. I'm the first person they saw. And then their time counted towards their sentence. I go in the jail, walk inside, north end kid from Columbus, Ohio. And these guys would reach out through the bars and try and get a hold of me to come and see them. And interview them over their tiny space. And they'd be coughing up blood. And talk about their case. They're very desperate -- desperate to prove innocence, desperate to even get their case heard, desperate just to talk to somebody about their case.
James Neuhard:

(inaudible).

James Kura:

I -- I was never much -- I was a middle class, white kid from a decent suburb with father that was an engineer, and mother that was a housewife. One brother and one sister and one dog. I went to college at Ohio State, and they started a free speech movement there. And I marched in the free speech movement, because I thought -- seemed very strange to me that they didn't want a communist to come to campus to speak at our university. They thought it was dangerous for the students. And I thought that was against the whole idea of higher education even though I wasn't particularly concerned with the topic. Then in law school the Kent State happened while I was in law school. And Ohio State was one of the campuses that had spread to, and there was a riot at Ohio State. At that time I lived one block off the campus. And called in the police. Cordoned off the area. The ran squad cars up and down the street shooting these wooden pellets at people -- innocent people. It was really a police riot at Ohio State. They had secret agents that led the demonstrations to stir things up to arrest people later on. They threw the tear gas into the fraternity houses through the windows. Send all those guys out into the streets in angry states. We had to have ID. And they'd check our ID. They tried to keep the campus open, and I'd go to law school. One professor was very angry at me, because I spoke out in class about how difficult it was for us to go into class during this martial law. I used to have -- oh, I didn't have to, I guess, but I did --
there were tear gas areas. Blacks would be going on around you going to school. At times I remember picking people up who were tear gassed and carrying them on my back and get them on a path. Police troops marching up the street with the batons. That stirred me a lot. It touched everyone -- touched a whole generation in one way or the other, at least for most of us. And I guess to a great extent that was something in my awakening. What has happened since is really that I became public defender.

**James Neuhard:**

(inaudible).

**James Kura:**

Our office had been around since 1926 as part of the city charter of Columbus, who was very progressive at the time. Created a city charter, which is still on the books -- it never has been removed -- saying there shall be a public defender. And the public defender shall be part of the prosecutor's office and will serve as the representative in defense counsel for those indigents accused of crimes and those people who have civil problems. The defender not only was criminal defender, but also the civil legal aid person.

**James Neuhard:**

(inaudible).

**James Kura:**

People appear in municipal court. So the only misdemeanors may be felons who were having -- in Ohio you would have your first hearing in municipal court in the
felony cases -- bond setting. And, if you're indigent, you were available to have
the service. They didn't really have any requirements on it. And they've done it
continually since then.

James Neuhard:
(inaudible).

James Kura:
Well, yeah -- there's indigency, but there's no specifics. And for.

James Neuhard:
(inaudible).

James Kura:
Yes, they said. I recall -- I think they used the term "indigent."

James Neuhard:
(inaudible).

James Kura:
Yes. It's still there. We no longer do that.

James Neuhard:
(inaudible).

James Kura:
Well, according to city charter, I think the city would probably, you know --
basically hard financial times.

James Neuhard:
(inaudible).
James Kura:

We do now. We do now -- regular basis. Well, we do now. It's just there's an excuse, because it's part of the process of handling a criminal case. We deal with social workers, mostly would go out and handle like if there's a problem with a kid being taken away from home if they're in jail.

James Neuhard:

(inaudible).

James Kura:

At that time, yeah.

James Neuhard:

(inaudible).

James Kura:

Oh, because of city charter.

James Neuhard:

(inaudible).

James Kura:

Right. County's in charge. They represented themselves just like -- well, this is in 1920's. The counsel didn't appear until much later. In hitherland, it took quite some time for it to filter down. So it was in 1971 that we first started representing felons. There were public defenders before that. We did appoint attorneys in Franklin County, but that's the first time the public defenders took over the representation of felony cases.
James Neuhard:  

(inaudible).

James Kura:  

'69 I think. '72 when it was.

James Neuhard:  

(inaudible).

James Kura:  

I was doing felonies. That's when they were just moved into that work. And part of the reason was because there was this back-up in the jail I believe. That's certainly what I thought. It was kind of amazing to me that these people had been waiting a half year, for a year, just to see an attorney -- just to talk to the defense attorney -- let alone have some hearing or trial.

James Neuhard:  

(inaudible).

James Kura:  

There was one most of that time. Around the mid 60's. I don't remember the exact time. But the legal aid office of Columbus took over the public defender's work for the city of Columbus and expanded it to two attorneys. The next step was in the mid 60's to move it over into juvenile court. And part of the thing represented people in divorces that were poor. They expanded their service to represent juveniles who were charged with delinquency. And that became a separate function eventually. First of all handled by the divorce lawyers. But eventually, it
slowly evolved. And, in fact, they were a separate unit of the legal aid society. And then they took away the felony work when the judges decided that it just wasn't working out with appointed counsel. And they put two attorneys in there. When I arrived on the scene in '72 -- which I don't really got involved in how much -- how big the office was -- two misdemeanor attorneys, three juvenile attorneys, and three felony attorneys with two investigators. We now have 55 lawyers. So that kind of gives you an idea of the expansion that has gone on in the past several decades.

James Neuhard:

(inaudible).

James Kura:

We did -- we have always done all the misdemeanor cases that were indigent. We've done all the juvenile cases _____ that were indigent. We had, as long as I can remember, an agreement with the county that we would do two thirds of the felony cases, and assigned counsel would do one third. Now what has happened is that we have increased the number of cases. Because, when you only have a couple of attorneys, you can't handle the entire court docket. So what you do is, you just don't represent a lot of them even though they are indigent, even though they are entitled to counsel. And the one that you did represent, you did a very cursory job on. We used to -- when I came to the office -- after working -- well, when I came to the office as a misdemeanor lawyer, my training was that "This piece of paper is for jury trial demand. This piece of paper is for a judge trial.
Don't use the jury demands very much." And that was it. The training attorney left and went over to handle a private case in federal court, which he wasn't supposed to do. And I was the public defender at that point in municipal court. I had the in the first day -- morning of arraignments of people had to have their bond set. I think around 30 preliminary hearings of people being bound over. County court and we had the preliminary hearings. We actually put the witnesses on and I examined. And an afternoon full of trials -- judge trials and jury trials that the client should never saw or talk to except when you're there in the courtroom. I would talk to people in groups when I'd go back into the holding tanks. "All those who want to plead guilty, get on the left. All those who want to plead not guilty, get on the right. I'm the public defender. Okay. The people on the right -- da da da. Here people on the left -- da da da da." And that would be my interview with them until they walked into the court in front of the judge. And as they were reading the charge, we talked.

**James Neuhard:**

(inaudible).

**James Kura:**

That's why they may need a director. Because I would complain about it. I would say, "Somebody should have files for us." And these were radical concepts at the time. And so, I was bitching a lot. After six months, they told me I was going down to do felonies. There's no asking; they just told me that. And I went down. They had us in a old room about the size of this room -- entire ____ staff, which at
that time was three lawyers, two secretaries, and two investigators. And I was in
the courthouse, and it was just a little closet. ____.

James Neuhard:

(inaudible).

James Kura:

Felony court.

James Neuhard:

(inaudible).

James Kura:

Criminal and civil. And I asked them where my office was, and they said, "Well,
you have the toilet." And sat on the toilet. So they gave me a desk drawer at one
of the -- I didn't actually get a desk; I got a desk drawer. And that became my
felony job. And we had a system at that point where we would divide up the cases
the day before the trials. Those were felony cases including murder cases. But I
think they divided up the death penalty cases; I didn't have the death penalty at
that time. Prior to that. But everything else is divided up the day before the trial.
And that's when you first -- if you wanted to -- go that night to see your client, talk
to them about the facts of the case. So the cases were all prepared during the trials.
And we had lots of trials. And I remember once had two murder trials at the same
time. On the blackboard that they listed, they'd chalk in, so when people came to
the courthouse "What's going on?" So and so is doing the prosecution. So and so
-- two murder trials were going on. I was on both of them. I would go from one courtroom to the other trying the cases. That's how bad it was.

James Neuhard:

(inaudible).

James Kura:

Oh yeah.

James Neuhard:

(inaudible).

James Kura:

No. No.

James Neuhard:

How did you know (inaudible)?

James Kura:

Well, I knew it could be better, because I -- it made common sense that "Why can't you divide up the cases much earlier?" You know, it's up to me to decide how much. Sure I'm going to have too many cases. But there's no reason for this administrative decision in waiting till the last second to -- or even tell you what your work is, you know? So I -- I don't think -- you know, you had a sense of overwhelm with your work, but you -- you were there by being in a war. And this is the reality. And there's no place to go to do anything. You weren't the boss. You thought the boss was trying to look after your best interest.
James Neuhard:

What was the general education in the bar? (inaudible).

James Kura:

Yeah. It had a decent reputation, believe it or not, because the attorneys they had doing this work were extremely good attorneys. And they were like -- you used to see in the defendant movement. Not to mention now the defendant movement is taken over by a manager, so it's -- but the early defenders in the 70's were trial lawyers who had kicked up there to be made the head of the office and were terrible administrators and all that, but were wonderful trial lawyers -- especially good at trying cases by the seat of their pants. And a lot of the private attorneys -- paid attorneys -- some of them still do try cases by the seat of their pants. And they would go in -- I remember the guy who got me into the office. The guy who gave me advice -- said he never wanted to know about the facts of the case till opening statement is when you find out about facts of the case and the prosecutor. One time he jumped up to complain -- and the prosecutor waved opening statement in front of the judge and objected -- because couldn't find out what the case was about when the prosecutor made opening statements. But they had a good reputation, because the least -- even with all that, you knew the judges and you knew the system and you work within what you had.

James Neuhard:

It was pretty much -- did you have any sense (inaudible)?
James Kura:

We used to get together -- I remember we once got together some meeting early on. I think it was my first year, and it was with the Ohio people. And you know, when you were -- as a defender, you're so overwhelmed with work, you didn't eat lunch. You didn't even eat at home. You got drunk at night, beginning of the next day. It was just a continuous blackout type of thing. You didn't know what the hell was going on anywhere. But we sat down with the legal aid folks, and they were complaining about the fact of trial representation or something. I said, "Who are these folks?" Legal aid folks. They said, "They don't try." They said it like that -- "They don't like it if you talk about trying cases." This is the prejudice I got against the other half of our -- our group. And there was always that tension within the office. And I saw that tension in other areas too even at the national level -- tough mix of trying to mix these two groups, that are not exactly the same, together as one entity. But I got a feel for what was happening. I got a feel for the fact that there were some very good offices in Ohio. And ours and Franklin County was not one of them. Some people that were doing some good things and starting to get some federal funds.

James Neuhard:

(inaudible).

James Kura:

Extremely good office in Cincinnati. They had a reputation. The bar had set it up, but it was a private, non-profit organization -- public legal aid. A good reputation
for fighting and vigorously fighting, suing the counties over the jail conditions, which eventually led to their demise in the mid 70's. Basically Cincinnati, which is a very -- one of the more conservative, if not "the" most conservative part of the state of Ohio. The politicians kicked them out and put a public defender in charge who was an ex-judge and much more conservative. In fact, eliminated public defenders totally. He used all appointed counsel. He said the public defender could be appointed counsel, which is the system we have to this day. So those things can change.

James Neuhard:

(inaudible).

James Kura:

Dayton had a very good reputation. They had gotten a special grant.

James Neuhard:

(inaudible).

James Kura:

Kessler -- John Kessler who's now the judge. John Kessler was also one of the fathers and mothers of people that founded the modern-day public defender system in Ohio. A statute was written in the mid 70's. He was one of the chief drafts people, craftsmen of it. Also (Medkiefer?), who headed the association in Ohio of public defenders, helped draft that and work on that. And that's when I started getting involved --
James Neuhard:

(inaudible).

James Kura:

(??Nick Teaford??) was a non-attorney. Her husband was an attorney with strong political connections -- became the treasurer for our last democratic governor. So last year was our governor for eight years. And helped get this bill through the Ohio legislature. One I can understand was a rather unique concept in the nation about how to fund and structure public defender offices. And since then has been much-maligned, but yet often copied, because it's very popular with politicians. And it turned out to be a good way to get politicians to pass a public defender bill, although not considered the ideal type of situation. Although it's looking maybe more ideal these days.

James Neuhard:

(inaudible).

James Kura:

It gave a great deal of autonomy to the counties. And Ohio is a strong county state. The bill provided that the state would reimburse the counties 50% of their defender services, or indigent representation services, and they could set up either a public defender or an assigned counsel system. Or if they -- but if they did, they had to have some certain rules that they had to follow. Most of them weren't too hard -- like, "you should have libraries. You should have ______. You should have some of these minimum things." Set up some minimal rights. The attorney
discussions with the clients about things including finances are confidential. Some fairly progressive things. Public defender can be called in at any time even if you're not indigent on an emergency basis until some other attorney can get involved. Even prior to being charged. Some of those concepts. The bill remained intact up until the present time. There's been a few modifications, but nothing of great substance. Mostly what modifications have been in the funding area. Saying that the state would fund at 50% only if the money was available, which now issue has become a problem. For the first time they're cutting back on the state's share, and that's causing a political hassle. But that system was not liked by the national defenders who felt that really the best thing is they had to have a strong public defender office.

James Neuhard:

(inaudible).

James Kura:

I was then becoming the director of the defender unit of the legal aid office in Columbus -- in Franklin County. I was totally unaware of the bill until the last day when it was getting ready to be passed, which they called me in.

James Neuhard:

(inaudible).

James Kura:

(?Meg Teaford?) and John Kessler who called me in to talk to the chief person in the House that was inside passing it -- Harry Lehman of the House of
Representatives who's now a lobbyist. But he is the one that was the chief draftsman of it.

James Neuhard:

(inaudible).

James Kura:

Yes. And they were trying to make some modifications to it. But basically, Harry said, "This is too petty if you want to modify. We're putting this ______ the way it is." And boom -- the next thing I knew they split me off from the legal aid office. And all of a sudden I became director of this -- first director of the public defender office.

James Neuhard:

(inaudible).

James Kura:

I can't remember. It was the late 70's, I think, that I became first public defender and had to make this switchover. We were supposed to do county and court; that was the contemplation of the legislation. But we got around that by having them contract with us. We stayed a non-profit public defender office. And that was another modification they made later on in the legislation allowing that formally within Franklin County. So Franklin County in Ohio has all sorts of niche things - - part-time public defenders, legal aid offices of public defenders, bar associations that run public defender offices, and truly the entire gamut of things. And the state reimburses it all 50%. They have public defenders that are non-attorneys, and
they're supposed to be. There are like clerks in the clerk's office that sign out the cases that are called a public defender. You name it, we do it. There's been little enforcement on legislation about what you're supposed to do. As long as you send the bill in, they'll pay 50%, has been the method.

James Neuhard:

(inaudible).

James Kura:

Tully Rogers. J. Tullis Rogers was the first public defender. He lasted for around three or four years, was removed under force. They changed the law at that time that said that there was a 4-year term, the state public defender, and made it a -- at the will of the commission. The seven-member commission at the state level was five-member commissions at the local level that run the public defender offices.

James Neuhard:

(inaudible).

James Kura:

He had a reputation for not keeping a tight rein on things, not spending the money he had carefully. There was accusation that they went out drinking using state funds, investigators just out partying.

James Neuhard:

(inaudible).
James Kura:

The state -- the state didn't know -- state didn't know. So they were just created, and they were kind of feeling their way. So they would do trial work. They would do appellate work. They would do anything they felt like doing. I was called in as an advisor to advise them what they should be doing. I recommended they should be an appellate office. In practice, if you're going to be a trial office, except in needs for some circumstances, maybe in death penalty cases. And that is essentially what they became -- that and the habeas office, the death penalty cases. And what they remain to this day.

James Neuhard:

(inaudible).

James Kura:

Lionel is a legend. But his influence in Ohio in the defender movement has not been great, at least from my perspective. First of all, he had the joint office, principally a legal aid office. His only defender component is a misdemeanor component. In Cleveland the public defender -- and there is one -- does the felony and the juvenile work. Lionel does the misdemeanor work and the preliminary hearing -- or the initial bond hearing -- the felony cases. He had -- master politician in Cleveland, but he's not been active in any way in the defendant movement in Ohio. Actually I was never keyed in to it enough to know how Lionel played into that, but I think he's pretty much a Cleveland-area influence and not much outside that.
James Neuhard:

(inaudible).

James Kura:

Well, Ohio is the -- has been the fifth and sixth largest state through all that situation. It's a large industrial state. It's also a strong agricultural base. It has probably more mid-sized cities in it than any other state in the nation. You can't go far in Ohio without hitting a city of some size. Despite that, we have a certain feeling for being Ohioans. But certainly there is on most states regional jealousies, regional differences. Cleveland always has had great animosity towards Cincinnati and reverse, saying, you know, "You're taking too much of the state money." When you get into the state legislature, all that -- big county, small county, rural county, industrial county -- that mix that is Ohio so much plays off itself and balance itself off. We have traditionally through the past two decades also mixed into politics. There's been no one party that has controlled things. The Supreme Court has shifted back and forth between Democrats and Republicans. The senate has shifted back and forth. The governor's office has shifted back and forth. Until this past year, every state office, except besides the Supreme Court, was Democrat. Now every state office, except the attorney general, are Republicans. It shifts back and forth. So I don't know. That's the best answer I can give to that.

James Neuhard:

(inaudible).
James Kura:

No. No. The -- there was always a thing about, I think, "Well, can you help my constituent's son?" But not really that much. Really pretty much a hands-off approach throughout all this period of time. They've had free rein in defining what they're going to do. Now, for a long period of time, they had a liberal Democrat as a governor that was very much protection for them. This is the first year in their budget battles that they've had serious problems with the public defenders.

James Neuhard:

(inaudible).

James Kura:

The state office and the local reimbursement part of the state office. And the reason for that have been -- first of all, there's a major recession on now. Many state budgets have financial problems, cutting back everywhere. But also because consistently powerful people in the legislature viewed the state public defender as wanting to build an empire. And also, they viewed him as taking too much of a personal stand against the death penalty.

James Neuhard:

Who's he?

James Kura:

Randy Dan. Who has been outspoken and passionate and personal in his feelings about the death penalty. It's his personal desire in life is to rid Ohio and if possible the nation of the death penalty. The politicians in the state legislature have felt
that the state public defender should fight against the death penalty on a professional basis. But this personal thing of saying, "I'm going to get rid of it" was too much for them to stand. Plus the fact he's always going around saying, "I'm going to go around -- take over all the local offices" was something they were not thrilled with. And that has hurt him recently in dealing with state legislature.

James Neuhard:

(inaudible).

James Kura:

It played off that it hurt -- during the budget process this year they were going to cut back the state public defender by 20%. But what happened is -- going back and forth, they decided that they weren't going to try and get him. What they'd do is just go with the governor's budget, which called for a 5% cutback and the reimbursement for the local community to save money. But we're the biggest part of the budget. So what happened in that ragging is the state public defender came out okay, but us locals now are going to have to see a 5% cut unless we can figure out something.

James Neuhard:

(inaudible).

James Kura:

Never over. But the budget passed. The governor hasn't signed it yet, but he's not going to veto our part. Our part is his part -- is what he wanted. So it will be part of the budget. But they also created a special committee for the first time in a
decade and a half really since this law's been formed to study the public defender
and assigned counsel system in Ohio at the legislative level chaired by the chief
justice of the House Supreme Court who will report back on recommendations for
changes in the funding of public defenders and assigned counsel.

James Neuhard:

(inaudible).

James Kura:

It is -- it is all the above. One of the things, in order to get this money, state has to
fund 50%, they put on a $10 charge for all criminal filings -- for all criminal
defendants. Not the person who files the charges, but the defendant. Indigents, of
course, don't have to pay. This means that this money is raised principally by
people who commit traffic offenses -- speeding, drunk driving -- those type of
offenses. They've also found this a nice way of taxing people. And they've also
put a thing in there for victims of crime. The attorney general wanted to put
something in there for -- this year for a fingerprint computer. And that is now
being resisted by the municipal judges who are saying, "Now this court cost thing
shows the fees are becoming higher than our fines. It is too high for these low-
level people to be paying. You've got to stop it. No more." And, because there
was a movement at the state by Senator Ted Gray -- the longest member of the
Ohio Senate -- to get Randy there. And I was at the budget thing this year. In
front of me, in front of everyone, he came to the subcommittee. He was not even a
member obviously, but he was personally going to get Randy Dan there. They
thought he was empire-building. They thought his budget increased too rapidly. And he was going to get him. And that was his sole purpose -- the one thing he wanted out of the budget. And he chairs the senate finance committee. This is a no person to have problems with. And he and Randy did okay. That battle still exists. What Senator Gray did want to have, and still wants to have, is "This is a local problem to be handled locally. You collect this $10.00 locally; you keep it locally." The problem with that is, if you're in a small county with low crime and a freeway goes through it, you get a lot of money. If you're in a big county like Franklin County, you lose a lot of money, because the six largest counties in Ohio send two thirds of the people to prison. The people in prison come from those counties. That's where our crime is. That's where our problem is. So now you have the county commissioner's association split, because the small counties could get money from this; big counties would lose money. In the end they joined ranks and said, "No, we don't want it kept at the local level. We want the state to keep their share -- 50% back. In fact, even states should take this over 100%.

James Neuhard:

(inaudible).

James Kura:

The county's commissioners would love that. They consider that the entire justice system is a bane in their side. In Ohio they report that they spend statewide one third of all their money -- their general revenue money -- on the justice system. In
big counties it's over 50% of their general revenue fund they have they spend on the justice system. They say "We can't afford it."

James Neuhard:

(inaudible).

James Kura:

It includes the judges, prosecutors, county jail. But they say "It's too much. We have a lot of other things we want and need to fund. Stop it."

James Neuhard:

(inaudible).

James Kura:

Well, it's going to be integrated, because one of the ways to save money -- according to the state public defender, Randy Dan -- is that you create defender offices. Assigned counsel costs substantially more than public defenders, and you can save money if you have more public defenders. We have 35 public defenders -- county public defenders -- in 88 county states. The state public defender would like to have a lot more. A chief justice Tom Moyer is an interesting person. He comes from a strong Republican background, was never a trial judge, was never a trial lawyer as far as I know -- never handled any criminal cases. His main interest is good administration of government and especially of the handling of civil cases. His biggest fear of the criminal cases is that they will take over the system of justice and disrupt the handling of the justice system for the civil cases. He is a person who now chairs the national organization committee for judges on the drug
problem. He is not well-versed in all these areas, but he is a person that's going to work at it and learn. I now sit on the committee with him that I helped create called the Sentencing Committee of Ohio, which is going to rewrite all the felony and misdemeanor sentences in Ohio. And I just got -- recently got done sitting on committee with him to study the drug problem that's in the courts in Ohio in which one of the recommendations was, it's crucial that public defenders remain funded at 50%. This is one of the things public defenders can do.

James Neuhard:
(inaudible).

James Kura:
My personal belief is that I think Ohio really has a decent system. As a person who runs in office. Being funded from three principal sources, which is the city government of around 800,000 people, a county government, and a state, which all pay part of my -- my money -- 55 lawyers and over 100 employers. At different times they will have hard financial times. When that happens, I can go to the other and finance things by moving two people, by shifting some administrative costs, over to the fat -- where the fat is -- where we have extra money, can get extra money from the city this year; we can't get it from the county. The next year can get extra money from the county, get the extra money from the county. And the state's always great when they say "Whatever you pay county, we'll give you 50% of it back." So I rent space from the county. They give me money. I give them money back to the county. The county then gets 50% back from the state for the
space they own. So we can manipulate things around and play them against each other.

James Neuhard:

(inaudible).

James Kura:

Most defenders in Ohio are much worse shape than I am including the largest ones. Cincinnati, as I mentioned, has really an assigned counsel system, part-time municipal public defenders, paid at very low salaries. Assigned counsel is paid at extremely low salaries. Public defender opposing an increase in assigned counsel fees and being supportive of the death penalty. The Cleveland public defender who had -- who does not like -- turns -- for a long time turned down increases. Now he's fighting for some increases for his staff. But basically a lot of directors of office that were very worried about angering the county commissioners and the city and were very shy about trying to get extra money for their program. And a lot of public defender offices in Ohio that were two or three people office that were paid $15,000 for a lawyer here. Now in this age, you know, with no support staff, nothing.

James Neuhard:

(inaudible).

James Kura:

They would like, most of them, to be under the state's control and state public defenders, because they see it as a way of getting away from the local politics of
the judges and the county commissioners. Especially in a small county, it's very tight. How much can you afford to irritate these people that are paying you? They see it as a way of getting raises -- the state public defenders start out at $28,000. They start out at $15,000. They see it as a way of getting their staff, more support staff, and I agree with them. And I, for that reason, support it. But for myself it would be a bad move for Franklin County. In a way it would be bad in the long run too. Because it's like legal aid when they said, "We're going to be funded by the Feds." That was great when you start out, but you live and die by that. And the administration changes and you have that one main source of income. All of a sudden you're in trouble when they say, "We're going to recommend you be funded at zero." There's no place else to go back to. So this sharing of financial responsibility can be a very good political thing.

James Neuhard:

(inaudible).

James Kura:

It's an articulated theory by me. It's not articulated that much. There's a second theory too that, once the state takes over, you don't have the financial constraints on it. It can become a bureaucracy, which can possibly not become the best thing for the taxpayers that you have people that are just sitting around at desks that are doing nothing. County don't care. They're not paying for it. And state's too far removed to know what the heck's going on. So there's some taxpayer's concern
and good government concern about that -- something we defenders don't want to voice.

**James Neuhard:**

(inaudible).

**James Kura:**

Randy Dana has a -- if he doesn't go there himself in person, he has a full-time paid lobbyist. He's over there constantly. Mostly about criminal justice sentencing bills, but to an extent also about budget bills. There is no longer an association. In the late '70 -- right really after the time we created the public defender system, it died. And I was the person that buried it. At that time they made me the treasurer of the association. I found out that -- my bank account had just been seized by the IRS. We had not paid the Social Security taxes for an employee, so there's tax due on that. And I began a 2-year battle with the IRS as the treasurer. My first recommendation was that we did not have the funds to maintain the office and the salaries and we had to shut it down. And we did. Since that time I helped push -- and was one of the initiators of the idea for creating a state association of criminal defense lawyers, for which I am president elect this year and first public defender that will be the president. It is considered the most rapidly-growing and one of the healthiest criminal defense organizations in Ohio. Only been around, I mean the nation -- only been around four years. We teach now at the (?NACBL?) about how to form statewide defender organizations. That is now a vehicle for bringing
the defense bar together. Their lobbyist is me, you know. So I might spend a
good deal of my time in state legislature. I'm a politician. I am a politician.

James Neuhard:

(inaudible).

James Kura:

Not very often, although I have to wear many hats, which gets very confusing. I
represent, on the sentencing commission that I'm currently on, the state bar, which
includes judges and prosecutors, not the defense. And (indecipherable). I sit on a
committee of the lieutenant governor to rewrite the pro guidelines in which I
represent the defense bar. I testified in the state legislature representing the
criminal defense bar. Right now we may have a battle among ourselves. I've just
been appointed to this new committee on funding, which there may be a battle
about whether or not public defenders will remain being reimbursed 50% and
assigned counsel won't be. Which hat do I wear? I'm getting too many hats, and it
becomes a conflict problem. But the fact is -- like, when I started out defending
people, you're there with beasts and alligators, and you got to do what you got to
do, because there's not a whole lot of other people you can bring on board to do it.
And lobbying efforts -- defenders are one of the most important people in
legislatures. Because, like prosecutors in their large offices, they have the
freedom to free somebody up from the trial caseload and get them down to state
legislature when everyone else has to be in trial. Legislature meets, ____ times
and you have trials during the day and you maybe meet someone. Private
attorneys can't do that. They have to rely on public defenders unless they're so big they're going to hire lobbyists to go down and present their position.

James Neuhard:

(inaudible).

James Kura:

Part of it. But part of it is the fact that nature, luck -- a lot of luck. We have -- Columbus is a very -- fairly large city with a small town mentality. They have believed in the public defender system -- the politicians, both sides, Republicans and Democrats -- and I've been through shifts there back and forth. They have always supported us. They have never turned me down in a budget request. They brag to the other organizations they go to about their public defender office. They call us up for advice. We know how to go over there and keep them informed about things. We know -- I spend a great deal of time on things I call "furtherance of justice" where I try and go and help the judges set up an arraignment process that will save them time, have a magistrate do it rather than judges, so they save money for their county and it's no bother to them -- and we can get these things through smoother and it will look better and it will be politically sellable. I help and I sit on every committee there is -- overcrowding committee, budget committee. My office and other people's offices. And then to do that -- you're there in the power structure, they can't stab you in the back because you're with them. They can only stab you in the front. You spend a lot of your time helping
them. They appreciate that, and it comes time you need some help on funding or independent --

James Neuhard:

(inaudible).

James Kura:

Commission, which is a nice thing, because it really does help insulate you. The statute says that at the local level, if you're going to have a public defender, you will have a 5-member commission. Two of the appointees chosen by the common police court. Three of the appointees chosen by the county commissioners, serving staggered 4-year terms. That has greatly helped insulate public defenders from the politics of the town in all the offices in Ohio. So they tend to put people on there that after a while, they don't start out, become believers in the office. Once you get involved in the stuff, you certainly see public defenders are certainly not flipping the taxpayer off. They're one of the best buys around.

James Neuhard:

(inaudible).

James Kura:

Well, I've got 55 lawyers. I've been doing this for a long time, and I -- they won't let me hire law clerks. They normally wouldn't let me hire the secretary. But they do let me put in my office. See, I am the floating apex of my office. I'm the politician in my office. I don't run my office. I feel an office is best run the Japanese method -- the lowest level possible. The supervisors run the units. They
have to have multi meetings. The staff pitches around to change things. And the
secretary is really in control of the units. And I only come in to handle the speech.
And they pat me on the head when I try and get too much involved or something
at the actual office. But my job is to get the money and to work out a way -- the
other things -- legislation and stuff. But I do get involved with the hiring,
although I find that I am not the best person to pick resources. And that's what
we're trying to do. We're trying to pick someone that's going to be a great
racehorse -- that's going to be a winner. And that's a unique personality. You
know, it's the most meticulous people sometimes the worst slobs. Sometimes the
worst person with paperwork is the best defense for you. And so, I try and find
supervisors in my office that are good at picking people. I sit in on it. And I find
that in that picking process of picking those lawyers, I almost always ask them, I
call it 'their' question, "What do you eventually want to do with your career way
down the road? What do you want to do?" And after asking this of all the
candidates and seeing the people come in the office -- the ones that become
winners, and ones that don't -- I find that the correct answer to that question is, "I
don't know." The people that say "I don't know what I want to do" turn out to be
the best public defenders that stay on the longest and do the best job. There are
two types of people that we have in our office -- those that stay 15 years and those
that stay two years. Basically people that stay two years, they come in to kind of
get a feel for trial work or defense work and move on with their career. And the
others see it as their career. As long as you can make their living situation tolerable, they will stay. And that's what we've tried to do.

James Neuhard:

(inaudible).

James Kura:

Yes. Although you don't have to be a Democrat to be a defender or be involved in this. And we have a mixture. We don't know what their politics are. We've been successful to resist political appointment to our office. And having a mixture of people that are strong Republicans, involved in Republican politics, involved in Democratic politics, means that those people have their own individual lines of communication to the power structure, which gives you another power base basically of those folks. Philosophically, you may come in as a middle class kid, as a person from a poor ghetto. In the end, you become almost as one, because of the nature of the work. It is not popular. Every time you go somewhere and people ask you, "How do you defend a guilty person?" I'm so sick of that question. "How can you sleep at night doing this, you know?" So you don't have a lot of friends. Certainly you don't have any friends in the courtroom. The judges aren't on your side. They want to prosecute the cases. They tend not a lot to think almost everyone's guilty. The prosecutor, of course, because of the system. Clearly your defendant. Police are. Witnesses almost all their witnesses. You rarely have a witness. The client figures that, because you're free, you aren't any good and he wants a real lawyer despite what you do for him. So you're pretty
lonely. You can't trust your client. Might sue you. Will always bitch about you.
If you win, it's because he was innocent and he was good. If you lose, it's your fault. As a result, you become very close-knit. What's happened in our office is, they've taken us out -- one of the ways they've taken us out is in sports. They have -- they call themselves the public defender ducks -- a softball team and a basketball team. Once a year they have what they call it a sting game where they go out. One year they had -- what was it? Rambo duck. They all dressed up as Rambo, went out and played as Rambo, being in a helicopter to play the game, videotape and made a movie, and then a banquet. It's that type of self-cheerleading. When you win a case, they put it over the PA system and everyone cheers. A lot of kidding back and forth about the people that are very yuppie and very Republican. The people that are also Democrat liberals kidding each other. And they're all there in our office. They're all as one in what they're fighting for, because they think of themselves as justice fighters, as freedom fighters. And the politics and all the feelings about finances, your state -- are you conservative, are you liberal -- all go away when you're in that battle.

James Neuhard:

(inaudible).

James Kura:

Passionate people. People that fight tooth and nail on every case. That every case counts. That every case they give it their all. Be it a misdemeanor, be it a felony, be it a probation case, be it a probation revocation. Attorneys who tell me that --
things like, "I only have so many quivers in my chute." Arrows in my quiver.

And I'm going to -- and each time it diminishes it. Each time I take a case. When I stand in the courtroom, I sweat before the litigants. I throw up each morning for trial. I have to eat only certain things when I am on trial. Not only do I find that is something that is normal, it's something I expect. When I talk to the new attorneys, when I happen to be out in the courtroom, I tell them that there's no excuse for losing. That winning is everything. That there's no cheating, because you'll be known by your ethics. It's always a tight-knit system. But just because it's a bad case, there's someone out there who could have won it. And it's your job to win it. And it's your job to fight and make sure you win it. Be at the plea bargain. Be at the trial. And that's pretty much -- since I'm the head of the office -- my input filters down. The best people are the people that, I think, take that philosophy to heart. Unfortunately, that makes them a wreck often in their personal life. It burns them up. And now, after being in this movement now for 18 years and being with people who -- in trials, my office for about that long, I see them reaching middle age now and having a tough time to try and avoid the burnout of this constant battle.

James Neuhard:

(inaudible).

James Kura:

When they did polls nationally of studies of attorneys and they looked at the criminal defense lawyer, they found that, compared to lawyers specialized in other

37
areas, a criminal defense lawyers dies at the youngest age of all the professions, has the highest rate of divorce, has the highest rate of alcoholism and drug addiction. It is because of the nature of that battle. Even civil litigants rarely go to trial. And, when they do, they always say, "You know, I used to defend people for criminal cases. Now I defend them for civil cases. Despite the fact it's a lot of money, it's not someone's freedom." And, of course, our state like many states, it's sometimes their life.

James Neuhard:

(inaudible).

James Kura:

Structurally about how you keep a defender office, defendant movement going?

James Neuhard:

(inaudible).

James Kura:

Oh. Oh. How do you keep it together? How do you keep an office?

James Neuhard:

(inaudible).

James Kura:

Freedom. Freedom. The independence of the lawyers. Independence of the staff. Secretaries. Social workers. The law clerks. You don't have time clocks. You don't have someone telling you how to do things. You don't have someone looking over your shoulder saying, "You should have done it this way." You don't
have someone saying, "Hey, be careful -- there's some politician behind this. Don't irritate the judge too much."

James Neuhard:

(inaudible).

James Kura:

Well, that's my job is to make it good business. And part of the way of making it good business is that giving people freedom is a cheap financial fringe benefit. It doesn't cost government anything. But yet these people will work hard, because they are their own bosses. They will come in late at night. They will stay there at night. They're not on a time clock. They're on their own personal responsibility for what they want to get done. And they can go shopping in the afternoon when their secretaries, and have a 2-hour lunch playing poker some time, but they know that their job is they have to get done. And as a result our secretaries -- there's one secretary per ten lawyers. Our misdemeanor lawyers handle 200,000 clients a year. Our caseload is one of the highest in the country throughout all our units. Our staffing of support staff, some of them -- at least for the secretaries -- is one of the highest anywhere.

James Neuhard:

(inaudible).

James Kura:

Caseload. My office, like most offices now.
James Neuhard:

(inaudible).

James Kura:

Well, they take independence for granted. When they leave the office --

James Neuhard:

(inaudible).

James Kura:

They might -- well, the person -- they would choose probably caseloads. But the people that give them --

James Neuhard:

(inaudible).

James Kura:

They take it for granted. It's like us in this country taking freedom for granted. You know, we say "Bill of Rights." No one really cares about the Bill of Rights, because we take it for granted until you lose them. That's what we defenders are so worried about. But the way you tell in an office is that we have a large number of people that left our office and come back. Left our office to go to lucrative businesses. Came back at lower salaries because we take them back at the salary they left at. And they say what brought them back is the freedom. The freedom to handle your case. Because even in private practice you really have less freedom. You're dictated lots of times by the client and getting the money and spending all your time trying to get the money from the client and scaring the client into giving
you the money. By our office you have a pay system. You do what you want.

And they realize that the freedom is the most important thing.

James Neuhard:

(inaudible).

James Kura:

Yes. Yeah. Clearly. And lots of times we don't realize that. But one of the problems about our system of justice is, pay shift evolving. The defenders are taking it over. We started out, you know, look at my growth. I'm 65 lawyers now. Defenders quite often we see 85, 90% of all the cases appearing in the courthouse -- all the criminal cases. There is no private defense lawyer. They are 'it'. They are the entire defense. That's a scary system. First of all, I don't believe in it. I believe in a mixed system. And I think it's important to have that. But it's a political system. We are paid by government. We are part of the politics of it. It's an unpopular part. It is easy to be taken over. But lots of people for lots of reasons -- and one of which is to keep the cases moving -- that would like to take over our freedom and say, "Listen, these guys are guilty. Let's not push this. Let's not have all these trials. It's too expensive. Let's keep this caseload rolling, alpha. We got to get through this docket today. We got to keep moving. I'm under pressure from the judge. Prosecutor's under pressure." And that's the fear -- that it will become a processing system rather than an adversarial system.

James Neuhard:

(inaudible).
James Kura:

The movement --

James Neuhard:

(inaudible).

James Kura:

Well, my defender office, because of the realization of the politics of it -- and they're working constantly in our office on that part of it -- we will be in better shape than some. Nationally, what you will see is this country is going to become poorer as our competition with the rest of the world gets worse. As we come in a worse position. And that is outside of the defendant movement control. We are going to see more crime. We right now have the highest crime rate in the world and the highest incarceration rate per capita in the world. That's going to get worse because of education not being done properly, because our ghettos are not being handled. There's enormous waste. There's enormous number of blacks -- a quarter of our young male blacks are now in prison under supervision -- that we are going to have this system growing and become a growing problem. The way government's going to look at this with less resources -- "What are we going to do? Let's find cheaper ways." What's going to happen is that there's going to be more processing. There's going to be states without the private bar there to help balance the public defender -- help fight the cause. There's going to be a takeover of the defense function by the judiciary, by the legislature. They are going to try and push it into a system of processing people through and picking what we do with
these guilty people. It will become, "This guy should go to this halfway house."
And what defenders will become is a three-judge panel -- judge, prosecutor, and
defense -- where they're the liberal member of the panel deciding on where this
person is going to be punished and in what way. And guilt or innocence will no
longer be much of an issue. That does not -- like Scrooge -- wait a minute, I want
to finish. This is like Scrooge in Christmas Future -- Scrooge when he looked into
the grave said "Ghost of Christmas Future." And saw his grave and said, "Is this
what it must will be -- or what it may be?" I say this is what it "may" be. History
has not yet been written. It's up to us now -- our generation is fighting it to make
sure that doesn't happen. And it's important for us as a movement of defense
attorneys and NACBL. Fight to make sure it doesn't happen.

James Neuhard:

(inaudible).

James Kura:

It's already happened with the courts. As they take on the war against drunk
drivers and the war against drugs, everything else. It's the court's caseload that's
being taken over. And you see throughout the country the judiciary needed.
______ at the national level saying, "We can't handle it anymore. We need ___,
or we have to close down our civil dockets." It's five years waiting to get through
civil cases. What can be done? The legislature responded, "We can't afford you.
You judges cost a quarter of a million to half a million dollars a year." Is what it
costs in Ohio for a judge to take in all the sundry things that you have to have. So
you're going to see the judges processing the cases. That's going to be more -- it's not us; it's the system of justice as a whole. We're going to have to find some very innovative ways out of it. A lot of it's going to be things we haven't thought of. We defenders have to involve in. If we can't just say "The caseload is too high, give us more money." We're going to have to say, "Judges, how do we get rid of some of these cases? Let's divert the drugs. Let's divert these folks. Let's get them out of our system of justice."

James Neuhard:

(inaudible).

James Kura:

Oh. There isn't. There's nothing like winning. Winning, as I say, is everything. When you win, you are on top of the world. When you lose, you are on the bottom of the world. And I've had some cases, because of the nature of my position, I take on complex cases that take time -- where, when I win, the courtroom doors are sealed and no one is allowed in and out. Where people start screaming and praying and crying. Where you lose and the people collapse. They're sentenced to death. And as the legislature in this country increases our penalties as their way to handle the crime problem, the way we're going to now where people get 15 years on non-capital cases, run-of-the-mill cases. And then you go to trial -- typical that you are bringing in the courtroom. And, if you lose, you pay the price of a much larger sentence. So everything hinges in the balance in the trial. You're always fighting from down under. Jurors now, when they're
surveyed in polls from around the nation, indicate they presume people are guilty even though that's not what the law says. So when you win, it's like nothing else in the world. And that's one of the things that keeps people in it. That's one of the things that make it such a glorious thing. And the fact is that there is no fix here in this country. They take those 12 people from off the street. There's no way that anyone knows what they're going to do. It's not like most systems that you're dealing. We say, "Now, you know what this politician is going to do, what this judge is going to do." What's going to happen in this county procedure no one knows. When they go back there, argue, screaming, they come back and they vote.

James Neuhard:

(inaudible).

James Kura:

It is our independence. It is our citizen's independence that we are tried by our fellow citizens. And they do a lot of problems about with it. Maybe they aren't a cross section. They certainly aren't -- certainly not of our clients. But there's no fix. And that's wonderful.

James Neuhard:

(inaudible).

James Kura:

Either. I'd like to think of -- having carried on this mantle, there's many other people of justice. That people like Clarence Darrow -- this country has carried on
our founding fathers and freedom -- you know, of equal justice for all. And hand it down to my children and their children. For them to take up. Keep going.

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