

John J. Farmer, Jr. Interview (October 17, 2014)

Nancy Becker: It is October 17th, 2014. I am Nancy Becker, at Rutgers University Eagleton Institute of Politics, with John Farmer, former Assistant Counsel, Deputy Chief Counsel, Chief Counsel, and Attorney General for Governor Christie Whitman. We are here today to continue our series of conversations on the Whitman administration, for the Center on the American Governor. Good morning, John.

John Farmer: Good morning.

Nancy Becker: Let's start today by asking you to tell us about yourself. Where did you grow up? Where did you go to college and law school? And what did you do after law school?

John Farmer: Well, I was born in Jersey City, as my father was. My mother is from Queens, in New York. We moved around quite a bit, growing up, because of my father's job. He was a reporter for the *Newark News*, and then the *Philadelphia Bulletin*, and ultimately for Newhouse Newspaper as a columnist for the *Star-Ledger*. So we spent our first five years in Jersey City, and then we moved to Hamilton Township, outside of Trenton, because he was transferred to cover the Governor—Governor Hughes, at the time. And then a few years later, we moved to Fairfax, Virginia, and he had been transferred down to Washington and was a White House correspondent, first for the *Newark News*, and then when that paper folded because of a union strike, for the *Philadelphia Bulletin*. So he was the *Bulletin's* White House correspondent for a few years, and then he was named City Editor of the *Bulletin*, then we moved up to where my parents still live, outside of Philadelphia. So I went to Georgetown University, undergraduate, Georgetown University Law School, and loved living in Washington, and loved Georgetown, both schools, mostly undergrad. Law school was a bit of a grind, as it is for everybody. After law school, I clerked for Justice Handler, on the New Jersey State Supreme Court, for two terms, and in both terms I specialized in the capital cases. The death penalty had been enacted under Governor Kean, and the first cases were sort of coming to the surface. So I reviewed almost 30 cases in the two years, in addition to the work I did for Justice Handler. Following that, I went to work for Riker Danzig as an associate for a couple of years, where I met John Sheridan, among other luminaries. It was a great place to be. They had Bill Hyland, who'd been the Attorney General under Governor Byrne, and Nick Katzenbach, who'd been the U.S. Attorney General, so it was a tremendously heady atmosphere at Riker in those days. And during that period, I worked for Sam Walthrop, who had come to Riker from the U.S. Attorney's Office, and he helped me get into the U.S. Attorney's

Office, where I was for almost four years, until I went to work for Governor Whitman.

Nancy Becker: You've told us about your parents. Did you have any siblings?

John Farmer: I have three sisters, all of whom are married, all of whom had children. I have not been blessed having children myself and they all live in basically this area. One lives in Pennsylvania. The other two live in New Jersey.

Nancy Becker: And do they also have careers? Are they attorneys?

John Farmer: My oldest sister is, I guess, a semiretired opera singer. She went to Curtis School of Music in Philadelphia, and worked as an opera singer for several years, and then switched to cabaret singing, and now she does that, and teaches voice. My other two sisters both went to the University of Delaware and majored in business, and they were both in business until they had their children, and they've been raising them since.

Nancy Becker: So, interesting, interesting. What was your first interest in politics? Clearly, out of law school, you clerked, and then you worked for a prominent law firm where people had been involved in politics. What was *your* first interest in politics?

John Farmer: I think it came from-- almost by osmosis from growing up in my household. My father was a reporter who covered politics, and I think one of the reasons I've never been a declared party member is his influence. <laughs> He taught me very early on that both parties have limitations, and they also have great aspects to them, and growing up in that kind of atmosphere, where your father's covering these things, talking about them all the time, it can't help but spark some interest. But it also caused me to shy away from joining any particular party.

Nancy Becker: The other theme that I picked up, and it may be because it resonated with me. I noticed that you majored in English. You have a bachelor's in English, and so the whole theme of writing, which I want to get to as we're talking this morning, clearly goes through your entire career.

John Farmer: Yes, absolutely. That's been an interest of mine for-- throughout my life. And again, I think it stems from the admiration I had for my dad, growing up.

Nancy Becker: That's great. He certainly is a well-recognized expert and reporter in New Jersey. So when and how did you meet Christie Whitman?

John Farmer: So I think my career has been somewhat of an accident, the trajectory of it, to the extent that it's had one. I had really not been involved in partisan politics in any way. But I had a circumstance in my life that happened. In February 21st, 1993, my wife died, and I was in the U.S. Attorney's Office at the time. Mike Chertoff was the U.S. Attorney. He was great. Paul Fishman was the first assistant. They were both great. They gave me time to sort of deal with things. And that year, from 1993 to '94, is really rather a blur for me. So the election happened. I wasn't paying attention at all. I mean, I was aware that Governor Whitman won. It was the farthest thing from my mind to care about those things, at that point. But I had worked for the guy in the U.S. Attorney's Office, Bob Mintz, who had been an Assistant Counsel under Governor Kean, and I think it was almost on the anniversary, I had lunch with him, and he asked, "How are things going?" And I said, "I feel like I'm kind of stuck. I've given it a year. Things aren't really changing that much." I was feeling exhausted, which is the lasting effect of grief—for me, anyway—just being tired. And also, it's a very sort of closed-- it's a closed world, the U.S. attorney world. You know everybody you're dealing with. You know the judges, you know the other U.S. attorneys, you know the defense bar, and everybody knew what had happened. After a while you get tired of people feeling sorry for you, and you want to be in a different place. So I sort of talked to Bob about that, and Bob's wife Janice, who he had met during the Kean administration, had joined the Whitman administration, and was—I'm going to get the titles—I think, Senior Associate Counsel. And Peter Verniero was the Chief Counsel. Mike Torpey was the deputy. She was the Senior Associate Counsel. And Bob says, "Well, why don't you go to work for Governor Whitman?" And I said, "I'm not a Republican. <laughs> That's one reason. I don't know anything about the Trenton world, other than looking at it from afar, from the U.S. Attorney's Office," where, frankly, the culture was very judgmental of politics. I mean, under Florio, the Chief of Staff had been indicted federally, and so there was this sort of stay-away-from-this-world attitude. But Bob was very adamant that it doesn't have to be that way. And I went down and talked to Janice and talked to Peter, and I got to say hi to Governor Whitman, and I told them, "This is really great, but I'm not a Republican." And, honestly, probably for the last time—or I hope not the last time, she didn't care. She really didn't care. And they extended the offer, and I joined the administration. So it's a bit of an accident, but it's one that has shaped the whole rest of my life.

Nancy Becker: So your mentors were Janice and Bob Mintz?

John Farmer: Yes.

Nancy Becker: And then, I guess, Peter Verniero coming in. We'll talk a little bit about that. So, clearly, you've already told me you did not work on her first campaign.

John Farmer: No.

Nancy Becker: Did you work on her second campaign at all?

John Farmer: Yes. By the time of her second campaign, I had been a Counsel, Assistant Counsel, and then, I think, at the time, I was Deputy Chief. Mike Torpey was the Counsel during the campaign, and Harriet Derman was the Chief of Staff. And I was kind of in charge of making sure that everything was kept separate, the way it has to be. So I know people thought I was kind of a pain in the neck, but yes, people could work on the campaign, but they had to go to the Republican office to do it, they couldn't do it on State time, and it's rather an artificial dance, but it's necessary. But I did it. It's the only campaign I've really ever worked on, was her reelection campaign.

Nancy Becker: So one of the questions I was going to ask you, but I think that you've already answered it: You were not involved in the Ed Rollins controversy at all?

John Farmer: No. I was barely aware that it had happened. I'll tell you how I was aware it happened. I was up in Newark. My office was two doors down from Mike Chertoff's. And when that was going on, Debbie Poritz came up to talk to Chertoff with Sam Walthrop, who I used to know, and the two of them were in my office, talking to me. That was the only real involvement I had in the Ed Rollins thing, from the standpoint of the federal prosecutor's office.

Nancy Becker: Interesting. So you were pretty young when you were first hired as Assistant Counsel. How old were you?

John Farmer: How old was I? Let's see. In '94, I was... 34.

Nancy Becker: And who hired you, ultimately?

John Farmer: It was Peter Verniero who hired me, and I had met Peter over the years. He had clerked for Justice Clifford, and I was an adoptee clerk of Clifford. We used to go out, he and his former clerks, and I had done some work on some of his cases, and so I was invited to go along. So I had met Peter. Didn't know him well, but we were acquainted with each other, and, as I say, they were kind enough to extend the offer.

Nancy Becker: And what were your responsibilities then, initially, as Assistant Counsel?

John Farmer: My initial responsibilities were the Board of Public Utilities, which I knew nothing about <laughs>; some of the criminal law issues that came up; community affairs-- that's how I met Harriet Derman, how I met my future wife, Beth Gates; and judicial appointments. That was my initial responsibility. And I started my first day, I believe, or second day, is when the Edison pipeline blew up, so having BPU as a responsibility got my attention very quickly.

Nancy Becker: And who did you work with at the BPU at that time?

John Farmer: Herb Tate, predominantly. Ted Brown also, who was his chief of staff. I worked with both of them, and it was a very dynamic time in the utility world. There were efforts underway to deregulate electric and water, and so there was a lot of discussion going on, and really the agenda was being driven federally by FERC, and so everyone had to sort of align with where they were headed, and so that was a large part of my agenda, much more than I would have guessed going in, was the BPU.

Nancy Becker: It was BPU. And there were several other Assistant Counsels who were working on that with you at the time, or did they come in after you?

John Farmer: We were still staffing up, because it was fairly early in the administration. So I guess I arrived in March of '94, and I think we were not fully staffed till maybe July, so people were coming onboard from various backgrounds. It was a really good group of people, and Mike Torpey was sort of the lead on legislation. And every governor's office is configured differently. I've learned that over the years, but in the Whitman administration-- I think, in Kean, too-- the Chief Counsel's Office had enormous responsibilities. We were responsible for essentially

negotiating the budget, and we were responsible for shepherding bills through the legislature, and most of that interaction. And I think Brendan Byrne's the one who said, "Your first year, no one knows what they're doing." I mean, it was really a learning process. It truly was. And the fear of having the cabinet get out of control, or people testifying on bills when they weren't supposed to, or just rogue elements in the administration made it a very tense atmosphere that first spring. I remember Mike Torpey used to tell me how much his hair hurt every day, <laughs> just from the strain of dealing with-- because he really had the lead.

Nancy Becker: What's interesting from our perspective, in looking at different governors and how their administrations work, is that both governors, Kean and Whitman, trusted their staff to make good decisions, ultimately, and it was a different way of managing than other governors, who felt they needed to exert more control from the governor's office down.

John Farmer: Governor Whitman, once she trusted you, you got a lot of room to run, and she never cut your legs out. Not once did I feel like I had been exposed and she had pulled the rug out from under me. And, frankly, not once did I ever feel that I was put in any kind of compromising position by her. I think one of her strengths-- and she had many-- was her integrity, and it was evident in all the positive ways. I think there was not one cabinet member indicted, and that's some kind of record in New Jersey. But the tone was set at the top. The other side of that coin was that people would say we didn't, quote, "get it," and "getting it" meant we weren't willing to do things that other people may have been willing to do, and we took a lot of flak for that.

Nancy Becker: The interesting thing, also, about her, when you talk about your responsibilities at the BPU—she had been the head of the BPU, so she probably had a greater understanding.

John Farmer: She certainly more than I did, at least at the beginning. And, as I say, it was almost instantly a crisis atmosphere, and my second day I had to go up to Newark, and we had a press conference, and I'm thinking, <laughs> "Okay, I'm going to figure this out, but right now." We created a task force on the spot-- because we had to do something to address this issue, and we ended up passing the one-call legislation, which became a model around the country, and she was integrally involved in that. She knew those issues cold.

Nancy Becker: So then you were promoted to Deputy Chief Counsel. Now, how did that happen, and how did your responsibilities change?

John Farmer: Well, Deputy Chief Counsel-- so, as you sort of ascend, and this is true in any organization, you have to learn to let go of the things that you were most comfortable doing. So Deputy Chief, I was really responsible for sort of the internal workings of counsel's office, and not so much for individual departments. I would deal a lot with cabinet members. The assisting counsel would really be responsible for issue-specific items, and my responsibility really was to make sure the trains ran on time. And Mike, who was the Chief Counsel at the time-- Mike Torpey-- the two of us were really a great team. I was responsible when the bill comments were written. I had the advantage in all of these things of having started at a lower place. So I understood the trenches by the time I started to ascend. I knew things that I would want to do differently, which aren't always obvious if you start at the top, and that's just the truth. But I wanted to know where the bill came from, and don't just tell me what it's about. I can read the bill. My guidance to the staff was, "Where is this coming from? Who wants this, and why do they want it, and is it good public policy?" And so I focused a lot on doing that kind of research. Ended up going to caucus a lot, which I hadn't really done as an assistant counsel, and that first day in the Senate caucus room was something I'll never forget. <laughs> People were running around the table, total chaos. Senate President DiFrancesco sitting in the middle of it, just sort of saying, "Well, how am I supposed to control these guys?" I started, at that point, developing relationships with legislators. That served me well as I became Chief Counsel and ultimately as Attorney General.

Nancy Becker: So, in your responsibilities with the legislature, Governor Whitman's reputation-- and it depends on who was saying it-- was that she had difficulty working with the legislature.

John Farmer: That's true.

Nancy Becker: Just describe it, or tell us why that situation.

John Farmer: That was one of the mysteries that I wanted to resolve in my own mind when I got to that level. "Why are we having so much trouble dealing with these people?" Because there was friction. There were articles written about, "Whitman doesn't get it." And I forget who it was, but someone said, "There's no Monty Hall in that administration. No one wants to make a deal." And so part of that was her high-mindedness. Just to give you an example, on judges and prosecutors, she basically said, "They're going to be evaluated on their own merits, and they're not going to be linked." Well, the problem with that is, that's great as long as both sides agree nothing's linked. Once one side links them, it's awfully

hard to play that game, and it creates tension when you go to them and say, "I know you want this Shade Tree Commissioner, but that's a separate issue from this judge." And that's not the way people think, and so that accounted for some of the tension.

So what I did to try to understand why this was the case is I went to everybody's district office and met with them there, and I found that was very useful, because they're more comfortable. You're on their turf. You're actually making the effort to understand where they're coming from, and you gain goodwill, making the effort to do that. And you also learn what the dynamics of the district are, and why certain issues resonate with people. It has nothing to do with party affiliation; it has to do with the demographics of their district.

You also have funny instances. I met with a very senior-- I won't name him-- very senior senator from South Jersey, and he was saying to me, "You're my political education. Tell me what the state's about." So I said, "Well, you have to remember, it's New Jersey. You have to remember the three E's: environment, education, and jobs. <laughs> So you develop a tremendous respect for what they have to do, and that's not something that, looking from the outside, people really have. And in the same way Congress does—they get bashed, and they're easy targets, and everybody beats them up. They have a hard job, and it's hard to run every two years.

But what I came to learn in doing this is there was a context to this thing, which was that two years before Governor Whitman came in and ran for Governor, the Republicans had taken the legislature back. They not only had done that, but they had overridden Governor Florio's veto of their budget. So they were running Trenton the last two years of the Florio administration. Chuck Haytaian and Don DiFrancesco were in charge, and she was not the favorite candidate of those guys. They really liked Cary Edwards. That's the person they really wanted. She was an outsider. She was a woman. She was rich. All of those things, I think, played a role. May've just been psychological, but they had an attitude toward her coming in that she was a necessary evil. People have tried to sort of paper that over, but it's the truth. That's not to denigrate them. I understand where they were coming from. And I think that's really the key to the whole thing, because she had the attitude that, "I'm the Governor, and I'm the head of the Republican Party now, and I deserve a little more deference than I'm being given." And so there was a lot of tension, but on the other side of that, they did pretty much everything that she wanted them to do. So, ultimately it worked. Were there ruffled feathers? Yes. Chuck Haytaian was a critical person. He was, of all of them, the one who embraced her the most completely, and said, "She's our Governor. I'm going to do what she

says." And he was ruling with an iron fist, and so the early years were aided greatly by his presence. And the Senate President—I think he had less of that than others, that attitude toward the Governor, but the fact was that he really was in charge in Trenton before she got there, and I think some of that hangover lasted and became an obstacle to getting things done. But they got done anyway.

Nancy Becker: Very interesting. So then you were promoted to Chief Counsel. Now, what were the circumstances that led to those changes, or that change?

John Farmer: So this was after the election. It was a narrow election for a lot of reasons, which we can get into, mainly because there was a third party and the partial-birth abortion bill was foisted upon her. And I think I have differences of opinion with various people in the administration. I think it was one of her finest moments. She did not absolutely veto that bill. What she did was-- and I know because I wrote the message-- she conditionally vetoed it. She rewrote the statute so that we would have restrictions on abortion, in accordance with the state of the law. And that tells you everything about that issue, that not only did they override the veto, and then, as everybody predicted they would, they lost in court, and Judge Barry, in the Third Circuit, wrote an opinion that it was unconstitutional. But they never tried to pass a constitutional statute. They haven't since. So what does that tell you? But that fueled the candidacy of Murray Sabrin, the third-party candidate, who got, I think, five percent of the vote, and it was predominantly Republican votes, so the election would not have been close but for that issue. But in the wake of that election, Harriet Derman went to the bench. She was the Chief of Staff, and Mike Torpey became Chief of Staff, and the Governor asked me to be Chief Counsel, so that's how that happened.

Nancy Becker: That's how it happened, right. And I was going to actually ask you about partial-birth abortion as one of the most controversial issues. So we understand that you were involved in most of the tough, controversial issues faced by the Whitman administration, such as-- and I'm going to list them, and then I'd like to talk about them one at a time. So, school funding; racial profiling; we just talked about prohibiting late-term abortions, and I also agree it was one of her finest hours; creation of the Office of Inspector General. So let's take these issues one at a time, as we did partial-birth abortion, and just go through them, because they were really critical issues, controversial issues, for her. So, school funding-- let's start with that.

John Farmer: Well, school funding is interesting, because I think I'm the answer to a trivia question on the Abbott cases, because I've been on both sides. When I was

at Riker Danzig, I helped-- I coauthored a brief on behalf of the League of Women Voters, advocating the position that there should be parity in funding between the Abbott districts and the other districts and the wealthy districts in the state, and that was the issue at the time. And fast-forward to the late nineties, and it'd gone way beyond that, and the issue in the late nineties was there *had* been parity in funding. They had ordered it. It had existed for a number of years. It wasn't really working. And so the issue was, "Okay, are they entitled-- are those districts entitled to *more* than parity in funding?" And the Whitman administration took the position that parity in funding is really where you have to draw the line, because at some point you're going to disadvantage all the schools in the middle, and you're going to basically lose control of the state budget. And that's been-- for those who object to the Abbott decisions, I think that's the reason. From the Governor's standpoint, from the Governor's viewpoint, it basically causes her to lose control of the state budget. You don't know what it's going to be. You don't know-- and you're at the mercy of whatever the wealthy districts decide to spend, and there's an irrational element to that.

So I was involved both as Chief Counsel, and then later I argued one of the Abbott cases as Attorney General, when those were the issues. And the court went beyond parity in funding and ordered school construction, ordered preschool, and they're all very laudable and, as a matter of policy, things that should be supported. But the question is, when you do that in a vacuum, what's the effect on the rest of the state? How has it affected the money that we spend on higher ed? How has it affected the money that we spend on everything else? And that's really when I argued in front of the Supreme Court. I basically made the pitch that we have to get this out of litigation and view it as an isolated issue. You can't top it, because it's more than about money going to the classroom. Because the reason there's been no progress-- and now I'm editorializing here-- but the reason there's been so little progress, I think, is that you can't view education in an isolated way, the way that litigation causes you to. It's part of a much larger social problem in these cities, and that has gone neglected, because so much of the money's gone on just one thing. So that was school funding, and I thought the governor did the right thing. The Court ruled the way it did, and she put the weight of her office behind it, providing funds for preschool and for school construction, and I think it was the right thing to do.

Nancy Becker: So let's talk about racial profiling, and we've talked to Peter Verniero a little bit about it, as well. It was a very controversial issue.

John Farmer: Yes, and really started, as Peter famously said, it crystalized when the turnpike shooting occurred. And that's true. But there were problems. Anyone

who drove in New Jersey-- I mean, really-- knew that there was something going on. But what was difficult from the standpoint of Chief Justice Poritz, when she was the Attorney General, and Peter, when he was the Attorney General-- not as difficult for me, because, frankly, it blew up right as I was arriving, so I had no choice but to deal with it. It was there. You are in a difficult position as Attorney General. On the one hand, your client is the State Police. You work with state police solving crimes, you represent them when they're sued, so they're your client. On the other hand, you have responsibility for the uniform enforcement of the laws of the state, and when you had this situation, which was not blatant Mississippi-style discrimination going on, but it was disparate law enforcement, it's a hard issue to spot before it's too late. And we had litigation going on throughout the nineties. It started, actually, under the Florio administration-- the Soto case-- where they focused on disparate stop numbers. We were litigating that case, and we were defending the State Police, and the studies they were using to prove this were flawed. But I think the fact that we were litigating, and in that mode, prevented us from sort of looking at the bigger picture, and saying, "Well, wait a minute. What is going on?" And then, after the turnpike shooting, we were forced to confront the fact that we had to look deeper, and Peter started that work. And what they found was it wasn't the stop numbers. It was the consent-to-search numbers where you really saw the disparate impact. There was one trooper who basically, in a several-month period, had done 30 consent searches, and they were all Hispanic drivers, and he hadn't found anything. "At what point do you realize maybe you're looking at the wrong things? You're 0 for 30, guys." So the issue festered and it blew up, and it occupied most of my time—or not most of it, but a disproportionate amount of my time—as Attorney General trying to fix this: negotiating with the Justice Department, and sort of being caught between the Black Ministers Council, who, on the one hand, would say you were defending racists, and law enforcement, who would say you're betraying them. It was a very difficult situation to be in. And all you could do was the right thing, because when you're caught like that, there's no winning on that issue.

Nancy Becker: And the Governor certainly was criticized strongly in the press, personally, during that time.

John Farmer: Which I just don't think was fair. I never thought that was fair, because... is she ultimately responsible? Yes, but that's really the responsibility of the Attorney General's Office. The Attorney General in this state is probably more powerful than-- it *is* more powerful than any attorney general in the country, and we're modeled on the federal relationship between the president and the attorney general, and law enforcement is under your plenary authority. So that's where the responsibility lay, and the Governor was ultimately responsible because she's the

Governor. But the idea that she would have micromanaged law enforcement and have gotten into those kind of weeds-- just ridiculous.

Nancy Becker: Were there any other controversial issues that you were involved in that sort of rose to the level of the ones we've already discussed?

John Farmer: Well, the one that I have probably the most regrets about is the pension bond issue that came up during her election year. And there's an expression when you're trying cases, "If you're explaining, you're losing." That idea was not a bad idea, but it was almost impossible to explain it. And subsequent administrations have, frankly, used it to explain their inactivity on the unfunded liability in the pension system today. Absolutely untrue. Not one penny of today's unfunded liability is from the Whitman years. The pension bond-- I'm going to go in a little bit of detail with this, because it's--

Nancy Becker: Please do.

John Farmer: It's been such a hard one for the Governor because it's hurt her legacy as a fiscally responsible governor. So it wasn't as if that was new debt. It was unfunded liability. It existed. It was a debt. We were paying it, and we were paying it at a rate of about eight percent-- eight-point-something percent-- interest per year on this unfunded liability. What the pension bonds allowed us to do was fully fund the pension system at a lower interest rate than we had been paying. Now, you could say what it did was it made it a real debt, and it could've changed. It could've changed only if the legislature had taken benefits away. That's not happening. I mean, that may happen now, but it was not going to happen back then. So it was not a crazy idea. It actually saved the state money, and they fully funded the pensions. The unfunded liability of today was created starting under Governor DiFrancesco, after she had left. When they changed the denominator with the pension, the retirement age was lowered, and then subsequent governors also added to the pot. There is an SEC investigation of the State of New Jersey that was published in 2009 that everybody should read, because what that investigation concluded was that the state, starting in 2002, basically misled the public and its bond offerings about the unfunded liability. And it became very convenient to say, "Oh, Christie Whitman did that with the pension bonds." Absolutely not true, but, again, hard to explain when people are hitting you with slogans not the facts. So, if you have the situation you have now and they're paying an unfunded liability-- they haven't been paying an unfunded liability. It's been growing for over a decade, and various governors have avoided paying it, and they keep starting the clock at one, one, one. If you hadn't had this experience and someone came to you and said,

"You could refinance this entire pension debt for two percent and you're paying seven," what would you do? Not such a crazy idea. Now it's impossible politically to do it, because it's been discredited politically. I guess my biggest regret about it: It wasn't necessary. It wasn't necessary. I mean...

Nancy Becker: And it was so difficult to explain that it wasn't explained clearly.

John Farmer: Yes. Brian Clymer and I went around the state explaining this to legislators. That's one of the reasons frankly it got passed. We really sat them down, and we sat down with the unions. They understood it. The NJEA supported it, I believe. But for anyone that wanted to demagogue it, it was so easy and it was not necessary. Basically it was the way that people said that the 30 percent tax cut didn't work. It didn't work, because she had to do this. Well, she didn't have to do it. It was an attractive fiscal idea. It got all kinds of awards. Other states did it, but it's being blamed for things that it really didn't cause. You could say as a matter of policy, "Was it a good idea to lock in that debt as opposed to just treating it as an unfunded liability?" Yeah, bad idea, but they're not going to withdraw benefits. So as long as that's the case, it was not a crazy thing to do, but I regret the fact that we were not more effective in explaining it.

Nancy Becker: Interesting. Would you also talk about the creation of the Office of Inspector General, which it occurred-- I don't know if it occurred when you were Counsel or Attorney General.

John Farmer: Attorney General. One of the challenges of going from the Governor's office to Attorney General-- and I've said this to every attorney general since who's talked to me. It is a different relationship that you have with the governor, and it doesn't really matter how close your relationship was as Chief Counsel. It's a different perspective as attorney general. And I'll never forget. Maybe I was there two weeks, and there was something that I was on the phone with Mike Torpey about, and I basically said, "You can't do that." And there was this long pause, and that was the moment when you sort of felt that separation. But I forget. Partially it was the thought that maybe racial profiling would not have metastasized the way it did if we'd had something that was sort of freestanding, still in the AG's office, the mandate was not to criminally prosecute criminal corruption but to look for abusive practices. And it's a good government kind of idea, and it was coming toward one of my budget hearings, and my strategy after watching these hearings for years was frankly to surprise them. So every year I had to testify, I tried to make news. I would announce something, because they wouldn't be ready. They'd be thrown off. The questions wouldn't make sense

anymore and it worked like a charm every time. So, about a week before, I had been thinking about this. We had a senior staff retreat on this issue and decided to do it, and I had the authority as attorney general to do it. And about a week before, I talked to Mike and told him this was coming, and the Governor was fully supportive of this, and then of course one of the first things we looked at was something in DEP, and then everybody was mad. But we didn't have a public advocate, and that was one of the things that was eliminated, and its various parts were still functioning but it wasn't a department. And I thought this could fill part of the legitimate function that that office had had, and that was missing.

Nancy Becker: So you became Attorney General in 1999.

John Farmer: June 1999.

Nancy Becker: So tell us about the circumstances that made that happen, and then I want to talk a little bit about your role as Attorney General.

John Farmer: Well, that was, again, sort of an accident, in a way. I think Justice Pollock called and said he had decided to leave the bench and he was going to go to Riker, Danzig. And we had been looking. We had a shortlist of people for the State Supreme Court, and Peter Verniero was on it. He was probably the closest adviser to the Governor, and there's a storied history of governors putting people like that on the Supreme Court. Remember, Brendan Byrne had three of his chief counsels on the State Supreme Court, so that gave us no pause at all. In fact, I think you need people on the State Supreme Court who understand how things work. I think one of the reasons that courts tends to look askance somewhat at legislative history is because so many people have been there and know that it may be worded this way, but you know how those words come about. Sometimes it's on the back of a napkin, so you have to look at more than just the specific words. So, the Governor decided on Peter and then asked me to be Attorney General, and I could honestly tell her I never in my career ever would've wanted to be Chief Counsel. That's a hard job. That's probably the hardest job I've ever had, I think, but Attorney General was something every lawyer would love a shot at doing, because you can really make a difference in that job. So, that's how that happened.

Nancy Becker: And what were the major issues you worked on then, in addition to inspector general, and what were your most significant challenges?

John Farmer: The major issue and most significant challenge was obviously the racial-profiling issue and the reform of state police practices. It extended beyond just traffic stops. There was a resistance to accountability, I would say, in the organization. And, listen, they had legitimate concerns about being made the subject of—or the whipping boy for the press—but they had resisted modernization. A lot of the records were being kept in paper files. They had a very poor history of recruiting women and minorities, and we were being sued not just by the Justice Department but by other entities with respect to those practices. We had to find a new superintendent after the Governor asked Carl Williams to resign, for the first few months that was pretty much all-consuming for me. I mean, getting those things on somewhat of a track. And, as I say, I was meeting regularly—both on and off the record—with Black Ministers Council, the state police unions, other law-enforcement agencies around the state. Assuring them that I was not selling them out—a very tough, very tough balance to strike. In fact, an impossible one. But time is your friend in those situations if you're doing the right thing. So that was a major issue.

We also pioneered the use of cameras in police cars and computerization of police cars, all with the idea that it's accountability that matters. I think the issues are still there around the country. If the police put up a wall, public trust erodes. And 9 times out of 10 or 99 out of 100 that kind of objective evidence will vindicate the police in what they do. There was tremendous resistance to all of this, to cameras in the cars, to computerization of the records, to everything.

We also reformed our witness identification. We were the first state in the country to require sequential as opposed to just a photo array. It was based on good social science. Again tremendous resistance, and it's all dissipated because it works. It vindicates law enforcement more often than not, and that's what they've come to see.

Megan's Law was also an issue. I had to try that in the Third Circuit, and, again, they upheld it. Again, a difficult civil-liberties issues, and we were confronted with a sort of parade of horrors. What would happen to people whose names were shared? And, again, it didn't really happen. I mean, people are responsible. At some level you have to trust adults to be adults, and for the most part I think we've been vindicated on that score, too. The attorney general's office is a very, very difficult environment. You have 10,000 employees, a \$1 billion budget. You have 700 lawyers and 3,000 troopers.

Nancy Becker: Huge responsibility.

John Farmer: Huge responsibility, and I have to say they did phenomenal work. The professional staff in Division of Law and Criminal Justice are just the unsung heroes of state government. There's not an issue that arises that doesn't impact the AG's office in some way, and they have a cadre of really dedicated people who certainly aren't doing it for the money and they're certainly not 9:00 to 5:00. They just do it because they're dedicated to the state, and they don't get enough recognition.

Nancy Becker: So you continued to serve as Attorney General after Governor Whitman resigned to join the EPA. Did your role or responsibilities change under acting Governor DiFrancesco?

John Farmer: Not really. When that change happened, when she left and Governor DiFrancesco was taking over, I did call him and offer to resign. I thought we had not always gotten along famously. We are not enemies, but inevitably--especially when I was Chief Counsel, the relationship was what it was. I was the one frequently at odds with them, and so I wanted to let him know that if he was not comfortable with me as Attorney General, I was happy to step aside. But he was great, and he said, no, he wanted continuity and that was important, and it really didn't change that much. The event that happened while he was governor was 9/11, of course. That's close quarters, and whatever differences we had had--he did a phenomenal job, I thought, unrecognized, because obviously Mayor Giuliani was front and center, but for the State of New Jersey I think he was a tremendously calming influence. We learned a lot on the fly about working together. And his placement of Lillian Barone as the liaison—she was from the Port Authority—with the victims' families was tremendous. She was indispensable to the effort that we made. He was very respectful of law enforcement's imperatives and never tried to meddle, never tried to get involved, never wanted to know. Again, it was the same thing with Governor Whitman. I was the same with both of them. I'm not going to tell you about pending criminal investigations. You don't want to know. You want to be able to say, "We don't talk about these things." It's a very valuable conversation to have, similar to one I had, frankly, with my father when I joined the administration. I called and told him I was going, and there was dead silence. And he said, "Well, two things. One, in that fishbowl you could get fired any day. Something will go wrong. Something always does go wrong, and people get scapegoated." Didn't happen with Governor Whitman, I have to say. I can't think of someone—a lower-level person—who was blamed and scapegoated for something and kicked out. But I did approach it with that in mind. And the reason for this anecdote is the other thing we agreed that day was I would not talk to my father about anything going on, because I would be the first suspect if there were leaks, and I wanted to be able to say, "We don't talk about that." And we've honored that throughout.

Nancy Becker: That's great.

John Farmer: It makes it awkward sometimes: "How's it going?" "It's good." But it's a good rule to have, and it greatly aided me to be able to say-- because things do get leaked, and they get leaked to the Ledger, and that's where your father works. And I could legitimately say I don't talk to him about this at all, and that was an absolute wall.

Nancy Becker: So let's talk a little bit about Governor Whitman's strengths. What, from your perspective, were her greatest strengths?

John Farmer: I think her integrity. As I say, I came with a certain image of Trenton that was a consequence of looking at what happened before. I didn't see that at all, and the tone was set by her. I mean, she's the only Governor that I know that I could've worked for. I'll put it that way. And I've gotten to know several of them since. But she had tremendous integrity. She did not put her staff in compromising positions, where their integrity would be called into question. She backed you up. If she empowered you to do something and you made a decision, she backed you up. And when we were negotiating electric deregulation and the bill stalled on the Senate floor and it was the typical thing, where they said, "We have 19 votes," and I'd say, "Well, you need 21," and they'd say, "You have to get it." We had a huge fight on the floor with the Senate President. And I basically said, "No. This isn't a bill the industry wants. This is a bill that you guys want. She'll sign it. We'll support it. I'm not doing a thing to get these votes." And we had this big thing, and it died that night. And I went back and she said, "What happened?" I said, "The bill's dead." And I could tell she was a little taken aback, and I said, "Governor, this is not our fight. We should not have to give one Shade Tree Commissioner to somebody to get this done. It's not our problem." And two weeks later, it got done, but she backed me. And they were mad at me. That was the kind of backing you had and the kind of freedom to act that she gave you. So those are tremendous strengths of hers. Her compassion. I think most of the country, if they knew where she stood on issues, would be Christie Whitman people and Tom Kean people. That's where most of the country is. The two parties are nowhere near either one of them, and that's a shame, but those are, I think, her great strengths.

Nancy Becker: What were her greatest weaknesses?

John Farmer: Well, I think the relationship with the Legislature never really got fixed. That was hard and unfortunate. When I became Chief Counsel, I got her to agree to have dinners, and they were fine. They didn't achieve what I wanted them

to. Attitudes were already hardened at that point. Jack Collins was a very, very strong personality as Speaker. He had his own agenda, and her relationship with Donny was never terrible, but there was tension. But with Jack, I think she believed that he really didn't like her, and that caused her to not get really warmed up to him. And he really pushed the partial-birth abortion bill during the election year, when she was already dealing with the pension-fund issue. That energized the right-to-life folks, who, as a consequence of that, were issuing little baseball cards. I don't know if you ever saw these during the campaign. The Whitman baby count every week. I wanted her to sue them. She didn't. That was, I guess, probably politically stupid to do, but I wanted to sue them, because it was false and they knew it, and that's libel. And I thought you've got to smack these people. They're not going to stop. And they were following her around the campaign trail and they were really ugly. And I remember there was a service at the cathedral in Newark with Archbishop McCarrick. I think it was after the election or right around the election, and there were real concerns about security surrounding that event because of the vitriol that was surrounding her. Archbishop McCarrick was a gem. I mean, he came down off the altar and he said to the crowd, "Everyone's welcome in the house of God, and I don't want to hear any of this." And that ended whatever was going to happen. But that was libel, and that is another thing that has stuck with her. She was actually putting in place the first meaningful restrictions on abortion in New Jersey, and we still don't have any. So that tells you it was a phony issue.

Nancy Becker: I see. So how would you assess her administration as a whole?

John Farmer: I think the administration had a lot of integrity. I think we did a lot of good. You can sort of go across the spectrum of issues, from her environmental record, which I was involved with as Attorney General more so than the counsel's office. Eliot Spitzer got most of the credit, but we were really behind a lot of the lawsuits against the Midwest power companies. I didn't begrudge him that. He was the New York AG. He had The New York Times. It was the right thing to do, and she backed it completely, and that was not popular among some of the Republican establishment. The brownfields legislation that we did environmentally. Megan's Law, which I think struck a proper and appropriate balance between civil liberties and protecting the public against child predators. I think the deregulation of some utility work was something that was difficult to achieve in a responsible way, and I think we did that. I think fiscally we were responsible. I've explained my version of the pension-bond issue. She was able to show that the big challenge—what her administration was about—was, can you be fiscally conservative and socially liberal? And I think she showed you could. I mean, welfare reform was another achievement of hers, and actually the reform that we achieved in New Jersey was less onerous than what Bill Clinton did in Washington. Open-space preservation.

They're sort of coming to me as I'm talking-- auto-insurance reform. All these things were major initiatives that she achieved, and she did it with integrity. She didn't have to compromise her values to achieve these things. So, I don't think she's been given the credit that she deserves. I can't account for it, actually. Some of it has to do with the Legislature and that relationship never healed. They talked to the press a lot more than she did. All of politics in Trenton—and probably everywhere—is who controls the narrative. What's the narrative about? And if you don't control that, which we never really did. We were never able to basically control the narrative. It was probably the most dynamic and engaged press corps that we'll ever have, more than any that we'll ever have again. You go to the State House now, there's nobody. No reporters are there. I couldn't leave my office without encountering three or four of them. That's gone. So, we were never able to really control the narrative.

Nancy Becker: I also think, and certainly we've heard it from others who we've interviewed, is the fact that she left a year early to go to EPA, so her legacy was one year short of..

John Farmer: Yeah, that was a big discussion at the time. What would the effect be? And on the one hand, it's your last year and you're kind of a lame duck, and so I think that was what Mike Torpey believed: If you stay around this last year, what are you going to be able to achieve? I don't think I really agree that it was a mistake to go to EPA. I think that she would've been a lame duck that year and it would've been a lot of nonsense to deal with. If you go back to that time, I think Governor DiFrancesco was considering running for governor. I think Jack Collins was considering running for governor and Bob Franks. The bad ideas that would've come at us would've been awfully difficult to deal with. Something that the public doesn't understand is, how much of the governor's job is stopping bad things from happening in the Legislature and not necessarily getting things affirmatively done. But it's just the things that they did do, the senior-citizen property-tax freeze and all these things that were really difficult as a matter of public policy. Obviously the pension changes that were made by themselves would not have been that hurtful, but the fact that they created a \$20 billion unfunded liability that then multiplied because nobody was making that payment, and now it's \$100 billion, I mean, that kind of thing we would've had to try to stop, and it would've been a challenging year. I ended that year actually in litigation with the Governor, which was over who gets to settle cases.

Nancy Becker: Interesting.

John Farmer: So, that tells you that would've been avoided, but there was a Medicare settlement that Governor DiFrancesco wanted me to reopen and zero out, and I wouldn't do it, and we got into a pretty bad 11th-hour dispute over it and ended up in court. And the Attorney General won that one.

Nancy Becker: Very interesting.

John Farmer: But that would've been avoided, but I don't think it was a mistake for her to leave. I think it was maybe not the greatest job in the Bush cabinet for her to get, but it would've been a difficult year.

Nancy Becker: So you have continued to have an interesting and illustrious career since you served as Attorney General. I'd love you to tell us a little about your role with the 9/11 Commission, Governor Kean, your role as senior adviser to General James Jones and finally, last but not least, your role at Rutgers during the past few years.

John Farmer: So, shortly after Governor Kean became the chair of the 9/11 Commission, I had actually gotten to know him. I didn't really know him in the '80s. As I say, I wasn't involved in all these things, but I got to know him through the Whitman administration, and I had taught his course a couple times at Drew and actually had had his class down to the AG's office to sort of explain what that department did. And so we developed a relationship over the years. And I guess it was shortly after he was named the chair he called and asked if I would be willing to assist, and initially it was a little bit difficult, because there were no plans for a New York office and it would've involved going to Washington and staying there during the weeks. I really thought that my wife had sacrificed a lot while I was Attorney General in terms of my time, and so I initially sort of begged off it. But then he called. Actually, it was not Governor Kean at that point. It was Philip Zelikow, the executive director, who called and said, "Well, what would you say if we opened a New York office?" And that made it more palatable, and I obviously wanted to do it. I mean, I had lived through that, 9/11, and those were the longest 4 months of my life. It was 24/7. We didn't know what was going to happen next, and the anthrax attacks started, and of course they postmarked New Jersey. Where else could they have possibly come from? So it was very high-tension, and I felt like government had really failed at every level for something like that to happen. I really wanted them to know why and what happened. So, bottom line is I agreed to come on, and I was put in charge of a team that was responsible for sort of reconstructing the day of 9/11. Who was doing what, from President Bush down to the firefighters of New York. It was a very compressed time period for the

investigation, and we had a limited staff and a limited budget, but they were all really great people. We had some homicide detectives from New York. We had John Azzarello, who I knew from the U.S. Attorney's Office in New Jersey, whose wife had lost both of her brothers. They worked for Cantor Fitzgerald. And some really outstanding investigators.

Three-quarters of the way through it, I told Beth that I think this was the biggest mistake of my life, because I didn't see how it was going to come together. But, I have to say Governor Kean did a phenomenal job. He let people run. It was all partisan. They were all partisan people, all 10 of them, and he let them go and he let them say their things, and he let them be in the press. He let that happen, and in doing so he built up tremendous credibility with them. He wasn't trying to rule with an iron fist, and at the right moment he and Lee Hamilton basically said, "Okay, this has to stop. We have to have an agreement on what this says, and it's got to be objective. We're not using value-laden language. We're going to just say these are the facts." And it was tremendous at the end of the day. We wrote the report in three weeks. It turned out to be a tremendous experience, and I learned a lot about leadership from watching Governor Kean at work in that. He has very good touch with people. He can disagree with them and they will respect him. And that's a hard thing to pull off, especially in a partisan atmosphere like that. So that was a tremendous experience.

Then as an outgrowth of that, I got to know people in Washington who were involved in everything. And one of the people I got to know was involved with General Jones, who had come out of the Marine Corps and a Chief Allied Commander in NATO and had been appointed by President Bush as the Special Envoy for Middle East regional security. One of the projects they were going to undertake was to try to sort of change the approach a little bit in the dialogue between Israel and the Palestinians. The reason I was called on was to try to develop a responsible law-enforcement presence on the West Bank. And that was about an eight-month period. I spent a lot of time in Jerusalem and in the West Bank and in Ramallah. The first two months I thought, "What're we doing here?" because they couldn't even agree on where to meet. So both sides had to give. The Israelis had to agree to withdraw from certain towns and let the Palestinians run law enforcement and the courts. The Palestinians had to agree on which towns and on allowing the Israelis, the IDF, to basically screen everybody who was going to be a prosecutor or a policeman. And initially neither wanted to give anything, but what's amazing is they said no. There was no gradual part of this. It was no until it was yes, and then suddenly it was yes. Jenin was one town, which was a very sensitive town for the Israelis because the suicide bombers in Jerusalem had come from that town. They obviously watched it like a hawk, but they let this happen. The Jordanians were tremendously helpful in allowing us to basically train the

Palestinian police at their facilities. There was a lot of cooperation between the Jordanians and the Israelis, much more than I would've guessed. But I guess now it's pretty common knowledge that they've cooperated. And it was a tremendous experience. The pilot was a success and the second town, which there was a big debate about. The Israelis wanted Hebron, and the Palestinians said no way, because there was a Jewish settlement going right through the middle of town in Hebron. The Palestinians wanted Bethlehem. And the Israelis said, "It's too close to Jerusalem. We can't do that." But I forget which town they settled on, but that was a success, too. But something that the Israeli IDF commander told us when we started came true. He said, "Okay, this is your thing, and this is Bush's last year or last years, and it doesn't matter if it works, because there'll be a new administration. They'll have their own idea." And he said, "If the Democrats win, they're going to parachute in a rock star, and we're going to have to deal with that. And if the Republicans win, it's going to be the Republicans but not their idea." And that's what happened. I mean, they made progress. They're still sort of doing it, but it didn't have the emphasis that General Jones had put on it. His conviction was that you have to solve the ground-level things first, and if you work at the ground level, if people realize they have a stake in their security, some of these issues don't seem as big anymore. And I think he's right, but it hasn't really been tried.

Nancy Becker: Very difficult. Interesting. And I don't know if I've left anything out, but then you came to Rutgers.

John Farmer: They interviewed me. I had joined a law firm through Patrick and Lockhart. It was called K&L Gates and then left with a partner of mine. We started our own firm, and that's probably the happiest I've been in law, actually, at a small firm. And you know what that's like. You're your own boss, and there's something liberating about that. Now, if you don't make money, it's because you didn't make money. It's not because somebody else let you down. But then Rutgers-- the Law School Dean had decided to leave, and I got a call late at night from some friends who were Rutgers law alums asking me if I would put my hat in the ring to be Dean of Rutgers Law School. I'd been teaching there as an adjunct but again, the accidental career. I had not really thought about academia as a route and ultimately agreed to do it to sort of carry a message they wanted to send to the university about the law school being more relevant to New Jersey and being more engaged in the life of the law in New Jersey. And as the process went on-- and to my surprise I kept surviving—I learned more and more about the school. It's one of those things where suddenly you realize-- I remember saying to Beth, "Now I kind of want this thing. Watch me not get it." But they did offer it to me, and the last five years I've been Dean of the Law School, and then a year and a half ago, when Rutgers was in trouble with the athletics situation and also with the pending merger of UMDNJ into Rutgers, President Barchi asked me to be General Counsel. I did not

want to do that, I have to say. I feel like I've sort of done that as AG. It's a very similar kind of job. But I got a good financial deal for the law school out of it, and I was able to help Rutgers. And it was a crazy time and a lot of things happened, but the bottom line is the merger with UMDNJ got done. We're now in the Big 10. It's a very historic time for this university, and I was happy to be a part of it. And now I'm even happier to be a university professor on sabbatical and able to work on things.

Nancy Becker: That's great, and now you're housed at Eagleton Institute of Politics.

John Farmer: Which is great, and it's a tremendous setting, tremendous people. I was counselor to Alan Rosenthal when he did the redistricting, legislative redistricting, got to know him really well and a tremendous guy and just an honor to be occupying his space here. He was really one of the great people in New Jersey politics over the years, and this place is really the monument that he helped to build. So, I'm happy to be here.

Nancy Becker: So, is there anything else about the Whitman administration that you would like to add that I might not have asked you?

John Farmer: I think we've covered it. There's not a day that goes by that I'm not grateful to Governor Whitman for all kinds of things, my career, my wife. I met my wife, and if I had not made that move, I might not've met Beth and turned my life around. And she is a person of tremendous integrity and courage and has paid a price for it, and I hope someday that's recognized more broadly than it is now.

Nancy Becker: So, I think this is a good time to stop. This has been a delightful conversation, and I thank you very much, John.

John Farmer: Thank you. I appreciate it.