

February 25, 1974

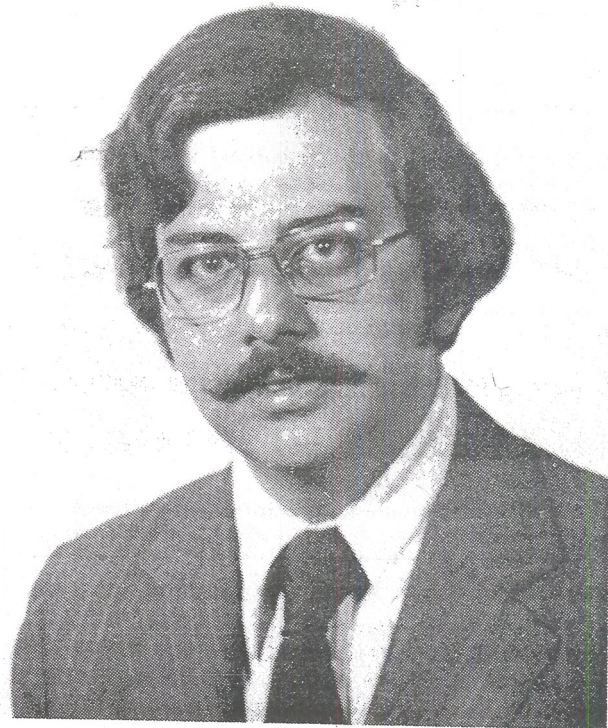
THE COLUMBIA LAW ALUMNI OBSERVER

Columbia's "Watergate Eight" On Special Prosecutor's Force

On May 18, 1973 Professor Archibald Cox was named by then Attorney General Richardson as special Watergate prosecutor to investigate allegations of wrongdoing in the executive branch of the United States government. The special prosecution force that Professor Cox organized has gripped public interest since its formation, making the force's attorneys media subjects of almost daily focus. Eight of those attorneys are Columbia Law School graduates.

They are **Philip Allen Lacovara** '66L, Counsel to the special prosecutor and as such the number "two and a half" person on the force; **Richard Ben-Veniste** '67L, Assistant Special Prosecutor in charge of the Watergate task force; **Richard J. Davis** '69L, Assistant Special Prosecutor in charge of the political espionage task force and co-head of the ITT task force; **Charles F. C. Ruff** '63L, Assistant Special Prosecutor on the campaign contributions task force; **Thomas F. McBride** '56L, Associate Special Prosecutor in charge of the campaign contributions task force; **Robert L. Palmer** '71L, Assistant Counsel; **Jill Wine Volner** '68L, Assistant Special Prosecutor on the Watergate task force; and **Richard Weinberg** '72L, Assistant Counsel. Four of the five task forces into which the prosecutor's force is divided are headed by Columbia Law School Alumni.

To speak with anyone on the Watergate special prosecutor's force, it is first necessary to be cleared and



Philip Lacovara

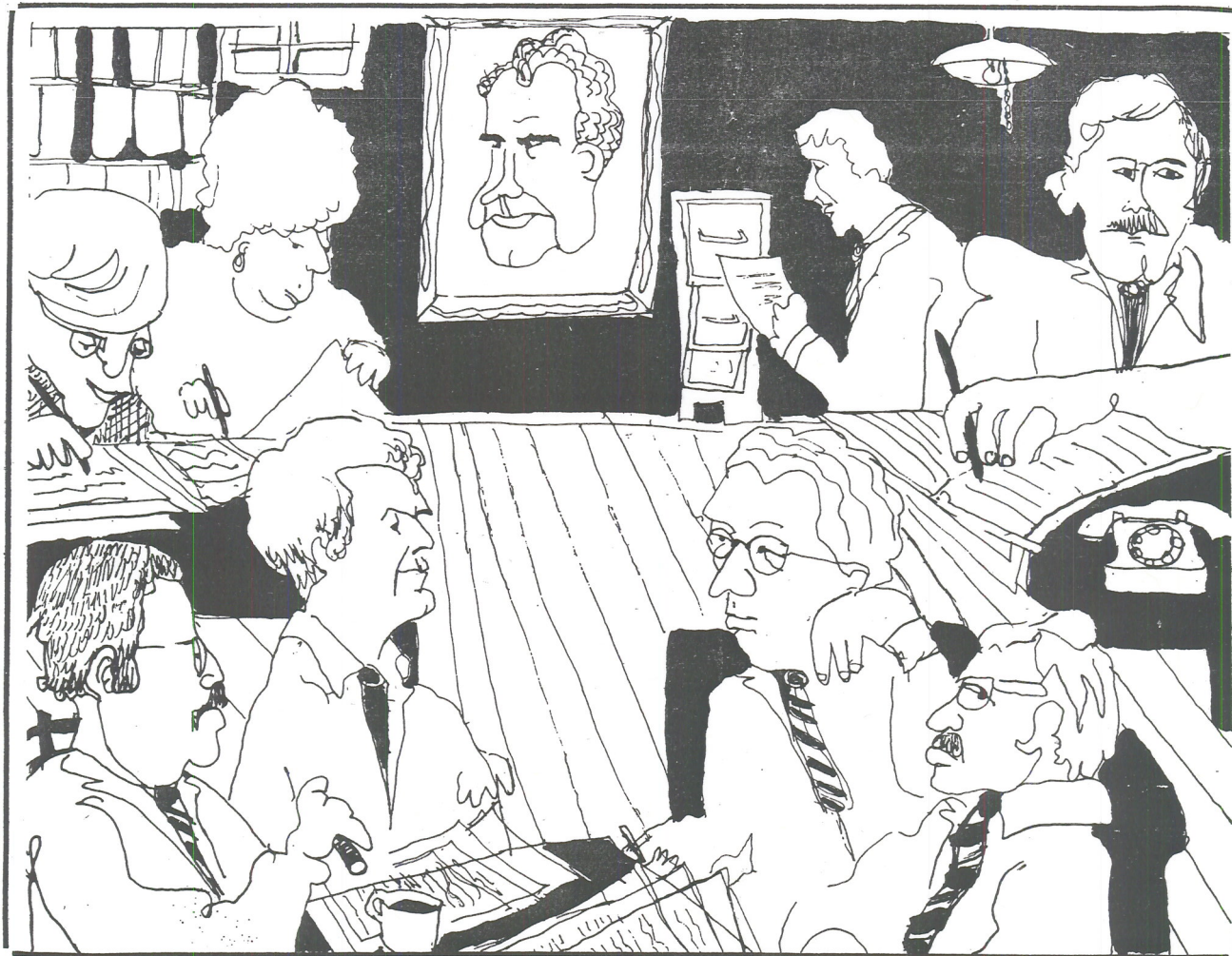
registered by two pistol-armed guards in the building at 1425 K Street, N.W. in Washington, D.C. One is then given a "Watergate rosary," i.e. a neck-chain strung with an identification tag. (The check in and check out procedure must be gone through each time one uses the lavatory—which is entered only after operating a combination lock.) Being processed by security guards does not permit meandering through the force's offices. An employee escort must conduct the visitor's every step.

Stark white walls, harsh fluorescent lighting, a minimum of personal mementos, and windowless or closely shuttered offices belie the atmosphere of comradery within. The eighty employees—regardless of rank—address each other by first name. The esprit is palpable.

Past the switchboard, whose operator is engrossed in a Hitchcock mystery, through the secretariat, is the

office of Counsel to the Special Prosecutor. Philip Lacovara '66L is medium tall, soft-spoken, amiable. As a law student he was first in his class for each of three years. He has been a lecturer-in-law at Columbia, in private practice with the New York City firm of Hughes, Hubbard and Reed, clerk to Circuit Judge Harold Leventhal of the United States Court of Appeals in Washington, assistant to then Solicitor General Thurgood Marshall and subsequently to Solicitor General Erwin N. Griswold. He served as special counsel to New York City Police Commissioner Patrick V. Murphy, in which position he was the principal civilian member of Commissioner Murphy's staff. Before joining the Watergate force he held the position of deputy solicitor general of the United States. He and his wife Madeline are the parents of seven children. He is thirty years old.

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“Once this office was set up it became a rallying point for people who wanted to give information . . .”

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Mr. Lacovara's two basic areas of responsibility are (1) advising the special prosecutor and the task force leaders on questions of law. These range from such "esoteric questions as executive privilege to rather technical questions, such as the format in which certain indictments should be drafted." Included are advisory memoranda to task force leaders on the kinds of criminal violations that may have been committed by persons engaged in certain forms of conduct. In addition to his role as inside general counsel, he is (2) responsible for conducting all of the courtroom litigation of the force. The two major categories of litigation so far are pre-trial motions on questions of law (e.g. motions to dismiss on one ground or another, change of venue because of pre-trial publicity) and handling of appeals.

Seven full-time lawyers work for Mr. Lacovara. Some of them help out on task force matters as a way of becoming more aware of how particular task force business is developing and as a way of broadening their own experience. Task force people, in turn, render assistance to the general counsel.

Phil Lacovara puts in 11-hour days and weekends, something of an improvement over previous 16-hour days. Describing himself as a "family man," he also manages to make time for his home and family. Mr. Lacovara sees the role of spouses of those on the force as particularly difficult. The organization's high visibility causes them to face the same things, but they don't know all the facts. (Everyone on the force is unremittingly close-mouthed.)

When questioned separately about the amount of independence they have in performing their work, each of the eight alumni lawyers emphasized that they had a great deal. Phil Lacovara responded, "I'm extremely independent. I decide what I'm going to work on. I call it as I see it. I don't feel it necessary to reach a conclusion because it might be the more comfortable one. It's as much as a number two or two and a half person anywhere could ask for."



Richard Ben-Veniste

Richard Ben-Veniste '67L, as head of the Watergate task force in charge of investigating and eventually prosecuting the so-called break-in and cover-up case, has been one of the most visible lawyers on the force. The thirty year old, attractive bachelor, known for his wit and humor, has become sensitive in his dealings with the press. Understanding how to deal with the press is, he claims, a difficult problem. He speaks in the same vein as the others on the force: "We don't want to be uncooperative with people who have a function, but their function isn't ours." While professional ethics forbid him to discuss specifics of his work, he will speak about his optimism regarding the effects of Watergate. "I have a mind which is not totally accepting of everything, but I think the system is acquitting itself as being able to handle this kind of thing. There are precious few countries in the world that can claim systems so flexible as to permit investigation of the

highest members of the executive department of the government in the way that has proceeded to date. So I think it's terribly reassuring to people that we're able to do this kind of thing. . . . I think people are a lot less apathetic than a year ago."

Mr. Ben-Veniste's office is a bit less spartan than the others'. The walls are hung with David Levine caricatures, some framed photographs, and a commendation certificate signed by Robert Bork—in front of which is a plastic marijuana plant. Mr. Ben-Veniste smokes whopping cigars that are made in Miami from Honduras tobacco of Cuban seed.

After Columbia Law School, where he was a Stone scholar, he went to Northwestern University School of Law on a Ford Fellowship and earned an LL.M. degree. From 1968 through July, 1973 he worked for the United States Attorney's office for the Southern District of New York, where he rose to be chief of the official corruption section. He describes the U.S. Attorney's office as a "great place . . . the best place to learn how to be a trial lawyer."

When urged to uphold his reputation as a raconteur he delivered the following: "Sam Powers, a member of the President's counsel team was on the stand being examined about what they had done with the tapes. He was relating how they had taken them out to the N.S.A. facility in the suburbs to have them duplicated. But the way he put it was that he and a representative of the special prosecutor's office went out to the facility to 'dupe' them. Clearly he meant duplicating the tapes. I stood up and suggested to the court that he was referring to the tapes and not the prosecutor."



Richard J. Davis

Richard J. Davis '69L heads the political espionage task force ("dirty tricks") and is one of two in charge of the ITT task force. He was an editor of Law Review and won the John Ordronaux Prize for the highest average in his graduating class at law school. He says he "got used to working hard at Columbia."

After graduation (Magna cum Laude) he clerked for Judge Jack B. Weinstein of the U.S. District Court of the Eastern District of New York. A year later he became assistant U.S. attorney for the Southern District of New York (1970-73) and assistant chief appellate attorney (1972-73) for that office. He agrees with Richard Ben-Veniste that work in the U.S. attorney's office was what best prepared him for his current role. He sums up what he learned there in one word—"responsibility." He says he is doing the same kind of work now as he was before. "The difference is that the stakes are higher."

For investigative work he uses the F.B.I. and the grand jury (mostly the latter). "The F.B.I. is most useful when there are masses of people to interview," he said.

The ITT task force deals with the questions of (1) obstruction of justice (Was there a fix?), (2) whether

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perjury was committed by any witness at the Kleindeinst hearing, (3) whether there was obstruction of the SEC investigation of ITT, and (4) whether perjury was committed by witnesses in the House Commerce Committee investigation.

The "dirty tricks" task force obtained the final indictment of Donald Segretti, who is now in jail.

He most enjoys "that certain sense of enjoyment that gives you ulcers," he said, referring to the "tough decisions" he must make. The worst aspect? "Having to be so incredibly careful about every aspect of your life," replied the 27 year old bachelor.



Charles F. C. Ruff

Charles F. C. Ruff '63L started working with the campaign contributions task force last July after Thomas McBride called to ask if he was interested in the job. He was interested enough to take it on in addition to his work as an associate professor at Georgetown University Law Center. Mr. Ruff, a large man, in a wheelchair, was a Stone scholar at Columbia Law School. From 1970 to 1972 he was chief of the management and labor section of the criminal division of the Department of Justice, where his work centered on labor unions. Last year, when he was a special assistant to the Attorney General, a case on which he worked resulted in the conviction of Tony Boyle. Boyle, former United Mine Workers' leader, currently under indictment for murder, had made political contributions from UMW funds. On the Watergate force, Mr. Ruff focuses on general problems of violations of campaign regulatory statutes.

Mr. Ruff feels that the campaign contributions task force has already had a lasting effect by publicizing the area of corporate contributions to political campaigns. Prosecution of those involved has made people realize that the law is going to be enforced. He feels too that the fellow who sees something wrong going on will now be more likely to pick up the telephone to call the special prosecutor's office or the U.S. attorney. "Once this office was set up it became a rallying point for people who wanted to give information. . . . One thing it has accomplished by being set up separate and apart from the Department of Justice is that people have felt this is someplace they can go. . . . That's what prompted the corporate officials who

came in and made voluntary admissions. I don't think they would have done that had this enforcement been left in the Department of Justice. Not that people in the Department of Justice aren't competent or honest . . . they are. But there was a feeling that the Department was already linked, through Mitchell and Kleindeinst, with the President."

Mr. Ruff says that in a few years the "ballgame may be played as it is today." Perhaps, though, now that the press knows it can open doors and the public knows what goes on, it won't be quite the same.

Concerning the press, it "should have absolutely all the access it can get to the operations of government—outside of the special prosecutor's office." He tells of the feeling of total security the prosecutor's office thought they had until information was leaked. It turned out that the way it got leaked was that reporters were going through the trash, which was left on the curb every evening at night, with flashlights. Since then burn bags and paper shredders have been installed. Burn bags are not marked "classified" or "top secret." They have such commonplace labels as "fertilizer" or "fast grow grass seed."



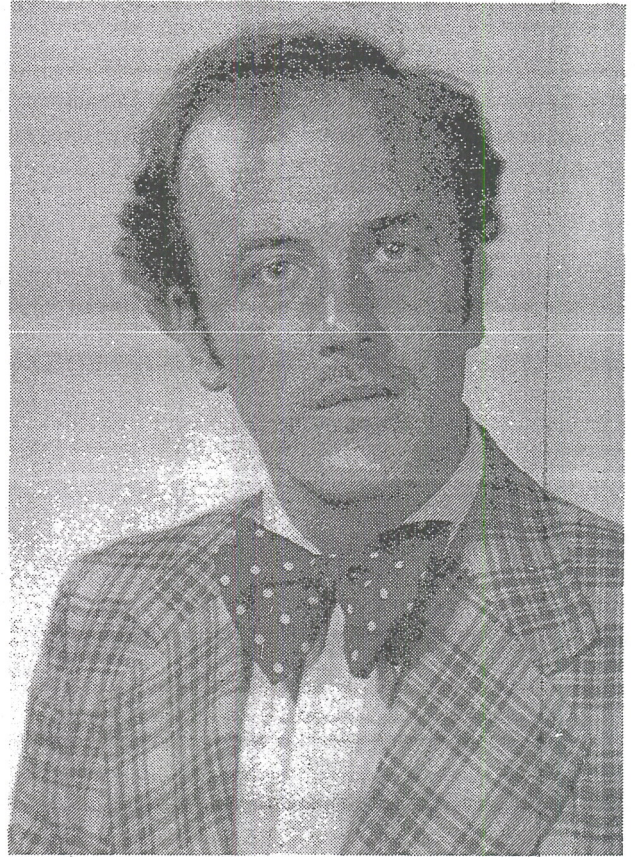
Thomas McBride

Thomas McBride '56L heads the campaign contributions task force, which investigates violations of Federal law dealing with favoritism and with contributions. It is he who sets priorities deciding "which investigations look the hottest." So far a number have been disposed of by guilty pleas. At this time quite a few investigations are under way in the improper influence area. In this kind of prosecution, says Mr. McBride, "the lawyer becomes one-third investigator, one-third trial lawyer and one-third legal researcher."

Before joining the special prosecutor's staff Mr. McBride was staff director of the Police Foundation, a private organization involved in funding programs to improve law enforcement. He has served as an assistant district attorney in New York City, where he specialized in the investigation and prosecution of organized crime cases. He was also with the organized crime section of the Department of Justice and headed one of the centers of the National Institute of Law Enforcement and Criminal Justice in the Justice Department's Law Enforcement Assistance Administration.

Thomas McBride is an outdoor man. He rides to work on a handlebar-radio-equipped bicycle. The day after the firing of Archibald Cox and the resignations of Attorney General Richardson and Assistant Attorney General Ruckleshaus, he went on a solitary hike along the Goat Trail, which runs along the Potomac. At one point, as he came over a precipice, he saw a familiar "iron-grey head." It turned out to be Archibald Cox, also hiking alone.

The aspect of his work that he likes best is "making progress in resolving very disturbing questions . . . working as lawyers . . . without emotional or political consideration. . . . It makes you proud of your profession." The aspect he likes least is having to keep his office window blinds perpetually drawn for security reasons.



Robert A. Palmer

Robert A. Palmer '71L says that all his two small daughters know about his work is that he is a lawyer and that lawyers make money. His 3-year-old thinks he draws a man inside a green circle on pieces of paper.

Actually he is assistant special prosecutor on the counsel's staff, one of the seven lawyers working with Phil Lacovara. They knew each other from the annual dinners held for Judge Harold Leventhal's law clerks. Mr. Palmer clerked for Judge Leventhal of the U.S. Court of Appeals in Washington from 1971 to 1972. Mr. Lacovara clerked for him from 1966 to 1967. As did many others on the force, Mr. Palmer got his present job through such "family" contacts.

Mr. Palmer is tall, genial—and close-mouthed. When a reporter complained "you won't tell me anything," he replied with a smile, "That's what I'm paid to do—not tell you anything." The most he will say is that he had had an interest in criminal law since law school and that the work he is doing is "fun and interesting." He has a great deal of independence in what he does. The staff, although young, is experienced and because "there are fewer long-developed axes to grind," it is "healthy."

“In this kind of prosecution the lawyer becomes one-third investigator, one-third trial lawyer and one-third legal researcher.”



Jill Wine Volner

Jill Wine Volner '68L never sees daylight in her office, although it has two windows. The windows are printed on posters and one shows a "peeping Tom." He can't be blamed for peeping because Ms. Volner is working on something everyone would like to know about.

She entered law school in order to obtain a good background for political reporting, her first career choice. By her second year she knew she wanted to be a lawyer. In her third year she was on the Dean's list and won first prize for the best brief in New York in the national moot court competition. She has been a prosecutor with the U.S. Department of Justice since graduation from law school. Despite five years of prosecutorial experience, she admits being nervous before every court appearance and agonizing afterwards. Recalling her first time in court, she said the judge was

very helpful in guiding her, but she didn't know on which side the prosecution sat or whether one really said "may it please the court."

She describes her work as assistant special prosecutor on the task force investigating the Watergate break-in and cover-up as "pretty much what any prosecutor does." Ms. Volner, with Mr. Ben-Veniste, does the actual arguing and questioning in court. She does the day-to-day interviewing of witnesses, preparation for indictment, writing of memos, marshalling of evidence, and consideration of all the legal issues bearing on admissibility of evidence. A prosecutor must read everything a witness has said and everything anybody else has said about the witness. In addition, the prosecutors read the news accounts of previous days' proceedings every morning, an important factor in assessing whether or not they have made

their points. Ms. Volner emphasizes that while she and Mr. Ben-Veniste are the ones who go to court, there are other lawyers on the task force who do a considerable amount of background work that contributes to their performance.

Universities, law schools and television producers keep trying to get Ms. Volner for personal appearances. Her problem is that the thing they want her to talk about is the very thing she can't talk about. Most of her information comes from grand jury testimony which is necessarily secret. Charles Ruff, for whom she had worked in the Justice Department, invited her to speak to his class at Georgetown University. She found that the men in the class were as interested as the women in women's problems in society.

Only six and a half percent of her own law school class was women and Jill Volner says she had few role models. Now that she has become a role model herself, she receives letters from women law students and aspiring women lawyers. She says that if any Columbia Law School women have crises she will be glad to talk to them. When she began working with the special prosecutor's force people wanted to know how she would cope with the necessity of "telling a big tough FBI agent what to do." As events have proved, being a woman is no handicap. When it comes to work Jill Volner is one hundred percent lawyer.

Columbia's "Eight" On Watergate Prosecutor's Force

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"The Saturday Night Massacre"

"It wasn't like a job—it was like somebody put an axe to your family," said a secretary. In a sense the eighty persons on the force are a family. They are physically isolated from government offices (housed next door to the Grocery Manufacturers of America, Inc.) and they have a sense of unique purpose. The result is a strong esprit. That is what brought all of them within driving distance to the office on the night of October 20.

Special Prosecutor Cox' nationally televised press conference that afternoon had caused everyone to brace themselves for something. What happened, the firing of the special prosecutor and resignations of the attorney general and assistant attorney general was more than most had anticipated. Tom McBride first heard the news when his 10-year-old son, who had been watching television, told him he was "abolished." He hurried to the office where he found everyone else had gone.

The F.B.I. had gotten there fast. It seemed bizarre to the staff to find the same agents who had been performing investigations for them, now—having received orders from the Commander in Chief—viewing them as the enemy. Said one prosecutor, "I don't want to be rhetorical, but what it impressed upon us was the enormous power of the government. We had been thinking of ourselves as the government." In answer to the question of whom he thought of as the government now, he replied, "The President."

Richard Davis described the scene at the office that night as "reminiscent of certain events at Columbia in 1968." He remembered standing on the Amsterdam Avenue bridge five years before, watching crowds of students and police milling about. He spoke of having analogous feelings in terms of personal psychology.

Phil Lacovara told of experiencing "some shock . . . some outrage . . . some dismay . . . some fear . . . some disappointment." He wondered whether it would be proper for him to stay in the same role after the man to whom he had been counsel had been dismissed. (It was Mr. Lacovara who had personally served the subpoena on the President.) The first thing he did on arriving at the office on Saturday night was to call Acting Attorney General Bork, in order to clarify what was at that moment a confused situation. The staff did not know whether the office had been dismissed along with



Richard Weinberg

Richard Weinberg '72L clerked for Judge Harold R. Medina of the U.S. Court of Appeals after graduation from law school. At Columbia he was on Law Review and the Legislative Drafting Research Fund. He says he got his job on the Watergate force simply by sending in his resume. It must have shown an outstanding record, since many hundreds of job requests came in as soon as the force was established.

His work is also in Phil Lacovara's office, doing legal—as opposed to investigative—work. It involves research, preparation and writing of briefs, memoranda and motions. He gets help from the investigative task forces. Mr. Weinberg says that his greatest source of help is Phil Lacovara, who "has a reservoir of knowledge of his own."

He feels that laws already on the books need to be enforced, rather than new laws made. He hopes that white collar crime will be deterred in the future as a result of the force's activities. The worst thing that could happen would be for nothing to happen. "It would deepen cynicism."

When asked about his reactions to the "Saturday night massacre" (when Archibald Cox was dismissed on October 20), Mr. Weinberg did not reply that he didn't know what to do. He said he "didn't know the best way to react." This cautious response to the dramatic event illustrates the attitude of every employee on the force that their reactions should be professional, not personal.

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Special Prosecutor Cox. The fact that it was Robert Bork who had carried Mr. Cox' letter of dismissal was "particularly dismaying" to Mr. Lacovara because he had at one point in his career "worked with and developed a fondness for the man." He describes Mr. Bork as being "very decent about the whole thing" during their conversation.

Some staff lawyers later spoke of having had an "overly structured or naive view of the process." The expression *Roma locuta est* (Rome has spoken) was cited to describe the attitude that once an authoritative directive came from Rome a matter was settled, that once the court rules, disagreements are concluded. Discovering that the matter had not been settled—had become even more unclear—was a shock to staff who considered themselves to be "non-partisan, straight, law and order types."

What held them together during the difficult days immediately following October 20 was fear of what would happen if they disbanded. No one wanted to be a "breach in the dike," the first one to leave. So they stayed on a day to day, wait and see basis.

Sunday, the day after Archibald Cox was fired, Phil Lacovara—"not having much to do"—decided to mow his lawn. About noon, Fred Graham of CBS news called. Mr. Lacovara told him of the previous evening's conversation with Robert Bork. It was the first inkling anyone had had that only the special prosecutor and not the entire force had been fired. Mr. Lacovara reluctantly agreed to be interviewed, Mr. Graham arrived with a camera crew and interviewed him on the lawn. Some people walking by came over and said encouraging things. After everyone had left Mr. Lacovara resumed mowing the lawn. Another person, whom he had never seen before, went up to him and said, "I just heard that you worked for Archibald Cox and I want to tell you that we are with you and the whole country is with you." Then she turned around and left. "That," said Phil Lacovara, "was a very moving experience for me because it was the first gesture I had had that maybe the whole country wasn't going to hell."