GEORGE W. BUSH ORAL HISTORY PROJECT

FINAL EDITED TRANSCRIPT

INTERVIEW WITH JAY LEFKOWITZ

May 30, 2014
New York, New York

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Perry: All right, I think we're ready to begin officially. This is the Jay Lefkowitz interview for the George W. Bush Presidential Oral History, and we're certainly grateful to Ambassador Lefkowitz for taking time from his very busy schedule to meet with us in his beautiful New York office on the 50th floor at 601 Lexington Avenue. You had started, before we turned on the recorders, to tell us just a little bit about your background and how you came to the Bush 43 administration, but could we back up just to get a little bit of a sense of where you grew up and where you did your education, how you came to be a lawyer specializing in constitutional law and the Supreme Court, and yet being in politics and in two Presidential administrations?

Lefkowitz: Sure. I grew up in Albany, New York, originally from New York City. My father's a lawyer, and actually, when he was much younger, was asked to take a senior legal position in the [Nelson] Rockefeller administration in Albany, working for Governor Rockefeller. So we moved to Albany when I was a young kid and I grew up in Albany. I guess I always had a sense of the value of public service because my father was a lawyer and in fact is still a lawyer in Albany. He's 83 and he's the commissioner of the public employment relations board, runs the state labor agency, and still lives in Albany.

I think I always knew I was going to be a lawyer, but I didn't get that deeply involved in politics when I was younger.

Perry: Were your parents at all, other than obviously being surrounded by the capital and state politics?

Lefkowitz: My mother was not political. My father had been, when he was much younger, much more political. He had been very much on the left side of the political spectrum when he was growing up, and I think in kind of true form moved a little bit to the right in the 1970s, as in a sense a real neoconservative, largely drawn by foreign policy issues, by I think what he saw as the moral equivocality of the left during the Cold War. He worked in government, but he wasn't working in a political role in government. He ran an agency for the state.

Perry: So he wasn't highly partisan in his work at all?

Lefkowitz: It wasn't a partisan position. He's neutral, because the agency he runs is the state equivalent to the National Labor Relations Board. So he's really neutral on collective bargaining issues. But there was a lot of policy and a lot of history in the home, and quite a bit of Presidential history in the home.

Perry: How so?

Lefkowitz: Just because I think it was an interest of his. I remember reading biographies of Presidents when I was a young kid.

Perry: You were the other one. While all the girls were getting books on horses at the elementary school library, I was taking out the children's biographies of [George] Washington and [Abraham] Lincoln.

Lefkowitz: Exactly. Then I'd say that when I was a very young lawyer, I had a couple of influences that influenced me politically. One was a cousin of mine who actually had been quite political and had worked in the [Ronald] Reagan administration. His name is Michael Horowitz, and he was quite active politically. He was very close with David Stockman and was his general counsel. During my senior year in college, I had an internship at the Supreme Court as administrative assistant to the Chief Justice, and spent quite a bit of time meeting with people who were in the Reagan White House. I think that really got me inspired to want to play a role at some point in government.

Then when I started work at Paul, Weiss, which was my first law firm, in 1987, I had just come back from a clandestine trip to the Soviet Union to work with the dissident, the refusenik community, and met a gentleman at Paul, Weiss who was a senior partner there. His name is Morris Abram, and he had a very distinguished career in government. He had worked in the [John F.] Kennedy administration, in the [Jimmy] Carter administration, and at the time he was the chairman of the Conference of Presidents of Major American Jewish Organizations in America, and in that role had regular meetings with President Reagan, Secretary [George P.] Shultz, and Vice President [George H. W.] Bush.

Within about six months of starting to work for him I had become his number two on a lot of his nonlegal issues. I would be working as a ghostwriter for him, letters and op-eds and the like. I remember at one point suggesting to him in the spring of 1988 that since Vice President Bush was going to be running—it was clear he was running for President—it might be a nice idea for him to host a 40th birthday celebration for the State of Israel at the Naval Observatory. Morris thought that was a great idea, and in his role in the Jewish community I guess he suggested it, and the meeting came to pass.

I was so naïve about Washington at the time that when I got the formal invitation and it said 3400 Massachusetts Avenue, which is, as you know, where the residence is, I took my taxi from the airport and found the house across from the Observatory that said 3400 Massachusetts Avenue. I knocked on the door and was told, "No, you have to look across the street. You see those big gates? That's where you want to go."

I remember meeting Vice President Bush and being very inspired by the whole thing and telling him that I wanted to work on his campaign. Morris made the arrangements so I had a chance to work on the Presidential campaign in 1988. That was the Bush-[Michael] Dukakis campaign, and one of the assignments I had during the campaign was to campaign all around New York State with the then Vice President's brother, Jonathan Bush. We traveled all over New York and we campaigned and did speeches and debates and the like. I was very inspired by that and I thought about going to Washington immediately after the election, but decided I wanted to hone my skills as a lawyer. I had just started work.

So I stayed as a lawyer, as an associate, for a couple more years, and then it just happened that in early 1991 it made sense personally for me to leave New York, because my wife and I were getting married that spring and we wanted to move somewhere to start our life together. We had two options. By this time, Morris Abram had left the law firm and had gone to Geneva to be the U.S. Permanent Representative at the UN [United Nations] agencies in Geneva, and he offered me a position. We thought about doing that, but my wife couldn't work in Geneva because of work visa issues, and we didn't want to go if she didn't have anything to do. So instead, I explored some of my relationships from the campaign a couple of years earlier and ended up getting a job in the Office of Cabinet Affairs in the White House for then President [George H. W.] Bush 41.

Nelson: Let me back up a little bit, because you end up being the point person in the [George W.] Bush 43 administration on the most clinically ethical issue there was. Along the way, in your home, in temple or synagogue, and at Columbia, are you engaged in studying, thinking about politics as an ethical enterprise, or issues from an ethical standpoint?

Lefkowitz: That's a complicated question, and I think my career in government, to some extent even in the first Bush White House, although I was in a much more junior role, and then certainly in the second one, was often at the center of controversial policy/political issues. In the first Bush White House I was one of the people who instigated some Executive orders on some labor-related issues, the [Harry] Beck implementation rule about right-to-work issues. The work that I did in the second Bush White House, which was very much on a lot of those types of hot-button issues, was just a natural progression.

As to the ethical dimension of this, well look, I grew up in a religious home. I'm still an observant Jew. I write extensively about Jewish issues. Just a couple months ago I published an article in *Commentary* magazine about the state of the Orthodox Jewish community in America, and I think that as a student of the Bible and as a student of history I've always looked at the intersection of ethics and politics.

I think it really comes from the core curriculum at Columbia College, where you read really all of the great Western philosophers. When you're reading [Immanuel] Kant and you're reading Aristotle and you're reading [John] Locke, and Plato, obviously, you're thinking about politics and ethics together. I don't think I ever put two and two together. Like everything in life, it's serendipity. But I had given quite a bit of thought to those issues prior to being thrust into them in the White House.

Nelson: When did you start thinking of yourself as a Republican and a conservative? Maybe those two things weren't the same?

Lefkowitz: There were a couple of relatively formative issues for me. To some extent it was probably an outgrowth of the home I grew up in, although when I think back, my parents were again, not very political, and to the extent that they were, they were on different sides of certain issues. As I think back, I'm not sure they both voted for [Richard] Nixon in '68. One of them may have voted for Nixon and one of them may have voted for [Hubert] Humphrey. I think one of them voted for Reagan and one of them voted for [John] Anderson in 1980. So there was certainly nothing monolithic about it.

I had two formative experiences, one on the domestic side and one on the foreign policy side. On the domestic side, I remember in law school at the end of my first year we all went to law firms to interview. It was a buyer's market, so the law firms were kind of tripping over themselves to interview students from Columbia Law School.

I remember going down to the firms one day with a friend of mine, an African American law school classmate of mine, who had a very different experience. He was someone who actually had terrific grades, better grades than I had in law school, and was offered jobs at every law firm. I remember him saying to me at the end of the interview day, "You know, I don't think these employers, these lawyers, really are taking any time to get to know me. They know I'm black and they want diversity"—I don't even think they called it diversity in those days—"they want a minority, and so they're offering me these jobs. I kind of feel like I'm not getting a chance to prove myself."

That really resonated with me, and it got me thinking quite a bit about affirmative action and quota issues, which at the time were really hot-button issues. Every year there was another major Supreme Court case being litigated on these issues, and I really thought about it through the prism of, not the vast number of minorities, who no doubt get all sorts of extra help and in fact benefit, and certainly do get opportunities that they wouldn't otherwise get, but from the perspective of someone who actually could compete and succeed with anyone, on any playing field, who actually felt that he wasn't, in a sense, getting a real fair shot. I mean he was getting all the opportunities, but people were kind of taking him for granted. I'm not sure I'm articulating this that well, but he felt that it was actually a burden for him because he wasn't being taken as seriously.

Perry: That's fascinating, because that's the opposite of Clarence Thomas's experience, who of course would have been coming before, but had the same reaction to affirmative action for the totally different reason, that he felt he was *not* being given a fair chance when he went out to interview and was being denied positions in law firms. He said he could wallpaper his room with the rejection letters from the law firms, and yet I think he had the same reaction, that I think people are just assuming that I got into Yale and went through Yale because of the color of my skin. So it came to, again, a similar feeling perhaps. Did you keep up with this friend?

Lefkowitz: I did, and this friend of mine had that experience too at times. At times, he would tell me that he would be in an interview where he wouldn't get a position, even though he was clearly qualified and had incredible grades, and for the same reason, people wouldn't take the time to really get to know him. They would just make this assumption that because he was at Columbia Law School and he was a minority he didn't really deserve to be there, whereas those of us who were majority students and white Jewish kids, well, obviously, we had to have deserved to be there because otherwise, why would we?

Of course there are all sorts of reasons why we might not have actually deserved to be there, and we certainly weren't as well qualified as he was, but there wasn't this stigma attached. So he saw it both ways. He saw it both that sometimes he would just get things whether he deserved them or not, and other times he wouldn't, but either way he felt that he wasn't really being judged meritoriously, and that really resonated with me.

Perry: It wasn't on the "content of his character," but on the color of his skin.

Lefkowitz: Right. Absolutely.

Nelson: So the question, again, is when did you start thinking of yourself as a conservative Republican? Was this the prism through which you made that sort of—

Lefkowitz: Yes, this was the prism, and right around the same time, maybe a year earlier—I don't think when I was in college. I would have to go back and look at the articles and the essays that I've written. Somewhere I have a whole collection of them. I think the articles I wrote in college were not really of a political nature, but when I was in law school I was already writing some politically oriented articles. Harvard Law School, when I was in law school, adopted a quota system for its *Law Review* for diversity, racial and ethnic, and I wrote an op-ed article at the time criticizing that.

Perry: So you would have been writing in college just after that series of years after [Allan] *Bakke* had been decided.

Lefkowitz: Correct.

Perry: And you no doubt were watching that and were very much aware of that.

Lefkowitz: Absolutely. And so that was clearly an area that helped identify me, for myself, as a conservative. The other area was on foreign policy, and it had very much to do with my involvement in the Soviet Jewry movement.

Nelson: How did that come about?

Lefkowitz: My parents were very involved. We come from a strongly Zionist home and a very committed, involved, Jewish home. There were a few million Jews in Russia in the 1970s, and the effort was to help get these Jews out of Russia, where they were really being denied the right to live as Jews. If they expressed an intent or a desire to leave, they were fired from their jobs and then they were basically thrown in jail because they were deemed to be parasites. If they didn't have a job, then they were a parasite in a communist society.

I looked at the Carter foreign policy as very much being a policy of moral equivalence, and I think that really helped shape my bigger political sense. Affirmative action, quotas, was a narrow domestic policy issue where I clearly felt lined up on the right side of that equation and not the left, but the foreign policy issues obviously loom large when it comes to Presidential politics, and on those issues I felt a strong affinity for the conservative side of that dialogue, largely through the prism of the Cold War, and then secondarily, just through the prism of general support for Israel.

Nelson: You mentioned earlier that your father started out politically on the left. I was thinking that the story you're telling kind of traces of the arc of *Commentary* magazine, right? From being a very left magazine and then [Norman] Podhoretz, et cetera.

Lefkowitz: Absolutely, and he handed out leaflets for Henry Wallace in 1948 because Wallace was the most pro-Israel of the candidates. I think he supported Nixon in '60 because he was concerned about [James W.] Fulbright becoming the Secretary of State for Kennedy. Again, looking through that prism. But he was very much on the left throughout all those years and very much the arc, I think, of *Commentary*.

And then I guess as I moved from New York to Washington in 1991, and in the years leading up to that, once I had started work in '87 I became acquainted with a number of the leading neoconservatives in New York and in Washington who really made a big impression on me. In New York, Hilton Kramer and Sam Lipman, who ran a magazine called the *New Criterion*. And Norman Podhoretz and Midge Decter and then Irving Kristol, who also became a mentor of mine when I moved to Washington. I started reading quite a bit in a lot of the journals, and started to really develop my own sense of political values, both reading current journals and also reading histories. A lot of history, both American history and European history.

Perry: Do we want to come up then to the work that you were doing for Bush 41 after the campaign?

Lefkowitz: Sure.

Perry: We should, before we leave the campaign—this transition from the Reagan years, which we presume from what you're saying and how your dad had reacted, how you were reacting to the Carter years, and that approach to the Soviet Union and the Cold War—did you have any concerns that President Bush, soon to be President Bush 41, would not have the same brand of conservatism as President Reagan?

Lefkowitz: I certainly was aware of their differences in perspective. They had a lot of overlapping advisors, but also some key different advisors, and certainly they just were very different individuals and came from different backgrounds. But I really wasn't focused at all on foreign policy when I worked in the 41 administration. I was focused on domestic policy. I started out as an associate director in Cabinet Affairs and then became director of Cabinet Affairs, but primarily the job was liaison with the agencies, and generally speaking with the domestic agencies, coordination of message, trying to keep Cabinet agencies on the White House message on a daily basis. I also worked very closely and probably more on the political issues, with the Vice President's office. I became quite friendly with Bill Kristol, who was—

Perry: Dan Quayle.

Lefkowitz: Yes, Dan Quayle's Chief of Staff, and worked very closely with them. The Civil Justice Reform Project that Quayle led; a lot of work that the Competitiveness Council did, which was their regulatory reform group; and really got into a lot of the domestic policy issues, the same type that I had responsibility for many years later at OMB [Office of Management and Budget] by working with the Vice President's office when I was in the White House. I think a lot of the issues I got involved with, and certainly the issues I got involved with that were public and became the subjects of newspaper articles and magazine articles in those days, were often issues that I engaged in initially through the Vice President's office, and then I worked them on my side of the building and they worked them on their side of the building.

Nelson: How did you end up getting your first position in the 41 administration, and why that position?

Lefkowitz: I guess it was in late 1990 that I decided; I knew my wife and I were getting married the following spring. I knew it was time for us to look to move out of New York. We had decided that we didn't want to go to Geneva, so I wanted to find a position in Washington, and I reached out to people I had gotten to know on the campaign. Also my cousin, who had been in the Reagan administration, a lot of his deputies were now in the Bush administration. I had a series of interviews for positions in the White House counsel's office, where Boyden Gray was the White House counsel. I was offered some positions as a deputy general counsel at some of the domestic agencies.

I knew at the time that I was most interested in doing something in the White House. I may have had some options in the Justice Department as well, but I was waiting for something in the White House to come up. It was a confluence of recommendations from a variety of people I had gotten to know, both through my legal career and in the campaign, that landed me this position in the Cabinet Affairs office in the White House.

Nelson: And so what did you do in that job? It sounds like you moved around with different staff units while occupying the same position.

Lefkowitz: Yes, that's right. I had a relatively junior position. I had an office in the Old Executive Office Building, probably was only in the West Wing once a day for staff meetings with my boss, Ede Holiday, who was the Cabinet Secretary, but saw the opportunity to be involved in a lot of different policy and legal issues.

I was a lawyer, I was in a policy role, so it just was a natural fit, and I saw opportunities and I figured I was there to work, and I was going to work full time, and so kept looking for things to jump into. So I worked on a variety of projects with the White House counsel's office. I remember working very closely with Boyden Gray and with Nelson Lund, who was one of his associate counsels, on a variety of—actually, there were some Executive orders we worked on, and also the Congress at the time kept trying to pass civil rights legislation to override a couple of Supreme Court decisions. President Bush actually vetoed it twice and then eventually decided to compromise—I think it was [Edward M.] Kennedy-[Augustus] Hawkins, if I recall—and signed the bill into law.

Shortly thereafter we had the nomination of Justice Thomas, and I worked on the nomination. I was in the White House. A lot of the things I worked on I don't think were actually the specific portfolio of the Office of Cabinet Affairs, but I was a young lawyer and I was energetic and I was willing to help in anybody's portfolio. People reached out to me for help and I was happy to accommodate.

Nelson: Did you start forming impressions of how Washington works and how the media works? What I'm thinking about here is the work you did for Dan Quayle. Here's somebody who was consistently caricatured in the mainstream news media as a lightweight, and yet he had this staff that was considered to be really sharp, Kristol, et cetera. Did you have a sense, now that you're

on the inside, that this is not what the world sees or not what I thought I was going to see, and here's what I mean by that?

Lefkowitz: Yes, I think. Bill Kristol was certainly one of my initial mentors in the White House, but they had a terrific staff, you know, Spence Abraham and Al Hubbard and David McIntosh, and a whole host of other really first-rate people, and there were first-rate people across the building. On the White House side too, there were some very—Dick Darman was extraordinarily competent. Whether you always agreed with him or not, he was very competent. I had a few different Chiefs of Staff. I started working for John Sununu and then Sam Skinner came in, and then Jim Baker at the very end.

I remember working closely on certain policy issues with Jack Kemp, who was a real enthusiast. I worked closely with him on a number of policy issues. I definitely got a healthy respect for the kind of dynamic with the press in Washington. It taught me a great deal. I didn't tend to work very closely with the press in those years. I had a few relationships with people in the media who I would talk to.

I remember one morning after I had I guess been identified in the newspaper as having been pivotal in some important policy issue. I got a call out of the blue from William Safire, who wanted to take me out for lunch to his local coffee shop on 16th Street to talk and try to, I'm sure, mine me for information. I was very much on guard, but flattered, and had lunch with him, but was very cautious. I met a lot of other members of the media in those days in that capacity, but yes, absolutely. I saw how tough Washington could be, and there is this intense circle. It's really a closed loop, if you will, between the people in the White House and the people who cover the White House.

Perry: What did you learn about crafting messages? Because you said in dealing with the Cabinet agencies that was one of the things that you were concerned about.

Lefkowitz: Sure.

Perry: Staying on message and keeping to the message. But in that loop that you just described, what do you think you took away as lessons?

Lefkowitz: I think what I took away was that any time you're involved in any relationship that is more than a two-way relationship, it's not just about you and the other person. That seems self-evident, but you know, foreign policy is multilateral. When you're working at Cabinet Affairs, it's also a multilateral relationship. You'd think that well, you're working for the President, the Cabinet Secretary works for the President, and so that's a bilateral relationship and you just have to convey messages. But what you quickly learn is that the Cabinet Secretary is also looking at the Congressional committee that has oversight, the ability to haul that Cabinet Secretary in to testify, particularly when you're not in control of Congress.

You've got to understand that there are competing pressures on the attention, and even on the loyalty, of different members of the government. And so you have to think about various ways of influencing and applying pressure, and of course the media is just one aspect of that. People in government can use the media, and of course the media is always trying to use the government. So you always have to be alert to those dynamics.

Perry: And related to that, maybe to build on that, what did you learn about the power of the President and the Vice President and those two offices and the people who occupy them?

Lefkowitz: I think that a strong President who is disciplined with his message and with his staff and is willing to really go over the heads of other people in the government, whether it's sometimes his own senior officials, but more importantly, Members of Congress, both in his own party and in the opposition, can be enormously powerful in terms of setting an agenda. You're a Presidential historian, I don't have to tell you about this, but in our system of government, power can be so centralized and messaging can be so centralized. Presidents can fritter that away very easily and then they're swimming upstream, and they can be swimming upstream against a very strong tide.

I joined the first Bush White House the third week of the Iraq War. We tipped the polls at 91 percent approval rating, and I think I'm the only person in the history of the White House who never saw a poll number rise during the two years of his tenure. So I don't know if there's a cause and effect; there may be. I'll leave it for historians to figure out if I was responsible, but from the day I showed up, it was 91 percent, and then when Bill Clinton got elected, we were probably down below 40 percent.

Perry: But beginning to rise.

Lefkowitz: Exactly. Anyway, I certainly learned a lot. I was an active participant in a lot of issues, and I don't know what I was, 28, 29 years old. It was enormously exciting, but I also felt very much I was a fly on the wall and I was soaking everything up and trying to learn how Washington works, learn how the White House works. It is a unique place. It's got its own language. The whole staffing clearance process in the White House, the oversight roles that Congress plays, these are just not things that are easy for people from the outside to digest.

Nelson: Were there things—because '91 and '92, the years that you were mostly there, were years marked by churning in the staff and a succession of Chiefs of Staff, Sununu and then Skinner and then Baker, and the sort of conflicts within the staff over, for example, the budget agreement that Bush had forged and the abandonment of the "no new taxes." Did you get a sense that there are things here—*If I'm ever in another administration, I'm going to make sure we do things this way instead of the way we've been doing them*?

Lefkowitz: Sure.

Nelson: What were they?

Lefkowitz: I was there at a very rocky period throughout, as you say. I still remember being in Houston at the convention in 1988. It was the very week that Sam Skinner was replaced by Jim Baker.

Nelson: Ninety-two.

Lefkowitz: I'm sorry. '92, right. Skinner was replaced by Baker. There was a leak in the newspaper that there was going to be a shake-up in the Cabinet. I remember getting a call at 7:00 A.M. from Jack Kemp saying, "I'm supposed to speak on the floor of the convention today,

and unless Jim Baker calls and tells me that I have my job, I'm not speaking," which was quite a wake-up call for a 28- or a 29-year-old kid, you know, to have to deal with and to react to and to try to mollify the situation. So, yes, I saw an awful lot of this, and I think one of the takeaways that I had from that whole experience is that Presidents run an enormous risk if they alienate their base. The breach of the "no new taxes" pledge was really catastrophic for the President, because it opened the door to the [Patrick J.] Buchanan candidacy.

The left would never have been able to make very much hay over a breach of that "no new taxes" pledge because of course the left was in favor of breaching it and the left wanted more taxes. But it opened the door to a primary challenge from the right, and that I think significantly softened up the President. It's something that all of us learned, and in fact, jumping ahead, one of the dominant themes during the first year of the 43 administration was "let's go back to the campaign book. The campaign book is the bible. Let's see what we promised during the campaign and let's make sure we're consistent with that."

There were a couple of areas where there were changes, for example the whole issue with Christie Whitman on carbon regulation, which blew up, I would imagine, somewhere around March, if I had to guess. That was a big deal because it was a change from a campaign commitment. But the sense of loyalty and fidelity to one's commitments was something that I think was a lesson really well learned from the 41 administration.

Nelson: The Republican Party—at the time you're getting involved in Republican campaigns and then a Republican administration—is becoming more and more prominently associated with Christian conservatives, and I wonder how you regarded that. Did you feel at home with prominent Christian conservative leaders, and did being Jewish facilitate that, or was it an impediment?

Lefkowitz: I never really had a concern, I think. In fact, many years ago, probably around this time, late 1993, the *New York Times Magazine* did a big profile of a variety of up-and-coming young conservatives in Washington, and I remember the pullout quote that they used for the interview with me. It was a big pullout, which of course made quite a big splash. I was being asked about this very question. Are you concerned about the role of [Marion Gordon] Pat Robertson and Jerry Falwell, and what does it mean for the Jewish community?

I gave a very quick, off-the-cuff answer, which I think was very true but created quite a bit of stir. I said, "Look, a little bit of anti-Semitism is actually good for the Jewish people, because it reminds them of who they are, and it promotes a sense of continuity in the Jewish community when you recognize that there is this challenge." I said more of course, and that was the only part that they pulled out. In fact, they even only pulled out the first part of that quote to really make it provocative, but what I went on to say in that interview was I actually think that American Jews, certainly religious American Jews from my background, have an enormous amount in common with religious Christians. We share very much a value system, a commitment to family, a commitment to being part of a subculture within a broader culture.

And then there's also the political dynamic to this, which is that the Christian community in America is really the most important component of the support for Israel, certainly by numbers, in the American society, and so I think American Jews should really welcome the involvement of

the Christian community in public life. I think that a society that becomes totally secular is actually one which may be more hostile to Jewish life in America than one which is very respectful of religion. Now that is a position that I don't think you'll find a lot of secular Jews embracing, but for me, I got involved in the mid-'90s, when I was out of government, representing the state of Wisconsin in the school voucher litigation.

I had gotten to know Tommy Thompson because of my position in the White House. When he was Governor he was a real activist education reformer, and he hired me to represent the state of Wisconsin. This was very much the overlay to that issue, because a number of the Jewish organizations filed amicus briefs at the Wisconsin Supreme Court, opposing the school voucher program because they were such separationists.

I was there arguing that I thought it was constitutional and I thought it was great for education reform, but when I would talk to these Jewish organizations they'd say it's also really good for the Jewish community, because if some Jewish kids decide to use a voucher to go to a Jewish day school, and they're poor and they couldn't otherwise afford to go to a Jewish day school, that's actually good, that's not bad. Why are you so concerned that Hispanic kids in Milwaukee who aren't Jewish are going to end up choosing to go to a Catholic school? How is that an assault on the Jewish community, that non-Jewish kids will actually go to a Catholic school? That's what your agenda should be?

So yes, I was very comfortable with the growth of the evangelical right. I recognized, obviously, that theologically there were clear differences between my theology and my identity and fundamentalist Christian theology, but my attitude is these are theological differences having to do with the messiah and who he is. Let's wait until he comes and then we'll ask him to tell us. [*laughter*] I mean either we're right or we're wrong. It doesn't really matter. We don't have to disagree about it now. We can wait. So, no, I never—but you're right, this was a time in America where kind of the new right was very much religiously oriented, but it never really troubled me at all.

Nelson: Did you meet George W. Bush at any time?

Lefkowitz: You know, I've thought about that many times. I certainly remember seeing him in the White House from time to time. So I saw him. I'm sure I was in the West Wing when he was there. He would come from time to time. I remember during the whole period when Sununu was basically on his way out, seeing "W."

Perry: If I'm remembering correctly, he had delivered the message to Sununu.

Lefkowitz: I think that is right. But I didn't know him. I don't think I was ever introduced to him at all. I worked for his father, and I worked for his father in a relatively junior capacity. I had only half a dozen meetings with the President during the two years I worked there, and only one or two meetings where I actually was briefing him. I guess at the end of his Presidency I had more engagement with him, because I was the White House staff person sent down to Florida to deal with the Hurricane Andrew cleanup, and Andy Card, who was the head of the Department of Transportation, he and I went down and coordinated a lot of the relief efforts in Washington. Then at some point I think I remember briefing the President on that.

I was also sent to Los Angeles in a similar capacity, after the riots, to coordinate a lot of the rescue efforts and cleanup efforts there. I was sent out with a variety of people. I think Bob Grady, who was in OMB, and Bob Mueller, who at the time was the head of the Criminal Division at the Justice Department, before he became the FBI [Federal Bureau of Investigation] Director. So there were a number of us out in California. But I really didn't have much interaction with the President, because I was a junior aide in those days, and so I don't think I met President Bush in those days.

Nelson: Something occurred to me, reading through your Columbia College profile, and that is that although through much of '92 it seemed like the attitude among Bush people was, *I can't believe the country would choose Bill Clinton*, you had a professor at Columbia who, early in Clinton's career, said, "Watch this guy."

Lefkowitz: Yes.

Nelson: My question, I guess, is to the extent that's true, did it make you think, during the course of the '92 election, *Don't underestimate Bill Clinton*? That may be too big of a stretch.

Lefkowitz: Look, I remember being caught up in the enthusiasm of the Houston convention in '92 because I was there and I was staffing the convention and I was excited about it. I remember talking to my wife, who was back in Washington, who was watching it and said, "Boy, this is just totally blowing up on you guys. There's no way you guys are going to come back from this." I was kind of blind to that because I was in the moment. But I remember getting back, and then throughout September of that campaign year, I took Clinton very seriously, and actually, it was only about two weeks after the convention that Hurricane Andrew hit, and I went down and spent a few weeks in Miami, basically helping to coordinate the National Guard effort and the relief effort, working with the folks in Florida, Governor [Lawton] Chiles and the local officials.

I remember during that time Bill and Hillary Clinton came down as part of their campaign swing, but of course he was the nominee, and so we were asked to brief him. I remember briefing him on the state of affairs and recognizing what an incredible political figure he was. I wasn't really assessing anything else, but just his natural charisma and his dynamism—I certainly wasn't taking him lightly at all as a politician.

Nelson: But you didn't go and take Jim Baker out by the lapel and say, "Look, don't underestimate this guy"?

Lefkowitz: No, I don't think I did that. I remember trying to promote a few issues during the campaign that I felt passionately about, that I thought would have political effect, because they would triangulate different sectors of the electorate. But these were all small things in the context of the tidal wave that was on the march already.

Nelson: We're ready to move into the '90s, the post—

Perry: I think so. To wrap up the 41 years for you, what would you say if you were doing an exit interview today, looking back at what happened in that election, and then obviously, you're leaving. How would you sum it up, both about President Bush 41, his one term and your role in it, and the campaign and what happened?

Lefkowitz: I had an exit interview like that of sorts. I remember the morning of the inauguration Bill Kristol and I went and had breakfast in the Mess. It's an eerie place to be, in the West Wing on the last day of a Presidency. I remember we didn't walk out of the White House until around nine, 9:45 that morning. We had a kind of leisurely breakfast in the Mess, and by that time all the walls had been repainted and all of the Clinton pictures had come up.

So here you are, you're used to working in a place with Bush portraits all over the wall, and all of a sudden you can just see the transition there. Of course they're all campaign photos from Clinton, because there are no White House photos yet, but the Bushes had already left the building to go down to the Capitol. I remember really talking about this very issue over breakfast that morning. What is it that the last four years have brought? I think my sense at least was some very significant foreign policy achievements.

President Bush played a very important role in the end of the Cold War. I thought he really showed quite a bit of leadership in foreign policy. There were obviously some of the issues that were of interest to me in terms of the American-Israel relationship because of some of the statements that Jim Baker had made, which were quite notorious, during that period. I think there was clearly, at that point, the recognition of both what the breach of the tax pledge had wrought in terms of a primary challenge from the right, because if you think back, incumbents, when they lose, lose because they get a primary challenge from their base, right? I mean Carter was primaried.

Perry: Kennedy in '80.

Lefkowitz: Primaried by Kennedy in '80. And [Gerald] Ford was primaried by Reagan, and Bush was primaried by Buchanan. It's not necessarily that these primary challengers win, but they soften you up in a way that it's impossible to recover from.

I think also there was this sense of a little bit of a lack of imagination. At the end of the Iraq War President Bush gave that speech in which he basically said we don't have to have a domestic agenda. I'm paraphrasing, but basically, we don't need a domestic agenda, and there was still a year and a half to go and we *did* need a domestic agenda. Whether we would have accomplished something or not is one thing, but we needed to be talking and promoting a positive, forward-thinking agenda, and I think in retrospect we ran out the clock and ceded all of that ground to Clinton.

Nelson: I was thinking that during that year and a half there were centers of interest within the White House trying to promote various domestic agendas. Certainly the Vice President's office was one. Tort reform, the Murphy Brown values speech. Did you have a sense that that's where the action was?

Lefkowitz: Oh, I think very much so. In terms of the policy thinking, and that's, I think, one of the reasons why I gravitated so much to that apparatus. I was very involved in all the tort reform issues, and yes, in the White House counsel's office there were some interesting policy issues that Boyden was working on in the environmental area, but there wasn't any receptivity to promote any of that.

On the tort reform agenda there wasn't sufficient Presidential muscle behind it. I'm not sure at that point that we would have overcome the congressional opposition anyway. But yes, I don't think in the formal White House domestic policy apparatus, which I guess was Roger Porter at the time, there was a lot of dynamism. I'm not sure it was Porter's fault. I think it was just that the White House wasn't in the market for exciting domestic policy initiatives at that time.

Nelson: So when you left the administration, did you want to continue to play a role in Republican politics? Did you think of yourself maybe as a Quayle person for '96?

Lefkowitz: No. I don't think I thought there would be Quayle people in '96. I don't think I thought for a moment that that would happen.

Nelson: Because?

Lefkowitz: Because I just thought that he had been so significantly diminished publicly, and I think there didn't seem to be a really strong reservoir of support for him even within the party. So I didn't think there would be a Quayle team and I didn't see myself as being part of that.

I was very interested in staying involved, and I went to the American Enterprise Institute for nine months doing a project for the Bradley Foundation, a consultancy. It was a way to spend some time writing and thinking and giving talks and trying to figure out what I wanted to do with the rest of my life, and also to think about how I wanted to be engaged in policy issues. I was more focused, I think, on policy than politics. I've never really been a politics person from a campaign perspective. I've been more of a policy person.

Then at the end of that year or nine months, so by the end of 1993, I really had to make a decision. Did I want to stay in the world of Washington policy and politics, or did I want to go back to law? At the time I had been working at the American Enterprise Institute with Bill Kristol. We had been involved in this project for the Republican future, which eventually kind of morphed into the *Weekly Standard* magazine.

I thought about moving in that direction, and something told me deep inside that my comparative advantage was that I was a lawyer. I actually had a skill set. I had started to hone it but it stopped after a few years, and I really missed that. I also thought that whether I ever went back into government or not was an unknown. If I stayed just floating around in Washington in policy roles I would be shortchanging my real skill set, which was as a lawyer. I missed the kind of combat of being a litigator.

At the time, I wasn't sure where to go. I had actually become quite close with both Len Garment and [Irve Lewis] Scooter Libby through my work at the American Enterprise Institute, and I thought about going and working with them at a law firm they were going to in Washington. Then at the very last minute a friend of mine who had been in the Bush administration with me convinced me to join Kirkland & Ellis. He and Ken Starr were joining Kirkland & Ellis.

Kirkland had a wonderful litigation reputation in Washington, D.C., so I decided to do that, and really thought that I was largely leaving the Washington world behind me. Not entirely, because I made a point of starting to write articles frequently, either for *Commentary* or *The Public Interest* or the *Wall Street Journal*, and would try to write a couple of articles a year on policy

issues to stay engaged, but I really didn't see myself in that world anymore. I was a lawyer and I had clients and I was litigating.

Through a confluence of events I was fortunate enough to get involved in some public policy litigation. The first opportunity was when Governor Thompson asked me if I would represent the state of Wisconsin in the school voucher litigation, and then following on the heels of that, which was a successful litigation, somehow or other I was asked by then Governor [John Ellis] Bush in Florida to play the same role for the state of Florida and represent the state of Florida in defending its school voucher litigation from challenge.

[BREAK]

Nelson: Before we start up again, is there anything in the '90s? We were about to talk about your Jeb Bush affiliation. Anything else you want to talk about in the '90s to get us to the point where—

Lefkowitz: I think we've covered the '90s to the extent that they're relevant to the 43 project, which is what you can—

Nelson: There was a reference in one of the readings to your helping to start a conservative alternative to the Renaissance Weekend.

Lefkowitz: Oh, yes.

Perry: Do tell us about that.

Nelson: When did that happen?

Perry: And how do we get invited to the Dark Ages?

Lefkowitz: Well, I gave up the Dark Ages after a couple of years and handed it over to David Horowitz, the Center for Popular Culture, and let him take that and run with it, because I was tired of signing a contract every year with a hotel, guaranteeing them what was effectively about $400,000 in revenue for rooms and being on the hook for that. I said, "You know what? I just can't take that on. I'm confident that if I invite people they'll come, but I really don't want that responsibility anymore. Some organization has to take this on."

What happened was it was the midterm election, the [Newton Leroy] Gingrich election in '94. I remember a group of us were at a party. It might have been that night of the election, or it might have been right after the election, but it was a celebratory party. I think it was at David Brock's townhouse. This was back when David Brock was a conservative writing for the *American Spectator*. I think it was at David's in Washington, D.C.

I remember I was sitting with David Brock, Laura Ingraham, and Ricky Silberman and a few other conservatives in Washington, and we were joking about the Renaissance Weekend, which was of course all the rage at that time. It was kind of *the* invitation. This was before they started having 50 Renaissance Weekends around the country. At the time there really was one, it was in Hilton Head, and it was invitation only. We said, "You know what? We should have our own weekend. We should have some fun."

We spent some time kicking around ideas and we decided, as a spoof on the Renaissance, we'd call it the Dark Ages Weekend. Our dinner would be a kind of Beowulf-style dinner, and we wouldn't have silverware and it would just be—we were making fun of ourselves and lampooning both the Renaissance Weekend and ourselves.

Laura Ingraham and I decided to do this and we created this organization. It wasn't a real organization; it was just a letterhead that I ran out of my office, and we invited all of our friends to come and be panelists. We invited a lot of Members of Congress, a lot of the Republican Governors, and a lot of the media, and lo and behold by December of I think it was '95 we had our first Dark Ages Weekend. We rented out the Doral Hotel in Miami and it was a huge success. Four or five hundred people came. We had three or four days over New Year's weekend of really terrific panel discussions: a journalist, an activist, a Member of Congress, all moderated by a scholar. We talked about serious issues, historical issues, political issues, agenda issues, and it really was the place to be.

Then I think the next couple of years we did it in Arizona at the Biltmore, and then I was just getting too busy. I had become a senior partner at the firm. I was just really too busy to run this, and I also didn't want to be on the hook for the kind of money that would have bankrupted me if the weekend didn't pan out and the hotel came after me, so I just asked David Horowitz if he was interested in taking over the name, the idea. He decided the name was a little too aggressive and so he changed the name, but I think they still basically run these weekends and these conferences.

Perry: What were you thinking in reference to that and the '94 takeover and the Contract with America? Did you feel, *This is good, we're going in the right direction here*?

Lefkowitz: Yes. I thought that there were a lot of great ideas. I was a big Gingrich fan at the time, and my wife was a big Gingrich fan. She actually ended up doing a documentary for PBS [Public Broadcasting Service] on Newt Gingrich. It was intended to be modeled after the Tom Foley documentary, a day in the life, so they were following Gingrich around with a camera basically seven days a week. It just turned out that the year they were following him was the year of Monica [Lewinsky] and the year in which Gingrich came unglued as well. They had to rewrite the film in the last six months because they had all this great footage, but it was no longer going to be a film about the power of the Speakership, it was going to be about the fall of Newt Gingrich. It's a fascinating documentary.

I was a big enthusiast of Gingrich at the time and loved a lot of the fresh thinking and the new ideas, just as a student of politics, because I was really practicing law and not in the political world in those years. I just found it fascinating to be a spectator and to watch the battle between Gingrich and Clinton, in which on most issues, Clinton won out, although interestingly, Gingrich

in a sense won out on a couple of the biggest issues for which Clinton now gets all the credit, right?

NAFTA [North American Free Trade Agreement] and welfare reform; welfare reform he vetoed, and the only resignation I think in his whole administration came over that issue. Now, of course, he takes great credit for it, and it was great policy and very much instigated by the Republicans. I watched it all, but I really wasn't involved in politics at all. I had a lot of friends who were full-time Republican or conservative activists, and I was in Washington, so that was my social circle, but I was really busy building a career as a lawyer.

Perry: Did you have any contact with Ken Starr? You'd mentioned, of course, that he was with Kirkland & Ellis. What was that like, to be following that story and have this person in your firm?

Lefkowitz: I joined the firm right around the same time as Ken and actually did some work with him. We had become friendly during the Civil Justice Reform Project because he was one of the lead people from the Justice Department and I was working on it from the White House side, so we had become friendly. When he became the independent counsel, for the first I guess two years he stayed at Kirkland, and then he eventually took a leave of absence from Kirkland, because it just became overwhelming.

I stayed in very close touch with him, in part because I handled all of the media inquiries to the firm about our partner, who was busy in Little Rock doing his investigation. So I had quite a bit of insight into what he was doing and what was going on, although I wasn't involved in the investigation at all. I was at the firm practicing law, and it was really through, I think, the education reform litigations that I did that I was able to stay close to the whole Washington policy scene.

Perry: And how about on affirmative action? Did you continue to be interested in that, particularly because the Clinton administration had its policy of "Mend it, don't end it"? Did you continue to write about that?

Lefkowitz: I'd have to go back and take a look and see whether I wrote about it or not. I know I continued to write articles in various journals, in magazines, and I wrote certainly on political issues, but I don't know if I wrote about affirmative action in those days in particular.

Perry: So as Clinton obviously went through the situation with Lewinsky and Ken Starr—

Lefkowitz: This is a little out of order, but when I think about motivational issues—Actually in 1984 I wrote my senior thesis at Columbia on affirmative action. So I must have been thinking about the issue even before the experiences in law school with the interviews that I told you about.

Perry: Yes.

Lefkowitz: Clearly, by the time I came back—I wrote that senior thesis the second semester, so having just come back from interning at the Supreme Court. I did the internship in lieu of my first semester senior year.

Perry: Which would have been in the fall of ’83.

Lefkowitz: October term, ’83, correct. By that time I really was thinking about the issues and had clearly placed myself on the right side of the spectrum.

Nelson: Did you have a candidate in ’96?

Lefkowitz: A candidate in ’96?

Perry: That you supported.

Lefkowitz: I’ve got to think. Who were the key primary—

Nelson: Well, [Malcolm Stevenson] Forbes, [Lamar] Alexander, [Robert Joseph] Dole of course. Buchanan, I’m guessing not.

Lefkowitz: Yes, not Buchanan, no for sure. I was never a Dole enthusiast, didn’t really work at all with Dole. The only one I had a relationship with was Alexander, because I knew him from—

Nelson: The Cabinet.

Lefkowitz: —the Cabinet, and I worked closely with him. So I was naturally more attracted to him than to anyone else, but his star faded pretty early. I really wasn’t a fan of Bob Dole, who I felt was just very conventional and noninspiring. He’s a good man, a very decent man, but not someone who I thought was at all inspirational. I was so busy in 1996 running around the country as a lawyer, spending a week here, a week there, that I really didn’t get involved in any significant way in the campaign. I don’t think I took any kind of a role in the campaign. I don’t believe I went to the convention that year. So, no, I don’t think I really had a candidate in that election.

Perry: And Dole’s running mate was Kemp, right? Were you in touch with him at all?

Lefkowitz: I was in touch with him because maybe he was at Heritage at the time. He had set up Empower America and a couple of his deputies were good friends of mine, and so I was in touch with him. I may have, on the periphery, helped out on some things here and there. But basically I was a full-time lawyer in those days, and if it wasn’t related to my law job, I really didn’t have the time for it.

Perry: I was going to say you said when you were working for Bush 41 that you would see Bush 43 in and out occasionally at the White House. So tell us about when you do meet him, your memories of that encounter.

Lefkowitz: I obviously knew his brother, because I had worked as a lawyer for the state of Florida. That was probably—I don’t know, ’99 to 2000 was when that litigation was active, maybe as early as ’98. I’d have to go back and see when he signed the law. But I didn’t know the President at all. Some time probably a year and a half to two years before the election, when the campaign was just getting started, I remember getting a call in Washington from Josh Bolten, who was a good friend of mine. We had worked together in the Bush White House because he

had moved over to the White House from the Trade Representative's office, probably in the middle of '92 or early '92, and we had become friendly.

He was already down in Austin, really running policy, and he called and asked me if I would come down and work with him on the campaign. It must have been—Let's see, the election was in the fall of 2000, so it must have been maybe some time in 1999, the middle of '99, and I remember getting the phone call from Josh. I was in our kitchen. We had three young kids. The youngest was about five months old at the time, and I was three months away from becoming an equity partner at the firm. I remember talking to Josh in a loud enough voice so that my wife, Elena [Lefkowitz], would understand what the call was about, and I remember her very clear direction, "Absolutely not."

Perry: We should point out you are doing the cut-the-throat sign.

Lefkowitz: "You mean you're going to move to Austin, leave us here, have no income to speak of?" So I promised Josh that I would find some really good other people to send his way, and I did over the next year identify some terrific people.

Nelson: Who were they?

Lefkowitz: I remember identifying one terrific young lawyer who almost went down and then didn't take the job at the end because he got married and couldn't move to Washington. Then a number of the young lawyers at my firm who had been Supreme Court clerks and the like, I helped get them involved in all the recount-related issues after the election. I stayed in touch with Josh and I did get involved in some campaign activities that year, because Bush was my candidate. From Day One I thought he was the right candidate, and I thought he would galvanize the party quickly.

Nelson: Why did you think that?

Perry: What did you see in him that you thought that would be the case?

Lefkowitz: I thought he had really done a nice job as Governor in Texas. I thought he had a disciplined message. I thought he was honestly and legitimately conservative, but in a very inclusive way. He was true to himself, so he didn't have to pretend to be something that he wasn't, like you see with people like on the one hand, an Al Gore, and on the other hand, a Mitt [Willard] Romney; people who can't quite figure out where they are and are very positional. W. was very authentic. He was who he was. I thought he was right on most of the issues, and so I was very comfortable with him. I thought he also had a fresh charisma that would be attractive. I thought he was a great contrast, actually, to Al Gore.

Nelson: But in a Republican nomination it was [John] McCain the *Weekly Standard* sort of fell in love with.

Lefkowitz: I never had real problems with McCain. I just thought Bush was a more authentic voice. And I think at some level, having worked for his father and having worked for his brother, there was just a natural affinity. I was rooting for him and I had friends who were very deeply

involved in his campaign, so I never had a moment's doubt about who I was going to support in that election. But I had never met him.

Nelson: Did Josh Bolten say, "Come down and meet the Governor," or "Come down and help brief the Governor"?

Lefkowitz: No, and I don't think I volunteered, either. You've got to understand, as a young lawyer I was billing close to three thousand hours a year for my clients, and then probably working another few hundred hours of nonbillable time, and I had three children under the age of six. So I just had no time. It was constant. I remember that very year I had a case—I must have spent six weeks in Muskogee, Oklahoma. I was in the middle of nowhere for a long time—it's not really nowhere, but from the perspective of a *New Yorker* cartoon—

Perry: Now, for the Okies from Muskogee, you may want to hold that for a time.

Lefkowitz: That won't be on the transcript. I'm going to hold that for a while. But I guess right around the—the election happens and then there's all the recount stuff.

Nelson: So you're not doing anything during the year 2000?

Lefkowitz: Nope, I'm not doing—

Nelson: Until after Election Day.

Lefkowitz: I think I may have been asked by whatever part of the campaign was doing outreach to the Jewish community. I think I was asked to go around the country and give a lot of speeches in Jewish communities, to debate elected Democrats. I remember doing some of that outreach in the Jewish community.

Perry: Tell us what that was like, because of course the Jewish community is viewed as a classic centerpiece of the New Deal coalition, the Democratic coalition. Did you have a hard sell?

Lefkowitz: Sure. I had written a couple of articles analyzing the Jewish vote for *Commentary* magazine in the aftermath of the '92 and the '96 elections, and so I was very much in tune with Jewish voting patterns. Jews and African Americans are about the only two groups in America that vote traditionally, almost 90 percent, for the Democrats.

Reagan had done quite well in the Jewish community. He did very well his first time, and that had to do really with Carter more than anything else. Clinton had done very well in the Jewish community, and when George W. Bush ran, within the Jewish community there was very much the overhang of his father. Although his father was not in any way hostile to Israel, he was very hostile to territories. That was a big issue for him, and Baker had a reputation, certainly, of not being particularly friendly to Israel, and there was a lot of pushback in the Jewish community.

Al Gore, on the other hand, had had a long and very solid record of support for Israel, and had some very close relationships in the Jewish community. So it was a hard sell, but Bush did pretty well. I think he ended up somewhere around 24 percent that first election in the Jewish community, which was pretty good compared to where Clinton had been. I think some of it had

just to do with broader strategic relationships, Bush being seen as being stronger and tougher on defense. There was a segment of the Jewish community that was going to be moved by that.

We were also starting to see in those days a growth in the Orthodox Jewish community relative to the Jewish community at large. The Orthodox Jewish community tends to be both more conservative on social issues and more pro-Israel than the liberal Jewish community and the secular Jewish community. So there were a variety of things, but it was a challenge, certainly.

Perry: Did you speak in Florida during the campaign?

Lefkowitz: I don't remember whether I spoke in Florida that election. I remember doing a lot of speaking, a whole trip through Florida, but it might have been the following election. I don't remember where I was involved and where I spoke in 2000. But again, other than a little involvement in the campaign, I really wasn't significantly involved.

Perry: Did you write very much?

Lefkowitz: I don't know whether I wrote very much. I'd have to go back.

Perry: You probably didn't have much time to do that, either.

Lefkowitz: Yes. Then I started getting calls from the transition team folks.

Nelson: Were you involved at all in Florida?

Lefkowitz: No, I was not involved in the Florida recount.

Perry: Except you said you recommended young attorneys.

Lefkowitz: I helped a lot of the young lawyers in my office who wanted to do that. I literally was on trial in December and couldn't. I had commitments every day in court, so I just didn't have the ability. I had hearings and court. I just didn't have the ability to take three weeks off and move to Florida with a lot of my friends, but I was very supportive of it, and I helped anyone in the firm who wanted to take off and do that kind of work. I helped to facilitate that.

Nelson: I interrupted you.

Lefkowitz: No. So anyway, I really wasn't involved, and in fact was so not focused on moving back into Washington that my wife and I, in January of 2001 or in December of 2000, decided we were going to move back to New York. We decided we finally had saved up enough money to move back. We always wanted to come back to New York. We wanted to raise our kids here, where they have grandparents. We wanted to send them to a particular Jewish day school in New York, and we had been waiting, in large part, to save up enough money so that we could afford to move back. During my years in the government I couldn't save anything, and so it took time. New York was expensive.

We were looking at apartments and actually had put an offer on an apartment in Manhattan, probably the first week of January, and while we're waiting to see if we get this apartment and

we're in this bidding war, I start getting feelers from friends of mine who are on the transition. "Would you like to come in and interview for this job or that job?"

I remember talking to Al Gonzales about being one of his deputies in the White House counsel's office. And then I remember I might have talked to Josh about something or other, and Tommy Thompson, who was the Secretary of HHS [Health and Human Services] designate, asked me if I would be his general counsel. I talked to some of these people, but my head was really still focused on moving to New York.

Then I got a call from Mitch Daniels, whom I didn't know. I knew him by reputation, but I didn't know him, asking me if I would be interested in being his general counsel and would I come over and meet with him, and I did. I guess I must have talked to Josh and to Andy, both of whom I had known and was friendly with from the 41 days. I don't know, something just clicked, and I said, "You know what? I'll put off going back to New York for a year or two years and I'll do this. It won't really interrupt my law practice. It will be fun to come back and to be back in the White House," where I'd been eight years earlier.

I remember literally going over, having this meeting with Mitch, and then going and meeting with Andy or with Josh. This was now probably a week before inauguration, and so I talked to them. Then Mitch called me back or Josh called me back two or three days after inauguration, so by now everyone's in the White House.

I remember going over and they offered me the job. I remember calling my wife and saying, "Elena, I've got good news," and she said, "Did we get the apartment?" And I said, "No, actually I don't know if we did, but I'm sitting in the White House," and she said, "Oh, no, did you?" And I said yes. She said OK, and then she didn't talk to me for about week. She was really set on moving back to New York. In any event, I told my firm I was leaving and left literally almost within a week and started work in the White House.

Nelson: Why did the OMB position attract you more than the others?

Lefkowitz: What I liked about it was three things. I always felt that it was really important if you were going to have a staff position in the White House to work with a principal who you really admired and who was dynamic and impressive, and I felt all of those things about Mitch Daniels. Number two, I knew if I went back I wanted to be back in the White House because I had learned the White House and seen how it worked and seen how one can work in it, and if I was going to leave this really exciting law practice, I wanted to do something I thought would be equally exciting. Three, I knew and really liked Josh and Andy, and thought that if I was going to be working at OMB but with good relationships with the Chief of Staff and the Deputy Chief of Staff, it would give me an opportunity to do a lot of really interesting things. And so I just took a leap of faith and I said, "OK, I'll do it."

It turned out to really be an incredible place to show up in the second week of an administration, because Bill Clinton, in his last day in office, Friday the 19th of January, had sent something like 40 to 50 really hot-button regulations to the *Federal Register*, all of which were to take effect the following Monday, almost all of which were intended to create political problems for the new administration. They were a series of regulations that I think the Clinton administration knew

would create enormous political headaches for us, because they were regulating parts of industry that were going to have enormous economic consequences, which would create tough political dynamics. So, for example, he changed the standard for regulating the level of arsenic in drinking water. Well, you know, it's very hard to be on the other side of that issue, right?

Perry: The proarsenic side.

Lefkowitz: "No, we actually think a little more arsenic is OK, just a touch of arsenic." On the other hand, when you're talking about the kind of absolute minuscule levels and you realize that the baseline amount of arsenic in drinking water in any of the mountain states in the country is actually higher, much higher, than the standard already was; lowering the standard doesn't really change it or make the water any safer, and yet it adds enormous costs to small communities that have to cover the burden of changing their water filtration systems.

There were dozens of these regulations. The road list rule was one: getting rid of all roads in our national forests. Well, guess what? There are a lot of logging roads that exist, and there are a lot of roads that exist because people have homes that are grandfathered in, and if you get rid of the roads, then they can't get to their homes.

What is the appropriate standard for indoor air conditioning? There are technical standards that have to do with fuel economy. There were half a dozen of these types of regulations. Each one was a hot-button issue. Should we allow snowmobiling in our national parks? That was a near-and-dear favorite to Vice President [Richard B.] Cheney, because in Yellowstone that's one of the big recreational activities.

The Clinton administration was brilliant in terms of launching these grenades that hit, literally the first week of the administration, and of course for the press, each one was a great story, and what is this administration going to do? Are we going to make the country safer and healthier and more proenvironmental, or are we going to be in favor of more danger and more sickness and—you know.

They were wonderful bombs, but of course they all were regulations, and so during the first several weeks of the administration, whenever there were domestic policy briefings with the President—at the time, Margaret Spellings and John Bridgeland were doing domestic policy—many of the key issues that were on the policy agenda were about how we were going to deal with these regulations. Because that's what the newspapers were writing about. Our agenda was education reform, and Margaret was handling that, and that was the President's real affirmative priority on the domestic policy agenda from Day One. But all of these issues had to be addressed, and so I was asked to come in to start doing briefings because they were regulations and they fell in the bailiwick of the OMB office.

Perry: And you were briefing for whom?

Lefkowitz: I was invited to go to the domestic policy briefings once or twice a week with the President. They were usually the President, the Vice President, the Chief of Staff, the Deputy Chief of Staff, the domestic policy advisor and her deputy, and usually the political advisor, Karl [Rove]; Karen [Hughes], the communications advisor; Ari [Fleischer], the press secretary; and often Nick Calio, Leg [Legislative] Affairs.

Perry: Legislative Affairs, right.

Lefkowitz: And that was the core group. I was not in the West Wing, but I was asked to come over because I was the substantive briefer on a lot of these issues and we had to decide, What are we going to do? Are we going to implement the regulation, or are we going to suspend the regulation? Are we going to try to modify the regulation? And how are we going to deal with these issues?

The White House counsel was also involved, and one of the things we initially decided to do was just to put on a moratorium for 60 days so that nothing would actually become effective, so that we could use those first 60 days to really evaluate and figure out what the lay of the land is. Many of these regulations were things that had been percolating at the agencies for four years, and the Clinton administration was wise enough to understand the political blowback they would have if they promulgated them. They had to do with cleaning up of the Hudson River, which was the big General Electric issue, the upstate, the PCBs [polychlorinated biphenyls]. It had to do with mountaintop mining in West Virginia, with listeria, which is a microorganism that can get in water. You name it, there was a regulation on point that they just zapped us with.

Perry: And is this where the stem cell issue came in?

Lefkowitz: The stem cell came in a little bit through this. Actually, it didn't come in directly through this, because there was no actual regulation on that, but I think it was in large part because I had spent so much time in February and early March going to Presidential briefings and being the briefer that Josh, and ultimately the President, felt comfortable asking me to handle the stem cell issue.

Nelson: Before we get into the stem cell issue—The series of meetings you had, what were they like and what was the impression you formed of President Bush and how he was dealing with these issues?

Lefkowitz: The meetings were traditional for the formal domestic policy briefings. During the years I was in the White House, there were formal meetings and of course informal meetings. The formal meetings were meetings that were on the schedule, policy time. Josh would put policy time on the President's schedule three, four times a week. Sometimes it would be economic policy and it would be Larry Lindsey bringing in his team. Sometimes it was domestic policy and it would be Margaret bringing her team. Those were formal meetings with full briefing papers. Occasionally we'd invite a Cabinet Secretary if we were talking about an education issue, or if it was going to be a housing issue, we'd bring in the relevant Cabinet Secretary, but sometimes we would just have them White House only.

Then there were the informal meetings, which were just where the President would call and say, Can you come over? I want to talk about this issue or that issue. You'd go over and it would be a one-on-one meeting, or occasionally you'd go over and have a meeting and it would be one or two or three of the staff people together.

These meetings were all the formal type of meeting. You would find out about them a couple days in advance and you'd put together a little briefing paper. I would do a draft of the briefing paper, but then I would hand it off to Margaret or to Bridgeland because it was really their

briefing. It was their policy time. I was just being brought in as the subject matter expert to brief, and the briefings would basically be set for 20 to 30 minutes on the schedule, occasionally only 15 minutes.

We'd get right to the point. The President would say, "What are we here for?" or of course, having read his briefing paper, he'd start in with a question. "What are we doing about this regulation?" And I'd lay out the options. "Here's the situation. Here's what the regulation will do if we don't change anything, here's the economic impact, and here are the affected groups." Sometimes there are legal issues. For the road list rule, which Clinton had promulgated, we knew there were legal challenges already, and so since I was a lawyer, one of the things that I would do is weigh in on the legal ramifications. Often the White House counsel would comment, because I would have talked it over with him or with his staff in advance, and the President would say, "What do you recommend?"

In the first several months that we were dealing with all these issues—all of these regulatory issues percolated throughout the first half to two-thirds of 2001—a lot of it was trying to buy some time, figure out a policy, figure out maybe a compromise position where we could move the benchmark a little bit, but not in a way that was going to cause draconian harm to small businesses or impose enormous tax consequences on people in whatever industry they were in, but at the same time recognizing that there might be an opportunity to move the needle a little bit here or there.

I would basically do the briefing, and then, based on the direction from the President, I would then work with the agency to try to implement it. If it was a rule on whether or not we're going to allow three-stroke or four-stroke engines in snowmobiles in the national parks, because of the pollution and the noise, that was something I had to work with the Department of Interior on. If we were talking about whether we were going to lease wells for natural gas drilling off the coast of Florida, which was a very contentious issue in Florida—but we also had leases. Chevron had a lease, and if we were going to abrogate that lease, there were going to be legal consequences, so I'd have to work a different federal agency. There were a lot of these.

I remember one of the big early issues we dealt with was are we going to—One of Clinton's regulations was he promulgated a regulation that said that nurse anesthetists could now basically function in lieu of anesthesiologists for purposes of federal reimbursement during surgical procedures. And of course this was just frankly a political fight between the nurse lobby and the doctor lobby, right? The nurses wanted to be able to do this because then they could get reimbursements. The doctors, the anesthesiologists, didn't.

I'm looking at it from the perspective of the White House and I'm saying, "What's going to happen when the first patient has a bad event and it turns out it wasn't actually a doctor who was in the operating room, it was a nurse?" And so we came up with a compromise. Governor Thompson had gotten out a little bit ahead of the administration on this particular issue because he had thought about this from the perspective of Wisconsin, where the nursing lobby was the strongest lobby, and that was his perspective. I remember we talked about it internally, and Josh had two fantastic assistants, Kristen Silverberg and Joel Kaplan.

Perry: We've spoken to both, all three of them in fact.

Lefkowitz: They were just incredibly helpful and very much a part of my team. I sometimes felt like I was working for Joel and Kristen because they were in every meeting, supervising a lot of stuff. They didn't always sit in on the Presidential briefings, but all the staff work that went into preparing for these meetings—They were really my two go-to people, because I wanted to make sure that before we were briefing the President, Josh was comfortable with the lay of the land.

I remember sitting one day with them and figuring out, Why don't we modify this regulation so that any state that wants to adopt this rule could adopt this rule? But the default is going to be that you need doctors in the operating room. At least that way, if, God forbid, there was some terrible accident, that there inevitably is going to be, it's not going to be blamed on the President, right? The President is not going to want to change the regulation; it will be a state decided on its own that it wanted to.

There were lots of these types of issues that you had to deal with, and one of the real challenges when you're working in a policy role in the White House is trying to decide what issues you have to elevate and what issues you have to just deal with on your own, because you can't elevate everything. You certainly can't elevate everything to the President. My litmus test was if I think that I'm going to be involved in making some policy decision that's going to be in the newspaper the next day, I want to make sure the President knows about it in advance.

On the other hand, there are other policy decisions that aren't that significant but they're still important, and if you overrule a Cabinet member or something, he or she is going to complain to the Chief of Staff. So you've got to at least elevate it to the Chief of Staff's office and make sure the Chief of Staff is on board so he's not blindsided. There are other issues where you just have to make these decisions every day and direct agencies to take various actions, and you really can't elevate them because then you become a nuisance. But if you're not going to elevate them, you'd better be darn sure you're getting it right and that there isn't going to be blowback.

One of the things we struggled with, and I struggled with early on, is getting a strong enough sense of what are Josh and Andy going to want the outcome to be? How are Karl or Karen or Condi [Condoleezza Rice] going to react to this? And ultimately, how is the President going to react to this? It became more of an issue later on, when I started getting involved in all of the social hot-button issues: stem cells, Mexico City, the assault weapon ban, contraception in the federal health plans—all of those—gay marriage issues, affirmative action. When I got involved in all of those, it became even more delicate to try to figure out when you elevate issues and when you decide them.

But even on these regulatory issues you knew that there was going to be a *New York Times* editorial, critical—or a *Washington Post* editorial, critical—if you were in any way seen as rolling back the Clinton policy, so you had to navigate in a deft way. I was involved in doing a lot of this stuff throughout the first month, month and a half I was in the White House. It must have been in March; I think I wrote a pretty good detailed analysis of this in that *Commentary* piece.

Perry: Yes.

Lefkowitz: I couldn't do this for every significant issue I was involved in, but for the stem cell issue, which was such an important issue during his first year in office, and then for the AIDS [Acquired Immune Deficiency Syndrome] issue, which I think is one of the most enduring initiatives, I decided to chronicle them. I just chose to do it for *Commentary* because I really thought it would be of interest for the future.

Perry: First of all, at the time did you know that these two would be so important, and did you keep a journal?

Lefkowitz: I did not keep a journal, notwithstanding the fact that in that breakfast 20 years ago with Bill Safire he told me I should always take notes of every meeting I'm in.

Perry: Of course as a journalist he would say that.

Lefkowitz: Being a lawyer, I chose not to take notes of any meeting that I was in. I decided I would just trust my memory. I didn't really want to take notes. I knew both of those issues would be significant and would have durability for different reasons. The former issue would have durability because it really was reflective of one of the President's first major domestic policy engagements, and it shed a lot of light on his decision-making process, even though I think ultimately the substance of that decision will be overtaken by science. It was important at the time, but science is going to figure out ways to deal with all these issues. That will render his original decision not that meaningful 10, 20 years from now.

The other issue I knew from Day One would be enormously significant. I was just talking two weeks ago to Tony Fauci, who tells me that he thinks that the AIDS initiative that we were involved in has literally saved many millions of lives as of now. So when you think about that, that's really breathtaking.

Perry: AIDS, again, I think it's just blatantly clear why that would jump up. Stem cell, not quite as much, except if you put it in the same category of literally life and death on both sides of the scientific equation and therefore the policy implications and the political implications.

Lefkowitz: Right.

Perry: You've laid out very clearly the criteria for knowing when something should go to the President, when it will fall slightly short of that, where it shouldn't go at all perhaps. But it sounds like, in reading your description of it, that you thought it was life and death, and you come in and very dramatically read the passage from *Brave New World*. So we want to hear about that.

Lefkowitz: Right.

Perry: And then also, why do you think that this just jumps to the forefront of the President's mind and agenda? Because the way you describe it and others describe it, he almost becomes obsessed with it.

Lefkowitz: I think it's multilayered, and I'll just give you an answer off the top of my head. The way the issue cropped up has something to do with it. It came up both through a kind of public

prism and a legal prism. The public prism was once again Tommy Thompson, because he came from Wisconsin, which is where some of the initial stem cell researchers were from, and he was an enthusiast about it. He gave a statement at a press conference one day in which he basically gave full-throated support for stem cell research. And of course that was a real hot-button issue, because at the time, a prerequisite for stem cell research was embryonic research, and because of the [Jay] Dickey-[Roger] Wicker Amendment, it had been off limits.

It was a hot-button issue that really went back. I remember dealing with the forerunner to this, which was fetal tissue research, during the first Bush administration, and I was involved in some of the policy issues about that. It was a gateway to the whole abortion debate. And so you have a brand-new President whose father is seen as maybe a little suspect on some of these hard-right issues.

President Bush, W., on his own was absolutely consistent and didn't really ever seem to waiver on these issues, but it's a test at the beginning of his administration. There was also the question of what was said during the campaign, and if you go back and you look at the campaign questionnaire on embryo research, the answer is, of course, "I'm opposed to embryo research." But what happened was, late in the Clinton administration, the Clinton administration had developed the legal opinion that stem cell research wasn't necessarily embryo research, because the embryo research or the embryo destruction was what created the stem cell. Then working with the stem cells was no longer embryo research. It was a legal opinion that's perfectly defensible.

Nelson: What was the occasion for them to get that legal opinion, and where did it come from?

Lefkowitz: It came from Harriet Rabb, who was the general counsel of HHS, working for Donna Shalala. I think they wanted to help the NIH [National Institutes of Health] come up with a way of starting to fund this research, and they needed to get around the Dickey-Wicker Amendment, so they developed this legal opinion. And like a lot of controversial things, Clinton never got quite around to funding it, but it was all set up in motion, like a lot of the actual regulations, and in fact, one of the Christian legal organizations brought a lawsuit to enjoin the NIH from actually funding in accordance with that legal opinion.

I learned about the lawsuit almost at the same time as Thompson makes his speech. I get a call from Ari Fleischer basically saying, "What are we going to say about this? The press wants to know, is Bush really in favor of stem cell research?"

In the span of whatever it is, the half hour that I have to figure out an answer, I learn about the lawsuit, I learn about the legal opinion, and I quickly analyze it. I realize that it's a legal opinion that's close either way. I realize we've never really taken a position on stem cell research because during the campaign, no one really thought about it outside of the old concept of embryo research. I remember talking, I think very briefly, with Josh and Kristen, and then giving Ari some guidance about how to react and how to respond to that initial wave.

And then of course the President himself started getting lobbied very heavily. Stem cell research had appeal to scientists, who simply were desperate for more research dollars, and President Bush had already committed to doubling the budget of the NIH. So there was a big push for

more research, and this was potentially seen as a door opener for a lot of federal dollars. Then all the disease advocacy organizations saw stem cell research as the Holy Grail, and they each had their own celebrity spokespeople, many of whom I met with and talked to during this whole process.

Then of course the President was being lobbied by members of his own family. I think part of this might be that his father had a connection with people at MD Anderson. His own sister had passed away, as the President talked about, from leukemia when she was a child. His mother was quite outspoken by this point in her life on the pro-choice issue, so the abortion question wasn't toxic, certainly from her perspective, in terms of weighing in.

The President just found himself being inundated with opinions, and I think he was fascinated by the issue because it really was a question of the frontiers of science versus life-or-death questions, questions that really went to the core of when life begins, and then also, this new world of science, like where are we going and what does this lead to? So I think it was just something that fascinated him. It clearly took hold in the media. There was a fascination with it, and within a few days of that Thompson press conference and the lawsuit—which the Department of Justice had notified me about—they and the Department of Health and Human Services wanted some guidance about how to deal with this. I think Josh had basically asked me if I would take the lead and prepare some briefing materials for the President.

Nelson: And why you?

Lefkowitz: My guess is that he had seen me briefing the President and had confidence that I could be an honest broker. I think partly it was clearly a legal issue. There was a legal element to it, and so it was both a policy issue and a legal issue. If it had just been a legal issue, he might have gone to the White House counsel, and if it had just been a policy issue, he might have asked John Bridgeland. But because it was both a legal issue and a policy issue, he just turned to me and maybe felt that I had time to devote to it or would devote the time to it. I didn't really ask him why. I just said sure.

Nelson: I'm going to hit pause here because you come into the administration during its first week. You know some of the people, but you don't know the President, and you don't know the other people. What made you so good? In other words, clearly for you to be the go-to person on this issue this early in the administration, you had made an enormously positive impression on the President, as well as those closest to the President. Brag here on yourself, or don't be unduly modest. What do you think it was about the way in which you conducted yourself during these early weeks that made you so respected?

Lefkowitz: It's probably a combination of a few different things. One is, I do think there was some goodwill from having worked with Josh and Andy eight years earlier, and having had a good reputation as someone who is a serious thinker and practitioner then. Part of it was as a lawyer, I had really honed my skills at presentations. Oral arguments are all about being very concise, very direct, and getting to the point, although in an oral advocacy position, you're really advocating. In order to be a good advocate, you really have to be able to also just lay things out.

So that was a second aspect, and the third aspect was that I think I just was able to dig deeper into these issues than a lot of other people. I would focus on whatever the next Presidential briefing was and I would focus on it the way in which I focus on oral arguments, which is to do the research on the issue, to prepare by identifying what are the 10 or 15 most likely questions that a court is going to ask me, and then to prepare my answers and go a level deeper and say, What are the mostly likely follow-up questions that my answer is going to precipitate? And then figure out what my answers are.

I used to prepare for these Presidential briefings that way. My view was there's nothing more precious than the President's time. I don't really want to be in a position of saying, "Well, that's a great question, Mr. President. I'll get back to you if you have time on Thursday." My view was if he's going to ask a question, I want to be able to answer it, so I need to try to anticipate in advance. What I realized very quickly is if you're working in the White House, anybody will answer your questions, so you can go to the agencies. You can go to experts out of government and you don't even have to tell them why you need the information. If you tell them you're working on a project and you'd like to understand more about this or that, they're happy to help. And so I would just soak up this information.

I remember after 9/11 one of the things I had the responsibility for was putting together the regulations for the airline loan program: how we were going to bail out the airlines after 9/11. I remember calling each of the major airlines and saying I'd love to meet with an expert in airline policy. "I really need an education. I want to understand how the industry works." Then I remember calling, I think Citigroup, because they were the biggest lender to the airline industry.

People would come in and they would give you two, three hours, and you'd go to school. And as long as you understood that everybody from the outside has a little bit of an agenda and is trying to push you in a direction, you can filter that out. The other 75 percent of what they're telling you is really substantive, and it's substance that you can't get on your own. I would prepare for these briefings and try to get deeper and deeper and deeper into them, and for whatever reason, the President had confidence in me and was comfortable relying on me.

Nelson: And what was your developing impression of him through these first weeks?

Lefkowitz: Of course, like everyone, the first few times you go in the Oval Office and you're briefing the President, you're just awestruck by the whole environment, and although I knew some of the people, I didn't know some of the others at the time. I ended up developing a very close relationship with Karl and Karen, but I didn't have such relationships at the time, so I was kind of daunted. I just focused on delivering the briefing to the President as accurately as I could. I never would give my personal opinion unless he asked me for my personal opinion. My view was my job was to make sure he was educated and had the tools to make his decision.

I got a very favorable impression. I thought he asked very good questions. I thought he encouraged dialogue, but when he felt he was ready to make a decision, he was ready. He didn't continue to revisit everything endlessly. He knew he had to make a decision and move on, and if he wanted more information, he'd ask for it, so I had a good impression.

I thought that the briefings were going well. I thought he appreciated the way I would brief him, and for those first several weeks, that was the full extent of the relationship. I would see him once or twice a week. I'd come in and brief on a policy issue. I think I started, in his mind, to have the reputation of the guy who comes in whenever there's some problematic issue: *Uh-oh. What's the issue now?* But he understood it goes with the territory. I'm sure he was dealing with far more difficult issues on the foreign policy agenda that I wasn't involved in at the time, but on my issues, I wanted to have the answers for him.

Nelson: Did you notice right off the bat differences between how this White House was being run, how this President conducted himself, and what you had observed in the 41 administration?

Lefkowitz: Yes, and I think it was to some extent generational, and to some extent differences in style of the Chiefs of Staff. I thought the first Bush White House was a much smaller West Wing in the sense that Baker and Darman and Sununu advised the President, [Brent] Scowcroft. That was kind of the core group, and I had the sense at least that even when other people were brought in, it was less serious, that they were really the core team advising the President and there was less access for the rest of the staff.

Andy had the view that any of the senior people could have access to the President whenever they wanted—whenever they *needed*, I should say. Andy made a big deal about the difference between needing and wanting, but when you did have a real reason, you could have access to the President you could see the President, you could talk to him about issues. And equally important, when the President wanted to reach out to one of his staff people, there was no filter.

I still remember one morning getting a call. I learned quickly that I should be in the office by 6:45 because that's when the President came downstairs. But before I learned that lesson, I remember one morning it was 7:00 A.M. and I was still up in Maryland. I was in the shower and the President called. My wife answered the phone. It was the President's secretary. "Is Mr. Lefkowitz there? It's the President calling." I got out of the shower dripping wet and he asked me a couple questions and said, "Can you come see me? How soon can you see me?" I said, "Fifteen minutes if I run every red light," and he said OK.

I ran in and I still remember going into the West Wing, stopping at—This is early on in the administration. I think this may have been before I moved over to the West Wing. I remember going up the steps in the West Wing and stopping at Josh's office. Josh was sitting there getting ready for the morning staff meeting and I said, "The President called and asked me to see him about something," and Josh said OK. I said, "Do you want to come with me?" He said, "No. The President called you. Just go answer his question."

I thought that that was remarkable from the perspective of how you run a White House, both the confidence in the President's ability to figure out what he wants and how he wants it and how to assimilate the information, and the confidence level that the Chief of Staff and the Deputy Chief of Staff had in their team, that they didn't always have to be at every meeting. It was very empowering, and it was, I think, a terrific management style. It's actually something that I've tried to remember and learn from in my own practice here. So that was clearly a difference between the two White Houses.

There were also a lot more policy briefings on domestic policy issues. I don't recollect that 41 had lots of domestic policy briefings. President Bush was involved. I remember when we were doing the Medicare Modernization Act we had meetings every week with him where we would talk about different implementation issues. I remember when I was trying to get the AIDS bill passed through Congress, the President would call me every week and say, "What can I do to help? What do I need to do? What are the problem spots? Which Congressman should I call? What Senator should I call? Where are we?" There was real back-and-forth engagement on these domestic policy issues.

I think his father was probably much more involved on the foreign policy side. Look, my President was involved in an enormous amount of foreign policy and homeland security issues, but still, on the domestic policy side, when that was my agenda, he was very deeply involved. So there were differences, and part of it also was generational. It was just a young White House with a younger President.

Nelson: Did it make a difference that 41 was deeply experienced in Washington and 43 was not? Were there any rookie mistakes that 43 made or fresh perspectives that he brought because he hadn't been part of that scene?

Lefkowitz: I don't know, because I don't really know well enough how 41 really managed his calendar and managed his Congressional relationships. Obviously he had been Vice President for eight years; he had been director of the Agency; he'd been in Congress. He was a creature of Washington in just a fundamentally different way and had so many deep relationships. Forty-three was a Governor and had an MBA [master of business administration degree], and you really saw that difference of approach. He was very much an outsider come to Washington, and I think he ran his White House that way, in a way that made it a much more free-flowing exchange of ideas.

Perry: You talked specifically about his being an MBA in the *Commentary* piece on PEPFAR [President's Emergency Plan for AIDS Relief], but I wonder if you could just elaborate on some of Mike's questions about what you were seeing in these briefings from the President. What were characteristics of having an MBA, and in his own right having been a businessperson in the sports field?

Lefkowitz: I think he ran good meetings in the sense that he kept them moving. He knew what he wanted to learn from these meetings. He read his briefing materials well. On tough issues he was ready to ask questions that went to the heart of what the controversy was, what the decision or the inflection point was. So he had clearly read his briefing memos well. He asked good questions. He didn't discourage debate or disagreement. At various times in various meetings I saw him overrule the advice of each of his senior advisors, some less frequently than others, but I can think of different decisions on which every one of his senior advisors got overruled at one time or another.

Perry: You said, I believe, that the Vice President was in most of these briefings?

Lefkowitz: He was invited to basically every kind of formal policy briefing that the President had. Obviously post-9/11 he was off campus a fair amount and he didn't always participate.

Perry: What was his role in the formal meetings?

Lefkowitz: Usually relatively quiet, except if it was on an issue that he was really knowledgeable about or engaged about. I remember once a pretty large briefing. It was in the Roosevelt Room, not the Oval, on energy policy issues, and we were talking about nuclear power and different types of energy. There was a question about the cost of drilling, and all of a sudden both the President and the Vice President engaged in like a 10-minute back-and-forth dialogue about drilling, because they both actually knew it better than anyone else in the room, and we just all sat back and watched as the two of them went back and forth. Usually, though, the Vice President just listened or maybe asked a couple of questions and often lingered in the Oval after the meeting was over and I think would give his private counsel to the President.

In more informal meetings, not the formal policy briefings but informal kind of rump meetings that the President would just schedule—He'd ask three or four or five people to come to talk about an issue—I think the Vice President was often much more forthcoming. I remember we had a whole series of discussions leading up to the President's decision to file an amicus brief in the two affirmative action cases—

Perry: Yes.

Lefkowitz: —the Michigan cases. That was another issue that I was kind of the point on, and I did a lot of briefing of the President and gave the President—Again, the President wanted to understand the legal issues, the policy issues, what the experience was in Texas, in California, and in Michigan. And then he ultimately decided, because he felt it was such an important issue, that he wanted to file, even though the government wasn't asked by the Supreme Court to file.

Perry: Right, right.

Lefkowitz: He thought it was just important to weigh in on this issue. We had a series, must have had five to ten meetings, and they were small, informal, just four or five of the President's advisors. We'd often do them early in the morning before the day got started on other issues. The Vice President was very active in those discussions because those were more informal.

Perry: Was the White House counsel at those?

Lefkowitz: At those, yes. The White House counsel, Karl, Condi, Al, the Vice President, and I were, I think, the principal people in those meetings.

Perry: So did you contribute to that brief or draft that brief, or was that done over in DOJ [Department of Justice]?

Lefkowitz: I did a lot of briefing to the President on the issues. The actual brief that was drafted was drafted principally by the Department of Justice, by Ted Olson and then Paul Clement, his deputy.

Perry: And did you talk to them?

Lefkowitz: I did.

Perry: One to one or one to two?

Lefkowitz: I had some one-on-one discussions. They were not the easiest discussions.

Perry: Tell us why.

Lefkowitz: Then Al Gonzales's office got involved. I think it was probably Brett Kavanaugh, in his office, who got involved in liaising directly on the actual briefing. Traditionally, the Solicitor General has a lot of independence on briefing, but obviously the Solicitor General is still part of the executive branch, works for the President, works for the Attorney General, and the White House clearly has the prerogative to direct the Solicitor General, particularly on legal issues that have a very heavy dose of policy.

On this issue the President made a judgment about where he wanted this to come out, and let's just say I'm not sure that it's where the Solicitor General would have come out on his own. There was some give-and-take, and ultimately the President got the brief that he wanted, which was taking a compromised position, actually, not for overruling *Bakke,* but for recognizing the value of diversity even in the absence of quotas. So we actually took the position that one of the programs was unconstitutional and one was constitutional, a bit of a compromise.

Perry: Which is how the Court came out.

Lefkowitz: Yes. And in fact, if you look in my office, one of the only two pictures I kept from the big pictures—I have the ones that used to hang in the West Wing—was a picture of a discussion that we had in the Oval Office, literally at the moment that the President made his decision on which way to go on that issue, and you see in that picture Karl and the Vice President and Al Gonzales and myself, and you see Mike Gerson, who had been invited in at that moment, so that he could be told what the President's decision was.

Perry: So he could craft—

Lefkowitz: So he could craft the message that the President was then going to give in the Roosevelt Room when he actually gave a short address to the nation, talking about what his view was on this issue.

Perry: So that picture is by the White House photographer at the library?

Lefkowitz: Yes, it was one of these. I'm sure it's at the library.

Perry: I can see it in the commemorative book already.

Lefkowitz: I'm sure it's one of the jumbos.

Perry: Right.

Lefkowitz: I can show it to you if you want to see it before you leave today.

Perry: I would love to see it.

Nelson: Thinking about stem cells again. You describe the President as somebody who liked to move toward a decision and then not look back, and yet your own description of how he approached this issue, his description in his memoir, is one of endless wrestling with this question and asking people he'd run into here, there, and yonder about.

Lefkowitz: Excuse me for one second.

Nelson: Sure.

[Brief interruption]

Lefkowitz: By the way, one thing to remember to cover—It's not on your list—is the 9/11 Commission. We should talk about the 9/11 Fund, which I was deeply involved in, which Ken Feinberg has written a lot about, but the 9/11 Commission itself is a very interesting story. The reason I thought about it is it's the other jumbo that I kept, because it was a fascinating meeting.

Nelson: Why don't we do that now, when it's fresh on your mind?

Lefkowitz: Oh, I'm happy to. That's fine. Obviously we're jumping ahead now, because this is post-9/11. Of course one of the things that I had been the point person for was the 9/11 Compensation Fund, because I was still on 9/11 in the OMB position, and when Congress passed that airline bailout, the last sentence of the law was to create this fund. They designated OMB as the entity to put together a lot of the regulations.

We'll talk about the fund itself later, but as you will recall, there was a growing desire by family members to have an investigatory commission, and the White House resisted having a commission for a long time. That effort was really led by the Vice President's office. They were really dealing with this question of a commission or not. David Addington was the counsel to the Vice President, and for reasons that I think a lot of administrations would certainly agree with, having a commission opens all sorts of issues.

I'm not sure I came out that way. I think we could have probably gotten behind a commission right away and controlled the commission, created the commission in a way that would have done justice to the issue but also protected the White House in important ways. But suffice it to say—

Perry: And you were making this argument at the time? By the way, you had said earlier that you knew Scooter Libby. Would you talk to him about these things and hope that he would pass the word up?

Lefkowitz: Yes. We talked about—We aired all these issues out, but the decision that was ultimately made was we weren't going to have a commission, or at least we're not going to establish our own commission right in the aftermath of 9/11.

Nelson: Because?

Lefkowitz: First, there were other priorities, obviously, than having a commission. Number two, I think there were some people in the White House who thought that a commission would turn into a witch hunt and just didn't want to go there. To get out in front of an issue like that and embrace it and then try to own it has risks in and of itself. My instinct was we can manage those risks and we should have gotten out in front of it more because it would have turned out better, but that wasn't how things were decided.

Nelson: Did the President make this decision?

Lefkowitz: I don't know that it ever rose to the President's level at that early stage. It certainly did later on, and over time there became a real drumbeat to have a commission, and of course once the press got into it—We're now I think in the summer of 2002, there's a strong drumbeat, and at this point the stories are, "What's the White House hiding? Why won't it have a commission?"

By this time, it was evident to me that we were going to end up having a commission. It was just a question of what it was going to look like. I was maybe regretting that I hadn't pushed even harder, but I was not that—the whole—I was involved in a variety of 9/11 response issues. I was involved in a lot of the bioterror response planning because it had a domestic policy component.

I was involved in the 9/11 Fund. I was involved in a lot of the New York recovery efforts, and I was to some extent involved in some of the creation of a homeland security apparatus, but I wasn't on the core team. So I felt that it would have been overstepping a little bit for me to weigh in too heavily on whether or not we should have a commission, because I wasn't in the loop on everything that was going on.

But by the summer it became clear that the families of the victims and some of the key Congressmen were really pushing, and in particular [Joseph] Lieberman and McCain had decided to make the commission one of their hobbyhorses. It was very interesting. We got down to the end of October in 2002, and as you recall we were not in control of the Congress at the time.

Nelson: The Senate.

Lefkowitz: The Senate, because of the [James] Jeffords flip. We didn't know we were going to take over the Senate. If we had known, we could have done things a little differently, but we didn't know. We needed to get the intelligence bill reauthorized because we're getting close to going to war and there obviously are things that are necessary, certain authorities that the government needs in connection with being able to wage the war, and they have to come through the intelligence bill. The Democrats on the Intel [Intelligence] Committee, I think it was [Timothy] Roemer and [Nancy] Pelosi and others, were, among other things, holding us hostage and saying we need a 9/11 commission.

And I get a call one night from the Vice President's Legislative Affairs director, Candi [Wolff]. She and one of the White House Leg Affairs people called me and said, "We need help." I said, "What do you need?" She said, "Well, [Dennis] Hastert wants to have a vote tomorrow on the

intel bill. We need to have the intel bill authorized—that's a directive—but he can't put it on the floor because there's a classified veto threat." Evidently the White House had a classified veto threat. Now, that means that there's some program and Congress is reacting to it. We're threatening to veto, but the whole thing is classified. No one knows what this is about and so they call me, "Can you come down to the Hill and help solve this issue?" I said OK.

So I came down and they briefed me on what was going on, and of course none of them could tell me what the issue was. Well, I had to figure out what it was about, and there were only a few secure phones in the Capitol. One of them is in the Speaker's office; one of them is in the Vice President's. It turns out none of them are working, because they're not used that often. I discover that Vice President Cheney is actually having dinner in the Capitol that night at some Congressional dinner, and he's there, so I go down to the basement and I find his car and I get into his car because I thought there was a secure phone in the car.

I call Andy Card at home and explain to Andy the situation, and he conferences in George Tenet, who's the intelligence director, and I say to them, "OK, what's going on? What are we going to do here? This is our chance to get the intel bill authorized. Hastert wants to vote it tomorrow, but we've got a classified veto threat." So they explained to me what was going on and I realized this is way above my pay grade. I'm not going to be able to convince Roemer and Pelosi on my own to change their view.

So I went upstairs and waited for the dinner that Cheney was at to end, and as he's leaving it's 11:30 at night. I can tell he's exhausted. The last thing he's looking for is to be interrupted by me. I see him and he looks at me and I said, "Mr. Vice President, I need to talk to you for a minute." He said, "Yes, what is it?" So I said, "It has to be in private." He's not happy. [*laughter*]

I took him aside and I said, "Remember that classified veto threat on the intel bill?" He said yes. I said, "Well, we have a problem because the Speaker is ready to put it on the floor for a vote tomorrow, but we've got to resolve this issue." He said, "OK, let's have a meeting now." So I got Porter Goss, who was the ranking Republican on the committee, to come, and we sat down in the Vice President's office in the Capitol. Cheney really walked him through exactly what we needed, why we needed it, and Goss was able to persuade, I guess, Pelosi and Roemer to back down, but they insisted that as part of the bill, we agree to a commission. They basically clear the hurdle of the veto issue and now it's going to go to the full vote of the Congress a couple days later.

I start getting involved in intense negotiations with Lieberman and McCain on the commission. I'm working closely with the White House counsel staff and we're trying to figure out how many people there are going to be on the commission, who gets to appoint them, and who gets to appoint the staff director. You can ask Phil [Zelikow] all about that, although all of this predated Phil, obviously. I'm up to my eyeballs, and it's all a negotiation. Is the commission going to have subpoena power? Is subpoena power going to be something that the chair has, or does it have to be voted on?

It just so happened that the next night there was a premiere at the Warner Theater in Washington of the first of the Harry Potter movies, and I had somehow been invited. Someone had given us a

bunch of tickets, so I took my kids. I had these three young kids at the time; they were, I don't know, seven, four, and two or eight, five, and three. I take them to the Warner Theater and we're sitting and watching the movie, and literally two minutes after the movie starts, I get a phone call and it's the President. He wants to talk through the parameters of this commission and what we're going to do.

I think for the next two hours, I spent the entire time walking on 14th Street speaking with him, speaking to Nick Calio, who is our Leg Affairs director, talking to Lieberman and McCain, going back to the President. We finally struck the final deal. I remember walking back in to see the credits, and my kids were so mesmerized by the movie that they did not know that I had not been in the theater with them.

Perry: Did they think you had just magically disappeared and reappeared?

Lefkowitz: No. They thought I was there the whole time.

Perry: They didn't notice. [*laughs*]

Lefkowitz: Anyway, the other picture, which I just happen to have, is the picture of Cheney and Porter Goss, me and Porter's key staffer, sitting in Cheney's office, having that late-night meeting over the 9/11 issue.

Nelson: I've never heard of a classified veto threat.

Perry: Maybe it's classified.

Lefkowitz: I can't believe the fact of it is classified, because I was told about it, and when I was told about it, I wasn't in a sense in the loop on that program. I don't know whether I'll be able to clear that initially. There may be some time lag for when you can tell this story.

Perry: Exactly.

Lefkowitz: It's a great story.

Perry: It is. I mean it's great not only for the color, but Mike, I had never heard of that either. We've been teaching, combined, two-thirds of a century, right?

Lefkowitz: Well, what you should do is you should inquire. You should just ask Harold Koh or ask someone. Ask a lawyer who has worked in the White House counsel's office or one of the former Attorney Generals. Ask them what they know about classified veto steps, like what happens in that context. I bet you there's—I mean there must be. Someone must have written something on that. Anyway.

Nelson: Do you want to stay with 9/11 stuff now, or do you want to go back?

Lefkowitz: Whatever you would like. I've got a half an hour before my interruption and then I've got more time for you.

Perry: I just wanted to back up to the end of the stem cell research before going back to 9/11.

Nelson: Well, I'm thinking stem cell is going to be more than just the end of it, because I'm interested in why President Bush worried this as long as he did, as widely as he did. In other words, here's somebody who had a fairly structured advisory process—

Lefkowitz: Right.

Nelson: —but every guy he meets who he thinks might have perspective on this, he's asking about it.

Perry: Well, I used the term "obsessed," and it doesn't seem too strong to say that.

Nelson: Well, certainly engaged in an unusual way.

Lefkowitz: He was incredibly engaged, and you're right. I remember Anne Phelps, who was a domestic policy aide. She and Kristen Silverberg drove with the President in the limo one day to an event in Virginia, and he's asking them, "What do you think I should do? What's your view on this?" I remember they called me as soon as they came back to the White House. "The President asked me about this." I remember one of the President's siblings came in to have a meeting with us to weigh in on the issue.

Nelson: In favor of a broad—

Lefkowitz: Yes, in favor of a very broad—I think the President hadn't made up his mind. In other words, once the President made up his mind on stem cell, it was made. I remember the day he called and he said to Karen and to me, "I've made up my mind. Let's go announce a policy. Let's put a speech together. I want to talk to the country. Maybe we can do it in two weeks, when I'm in Texas." And then he never really wavered, and in fact, he vetoed a couple of bills that tried to override his policy. I think he really was keeping an open mind. I think he was really struggling with what the right answer was. I think he wanted to do the right thing. I think he understood that while there was clearly a political component to this issue and it was potentially a contentious political issue, his primary objective on this issue was to just get it right.

In the end, I remember we went running the morning of the speech, when we were in Texas and we were talking. It was clear that we expected more political heat from the right than from the left, because as much as the left, in later years, criticized the decision and challenged it, if you look at the *Washington Post* editorial the next day, it's actually very balanced, very evenhanded, a step forward for science. It was the right that felt that at some level the President had sold out, because to the extent that you view this as a form of embryo research or at least as cottoning embryo research, this was a step that no President had ever taken before. So he did take some political risk with this, but he wasn't focused on that aspect of it nearly as much as he was focused on trying to do the right thing.

I remember at one point there were some folks from National Right to Life who came in to meet with the President, because we were meeting with everybody, or lots of people, on these issues, and this woman from National Right to Life took out a poll and started to show the President the polling data on stem cell research and the President literally swatted it away and said, "I don't

really care at all about the polling. I'm not deciding this based on what other people think or what's politic or not. I'm trying to figure out what the right answer is." This is a big issue. We're talking about potentially tinkering with life, and if not, we're talking about the frontiers of science. These are much bigger issues. And I think it just seized him in that way.

Nelson: The decision to make a prime-time speech—It was only about a 10-minute speech, but networks generally weren't giving away prime time the way they used to back in the day.

Perry: And it was his first.

Lefkowitz: This was, I think, his first.

Nelson: And it was his first that wasn't a speech to Congress.

Lefkowitz: Right. I guess this was his first post–State of the Union Address to the nation.

Perry: And could I also ask why you think he—On that note, though, I'm interested—Why from Crawford? Why from the ranch? In light of going back to your first comments about the President's policy, communication, message: why this topic, why the national speech, why from Texas?

Lefkowitz: Well, this was an issue that had taken up so much of his attention and so much of the nation's attention. If you go back and you look at the number of articles that are being written in May, in June, and in July about stem cells, it's everywhere, it's every day, and it literally carried through right up until 9/11. In fact, if you look at the *New York Times* cover on 9/11, there's an article by Sheryl Stolberg about stem cells. I remember because I talked to her the night before for the article. It was still very much front and center in the news until 9/11.

I think the President felt he had spent so much time on it and it was such a contentious issue, that he owed the nation an explanation of his thinking. I think he felt that this was an educational moment and it was also a moment for him to tell the country what he had decided about this issue that everybody was talking about.

Crawford was probably because by the time he really made his decision and then decided he wanted to do it in an address, it was already summer and he was planning to go down for a few weeks, and so that's where he was going to be. I also think that because of the nature of the speech, it wasn't the kind of a speech that really had to be delivered from the Oval. It wasn't a national security address; it wasn't a message to a foreign country. It was a personal message from him explaining this issue, and the way it was delivered was very balanced: some people believe this, and some people believe *this*, and for me it's a personal issue. And so I think he felt comfortable delivering it from the ranch.

Nelson: Over this almost half a year that you were involved in this intensely, as he was, did that affect your relationship with him, your place in the White House? Generally, the fact that you're working so closely with him on an issue he cared about so intensely.

Lefkowitz: I don't know that it changed my kind of place in the White House, per se. I had a very good relationship with all of the folks. The White House is a pretty small environment. I

give Mitch Daniels, frankly, an enormous amount of credit and tremendous gratitude for really letting me freelance like this. I think Mitch understood that this was something that the President wanted me to do, and as long as it didn't interfere with the work I was doing for him, Mitch was fine, but not everybody would feel that way. Some people might feel that they really want their staff person's full-time attention, and other people might feel that if their staff person is going to be off working with the President, they want to be involved in that too. Mitch again, much like Josh, had just enough self-confidence that he was doing his job and he knew we were all working for the same person.

It certainly changed my relationship with the President. When I first started briefing the President in early February or mid-February, I didn't know him at all, and he didn't know me. I was just some lawyer on his staff who was there to usually give him bad news and help try to puzzle out ways to solve it. The stem cell project was different because it was very much a one-on-one dynamic. There were even times where our meetings weren't on the calendar at all, they didn't go through the Staff Secretary. The President would ask me just for input on this or that. He would call me in the evening or he'd call me in the morning, or he'd ask me to come over and provide him with some materials. I kept Josh in the loop on this, but it was an ongoing process.

After probably about six weeks of that dynamic, it was then that the President had the idea—and I think it came up in a discussion that Karl and Karen and I had one day with the President—about bringing in some outside experts.

First it was all the back-and-forth with my preparing materials, and for a couple of weeks, I started my day up in Chevy Chase by stopping at the NIH and kind of going to school. I'd meet with the senior molecular biologists and I tried to really understand everything I could so that I would be in a position to educate the President and convey to the President. I was looking at legal issues and moral issues and religious issues and historical issues and what other countries do, as well as the scientific issues.

Then there came a point where we decided to open it up a little bit and bring in outside advisors, not just the people who were getting appointments with the President because they had a relationship with him. Nancy Reagan weighed in, and she wanted to weigh in with us. Christopher Reeve called, because he wanted to weigh in. And I remember meeting with Mary Tyler Moore and talking to Michael J. Fox. I think the President's father asked us to meet with the head of MD Anderson. So there were those people, but then there were the people we invited, the ethicists, the biologists.

Nelson: Leon Kass.

Lefkowitz: Leon Kass, the leading molecular biologist at Johns Hopkins, who came in to talk about the way in which stem cell research would facilitate what he's doing in terms of disease management. Those were meetings that we set up, again, privately. They all just appeared on the schedule as personal time. I don't think they're listed as formal meetings about this issue, because we kept this whole thing very quiet and limited. Those meetings were enormously helpful and invaluable, because it wasn't just the President and me talking. It was real experts coming in, the President asking questions, occasionally Karl or Karen or I weighing in with

comments and observations. And always my taking notes about what the follow-up would be, what I thought the President would need afterward and the like.

Nelson: Were there any people in the White House staff who were saying, "Look, this is a no-win issue. You're not talking about whether to make embryonic stem cell research legal or not; you're just talking about federal funding. This shouldn't be a Presidential issue"?

Lefkowitz: There was no one really saying that, because I don't think that was feasible or practical.

Nelson: Because it was so clear that the President was interested?

Lefkowitz: No, because even before—Given the toxicity of abortion politics, in whatever direction you're on, and given that this issue, at least to the layman, is so closely affiliated with those issues, there is no way for the President to have distance or deniability from a decision on an issue like this that the NIH makes or that the HHS Secretary makes. It's ultimately going to be owned by the President, for better or for worse.

I remember dealing with the same issue when we had to decide whether or not we were going to allow contraception to be covered in the federal health employees' plan. Technically, it was a decision of—I forget her name. She was the head of the Office of Personnel Management, and she could have just made that decision, but we were going to own the consequences. The same thing when the FDA [Food and Drug Administration] ultimately had to make a decision about, I forgot which, the morning-after pill or something. These are issues that at the end of the day the President is going to own, for good or for bad, so you might as well shape them in the way you want to shape them or at least have the input you want to have.

Perry: I have a question about polling, especially on this issue, where you said the President had pushed aside the presentation of a public poll to him. When Karl Rove is in on the conversations there must be discussions of political implications, and Karen Hughes for that matter, but particularly Karl Rove.

Lefkowitz: Karl certainly would talk about different constituent groups and what their reaction would be, but Karl may well have talked to the President, particularly around various elections, about polling data. I'm sure from time to time that came up, not only with respect to him but with respect to other candidates that we were interested in.

But when it came to policy issues—I was in so many policy meetings with Karl on just dozens and dozens of different, really contentious issues, and I don't think I ever once heard Karl in a policy discussion say to the President, "Well, you know, 72 percent of the country is in favor of this," even when we were talking about things like should we extend the assault weapon ban or not, which is an issue on which there's tons of polling data. That wasn't the way the President liked to look at policy issues, not that he wasn't aware of the political ramifications, of course he was—that goes with the territory—not that political ramifications didn't make an imprint on some of the decision-making process, sometimes leading us in one direction, sometimes leading us in the other.

We made a decision after we implemented the AIDS program and I remember talking to the President about this. We had to decide whether we were going to apply the Mexico City restriction strictly in a way that would frankly have not allowed some of the AIDS funding to be deployed in parts of Africa, where the only providers were organizations like Doctors Without Borders, which do have advocacy for abortion. So under Mexico City, they wouldn't have been allowed. I remember talking it over with the President and he was very clear. He said, "Look, this is a health agenda." I remember getting some incredibly hostile phone calls from some of the Members of Congress challenging me on that.

Nelson: Conservative Members of Congress?

Lefkowitz: Yes. I remember getting calls. I had to do a lot of discussion with Chris Smith and Sam Brownback, and I think they ultimately came around. But again, the President wasn't polling that issue. I think he was aware that on some of those issues he was going to really anger the right, and on other issues he'd anger the left, and sometimes other constituencies that weren't right/left constituencies, veterans or whatever. But I think he had an implicit understanding that no matter what the decision that a President makes—You could make an enormously popular decision, so that means, what? Thirty percent of the people in the country think you're an idiot. You can't make everyone happy, no matter what you decide, so really you shouldn't be trying to make policy based on making people happy or becoming popular.

Nelson: Well, when the policy is made, when the President decides, for example, with stem cells, here is what my policy is going to be, is there then an effort to focus on how can we make this as politically appealing as possible?

Lefkowitz: Yes, I think so. We kept the stem cell decision extraordinarily tight. I think up until two days before or the day before the decision, it was really just Karl and Karen and Andy and the President and I who were involved in it. We generated the speech out of Crawford, not out of Washington, where the rest of the staff was. It was really only the morning of the speech or maybe the night before the speech that we got a few other people involved in the White House —probably Josh—in shaping the talking points and the papers that we were going to circulate with it, but I'm sure we didn't tell even the HHS Secretary until that morning. On the other hand, once the President was about to make the speech, I think there was some political outreach in the half hour in advance.

Nelson: You mentioned that in your article.

Lefkowitz: Karl reached out to a few key people, and at the same time we reached out to some key scientists and the like, and we would do that on a variety of issues. I remember we did that right after 9/11. One of the things that we worked on immediately was this Executive order that gave the President the authority to seize foreign assets of any banks that have terrorist accounts.

I remember the night before the President signed it, we had an outreach effort. I was asked to call [Robert E.] Rubin, who had been the Treasury Secretary, to make sure that he would be part of the right echo chamber. We did that on a lot of issues, and stem cells was no different, only it was compressed into literally the last hour, because it was really a surprise announcement. It was not an announcement that was intended to leak at all.

Perry: And then do I remember correctly from the briefing book that you and Karen did a news conference and met with the media immediately after?

Lefkowitz: We did. We did a news conference that you can actually watch. Someone found it on CNN on Google recently. You can literally find the whole press conference online. But we did a press conference from the press room. It was in the public school, I think.

Perry: In Crawford.

Lefkowitz: In Crawford. We did about a two-hour Q&A [questions and answers] with the media down there.

Perry: And there was a suggestion, at least in the article that I read about it, that Karen particularly wanted to use the opportunity to show and describe the President's decision-making process.

Lefkowitz: Very much so.

Perry: Which I found fascinating, and have to think that this is coming both because of the closeness of the election, that there are still people who are saying at the time, "This is an illegitimate President." And second, it's still a President that the American people are getting to know and one whose public image is still not formed, but to the extent it is formed, it's one of a person who might misspeak or seems a little awkward on camera. Were you also aware of those issues and did Karen talk to you about that?

Lefkowitz: We talked a little bit about why it made sense for the President to give a speech like this. I don't think anyone had to be as articulate about it as you are, because to some extent it was understood. Karen was the President's communications, message manager, and this was a great opportunity to help not only shape—the President decided what he was deciding, so Karen and I worked with the President on drafting a speech, although the President actually played a pretty significant role in the drafting.

I remember sitting on the porch with the two of them in Crawford the day before, literally editing the speech with the President line by line. But I think she also clearly recognized that this was an opportunity to help shape the President's projection to the nation, because you're right, it was early on and he hadn't yet been tested by 9/11 or anything that would rise to a kind of national or international level. So, yes, I think there clearly was some of that going on, and we did see this as a speech, and the President saw it as a speech, where he could really share a little bit of himself with the nation.

Nelson: Can you imagine any other period in his Presidency when he would have had the time to drill down this deep on an issue that was not national security or the collapse of the economy? Was this in a sense a luxury of peace and prosperity, as it seemed to be there early on?

Lefkowitz: Certainly in terms of the amount of time he spent on it, although I think we dealt with a lot of really tough issues later on that also, frankly, are not—I mean when you think about the true life/death issues that a President is focused on, first of all you're mainly in the realm of foreign policy and national security, homeland security. Most domestic policy issues, no matter

how important they are, don't rise to quite the same level as national security, and there are far more players involved anyway.

But I do think that this was early in the Presidency and there was a little bit of time to address this issue. I wasn't in the White House the last few years, other than I was there one day a week dealing with North Korea stuff, so I don't really know what the schedule was like at the very end. At the very end I think he would have had time, but leading up to that—

Nelson: A name that hasn't come up is Michael Gerson. Is that because he was—

Lefkowitz: On this issue, you mean, he hasn't come up?

Nelson: Yes.

Lefkowitz: He really wasn't involved at all in this issue, in part because the President had asked Karen and me to put the speech together. He wasn't involved in the decision-making process, and since he wasn't involved in the decision-making process and he wasn't involved in the speechwriting process, I don't think the President saw a need to engage either him or Ari, both of whom would ordinarily have been involved in something like this, which had a message component. I think because this had evolved as a very private—Everybody in the senior group in the White House knew for weeks that we were dealing with this issue, that the President was thinking about it, because it was in the paper every day, but I don't think most of them knew how often there were meetings and what was going on, because it just wasn't on other people's agendas.

Perry: Is one of the reasons that you became closer to the President, in addition to just working with him so closely on this issue of life and death about which you both cared so deeply—did you begin to share your faith with him, and vice versa?

Lefkowitz: We certainly talked from time to time about it. As with anything, as you get to know someone, you talk to him or her and you share more of yourself and you become closer. Over a period of time we talked more about our lives, to some extent our faith, our children. I had a daughter who was giving me all sorts of trouble, the way young daughters can. I remember the President gave me great advice one day. He said, "This is what I do; this is what you should do. Go home tonight and say, 'Talia [Lefkowitz], I love you, I love you very much, and nothing you can possibly do is going to make me stop loving you, so stop trying so damn hard.'" [*laughter*] It was great advice he gave me. But, yes, he knew, obviously, that I was an observant Jew, and we did talk from time to time.

I remember one morning he called me into the Oval Office very early. I showed up and he was sitting, reading. He used to read a section of the Bible in the morning often, and we talked about the portion that he had been reading. I was familiar with it, and he was familiar with it.

Perry: Can you say what it is?

Lefkowitz: At the time, that morning, he was actually reading from the Book of Ezekiel, which is actually not a book that we read that often in our tradition, although I had read it. I had actually, just the day before, been studying the Book of Jonah with my daughter in school, and in

the Book of Jonah, of course—I don't know if you're familiar with it—there's this great scene where Jonah travels across the water, getting spit out from the whale. He ends up in the town of Nineveh, which of course is about right—It's about 30 clicks [kilometers] from Baghdad on the map. And it just so happened that there was a map of Iraq open on the President's desk. We talked about having read from the Book of Jonah. We certainly talked from time to time about other issues.

Perry: Did he talk about any difference between your being steeped in your very fervent faith from your birth, I presume, and with your family and your mother's job and your schooling, and his coming as an adult to his beliefs?

Lefkowitz: Not so much, and frankly, my expectation is that his religious identity is probably more *faith* centered, whereas mine is more communal-centered. Judaism is not so much a faith tradition as a community and as a nation and a culture.

Perry: And culture.

Lefkowitz: There really isn't even a word in the Hebrew Bible for faith. There is a Hebrew word, but it doesn't appear, because faith is not so much what Jews *do* as opposed to *practice*.

Perry: And live.

Lefkowitz: And live. Whereas Christians and evangelical Christians, it's very much about faith.

Nelson: Recently I heard somebody say that Christianity is about orthodoxy and Judaism is about orthopraxis, and I thought that's quite—

Lefkowitz: Yes. And in fact the article that I just wrote two months ago in *Commentary* magazine is called, "The Rise of Social Orthodoxy," which is all about this aspect of Judaism and Jewish engagement.

Nelson: I have this vague memory of stories appearing some time during the Bush first term about Christian prayer groups within the White House from which others who weren't in those groups felt maybe a certain—

Lefkowitz: I don't know.

Nelson: Does that ring a bell at all?

Lefkowitz: No. I remember reading something about this taking place in the Justice Department, with [John] Ashcroft, that Ashcroft had—

Nelson: Yes, that's right.

Lefkowitz: I think that's what it was. I don't think it was in the White House. I think it was in Ashcroft's office. I have to tell you, I never felt in any way—I mean, I was a practicing Orthodox Jew. I didn't work on the Sabbath, except in a couple of national security emergency situations, where my faith and my practice would have obligated me to work. There were times

where the President usually wasn't in on a Saturday, because he was either in Camp David or in Crawford or wasn't working. But there were one or two times when there were briefings that were scheduled on a Saturday and I said to Andy or to Josh, "Is there any way we can move it to a Monday?" and we moved it. There was one time where it was critical that it happen on a Jewish holiday, and I walked down to work. I was able to do that. There were never really any issues at all.

I remember when I had dinner in Crawford, Mrs. [Laura] Bush went out of her way to accommodate my diet and make something that was appropriate for me. There was a real level of hospitality.

At one point the President and Mrs. Bush decided to have a dinner in honor of a new exhibit at the Holocaust Museum. It was an Anne Frank exhibit, and they decided to have a dinner and invite people involved in the museum and a group of their Jewish friends, both people from the administration and their close personal friends. It was in the State Dining Room, so that's about 160 people or so, for a dinner.

I remember getting a call a couple weeks before from her chief of staff. "Mrs. Bush wants to accommodate the people at the dinner who keep kosher. Can you look over who's going to be at the dinner and let me know what you think?" I knew most of the people, and I said, "Actually, only about seven people at the dinner are not going to be able to eat anything. Most of them will be fine if you serve vegetarian food or fish, but for seven of them, you might want to order in kosher food." She thought about that and I got a call back the next day. "Actually, Mrs. Bush doesn't want anyone to have to eat anything differently. What if we bring in a kosher caterer? Could you recommend a kosher caterer? We'll have the whole dinner cooked so that no one will have to be singled out."

Nelson: Right.

Lefkowitz: And of course in December of 2001, the President decided to have the first Chanukah lighting ever in the White House Residence, for which my daughter actually was the candle lighter.

Perry: You must have photos of that.

Lefkowitz: There are photos. There are spoofs that Jon Stewart has done. It's all out there. And of course the most wonderful moment was my daughter, who at the time was—Well, it was 2001, so she was eight years old. She shows up. We didn't tell her until that afternoon, when my wife picked her up from school, what she was going to do, because we didn't want her telling her friends. We didn't want her bragging about it. My wife brought her to the White House and told her in the car on the way, "You're going to be lighting the menorah. You're going to have to sing the prayers, and you'll give the candle to the President and then he'll light the candle."

So we went in, and of course I introduced Talia, and she briefed the President and told the President what was going to happen. She's this little eight-year-old girl. She starts saying, "I'm going to give you the candle, and be careful with it." Then she walks in, and of course the pool is there and they snap hundreds of pictures, and she does this whole lighting and it's beautiful and it's on all the TV shows. Later that night she's watching the news and she's all over the news.

Every news station is leading with her lighting the candles and it shows her singing the blessings, a beautiful little girl.

The next morning she's on the front page—her picture—of every newspaper in the country, and on the morning shows they're still showing the tape. So of course she goes to school and everybody's talking about this. She comes home the next night, goes to sleep, wakes up the next morning, runs out to get the newspaper and says, "Daddy what happened? I'm not in it." [*laughter*]

Perry: She's going to be a politician.

Lefkowitz: I said, "Welcome to Washington, honey. You are such history by now."

Perry: That must have been emotional.

Lefkowitz: It was really very lovely. It really was. The President was always interested in what was happening with my kids and asking after them, and I think it was the same with all of the staff people with whom he had a relationship in the White House. He was genuinely interested and knew where they were in their lives and what they were doing, and really cared about them.

Perry: I was just going to say that you saw him in that setting, and back to the point about wanting to present him in a proper light to the American people. Why do you think that sometimes that part of his personality, which you've described so well—I've seen him in small settings and I see it too, readily—didn't come across so through the camera?

Lefkowitz: So you have been in small settings with him?

Perry: Yes.

Lefkowitz: And you've met with him. He's charming.

Perry: Utterly. Articulate and witty.

Lefkowitz: He is. He's articulate. He's very funny and quick.

Perry: And at ease and sincere.

Lefkowitz: And he's very at ease. I would hear this all the time from people who have had the opportunity to meet with him either in Roosevelt Room meetings or when we would go on the road. We'd have these little roundtables in an airport hangar, whatever. It would usually be anywhere from 15 to 25 people, and he'd sit and would run the table and it was great. And for whatever reason, the big public speeches, and to some extent the press conferences, although I think actually the press conferences were often better because he was in this kind of one-on-one mode. But other than some of the big speeches that he really prepared for seriously and deeply, he just wasn't as natural a speaker.

There are lots of people who are great speakers and there are lots of people who are bad speakers. Some people are great speakers but don't have great substance, and vice versa. There

aren't that many people who have great substance and great delivery and great articulation, and unfortunately, I think for him, 99-point-something percent of Americans only encounter their Presidents through their formal speeches. They just don't have any other window.

It didn't help that the press liked to kind of pick on him and pick on certain aspects of his speech and his delivery. Look, to what extent it ultimately affected his overall Presidency and effectiveness I can't really say, but what I can tell you is that, as you know, in close-up, personal situations, and even in group situations, he had real charisma. He just didn't have quite the same kind of charisma in big public speeches.

Perry: People don't believe me when I tell them. They just don't.

Lefkowitz: No, but it's true, and almost everyone who has met with him in these settings who has reported to me comes away feeling exactly the way I feel.

Perry: Well, that's why it's important to hear your description from working with him so closely.

Nelson: The record should show, for people who just read the transcripts, that Jay Lefkowitz wrote a very thorough and excellent article for *Commentary* about the making of the stem cell policy, and also, looking ahead to something we'll talk about this afternoon, PEPFAR, AIDS relief policy. We don't need to cover—You've covered so thoroughly—

Lefkowitz: We can talk a little bit at the end about a few things: PEPFAR, post-article. In other words, I really ended the article when he made the decision. There are a few things, one of which I've touched on, which was the whole Mexico City thing, but there were a few things that I think shed some interesting light in terms of the President's personal engagement in getting the bill passed. It was actually a real challenge, because the two key Members of Congress we had to get this through were [Joseph] Biden and [John] Kerry, who really didn't want to give the President the victory.

Perry: Yes.

Lefkowitz: We actually came up with a strategy to go around them completely and get it passed through the House. We can talk a little bit about that if we have time as well. I need to take a break.

Nelson: OK.

[BREAK]

Nelson: Are there any particular areas you would like to cover today?

Lefkowitz: A little bit about, not in any particular order, the 9/11 Fund, which is interesting. We should talk about the AIDS program, to the extent there were things that were not covered. I think we really talked about stem cells. We can talk substantively, if you want, about just some of the other policy issues, and there may be some that are on your mind. I can certainly suggest others.

Nelson: Well, suggest others.

Perry: That would be even better.

Lefkowitz: Are you interested in little vignettes?

Nelson: Yes.

Lefkowitz: We can touch on some—There were some policy issues we dealt with that I think are interesting in terms of logging issues, forestry issues, that are worth talking about. We can just touch on some memorable interactions with the President if you want.

Perry: Definitely.

Lefkowitz: It's always hard to tell the President when he's made a mistake, so we can talk a little bit about that. Let's see, in terms of just trying to think of other big-picture issues. We talked a little bit about the 9/11 Commission already. We talked a little bit about the affirmative action.

Perry: We had on our list the faith-based initiative.

Lefkowitz: Yes.

Perry: Can we do that?

Lefkowitz: Yes, the faith-based initiative.

Perry: And the charitable choice element.

Nelson: The Salvation Army request.

Lefkowitz: Oh, yes, the Salvation Army. I'd forgotten about that.

Nelson: Well, at the end of your stem cell article, you mention other issues you were involved with. Gay marriage.

Lefkowitz: Right, right.

Nelson: Offshore oil and gas.

Lefkowitz: So we can cover those seriatim. Why don't you just pick one? You keep track of what we've covered and what we haven't. I'll just talk about the issue and then you can prod me with questions.

Perry: OK. You had started just now with the 9/11 Fund, but can we do what happened on 9/11, or do you want to start with something else?

Nelson: Do you want to backfill? Some of these are pre-9/11.

Lefkowitz: Sure, let's backfill. Let's keep it chronological to the extent we can. It might help my memory.

Perry: Faith-based initiative would have started, presumably, prior to talking about it, and working with the office of John DiIulio.

Lefkowitz: Sure. I guess I was involved in some of the faith-based initiative projects right from Day One, just because I was broadly part of the domestic policy team. I think even though I was the lawyer at OMB, once we got into March, April, I was pretty much participating in almost all the policy briefings, so I was working on a lot of those issues. I think in part, Margaret was really focused that first year on education and was really shepherding the education bill, and Bridgeland was really focused that first year on the global climate change stuff that he and Gary Edson were both involved in, and both of those were significant projects for them. So a lot of the other stuff tended to just filter down, and I started doing a lot of the other policy issues.

I don't know, and I don't think I'll remember without any prodding, any specific kind of initiative that we were engaged in on the faith-based program in the first year, so unless there's something in particular—

Nelson: I know that the initial intention was to do this through legislation, and then when that didn't pan out, through—

Perry: Executive order, was it?

Nelson: Executive action.

Lefkowitz: Yes, but I don't know that there is much of a story there. I think yes, there was probably an idea, and if you go back to the campaign book it was one of those things that we talked about doing with legislation. I think it became pretty clear that you couldn't get legislation passed. It was too contentious. It touched on too many hot-button issues, and so then the question is, what can the President do through his own power without requiring Congressional involvement? Again, I don't remember anything in particular.

The Salvation Army issue popped up relatively early, I think. I don't remember what day that was, but I think I actually briefed the press on that issue, although the way Ari used to run the press conferences, he would do the press conferences usually in the afternoon, and in the morning he'd have a gaggle and the press would come in and it would be all off the record. It would often be in his office, but we'd bring in the whole press pool and we would answer whatever questions they had.

I think on that Salvation Army issue—and I don't remember exactly how it came up—I just remember again getting one of those frantic calls from Ari saying, "What's our position on this? What are we going to do?" I probably scrambled with Joel and Kristen, and we put our heads

together and tried to figure out what position we're going to take and how we're going to talk about it, and then I was the one who had to address it. I guess my recollection is—Again, you probably will know this better than I if you have anything in front of you, but it touched on this whole issue of homosexuality and whether or not they were going to be required to either employ people or provide certain benefits.

Perry: Based on state and local laws and ordinances.

Lefkowitz: Right. There was state and local, human rights legislation, and yet there was this question about whether or not there was a federal right under—I don't know if it was free exercise, but there was a federal right that the organization had to in effect discriminate.

Perry: Yes, in hiring particularly.

Lefkowitz: In hiring, correct.

Perry: And I think the article that's in our briefing book mentions an issue about Karl Rove calling you at some point to perhaps plead the case of the Salvation Army.

Lefkowitz: Look, Karl and I talked every day and we saw each other all the time. In the second and third year when I was there, our offices literally were—We had an adjoining wall in the West Wing. In the first year, when I was at OMB, I would talk to Karl every day. I'd come over and we'd talk because he was very focused on policy issues, obviously looking at it from his perspective, but he's a real historian. I don't know if you've talked to Karl.

Perry: Yes.

Lefkowitz: He's a real historian. He was just someone who I enjoyed talking to and picking his brain on a lot of issues, in addition to the fact that he was a good barometer on certain issues, when I was trying to decide whether I wanted to take them to the President or not. So it was not of any particular consequence that he would have called me on that issue, because he would call me four or five times a week. In fact, in the second and the third year, he and I and Josh would work out two nights a week together in the White House. So I don't think that was unusual, but I do remember talking to him about the issue. I don't know if he was lobbying—

[Lefkowitz called out of the room briefly]

Lefkowitz: The Salvation Army.

Perry: And Karl Rove.

Nelson: He was hoping you'd find a way to work it out.

Lefkowitz: Karl was very practical, and like myself, we weren't looking to pick a fight with our supporters and with our base, and frankly the President had taken various positions in the campaign with respect to these issues because these are the kinds of issues that come up in these questionnaires. At the same time, ultimately these are constitutional questions that courts are going to decide, and so we were looking for a way to address it, being respectful of the religious prerogative and the fact that there was a legitimate constitutional argument that they had the right to take these issues into account, while at the same time being mindful of the state law issues.

These are federalism questions, ultimately, and to the extent that the Court was ultimately going to decide that in fact they have this constitutional right to discriminate in hiring and firing, we certainly weren't going to undercut that position. I'd have to go back and read the transcript of my press conference. I know I answered all the questions that the press had, and they were just vicious. They were coming at me because this was one of the first big social issues that blew up on us. It was a short-term thing, but it did blow up, and we had to manage it and deal with it. I think it bled into the whole Boy Scouts issue as well, because it's somewhat similar to that question. But my recollection is it was like a lot of these things, kind of a two-day story, maybe not a one-day story, but not more than a two-day story, and there isn't that much more you can say about it.

Perry: What did it feel like to be in front of the press, as opposed to an oral argument where you're being questioned by judges and justices?

Lefkowitz: I'm used to speaking, in a sense, for attribution, because when you're in court, everything is transcribed and it's there, there's a record, and your opponents pick at what you say and try to turn it around. So in that respect it wasn't that different. Usually judges give you the courtesy of not shouting questions at the same time as their colleagues, although every once in a while that happens in a courtroom too. It happens a lot more in the press gaggle, but the good thing about being shouted at with two or three questions at the same time is you can pick the question you want to answer. I tried to do that as much as I could and focused on the answers that I wanted to give.

Nelson: Your involvement in energy, oil, and gas exploration–related issues, was that in any way tied to Vice President Cheney's energy task force, or was that later?

Lefkowitz: It was not in particular tied to that, other than I got involved, as did everybody, in the whole regulatory issue about new source review, but it wasn't my principal area of responsibility. Bridgeland and Gary Edson and Jimmy Connaughton were more involved in that. I was more involved in the questions of offshore drilling in the two places in the country where this was, obviously—Well, Alaska was a different set of drilling issues.

The offshore issues were really off the coast of Florida, near Destin Dome, and off the coast of California, near Santa Barbara. Both are places where you've got really nice communities that don't really want to look at various oil towers in the water, and again, this was an issue that merged policy and law, because there are leases and you've got to decide. There are takings clause issues if you abrogate various contracts that you have; you might have to pay damages.

I got involved in a lot of that, and I also got involved in related issues where there were conflicts between the military and the Department of Interior: over where are wetlands, where near our wetlands the military could explode ordnance for practice, and where in the ocean they could do it, because it might damage certain species of fish or whatnot. So I ended up getting involved in a lot of those energy and environmental issues, but I wasn't really involved in the Vice President's initial review of energy policy, other than to sit in on some of the meetings.

Nelson: So specifically, how would an issue come up that involved oil exploration offshore?

Lefkowitz: It could come up in any number of ways. It could come up because the state of California was unhappy about something that we were doing or that we had authorized in the Pacific, near Santa Barbara, and we were getting a complaint from the Governor of California or a Congressman looking after his local interests.

It might come up because there were at various times moratoria on new drilling, and if there was a moratorium on new drilling, there might be a complaint and even a threatened legal action by one of the companies involved. Or it might come up because the Department of the Interior—It might be the Minerals Division, but I'm not sure off the top of my head—would, on a regular basis, have to do surveys of where there could be exploration and would have to put different things into the exploration cycle, and other things it would take out and remove, and when that happened, those had to be published in the *Federal Register* and there would be reaction. These would all percolate to me, either as legal issues or as policy issues.

Nelson: You were talking this morning about how you had to decide, *Is this a Presidential issue?* How would an issue become part of your in-box as opposed to being handled by the Interior Department or whatever agency had line responsibility for this stuff?

Lefkowitz: I had relationships with the Cabinet Secretaries, the chiefs of staff, and the general counsels.

Nelson: In each department?

Lefkowitz: In each department. In some I had relationships with all three; in some I had relationships with just one or two, but I was engaged on a pretty frequent basis with all of them. Also, these are really senior people in the administration, so they have the President's interests in mind. They also subscribe to the view that I subscribed to, which I certainly tried to make sure they were aware of: if something is going to show up in the newspaper, you've got to give us a heads-up about it. So that's a litmus test that brings a lot of stuff into your in-box, because people at the agencies realize that if they raise the alarm or if they flag an issue, they're not only doing the right thing, they're also protecting themselves from criticism. They're making sure someone else becomes a party to the decision.

This was something that Josh and Kristen did a nice job of, too, in terms of reaching out and inculcating a culture of bringing information into the White House. So I would learn about these things from the general counsel—You know, there's a lawsuit challenging some determination by the Department of Energy or the Department of the Interior out in Idaho and the western Governors are really unhappy with the policy of the agency. The agency is just implementing regulations that it inherited from the prior administration, but now there's a lawsuit. OK, well, do

we defend the lawsuit or not, right? That's a decision. You don't actually have to defend the lawsuit.

Perry: Right.

Lefkowitz: It's true. The Justice Department is sworn to uphold the law, but if we make a determination that the law really isn't appropriate, you don't necessarily have to defend it, or you can defend it but hope that you lose. Or you can encourage someone to challenge a law or a regulation and then leave it up to the courts. There are a lot of ways to facilitate this. A lot of things got on my desk because the general counsels or the chiefs of staff, or occasionally even the Cabinet Secretaries, would flag this for me and tell me about this issue, and then I would have to decide: *OK, do I just give them direction, or do I talk about it with Kristen and Joel, or do I talk about it with Josh?*

It might be an issue that I just want to talk about with Karl, to gut-check something. Or is it in an issue that I want to elevate to the President, usually in a formal process, but occasionally in an informal process? I remember one day I got word, probably from Gary Edson, because he was really involved. Have you talked to Gary?

Perry: No.

Lefkowitz: You should try to talk to him. He was the President's Sherpa on a lot of the G8 [Group of 8] stuff. If Josh has cooperated with you—

Perry: Definitely, he has.

Lefkowitz: He has. Then I think Gary will likely as well. Gary was involved in the negotiations on what was called TRIPS [Trade-Related Aspects of Intellectual Property Rights]. It was the Doha round and it was these international trade conventions that we were supposed to be a signatory to that we were negotiating. There was an issue over protection of intellectual property, and it had to do with patent issues and data, and Gary alerted me to the fact that the State Department was leaning hard on the USTR [United States Trade Representative], who was Bob Zoellick, to basically take a compromise position in the multilateral negotiations to get it done, because they wanted an agreement.

Gary had alerted me that this was a hot-button issue because our own American industry, particularly some of our big companies that care about patent issues, were very uncomfortable that if we had made this agreement, it would weaken patent protection. I got very concerned and I said, "You know what? This is an issue that I think we have to at least elevate." I remember grabbing Condi, because it was kind of a foreign policy issue and it also implicated the State Department, and telling her about this and saying, "I really don't think we should go ahead and make this agreement without elevating it." So she and I went down the hall. It turned out that [Colin] Powell was in the building that day, so we grabbed Powell and I think Gary, also, and we went and we talked it over with the President.

Of course the President's reaction was almost instinctive. He said, "Look, this is not a country whose principal business these days is manufacturing. Now our principal resource is our intellectual property, that's what we're exporting, and we've got to protect our intellectual

property." We got a clear, defined answer, so we carried it out; we made sure that we implemented it the right way.

Nelson: It sounds like this was an issue that didn't get the same kind of briefing and vetting.

Lefkowitz: No, this was probably an issue that the Trade Representative's office was dealing with. They probably—and again, I'm speculating here. They probably had teed this issue up with the State Department in order to get the State Department's OK and blessing, but hadn't necessarily brought it into the White House. Maybe someone at NSC [National Security Council] knew about it, but there was a whole domestic economic component to it that for whatever reason had fallen through the cracks, but because someone had alerted me to it, I quickly elevated the issue. There wasn't enough time to do it in a formal briefing because it had to be decided that day. So I just raised a bell and said let's find two minutes and let's tee this up.

Nelson: Clearly, you didn't want every single issue that arose in the executive branch to end up in your in-box.

Lefkowitz: No.

Nelson: How did you filter?

Lefkowitz: I think basically there were key guiding principles, and most of our chiefs of staff, who ultimately are responsible day-to-day for the millions of things that their agencies do, knew what the core principles were. They weren't secret, they weren't magic, they were core principles. They derived from what the President committed to in the campaign. There was a big campaign blueprint book that was never too far from me, in case I wanted to check. Obviously, things changed over time, but those are the guiding principles.

So a lot of things weren't raised with me. Now every once in a while that created a problem, because I'd read about something and I'd say to them, "How come you didn't raise it? You should have told us about this first. We would have liked to have had some process on that." But usually they were pretty good filters for what should be raised, and usually I was able to determine on my own how and who was in the White House that I wanted to tee an issue up with. Sometimes it was something I'd want to run by Condi to get a gut check, sometimes Karl, sometimes Josh or Andy.

There were lots of issues that came up. I remember we had a whole debate internally about government contracts and these union contracts, to what extent government contracts—I think PLA [Project Labor Agreement] is the acronym—are going to be tied to only union labor or not. This was a big issue, I think, when the Big Dig in Boston was going on. A lot of those were a couple days in a row of intense meetings and a small rump group. Sometimes it never went higher than the Chief of Staff's office, but we would resolve the issue internally, and whether Andy ever would mention something like this to the President or not, I wouldn't necessarily know. Sometimes we would just get it resolved and we'd implement.

Nelson: Was it different with independent regulatory agencies?

Lefkowitz: It was. Independent regulatory agencies have a special place. Well, we can talk about the constitutionality issue at another time, but they have a special place, and we tried very hard not to dictate to them, although Congress never had any hesitation about dictating to them. But at the end of the day, they were still in the executive branch or quasi in the executive branch. There's a whole separation-of-powers question.

There were times when we would talk to the chairman of the FCC [Federal Communications Commission], the chairman of the FTC [Federal Trade Commission]. We certainly engaged with the FTC very significantly on the do-not-call legislation. But by and large we gave the independent agencies a much freer hand because they were not quite in the same situation—That's the practical reality—as the FDA, for example, or the Department of Transportation or Homeland Security. Those were ours.

Nelson: I don't know if this would have been—

Lefkowitz: Just to give you one other example, a kind of off-the-wall issue that would come up—and I don't know if this is of any interest—but I remember one day getting a call from it must have been David Aufhauser, who was the general counsel at the Department of Treasury. Treasury, at the time, had authority over the DEA [Drug Enforcement Agency]. I guess that probably changed after the Homeland bill, so that tells you when it happened.

"How are we going to regulate these new drinks?" They were new at the time. These are like Bacardi rum drinks that you'll see; they sell them in six packs. They're kind of a quasi, like Smirnoff, the vodka drinks, but they're not really spirits. They're malt liquor. They have a percentage of alcohol that's a little lower. It's more like beer, and they're not actually made in a way that spirits are made, so it's not like canned or bottled vodka and tonic. It's actually this malted type of drink, but clearly it's being marketed to appeal to younger people, and so the question is, well, we've got to regulate them. Are we going to regulate them as spirits or as beer?

Well, who knew, right? This has turned out to be an enormous issue. Why? Because you've got giant conglomerates on each side of the issue. You've got the Anheuser-Busch people, you have the Bacardi people—I don't even remember the names of all the companies that are involved, but this is big business, and of course how they're regulated depends on whether they can be in supermarkets in a lot of states or just in liquor stores, and whether they can be advertised on TV or not, and it's a big deal. And of course there's a social policy element to this, because are we now going to take the easier regulatory pathway and potentially let people on the right argue that we're making it too easy for young kids to get drunk?

So, all of a sudden this was thrown in my lap. Now this was not necessarily something that should be elevated to the President, but someone had to figure out how to deal with this issue and how to look at the legal issues, because all of these things have legal and regulatory issues. You have to do what's consistent with the law, and in a lot of instances the law isn't pretty clear, because it depends.

I actually can't remember, as I sit here today, what decision I made on that, which way we decided to market them and to authorize them. But I remember coming home that day and saying to my wife that I never really expected when I went to work this morning that I was going to be

deciding how Smirnoff Ice is going to be sold in the United States. That's just not the kind of thing you expect.

Nelson: Well, I do wonder, and I hope I'm not beating this dead horse, but when you accept an issue that the agencies can't resolve, then in a sense you've got to own the issue. It's coming out of the White House, and on something like this, where you say somebody was going to be mad no matter how you decided—

Lefkowitz: That's a fair question. Some of these, just because you get involved doesn't actually mean that the White House owns it. The White House owns it when it goes to the President, and the White House owns it when you have a big internal process and it becomes public that the White House owns it. But on something like this, this was just DEA making a regulatory decision.

The fact that someone senior from DEA came in and sought guidance, or someone from Treasury came in, no one ever knew. So on the one hand, he was looking for some guidance, because he understood that this was potentially politically sensitive. It was important to provide some guidance, but to do it in a way that didn't take ownership of the issue. Again, if I couldn't have trusted him, I'm not sure I could have run that process the way I did.

Nelson: And how was it that your office and the White House counsel's office—was there an implicit division of labor there so that an issue like this would go to you rather than to them?

Lefkowitz: I had a good relationship with most everybody in the White House counsel's office. They have a clearly defined role. There are a lot of things that they are obligated, in a sense by law and by White House policy, to deal with. Clearance issues, approving all legislative language from a legal perspective, signing statements, processing Executive orders. Well, actually, that's also OMB process. They both have a different set of obligations there, obviously more esoteric things like pardons, a lot of foreign policy stuff, special authorities, and things like that.

Different White Houses treat the true policy issues differently. I think Boyden Gray played a significant role in policy issues, at least in the environmental area he's interested in. I remember I had Lloyd Cutler come in one day. I had lunch with him and spent a lot of time talking to him about what he did in the White House because I wanted to understand. I often would reach out to people who had served before to benefit from their experience and their knowledge, and I think he played a much bigger role in certain policy issues.

I think in our White House Al felt comfortable focusing more on the core legal portfolio and was comfortable. In any event, the President and Andy and Josh were comfortable with the policy stuff being more on the policy side, and since I had a lawyer's role and a policy role, it just turned out to be natural that my office—and I had a very good staff—would focus on the intersection of the legal policy.

Nelson: It's really interesting to me that one thing you've never said in this whole time is, "When I was with OMB it was this way, and then when I joined the domestic policy staff it was this way." It really sounds like you were doing the same—

Lefkowitz: Yes. realistically, when I moved over, it was really seamless, because I had largely been doing that. I had to give up some of the official OMB responsibilities. During the first several months, we didn't even have an OIRA [Office of Information and Regulatory Affairs] director, so I was acting, in a sense, functionally, like the acting OIRA director, not in an official way, but I was dealing with all those issues. Then John Graham came on board, so he took that part of my portfolio, in effect.

I still had all of the very targeted OMB-related issues, but that was running pretty smoothly, and I had some very good lawyers on my staff at OMB who were handling that. By that time I was already spending the bulk of my time on the policy issues for the President, on the White House side, and so when I moved over to the West Wing, nothing really changed. I had, I guess, technically more line authority over these issues, but in reality I continued to do the same thing and function in the same way and deal with the same people.

Nelson: That's really interesting. Something else that hasn't come up very much at all, but in general it does, and that is the Vice President's office is generally regarded as having been much more active in the day-to-day policy-making function in the Bush administration than has been the norm. What's your take on that?

Lefkowitz: I think the Vice President himself was certainly a strong figure, in particular in the first term, certainly pre-9/11 on all issues, and then obviously post-9/11, but in the first term on all the foreign policy issues and homeland security issues. A lot of his advice was given directly to the President. I think he was generally cautious in bigger meetings, but not always. He had a good staff, some very capable people. I think they were much more focused on the foreign policy side as well. On the domestic side, though, he always had a staff person in the room and in staff-related meetings.

A lot of issues would come up. I'd be working on an issue and it would come in either through a Governor, a Senator, a Congressman, a chief of staff, or it would trickle down from the President. He'd read about something and he'd say, "Can you look into this?" And I would call a meeting and either Kristen or Joel would come. I would always invite someone from Al's office, someone from Karl's office. I'd make sure there were eight or ten people from around the White House, always invited someone from the Vice President's office. Occasionally I'd invite someone from DOJ if there was a particular legal question, or from one of the other agencies, and would talk it through and get their perspective.

Then after that, sometimes I would sit down with Josh, or sometimes I would just sit down with Kristen and Joel. Sometimes there was no need for further deliberation; we'd kind of know where we were going. The Vice President's office was clearly represented there, but I never felt that they had an outsized role at all in any of those issues.

Perry: I was going to ask in relation to that, when you would talk with Scooter Libby as a friend, did you discuss the Vice President's views and theories about the Presidency and its power? I'm thinking particularly from something you said, the very first thing this morning, about your impression of Presidential power from Bush 41 and that a President needed to have that power and effectuate that power.

Lefkowitz: No. I knew Cheney a little bit from my Cabinet Affairs days, not well by any means, but I worked a little with him on one or two things. I knew Scooter, and we had become friendly. I don't think I ever talked to Scooter, or I don't recall talking to him, about the role of the President or the role of the Vice President. I would, from time to time, either schedule a meeting with the Vice President to talk to him about an issue that I was working on as I was teeing it up, or before I wrote the briefing memo to the President. Not often, but a few times I remember going and seeing him because I wanted to—

Perry: One to one?

Lefkowitz: One to one, or maybe if it was an issue of—I worked on a lot of issues alone. I worked on some issues with Bridgeland. I worked on a lot of issues with Gary Edson, and so maybe it would have been two of us or one of us. But I remember talking to him because I wanted to get his view or his advice about teeing an issue up, and from time to time, before an issue would go to the President, I might reach out to Scooter and ask what the VP [Vice President]'s sense is on this. "I want to make sure I'm accurately characterizing this in my memo," or whatever. But no, I don't think I talked to him about what he thought the role of the Vice President was.

Perry: Or the President, for that matter.

Lefkowitz: Or the President.

Perry: Generally the office, not necessarily who was even there.

Lefkowitz: Correct. I think in our White House we had a pretty strong view of a unitary executive. It was very much a dominant theme. It's actually one of the issues I cover in one of my two classes at Columbia, because there is a big debate among political scientists about who really has authority over Cabinet and sub-Cabinet officers. Does the President, by virtue of his power to remove? Or does Congress have certain authorities, particularly when they delegate a particular responsibility in statutes to a sub-Cabinet member? I'm much more of a hawk on the unitary executive.

Nelson: Nine-eleven. What were you planning to do that day, and then what did you end up doing?

Lefkowitz: It was my son's birthday. He was born on 9/11. He was three years old that morning, and I remember going in and giving a kiss early in the morning. I left for the office very early. By those days, I was always in the building by 6:45, because that was usually when the President came downstairs. Oh, remind me to talk a little bit about Henry Kissinger later on.

Perry: Sure.

Lefkowitz: I guess that triggered a memory. So I came in early, and I was over in the West Wing early that morning. I was actually supposed to brief the President at about 1:30 that day on a stem cell–related issue.

One of the big issues that came up in connection with the stem cell decision was what was our policy going to be on allowing federal funding to go to researchers who are working in laboratories that do actual embryo research. The reason this comes into play is because there's an OMB circular that talks about—If you're an academic and you've ever gotten a federal grant, you know that there's overhead, and some portion of a grant is going to go to overhead. So if a portion of the federal grant is going to go to overhead and that overhead is going to be also supporting a facility that's conducting work that is off limits to the federal government by virtue of a Presidential directive, then there's an argument, and it's a legitimate argument, that you can't fund them.

It came to my attention, and interestingly enough, this was a critical issue for the disease-management activists. The guy who ran the Juvenile Diabetes Foundation told me, *entre nous*, he said, "This issue is actually more important to us than the issue that the President decided. We actually don't need the direct funds. We need to make sure that all of the funding that goes to researchers for anything they're doing, as long as it's taking place in one of these facilities, isn't jeopardized."

And in fact, there was a well-known defection by a prominent scientist at the University of California at Santa Barbara, I believe, who was doing important stem cell research, who left in the middle of 2001 to go to London. He claimed, at least, that this was a reason why he had to leave, because he was being jeopardized. I flagged this. I remember talking to the President about this issue before we made the August 9th announcement. We decided it was just too many different issues, too many moving parts; we'll take care of it later.

We actually had a briefing. If you look at the President's calendar for 9/11, there's a policy briefing. I don't know how it was characterized.

Perry: So he was to come back from Florida that afternoon?

Lefkowitz: Yes. I have a recollection that he had spent that weekend in Washington, because I think we actually talked about having that briefing on Saturday, and then I said, "You know what? I'm not around. It would be hard for me to come in. Let's set it up for Monday." And we said we'd set it up for Monday. I think his plan was to fly back from Florida right away, and I had a briefing that afternoon.

I came in early to make sure that everything was in order, the briefing papers had been circulated the right way. He was off on the trip. I was still at OMB, so I got back to the OEOB [Old Executive Office Building] and I was sitting in my office at nine o'clock, having my staff meeting with my staff. We had already finished Mitch Daniels's staff meeting, and we see the TVs. Within a few minutes I was on the phone with folks in the West Wing.

[Brief interruption]

Lefkowitz: What was I in the middle of?

Perry: You were being in touch with people by phone after you saw what happened on television.

Lefkowitz: Oh, yes. It was pretty darn clear pretty soon, obviously, that we were under attack. I remember my wife called after I guess the second tower fell. She wanted to know what was going on and she said, "Should I run and pick up the kids from the school?" And I said, "You can, but you really don't have to. It's pretty clear. It looks like it's high-dollar targets."

So of course my wife listened to me, and by the time she went to pick up the kids they were the last ones at the Jewish day school, because everybody in Washington thought, *If there's any terrorism going on, a Jewish day school is a target.* I, of course, wasn't the least bit concerned because I figured, *Pentagon, Capitol, White House. We don't have to really worry about a school.* So my kids were the last ones. It was very sad.

Nelson: You left them down in the lobby.

Lefkowitz: We left the White House shortly thereafter—And I remember a whole group of us ended up shortly thereafter in an office building several blocks away. It turns out I was there with Mike Gerson and I think John McConnell, who was one of the speechwriters. They were working and I was kibitzing a little bit on remarks. Throughout the day, obviously, we were watching what was going on, and because of my role in domestic policy, I was on the phone a lot with the Department of Transportation and the FAA [Federal Aviation Administration].

If you weren't in the bunker and you weren't traveling with the President, there wasn't all that much that you could really do that day, and so I kibitzed a little bit with the speechwriters and then remember going back to the White House around 7:30 at night, and it was just a dramatic scene in Washington.

As I approached Lafayette Park, there were three or four different cordons of armed Marines with weapons drawn, full battle gear. I was holding up my White House pass to get in, because of course my car was parked in between the West Wing and the OEOB. I wanted to get into my car to go home, and I also wanted to come in and watch the President speak. By this time, he had just about gotten back to Washington, and he gave those remarks from the Oval. I was there and I watched him give his remarks.

I came into the office the next morning, and at about 9:30 the President called. The next morning he called John Bridgeland and me in. I remember the White House photographer snapped a photograph of the particular discussion. He started talking about the financial war on terrorism and wanted to crack down immediately on their financial networks. He gave the directive to develop this Executive order, which we then worked on.

Gary Edson and I, and Brad Berenson from the White House counsel's office, spent a good chunk of the next week working on this Executive order that gave the U.S. government the authority to basically freeze bank accounts and freeze asset flow of any bank that we determined harbored terrorist accounts through an OFAC [Office of Foreign Assets Control]-related process run out of the Treasury Department.

So that was really the first time I really talked to the President after 9/11. You know, it was quite a moving meeting. And then by later that day I remember working with Karl and Josh and Andy as we were figuring out the President's travel to New York. I remember he had a call with [Rudolph] Giuliani and a call with [George] Pataki, if I recall, and planned the trip to go up later that week. I didn't get up there on that trip. I went up the following Monday, I think, to do a site visit and to start working on all of the relief efforts in New York. I think probably because I came from New York, and again because I did policy-related issues—

Perry: And you did the aftermath of Hurricane Andrew and the riots in L.A.

Lefkowitz: Right. It was just natural for me to be involved, and it turned out there weren't a lot of health issues to deal with because there weren't a lot of injuries. It was catastrophic in that respect. But there were immediately an enormous number of emergency issues in New York, environmental-type issues we had to deal with. We started having a morning 9/11-related response meeting that we used to have in Larry Lindsey's office, and I think Alan Greenspan came, largely to focus on the economic effects.

We realized, obviously, that the airlines were at a particular crisis point. The airline industry wasn't particularly healthy pre-9/11 that year, and being grounded for a couple weeks just put them over the edge. Congress obviously reacted to that by passing the Loan Guarantee Stabilization Act, for which we had to put the ground rules together. My office put together all the regulations for how that would work, and then, as part of that statute, they also created the 9/11 Fund. I was involved in interviewing various potential candidates to be the special master. Ultimately, the special master technically reported to the Attorney General, but we basically made the decision out of the White House, and Mitch Daniels was, I think, nominally put in charge of that process. Mitch and I interviewed a bunch of people and ended up with Ken Feinberg, who turned out to be a very good choice.

There were a lot of interesting issues that came up as we were putting together that program. Again, on the one hand, we didn't want to own that program because we had an outsider doing it. On the other hand, there was the potential for kickback. So what are we going to do about the victims who were illegal immigrants, right? The waiters and the busboys up in Windows on the World? Initially, their family members were afraid to come in and participate in the program. I remember talking to people at the Justice Department to make sure that we could create a safe harbor so that we could give them their award under the program; they wouldn't be subject to any immigration issues.

What do you do about people who actually don't have a next of kin but they had a gay lover? That's a tricky issue for a Republican administration. We made the decision that we were going to default to whatever state law would have, and of course state law in New York allowed recovery. I think that was an issue I probably did elevate and at least mention to the President, because it had the potential for—

Nelson: Was it the same in New York, New Jersey, and Connecticut?

Lefkowitz: I believe it was, but I couldn't swear to it now. One of the hardest initial issues was the statute actually says that you pay people an amount, to be determined through a formula that

we came up with, to approximate what they would get in the tort case, but any collateral source is an offset.

Well, that's very interesting. What's a collateral source? Clearly, life insurance is a collateral source, which created a real problem, because one day, when we published the initial grid of what likely awards would be, I got a call from a woman whose husband was one of the heroes of the flight that went down in Pennsylvania, and she was very upset, very unhappy, because she looked at the grid and she was going to qualify for about four or five million dollars, but her husband had a life insurance policy that basically covered all of that. So she was going to get nothing from the fund.

The call came into the White House switchboard, from the President's secretary, "Can you handle this one?" It was very difficult to explain to her the way the program worked, but this is a woman whose husband was really a genuine hero.

Perry: And she thought?

Lefkowitz: She just assumed that she would have been entitled.

Perry: To that full amount.

Lefkowitz: Right. I said, "Was there a problem with the insurance?"

Nelson: *Why should I be punished?*

Lefkowitz: I said, "If the insurance didn't pay, I'm happy to make a phone call to see if someone could intercede," and she said, "Oh, no, I got the check two weeks later." But what do you do about the charities? The Red Cross was collecting millions and millions of dollars, and if they were going to pay money out to people, that might well be deemed a collateral source. So that was a tough one.

I remember going to the Office of Legal Counsel and saying, "We need an interpretation on this, and we really need an interpretation that doesn't treat that as a collateral source." That was a very close call, because you could look at that and say that really is a collateral source. "Now," I said, "here's the problem. If we come out and determine that that's a collateral source, the Red Cross has told me they're going to sit and hold all of this money until you guys make your rewards, because your program has a two- or three-year limit, and then they'll pay out. So all you're going to do is keep people from getting their money earlier, but you're not going to change the overall amount, because we're going to pay out the charity. We'll just do it after your program sunsets."

I said to the lawyers there should be a way to reconcile this and come out the right way and say this isn't a collateral source, because otherwise we're going to be at war with the Red Cross. We're going to get a terrible black eye. They came out the right way.

Perry: Did you lose any friends or family on that day?

Lefkowitz: I did not lose any close friends or family. I knew half a dozen people who were killed in New York City, including a law school friend of mine. The closest friend that I lost on

that day was Barbara Bracher, who was killed not in New York, but in the plane crash. She was Ted Olson's wife and she was a friend of mine, who I actually had talked to two days earlier. She had called.

She was an activist, worked on a lot of great projects, and was interested in all sorts of policy issues. She had been a very active participant in the Dark Ages Weekend and she was part of something called the Independent Women's Forum, which was a conservative women's group in Washington. I had literally talked to her two days earlier about a policy issue that she was working on from the outside. So that was really quite a shock.

Perry: You said that the day after—that would have been 9/12—when you spoke to the President, that it was very moving, which was certainly understandable. How did he manifest his feelings?

Lefkowitz: By being just very clear about how the whole world has changed and we're really at war. It's still somewhat undefined, but it's clear that we have been attacked, and really in a very serious way. We knew, he knew, I think we all knew, that from that day forward nothing would be the same in that White House. The briefing that I was supposed to do that prior afternoon, I think it was some time in February before we put it back on the calendar. There were issues that were too important.

We were modeling what kinds of bioterror events could happen. I remember we had the whole debate internally about smallpox vaccinations, and were we going to require smallpox vaccinations for the nation, knowing that if you require smallpox vaccinations, a small but identifiable percentage of people are going to get sick, and some of them may well die. And yet if you don't, and if there's a terrorist attack and in eight different cities someone lets out a virus in a crowded place, you could have tens or hundreds of thousands of people infected before you've identified the base case. There were all sorts of issues that we were dealing with during the ensuing months after 9/11.

Nelson: In the snowstorm of activity that involved issuing Executive orders, sending legislation to Capitol Hill, Congress dealing with that legislation, were there things that turned out to require revisiting because there just hadn't been time to think them through? Or did it turn out pretty well?

Lefkowitz: I think on balance it turned out pretty well. The first obligation—and the President was really clear and articulate about this throughout—was keeping America safe. I think he did that enormously well. There were lots of threats and there were lots of moments of potential danger. It wasn't my portfolio, but I give him and the FBI and the homeland security apparatus, the military, enormous credit. This was serious, serious stuff, and I think we're still benefiting from a lot of the change in culture that the President initiated. Turning the apparatus at the Justice Department, the focus from investigation to preemption, was an enormous change. So yes, I guess if we started to look at every single decision, you could certainly pick at some of them and make changes, and there may have been some modifications along the way, but basically I think we got that part right.

Nelson: I was thinking of the stuff that would be in your portfolio, like the nature of the freeze on bank assets, the way in which airlines were helped out, the money that did go to New York City.

Lefkowitz: I think we got that stuff right. We had a big debate when we set up the TSA [Transportation Security Administration]. Were the TSA employees going to be private, or were they going to be public? We ended up, I think, making a compromise. They were public, but they weren't unionized. There were all sorts of those small issues, but yes, I think we got the financial terrorism stuff—in fact, we had a series of events to roll out that whole process, where we would freeze accounts and then identify the terrorist organization. We'd have events in the White House, in the Rose Garden, to announce those as a way of sending a message that we're on top of this, and also sending a message of deterrence. I think those things were really well taken.

Nelson: When you think about the experience of this President and the presumptive domestic policy–focused agenda with which he was elected, it's an extraordinary thing that the nature of the challenge could change so dramatically eight months in and that the President and his personnel would not be utterly thrown for a loop. I'm saying that as an observation.

[Brief interruption]

Nelson: Well, I'm giving you a chance to kind of brag on the President and the team he put together, that they could put together essentially one agenda, and now have to elevate another agenda.

Lefkowitz: I think the President really rose to the occasion. Look, he had a good core team around him. Some of the things that the President had instituted from a management perspective early on served him really well by having very much an open-door policy. Andy also, I think, gets a great deal of credit as the Chief of Staff for having such a policy. It let the President really hear from a lot of different people, and not just the White House people. The senior-most people at the agencies had a chance to weigh in and give him their input on a lot of these issues, people at the Under Secretary level, like a Doug Feith. Defense could weigh in on issues, and I think the President absorbed it.

I think the openness of the White House was really beneficial at that time. Some organizations might go to more of a fortresslike mentality in a time of crisis—the President would just hole up with one or two of his closest advisors—and that's not at all what happened. Here we were dealing with the biggest crisis to face the country, certainly in a generation or two, and I had a narrow responsibility in those immediate couple of weeks to work with Gary and Brad to get this Executive order done so he could implement that, and when I had to see him about it he made the time.

So I think he really rose to the occasion. I think he has very good instincts and very good values, I mean *really* good values in the sense that he understood what was most important. Look, in retrospect, you can certainly go back—and historians make a living not only applauding

Presidents but criticizing Presidents—and in hindsight you can look back and say, "Boy, we missed an opportunity here, we missed an opportunity there," but I think he had a really good batting average and I think his team really gelled. I think everybody, certainly on the core White House team, was in lockstep in terms of understanding the mission, understanding the intensity. We were there 12 to 14 hours a day during those next several months because we knew how important all of this was.

Nelson: Scholars who study the White House often suggest that if a President is open in the way you've described, the corollary of that is a kind of undisciplined process, and the image is Clinton's first year or so, when anybody could walk into any meeting, and they just went on and on and on, and decisions never seemed to be final. But you're describing a process that was open, and I don't think you're suggesting it was undisciplined.

Lefkowitz: It wasn't undisciplined at all; it was quite disciplined. The President's schedule was disciplined. The meetings started and ended on time. My sense is that in the Clinton administration there really was no calendar, no clock. It was all just—It came and it went.

I think it was different for President Bush. To the extent that it was open, it was open in the sense that the seniormost people could get time with the President whenever they needed it, and because of that, I don't think they abused that at all, because they knew when it was really important they could. It was open in the sense that at the staff level, people weren't really competitive with each other. They invited each other to meetings, and that allowed for a better percolation of ideas. The staff secretary process was run quite effectively. Harriet [Miers]—have you talked to Harriet?

Perry: Yes.

Lefkowitz: She's very proper and very precise and methodical, but she was the perfect person for that job, because she made sure that every Presidential briefing memo reflected every critical member's view on the issues. I would often get calls from her at seven o'clock at night. "I'm finalizing the book. You wrote a memo, but you don't really say what the Vice President's view is on this. Can you edit it?" She was really punctilious, and in that respect she was perfect for that position.

Because everybody knew that everybody's views were ultimately going to get reflected in the briefing materials, there was no reason not to have an open process at the staff level. But the meetings with the President were not at all undisciplined. They started, they had an agenda, they ended. They weren't open-door meetings. If you weren't invited, you didn't come. The senior people could come to the meetings if they wanted to, but it was a relatively small group of people. I think the President also felt comfortable just reaching out to core staff people when he had a question for them, and if you were working on an issue—

I remember one day I had worked on a speech. It was an education speech he was going out to give in Florida. I had kind of put together the policy. I hadn't written the speech. The speech was principally written by the speechwriters, but then I played around with it. I remember the President called me into the office early in the morning before he left for Florida and wanted to make some edits. I remember him saying, "Look, this is great policy, but I'm talking to a bunch

of Americans and I've got to explain it to them in a way that they're going to understand. This is written a little too wonkish. Let's make this comprehensible for everybody to understand." And so we did some edits.

Then he went to Florida and it was the middle of the summer and I figured, *OK, I'm going to go home a little early. I'm done for the day.* I hadn't seen my kids in a while. My wife was at film school in New York and we had a babysitter living with us.

So I left at about four in the afternoon and got home. The kids are on the front lawn and they're having a big water fight. They see me and they think it's great to start running after me with the water guns. All of a sudden the phone rings and it's the President, from Air Force One, not satisfied with the speech, wants to make some changes. I'm trying to remember the structure of the speech. You don't really have the greatest connection with the air phone, but I'm talking to him, and all of a sudden my kids went after me, and so for the next 10 minutes I kept running around my house with these kids thinking this is the biggest hoot in the world, shooting water guns at me while I'm talking and trying to edit the speech. Everything is fine. The next day, the President says to me, "What was going on? What was going on when we were on the phone?"

Nelson: You were under attack.

Lefkowitz: I said, "Well, it was a water fight." [*laughter*]

Nelson: Well, but that same discipline, at least in almost all the public accounts of the foreign policy, the team wasn't there. I mean Cheney, [Donald H.] Rumsfeld, then Powell, Condi Rice—
Lefkowitz: And [Paul] Wolfowitz and [Richard] Armitage. Yes, I think that's probably fair in certain respects. I was not involved in a lot of foreign policy in the first term, and in the second term, largely limited to North Korea stuff. I got involved in a few other things here and there; reviewing speeches on some of the international development stuff, but that's not really core foreign policy from a security perspective. So I can't really speak to how well disciplined the NSC process was. But I think it's evident that it wasn't quite as disciplined or as streamlined as the process was.

Now, I don't know to what extent the President ultimately wanted more of a free-flowing process. I'm sure at times some of the infighting was frustrating and difficult, but I can tell you that on the domestic and the economic policy side, and on all of the issues that I dealt with, which included international trade—and certainly all of the social policy issues—it was pretty disciplined, open, but I teed up issues. We raised them. Josh made sure that there was always time available on the calendar for important issues. We got decisions, and then when the President wanted follow-up, he would ask for it.

Nelson: When you were in Bush 41, there was no National Economic Council, so my impression is that when Porter became domestic policy advisor, he insisted on being domestic and economic policy advisor. And by the time you become involved in Bush 43, there was more of an institutional separation. I guess this is a long way of getting around to the question of how do you know when—Is there a border between domestic and economic policies?

Lefkowitz: There isn't a straight border, and again, there are certain things that are really easy. If it's tax policy, it's economic. That's the clearest area of economic policy, things that relate to

taxes. Taxes are a big deal, and we had tax cuts in the first couple of years. That was a big deal. Trade issues generally fall on the intersection between the national economic policy and the National Security Council. Environmental issues fall more on the domestic policy side. Sometimes the CEQ [Council on Environmental Quality] has a key role in it, sometimes they have less of a key role.

One way of looking at it is if it implicated the Commerce Department or the Treasury Department, then it was NEC [National Economic Council] for sure. If it implicated the Department of Transportation, it depends on what the issue was. If it was a pension question, Labor Department, pension stuff was more on the NEC side, but if it was dealing with the FAA on what are we going to do about setting up a policy, are we going to racially profile or not, which was a big deal for a while, post-9/11, that was on the domestic policy side. It's not that hard to figure it out.

Then there are issues that—like we just ran much of the MMA [Medicare Modernization Act], the Medicare bill, technically out of the NEC, but there was always someone from domestic policy who was in those briefings. I wasn't necessarily the lead on those briefings, but because there were so many domestic policy issues, I would participate, even though Larry or Steven [Friedman], eventually, and Keith Hennessey, were maybe taking the lead on the briefing.

And again, it was a very comfortable White House, so there wasn't a lot of competition. There weren't a lot of sharp elbows in that White House.

Nelson: Any other sort of 9/11 aftermath? For example, it seemed like 9/11 families were at a constant 211 degrees Fahrenheit.

Lefkowitz: They had my phone number and I was the principal recipient of—I became quite friendly with half a dozen of the widows because I would meet with them. I almost would never *not* take their phone calls. I met with them regularly.

For the first six months, the focus was mostly on the 9/11 Fund, and I was working very closely with Ken Feinberg to get that set up and to implement it the right way, and then for the next six months it was all about the commission. I was getting hammered by them, and then ultimately we ended up putting a commission in place. Once we put the commission in place, I kind of stepped back from that, because the main interaction that the White House had with the commission after it was established had to do with who they would interview and what documents. The White House counsel mostly dealt with Phil on those issues.

But I dealt with the 9/11 families a lot, in just an endless variety of issues that came up. Again, I just felt that it was my obligation to do this because the President wanted us to treat these people well. They were really victims and there wasn't much we could do for them, but we wanted to be there for them whenever we could. So I would meet with them every three, four weeks. We actually had an event at one point, at the White House, with them. They were kind of a constant presence during 2002.

Nelson: And Feinberg. What made you choose him? Because it seems like he is the [King] Solomon of allocating awards for compensation for pain.

Lefkowitz: We got a bunch of people who sent in their résumés over the transom, and some of them had good qualifications. I remember going over them with Mitch. Then I remember one day I'm in my office and I get a call from Chuck Hagel, whom I didn't know, who was calling to recommend Ken Feinberg, whom I didn't know. I didn't even know *of* Ken Feinberg, although he had done a lot of the mediations, I think, with Judge [Jack B.] Weinstein on Agent Orange and things like that. But I didn't really know him. Hagel was singing his praises, and I think Mitch probably got a similar phone call from Hagel.

I remember shortly thereafter getting a call from Ted Kennedy singing Ken's praises. He had been Kennedy's chief counsel for a number of years. That got me thinking, and I remember talking to Mitch about this, because there was no budget for the fund. It was unlimited. It came from general revenues; there was no appropriation. So technically, once we picked someone, he was going to have a blank check, and if he had decided to pay $20 million to every victim, under law, I'm not sure we could have done anything. We could have tried to remove him, I guess, but it would have been a big political issue.

We wanted someone responsible, and we also knew that the law was going to require that we compensate people, leaving aside the pain-and-suffering component, which Ken and I quickly decided should just be the same for everybody, because we didn't want to try to make judgments about was it more painful to watch someone fall for a hundred floors or to watch someone die in an airplane. We just figured $250,000 is the pain-and-suffering component, now let's figure out what the dollar value should be.

We knew we had to mimic, to some extent, the tort system, so it occurred to me that if you're mimicking the tort system, there are going to be certain people who are going to have very little economic damage, right? If you don't have any income and you don't have that long a life expectancy, then what are your economic damages? It's very unfortunate, but if you don't have much of an income and you're in your 70s, for example, in the tort system you don't have a lot of economic damages. We knew we would have a baseline amount, that no one would get less than X.

Then we started thinking, *Well, OK, who is the kind of person most likely to be responsible at the upper end?* And it occurred to me that someone like Ken Feinberg, who comes from this very strong egalitarian liberal background, he's going to want to make sure that no matter how successful some people are, they're not getting $50 million recoveries if someone else is getting $400,000. They're going to want to compress the band. I thought that would be a way to ensure that we don't have runaway awards, but at the same time, here was someone who is genuinely compassionate.

Kennedy talked at long length about Ken, and I remember I met him and Mitch met him, and he really made quite an impression. I thought, *Boy, here's someone who's going to be compassionate, who's going to represent the administration well, but is also not in danger of running away with these awards, because he's not going to want the gap to be too enormous.* As it is, there were some people who got five-, six-, maybe even a couple seven-million-dollar awards, because if you were earning $3 million a year on Wall Street and you were only 30 years old, you have a big life expectancy. Even then, we made certain assumptions to keep things in an appropriate range, but I think Ken just did a tremendous, tremendous job. He worked very well

with the team at the Department of Justice that Ashcroft put together for him, and he worked very well with my successor, Phil Perry, at OMB.

[Brief interruption]

Lefkowitz: All right. I think we have about an hour and 15 minutes or so.

Nelson: Perfect.

Lefkowitz: I wanted to take five minutes just to take you down to the office before we leave.

Perry: Oh, yes. We want to see your photos.

Lefkowitz: OK.

Perry: All right. Were you brought into the legal discussions that were going over to OLC [Office of Legal Council], the enhanced interrogation techniques once enemy combatants began to be rounded up? Did anyone seek out your advice on that, even somewhat informally? Because whenever there was a law issue, it seemed that people came to you.

Lefkowitz: Yes.

Perry: Or did you seek out people to chat with? Did you talk to John Yoo?

Lefkowitz: No.

Perry: Or David Addington or Scooter Libby, or people in the White House counsel's office?

Lefkowitz: No. I think on that issue and on those issues they were so clearly within the kind of bailiwick of the White House counsel's office, and they were coordinating with OLC, [William J.] Jim Haynes and the other folks at the relevant agencies, that I really wasn't involved in that and didn't think it was appropriate for me to intercede. I was respectful of Al's role in that. No one asked me to engage on that, and so I didn't.

Nelson: Has the Henry Kissinger story occurred yet?

Lefkowitz: No. I thought about it when I was thinking about the President coming down to work every morning, because when we finally ended up with the 9/11 Commission, of course one of the things was that we were going to get to choose the chair of the commission, and then the Democrats would choose the vice chair, and they chose Lee Hamilton. We had to choose the chair.

I remember the President went off to Camp David that weekend, right after the bill was signed, and we had a pretty narrow window to name the chairman of the commission, I think maybe a week or something. And so we put together a short list of names. I was talking to Andy about it,

and Andy was vetting some of these with the President. Then I think Monday morning I came into the White House early and I was talking to Andy, and one of us had the idea, well, maybe Henry Kissinger would be a good candidate. The President was outside walking the dog.

Perry: Barney?

Lefkowitz: I assume it was Barney. So we went out on the lawn to walk with him and talk and raised the idea. He liked the idea very much. I think he liked Kissinger, thought highly of him. I remember calling Kissinger. He was interested, and he came into the White House the next day, and I think John Bellinger, who was the lawyer on both Condi's staff and Al's staff on the national security side—

Bellinger and I briefed Kissinger on a lot of the issues. I think he had to be read into some programs, but we briefed him on a lot of stuff. He expressed a willingness to do this, and then over the next three to four weeks I spent a lot of time talking to him about this. He was talking about who he would want on staff and who he'd want to be his deputy. And then the *New York Times* decided to go after him and they ran an editorial about some of his clients. Evidently one of his clients was Northwest Airlines or some—I forget. You could find the editorial. But as a result of that, they decided that he wouldn't be fit to be the chairman unless he did complete financial disclosures of every Kissinger and Associates client, so he just decided to withdraw.

I remember at one point while this was all going on he—You'll enjoy this. This is just a little Presidential historian story. He called me one morning and said, "I'd like to come to the White House. My grandson has never seen the White House." I guess this is David [Kissinger]'s son. David is my age. I said, "Sure, of course." So they came into the White House, and first I brought them by to see the President because I knew the President would want to see him. They had a lovely little visit in the Oval Office.

Then I started taking Kissinger and his son and his grandson on a tour. First I started downstairs, because when Kissinger worked in the White House his actual office was down in what's now the Sit [Situation] Room. That's where his NSC office was. I took them down and everybody in the building of course knows him, and we showed his kids around. Then we're going into the Residence and I'm just showing him all the different rooms on the public floors of the Residence. As I'm walking around, Kissinger is in his very nice, slow way telling some stories, anecdotes about different events that had happened in these different rooms that he had been a party to. I finally said, "Look, you should really be giving this tour. I shouldn't be giving this tour." So he smiled and so he kind of started—

Nelson: He gave the tour.

Lefkowitz: —giving the tour to his grandson. Then an older man, must have been about—I mean if Kissinger was about 81or 82 at the time—This was one of the ushers; he must have been about 78, an African American man. I see him standing around us and we're in the Residence on the second floor and I look over. I didn't know what he wanted and he said, "Can I say something?" I said sure. So he came over and he said, "Dr. Kissinger, I don't know if you will remember me, but 30 years ago I used to work for Rose Mary Woods, and I used to come downstairs and give you notes whenever the President needed to see you about something." It

was just a wonderful little moment in White House history. This usher was still working there some 30 years later.

Perry: It sounds like the butler from out of *The Butler.*

Lefkowitz: Exactly.

Perry: That's great.

Nelson: There is this account in Philip Shenon's book on the 9/11 Commission that it was blowback from the 9/11 families against Kissinger that torpedoed the possibility. Is there anything to that?

Lefkowitz: I'd have to see what the evidence for that is. My recollection is that within a day of it leaking that we were going to select Kissinger, or maybe it wasn't even leaked, maybe we announced it, the *New York Times* ran two editorials within a few days. One was kind of a nasty Kissinger editorial harkening back to Vietnam and just beating up on him generally, and then immediately thereafter the financial disclosure stuff. Maybe the families were behind this as well.

Nelson: Or the other way around.

Lefkowitz: Yes. I don't know why the families would have necessarily thought that Kissinger would have been a bad chairman of the commission. The families weren't politicized in that respect. I mean, they had an agenda, but I don't know. This is the first I've heard of that.

Nelson: OK. You wrote a wonderful *Commentary* article giving an inside account of the development of the PEPFAR program. Is there an aftermath to that program you want to add?

Lefkowitz: Yes. I think I characterized the genesis of the program pretty accurately, going back all the way to that very first White House event with Kofi Annan, and then the mother-and-child initiative. I think I pretty clearly identified the key players who were involved in that.

The President made the announcement, and again, it was one of these surprise announcements. It was something that we were able to avoid leaking, so it came as a real surprise at the State of the Union. I remember Josh calling both Secretary Powell and Secretary Thompson earlier that day to give them a heads-up.

The President really wanted to make this work. He was really committed to this. In fact, as we were planning the rollout of the State of the Union, we scheduled an event for that following Friday morning, so it's three days later in the White House, up in Room 450, where the President was going to help announce a new rapid AIDS test that the FDA was approving, again as a way of highlighting AIDS awareness and the PEPFAR initiative.

Then, immediately, we set off to try to get the legislation, and I worked very closely with a woman on our Legislative Affairs team named Ginger Loper, and Joe O'Neill, who was our AIDS office director in the White House, and one or two other people. The real objective was to figure out how to get this passed, and we initially thought that we'd go to the Senate and we'd

get a bill written. We actually drafted a bill that we wanted, worked with the folks in OMB and the folks in the AIDS office, and we drafted the bill, obviously working closely with Tony Fauci and his staff as well.

I remember meeting with the relevant Senate Foreign Relations staff, and it was very clear 20 minutes into the meeting that they wanted nothing of this. It was basically Kerry and Biden who were the key figures on the committee. They both had their own AIDS initiatives in prior years, and I think they just really didn't want the President to get all the credit for launching what was unprecedented in terms of the level of support and the type of program, this integrated delivery system of antiretroviral drugs combined with the elements of information and abstinence and counseling. So it was clear we were not going to get anywhere. We talked to [William] Frist and tried to see if Frist could really push it through the Senate, and he just wasn't able to, wasn't prepared to initially.

So we went back and we strategized at the White House and came up with a plan to try to go through the House. We went to Henry Hyde's committee and we were able to get a bill through the House, but in order to get the bill through the House, we needed to have a bill that was going to be bipartisan.

There were a few key elements in the bill that were not what we wanted. Now, we knew we would be able to amend them afterward, but we had to get it through the committee, and to get it through the committee it needed to be bipartisan. And so when it went up for the committee vote—I remember being invited to the Wednesday morning meeting that day by Grover Norquist, who was conservative, who runs this Wednesday morning meeting. I went there and I remember being just attacked by people there about what a sellout this program was because it didn't have all the restrictions in place for condom distribution and Mexico City and all that, but it ultimately had 90 percent of what we needed.

I kept saying, "Look, let's get it through the committee, and then on the floor of the House we can amend it and get a good bill. If you're not going to support getting it out of committee, we're going to be dead in the water, and this is a really big initiative." Fortunately we prevailed. We got it through the committee, and then we did amend it on the floor of the House. So we got very much the bill we wanted out of the House.

Then we had to figure out where to go, and on a regular basis the President would ask me, "Is there someone I need to talk to? Who should I work with?" I think at one point I told him—Actually, I'm a little out of order. At one point we needed some help on the House side and I asked him to talk to—was it the House or the Senate? We had it through the House and we needed help on the Senate. Senator [Richard] Lugar was on the relevant committee, and I asked him to call Senator Lugar in to have a meeting and he was pushing Lugar a little bit. That wasn't working, so finally I asked him to talk to Senator Frist.

He talked to Senator Frist, and at this point Frist totally got engaged and decided he wanted it in a big way. Frist really was enormously helpful down the wire, because what we needed was to take the House bill and get it passed in the Senate without any changes. If there were going to be changes, then it would have to go to a conference and get all bolloxed up again. And so he had

some procedural vehicle for teeing it up to get it passed, and once it was passed in the Senate, then the Senate could try to amend it.

It was late at night, probably 2:00 in the morning, before we started getting into the amendments, and there were a series of predictable amendments that the folks on the left wanted, but it was also 2:00, 2:30 in the morning, and some of the older Senators were just getting tired and dropping off and just didn't want to stay, and literally by 3:00, 3:30 in the morning every one of the Senate amendments had been defeated, and we basically had our clean bill. The President played a significant role in lobbying people, pushing people, letting folks on the Hill know how much he wanted this to get passed.

Perry: And what was his style for doing that? We saw "All the Way" last night, about LBJ [Lyndon B. Johnson], and I suspect that while the two had Texas roots in common, that they had very different styles. Were you in these meetings when the President would meet with Lugar, for example, or Frist?

Lefkowitz: Sure, I was in these meetings. The President had a very nice way about him. He could sometimes tease Senators and Congressmen. I remember once, when we were dealing with the homeland security bill and we were having this debate over whether the labor force was going to be unionized or not, Arlen Specter was really pushing hard for that. The President kind of—Specter kept pushing him to go his way, and the President wasn't going to budge. He finally put his arm around Specter and said, "Arlen, why don't you go try to convince Lefty over here. If you can't convince Lefty—You talk to Lefty, because you're kind of a Lefty too. If you can't convince Lefty that we should have unionized labor, then it's not going to work."

In a very nice, friendly way, he would lean on people, and on the AIDS stuff he was just very direct. He said, "Look, this is a really big deal. This is one of the biggest public health initiatives we have, and it's really important. It's important to so many people around the world." I think he had enormous credibility on the issue because of course there was very little political mileage for him on this whole AIDS initiative. This was not appealing to a segment of the electorate that was going to be particularly supportive of the President to begin with. He just did it because he believed in it.

Perry: Your article in *Commentary* makes clear why he chose Africa and why he didn't go beyond that, as Condi Rice and others were encouraging him to do. At the time, aside from the hot-button issues embedded in the legislation, did people on either side say, "Why will we be sending this money abroad?" You can make an argument about security and saving lives, but what about that money at home? What could that money do at home on AIDS and other public health issues?

Lefkowitz: There really wasn't. Other than, as I described in the article, the question that I think Mitch raised at the very beginning, about just the overall spend, which I don't think he was objecting to. He was just kind of cautioning and raising it.

Look, we spend an enormous amount of money dealing with AIDS at home, and it's been, frankly, a pretty successful campaign over the last 30 years, a combination of treatment and new

drug development, but it's a very different illness now than it was in the early '80s. So I really don't think—No one really raised an objection in that respect.

Once we got to the legislation, there was, I think, reluctance by the Democrats to let this go forward, one, because it was going to be a big victory for the President on an issue that they felt that they owned; and then two, if it was going to happen, they were going to damn well make sure that there were no social policy ramifications to it. And by and large, we weren't really insisting on that. We were going to let everybody participate in this, but we wanted an element of abstinence education, as well as treatment, as well as counseling. So it was all tied together.

I think the real issues, once it got started, were the criticism I was getting from the right, because we weren't "hard line" enough on the social issues, and the reluctance on the left to just let him get this through Congress and get the victory.

Nelson: There's a fascinating sentence toward the end of the article where you say, "Finally, many AIDS activists persist in criticizing the United States for what they believe is a circumvention of the Global Fund to Fight AIDS, despite the fact that the U.S. contribution to the fund has increased to $2 billion." Was this sort of a reflexive opposition, that unless you're doing it in the way that we've sort of grown used to—

Lefkowitz: Yes. I think this is twofold. One, we actually collaborated a lot with people who are traditionally on the left. I worked very closely for several months with Bono [Paul Hewson] and his folks, and Bono was very helpful in moving people on the left, ultimately, to come around and support the President's initiative here. But before we launched this, there had been this global fund, and the President was naturally reluctant to commit too much money to the global fund, because there was no oversight to speak of and there weren't a lot of metrics, and if we're going to commit the kind of money that they wanted from us, the President always wanted to know, "How am I going to measure success?"

It seemed very diffuse, like a lot of multilateral contributions, and so we were taking a lot of criticism before the President launched his program. Once that starts, it's hard to turn it off. So yes, there were people who said, "OK, great. The AIDS program is fine, and it's great if America has to do it on our own, but this is just another example of American imperialism. Why can't they just do it all through the multilateral framework?" I think that was just somewhat reflexive, and what you hear from I think more sober-minded liberals who really are promoting the agenda of health, whether it's a Bono or a Bob Geldof, is enormous praise for what the President did and his leadership here.

Nelson: The other thing I wondered about, reading the article, was what was it that got Frist so energized?

Lefkowitz: I don't know whether—I think frankly he loved the idea from the beginning, but he probably was a little reluctant to really take on Kerry and Biden, two of the most senior Senators, right away on this issue, because it wasn't clear, maybe, that he'd be able to force this through their committee, and taking something straight to the floor and overriding the wishes of committee chairmen like that could create problems. So I think he was just initially being a little cautious, but the confluence of (a) the fact that he genuinely did support this; (b) the fact that we

already got it through the House, so he could see the homestretch; and (c) the fact that the President was really leaning on him just brought him around completely. I don't want to be critical of him, because at the end of the day he was really heroic.

Nelson: He came through. You said you had some memorable interactions with the President to share.

Lefkowitz: There are so many little things.

Perry: You also said specifically telling him about mistakes.

Lefkowitz: Number one, Gary Edson and I were sitting in a Roosevelt Room meeting that he was having with, I guess, President [Romano] Prodi, who was the head of the EC [European Commission] for a while. Evidently, there was some issue that came up about some policy having to do with international trade, and I remember the President said something and Gary and I looked at each other.

The President had evidently made a statement that committed the United States to several billion dollars more in some program, some aid, or some support. I followed the President back into the Oval after the meeting was over and he looks at me and I look at him and he says, "What's up?" I said, "Well, you're the President, so I guess you get to make policy, whatever it is." He said, "What did I say?" I told him and he said, "OK, let's go fix it." But it's always a little delicate. You try to do it in an appropriate way, and of course he was great about that kind of stuff.

He is incredibly warm and genuine and also really very principled. He often used to say on issues, "Look, I know we may have to compromise at the end to get this through, but if I don't articulate what the true objective is, nobody else is going to. So I have to start by articulating the objective, and then, if we have to make some compromises, we'll make some compromises." I remember this came up in a lot of contexts, veterans' benefits and things like that.

I remember one time we were having a meeting with some of the members of the Cabinet. We were trying to talk about an issue having to do with forestry and logging, and just one of these hot-button issues. Nobody wants you to cut down the trees. The President actually knows something about it, because he used to spend a lot of time in Crawford cutting down the brush, and he just got exasperated on what we were hearing in this briefing.

He said, "This is just crazy. If we don't clear out the brush and log at all, we're going to create these giant conflagrations of forest fires. The only way to keep the forests healthy is to do some clearing, and that means some logging." Someone said, "Well, if we go this direction, the *New York Times* is going to write a terrible story." He said, "What do I care? I mean, I actually do this stuff. I know how to do this stuff." And so he would often reflect, again, just trying to get to the right policy with it, trying to really come out the right way.

He was very conscious—and on a few occasions I remember him saying to me, just in moments when we were talking, "I want to make every day count. The public sent me here to do a job and I want to make every single day count." I think he really believed that. I think it was something he carried with him every day.

Perry: Gay rights we had on our list.

Lefkowitz: Gay rights. I don't remember the exact context in which this came up. It clearly came up, because I remember being in discussions, talking about it. I can't remember why we were dealing with it. Do you have any recollection from your other interviews?

Nelson: Not during the time you were there. I know in '04 there were a number of states that had ballot measures to—

Lefkowitz: I think this came up because the Supreme Judicial Court of Massachusetts—

Nelson: That's right.

Lefkowitz: And I think, actually Anthony Lewis's wife was the judge, if I'm not mistaken. They decided in '03 to legalize gay marriage. So of course we were being asked what's our policy, and also how is that going to implicate various federal programs, federal benefits for people who are in Massachusetts who have gay marriages. The President is being asked, "What's your position on this?" and I'm going to have to check, but I think we said something like, "We support civil unions, but the President is not personally in favor of gay marriage." I think that's how we came out.

I have a vague recollection of having a discussion at some point with Romney and his people, because he was Governor at the time. They were also trying to figure out what position to take, and they were saying some things. They wanted to know what the implication would be for various federal programs.

So this came up. I think this came up in a formal briefing, because I seem to remember doing a briefing paper that walked through the lay of the land, state by state, and what the implications were for federal benefits. I think where we ended up was this position, and we may have articulated it, not in any kind of Presidential statement, but whether it was Ari or Scott [McClellan], I don't know who was press secretary at the time, but who probably put out some kind of statement about where we were and then tried to conform our view of these various federal programs to that type of policy approach.

Nelson: Why did you decide to leave the White House in the fall of '03?

Lefkowitz: I decided to leave because my wife was still pretty sore about the New York City apartment and had reminded me on several occasions of my promise to leave the White House. My oldest daughter, Talia, was now going into sixth grade, I think, and I realized that if we didn't move back, our kids would be too old. It would become too difficult to move them back to New York. We really had to fundamentally decide whether we were going to stay in Washington, really for good, or move, and we knew we really wanted to be in New York.

It was about nine, ten months before the reelection, so it was a convenient time for me to leave. It wasn't going to create any issues. I had a successor identified, Kristen Silverberg, who was terrific, and so it just made sense at that point, and I was able to contribute. They asked me to write the platform at the convention the next year, and I agreed to help out on a variety of other things, and I said at the time that I would be prepared to come back. In fact, when we moved to

New York we kept our house. We didn't sell it. We kept our house empty for a year in Chevy Chase, and we rented in New York, and of course lo and behold—

It was hard for me to leave. I had developed a relationship with the President, but he was very good about it, he understood. Then about a year after I left, just under a year, right after the election, Andy called me and asked me if I would be Deputy Chief of Staff, because at that point Josh had just moved over to OMB, and so he needed a deputy, and he asked me. I really wasn't sure I wanted to do it, because my kids didn't want to move back to D.C. They loved it in New York and I really didn't want to be away from them five days a week. Also, since I don't travel on the Sabbath, I didn't think I'd end up getting back a lot of weekends.

But they were getting ready. In fact, Andy called me one day and he said, "Scott's going to go into the press room to announce today that you're going to be the new Deputy Chief of Staff." I said, "You know what? Why don't you hold off? Let's just talk about it some more. I'm not sure I'm ready." And then they kind of scrambled, and that's when Karl became double-hatted and became Deputy Chief of Staff while he was still the political advisor.

I almost went back again two years after that, when Harriet left to become White House counsel. But once again, I just couldn't justify leaving my family, and my kids just didn't want to move. In fact, I was upset about not going back at that time. I just felt so upset in terms of my relationship with the President and with Josh that I almost didn't go back to the White House that December for the Chanukah party. Then when my wife dragged me there, when we got there, she went over to the President and said, "Jay really was afraid to come. He's afraid to see you. He was so upset."

The President was incredibly magnanimous. I was the Special Envoy at that time, so I was involved in stuff, but that was a very peripheral position compared to being full-time in the West Wing. I really missed working with him on a day-to-day basis, and Josh and the rest of the team, but I just couldn't bring myself, with three young children, to live in Washington when they lived in New York, and I couldn't bring myself to force them to uproot themselves again.

Perry: Right.

Lefkowitz: That's just one of those things that you always have to live with. I thought long and hard about it, but I had three and a half or whatever, really, really good years, and then the North Korea experience was a very different kind of experience, but also very interesting.

Nelson: Let's turn to that, but first I wanted to ask you—

Perry: And I have one more after that.

Nelson: What does it mean to say, "I wrote the Republican platform"?

Lefkowitz: Don't take it out of context. In fact, we should correct that. I was the person who was designated to be the—I forget even what the title is. I think the title is technically the drafter, but what it really means is you start with last time's platform and then you do a redline and you make changes. You make changes based on—particularly when you're running for reelection as an incumbent—you modify everything to your policies or the projected policies, and then of

course you spend most of your time having fights with the delegates about all the hot-button issues, right? What are we going to say about gay marriage? What are we going to say about this, what are we—

I was the person who was responsible for basically deciding what went into the draft and then dealing with the amendment process, but it wasn't as if I was writing from whole cloth. It was largely taken from the prior draft, with small modifications.

Nelson: On the other hand, it was more than a compiling or editing.

Lefkowitz: Oh, yes, and it had to be, I think, someone trustworthy, someone who was part of the team. You wouldn't want to run the risk of having some gadfly put together a platform, because you can't have the incumbent President with any daylight from his platform. I mean, it's his platform.

Perry: I have a question about an important event that happened after you had left, but that I presume you paid close attention to, and I just wanted to know from here, did you have any discussions with, or did people consult you, or did you put on your public commentator hat? And that is the announced retirement of Justice [Sandra Day] O'Connor in the summer of 2005, because I presume that caught your attention, in light of your interest, obviously, in the law, but also her role, especially in affirmative action.

Lefkowitz: We had a couple vacancies. We had one when I was there and then one afterward, and I certainly weighed in with comments and suggestions and who I thought would be appropriate. I think as it turns out, the President hit home runs with both of his selections, both [John] Roberts and [Samuel] Alito.

Perry: With Roberts and Alito.

Lefkowitz: In both instances, there were one or two other people who probably would have been also fantastic choices, but I think he did a great job with both of those appointments.

Perry: With a little blip for the eventual Alito appointment with Harriet Miers.

Lefkowitz: That was a little bit of a blip. That was obviously, as I'm sure you've heard from talking to other people, something he took ownership of and felt strongly about at the time. I think in retrospect it's one of those things that he may have misjudged both the reactions from his own base and also maybe not quite appreciated how strong comparatively someone like an Alito really was. But he's very loyal to good friends and to good lawyers and people he's worked with for a long time. So, yes, there was certainly a blip there, but I think he ended up coming out so right that it more than makes up for that.

Nelson: Well, in the circumstances in which you end up dealing with human rights in North Korea, that portfolio.

Lefkowitz: I've been involved in human rights on and off for a very long time. In 1989, when I was still practicing law at Paul, Weiss in New York, Morris Abram asked me to come to Geneva as a member of the U.S. delegation to the Human Rights Commission in Geneva. I remember

this was right after the fatwā was issued against [Salman] Rushdie, and I remember giving a speech about that at the UN in Geneva. And my involvement in Soviet Jewry always brought me into the orbit of human rights issues.

Congress passed this law establishing the position of a Special Envoy for Human Rights in North Korea. Like a lot of these laws, Congress is looking to do something. They want to show their commitment to an issue, and one of the things that they can always do is appoint someone. It's actually easier than appropriating money, because money actually costs something. Appointing doesn't really cost that much, and I actually agreed to do the job without a salary. I didn't want to take a salary from the government for doing this.

It's not entirely clear to me that if you're running foreign policy the right way you actually need a Special Envoy. I think a lot of these Special Envoys are problematic from the perspective of running your policy. On the other hand, given the reality of the State Department and how hard it is to control the State Department, and how a Secretary can only focus on a certain number of issues and the bureaucracy runs with all the rest, I understand that there can be benefits to having someone who is actually directly loyal and faithful to the President articulating the President's message.

This was a tough issue, because North Korea is a country over which we don't really have a lot of influence at all. In fact, the countries that have the most influence over North Korea are China and South Korea. They don't particularly see eye to eye with us about the preferred outcome for North Korea either, so it was a difficult position. I was trying to generate multilateral support for what we wanted to do. There were divisions within our own administration about what our policy is. I don't know if you read the speech that I gave, which really set Condi off.

Perry: This is the AEI [American Enterprise Institute for Public Policy Research]?

Lefkowitz: Yes. I remember showing up at the White House later that night and the speech was all over the news and it was making waves, and Josh looked at me and said, "Oh, my gosh, you told the truth." [*laughter*] And then I saw the President and he said, "Hmm, well, if I had wanted someone diplomatic to be my Special Envoy, I would have appointed a diplomat. You're doing just right."

I knew I had the President's support. On the other hand, there were a lot of different issues going on, and we were trying very hard to get an agreement on the nuclear issues. My view at the time is well expressed, that the best way to go about that was actually to fold human rights into the agenda in a kind of Helsinki Accord–type of approach, and make it a means to an end. I had some support. I think certainly the Vice President agreed and Elliott Abrams agreed, and there were pockets of people who agreed with me, but at the end of the day, the State Department had a larger megaphone and basically dominated that agenda item. So I kept pushing where I could, and then I started focusing on a lot of smaller projects with North Korea, trying to promote—

Perry: Radio.

Lefkowitz: Radio, for some of the defectors, and trying to figure out ways to deal with refugees.

Perry: Refugees—have to get more refugees out.

Lefkowitz: Trying to figure out how to get more telephones into North Korea.

Perry: Cultural exchanges.

Lefkowitz: Right. Working with some of the other Asian countries in the vicinity to try to help get a clandestine pathway for refugees to get out. So there were a lot of other things I focused on, and every once in a while I'd kind of just throw a sound bite in to try to push the process a little bit in what I thought was a more coherent direction.

Nelson: I'm reading here: "He's the Human Rights Envoy," Ms. Rice said. "That's what he knows, that's what he does. He doesn't work on the six-party talks. He doesn't know what's going on in them." That's a harsh public rebuke, surprisingly so.

Lefkowitz: Yes. I took that as such a compliment. I like Condi. We were quite friendly. We worked together in the first administration, although not closely, and then we worked quite closely on a number of issues. She was intimately involved in working with us on the AIDS program, and we cooperated very well on a lot of issues. I took that as a real compliment, because no one reacts that forcefully and that stridently unless you've really touched a nerve and told the truth.

What was my big offense? My big offense was I predicted that if we kept the same policy we would end our time in office at the end of the next year, and they would still have nuclear capability, which of course is exactly what happened.

Perry: And human rights abuses.

Lefkowitz: And human rights abuses. I made sure that I wasn't overstepping in terms of what I was saying, and the President always was very supportive. I would meet with him not on a regular basis at that point, but an occasional basis, to update him, and he was very supportive of the messaging that I was promoting.

Perry: So in light of how we began, this may begin to bring us full circle, how we began this morning with your father's political and ideological odyssey from staunch Democrat to a neoconservative, particularly on the issue of human rights and President Carter's dealings with the Soviet Union. And you're really, I think, explaining that you came into public service and developed your own ideology and world view based on what was happening in the '70s and the '80s. Then you get this opportunity, with the limitations you've explained, to being a Special Envoy. But did it inspire you in the end? Did it discourage you? How do you look back on this arc?

Lefkowitz: When you say, "Did it inspire you," what are you referring to?

Perry: Your service as the Special Envoy with, as you've just explained—I don't want to say nothing was accomplished, but your goal of improving human rights in North Korea didn't advance.

Lefkowitz: I was frustrated by it. First of all, it's very hard to actually change human rights in a foreign sovereign country. There are only two ways of doing it. You can go in and do it by force,

which of course we weren't going to do—It wasn't appropriate, frankly, for us to do it, in my view—or you can really use leverage. The problem is you've got to figure out what leverage you have, right? We have more leverage with some countries, less leverage with other countries, and in North Korea not only did we have very little direct leverage, but the kinds of human rights changes that we wanted, which would have led to a much more open society, were actually not, frankly, what China or South Korea wanted.

Perry: South Korea, right.

Lefkowitz: China is, I think, pretty comfortable with a buffer, and South Korea is pretty comfortable not having 20 million refugees. So we would have had to really make this part and parcel of our national security approach to North Korea, because then maybe, if opening up that society was tied to real nuclear disarmament, maybe that would have been sufficient to get at least the South Koreans on board. Who knows whether the Chinese really would have wanted that or not? So yes, it was fundamentally frustrating.

On the other hand, there are opportunities in a variety of areas of foreign policy, and I certainly didn't come away from this resigned or feeling defeatist. This was a challenge, it was a hard challenge, and there were institutional hurdles internally in my administration, which I understood. I disagreed, but I understood where they were coming from. And then there were the multilateral hurdles.

Look, I've been extraordinarily fortunate to serve in the White House on two different occasions and to serve both in the White House and then to have this foreign policy position. That's twice more than I ever imagined I'd be able to, and more than most people have the good fortune to. I worked for two Presidents, one of whom I really developed a close relationship with and an enormous fondness and admiration for, and I worked with a core group of 20-some people every day, day in and day out, who I really admire, some of whom were the same in both administrations. I feel really fortunate to have had those opportunities, and I think some of the things that I was involved in, like the PEPFAR program, I can look back on and say, "Wow, this was really significant."

Nelson: That's the note we should end on, but I've got a mundane question. It's anticlimactic, but your comment about being a Special Envoy and no salary made me wonder, as you were trying to get more cell phones into North Korea, get more radio broadcasts into North Korea, how can you do that if you're not in any sort of a line position? Where would the resources come from?

Lefkowitz: First of all, there are resources in the State Department that can be used for various types of projects. Let's go off the tape for a second.

[BREAK]

Nelson: So you did have some resources, even though you weren't on salary.

Lefkowitz: Yes, I mean I chose. They offered me a salary, whatever the salary of that rank, Special Envoy, was, but I didn't want to take it because I had already gone back. I was practicing law. I was not giving up my law practice, because I wasn't required to; it wasn't going to be full-time; and frankly, I didn't want to do financial disclosures. I just figured I can donate one or two days a week to the government, because fortunately, I'm doing well enough.

But I had an office at the State Department. I had a staff of a few people who were directly working with me, and then I had access to a variety of other people at the State Department. There were various funds available for broadcasting. It's like everything else. It's a tug-of-war to allocate the funds, but we were able to make some grants for radio programs and targeted activities. We promoted a variety of NGOs [nongovernmental organizations]. So there were activities that we were able to engage in and even help fund.

Nelson: Thank you.

Lefkowitz: My pleasure.

Perry: Really. We so appreciate your time.