

Texas After Violence Project

Interview with Mr. Chris Triticó

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[TAPE 1]

MAURICE CHAMMAH: Okay, well, we're here on April 6, 2011 with Chris Tritico.

MR. CHRIS TRITICO: Right.

CHAMMAH: Am I pronouncing that right? In Houston, Texas, at his very new law office.

TRITICO: That's right.

CHAMMAH: And I guess if you might want to start by telling us a little bit about where you're from, your background, education.

TRITICO: Well, I was born here in Houston, and I grew up in Spring Branch. My mother and father still live in the same house I grew up in. I—early on, about seven years old, I said I was going to be a lawyer, and I never looked back, never changed my mind for that whole time. I went to Sam Houston State University where I met my wife, and married her while we were still in college, and from there—I graduated from there in '83, went to law school and graduated from - I didn't start law school for a year, and then I graduated from there in 1988 and started practicing law. And I've been in Houston, other than leaving town to try cases, this is where I've lived my whole life.

CHAMMAH: Great. And how did you—did you know right away from law school that you would be doing criminal defense work?

TRITICO: That was what I always wanted to do. I can't think of a time in my life when I didn't say "I'm going to be a lawyer, and I'm going to be a criminal defense lawyer." It was what I decided I was going to do literally when I was seven years old, and I never changed my mind with that.

CHAMMAH: And in that time, how did doing capital work come into it?

TRITICO: Well that's just a natural progression, I think, for a criminal defense lawyer—Not all of us get into capital work. In my view, it takes a special person, with a special mentality, to try the hardest of the hardest cases. I mean, these are the people that everybody hates, and until you get involved in them, you don't understand what these people are made of, until you meet them and get to know them as personally as we do as lawyers. Getting involved in capital cases, for me, was what I saw as the natural progression of your career. When you start out you're taking small cases, and doing only misdemeanors, and then you get the, you

get strong enough in your ability to start taking felonies, and then the next thing you want to do is, at least for me, the next goal is do some capital murder cases. I don't like them, quite frankly. The work you have to put into that, on a case that hard, you never get the money that it's worth to do it, because nobody has that kind of money, for the amount of effort you have to put into it. But it's work that needs to be done.

CHAMMAH: So you feel like it's a sort of pro-bono—

TRITICO: Well, I mean—I don't—nobody can take a capital case for, absolutely for free, and also there are very, very few of the people out there that have the money to pay, or retain a lawyer to do a capital case, because of the amount of money we would charge if we were getting paid just what we wanted to do it. So when you take a capital case, it's knowing that you're gonna lose a whole, whole bunch of money, but you're doing it because of your overriding belief in the system, in the constitution and the protections that it gives to individuals. And the capital cases that I worked on, I'm proud to say that I was involved in that, that I did what needed to be done to ensure that an individual, as hated as he was, that an individual got all the process he was entitled to by the constitution.

CHAMMAH: And was there a general trend for how you'd get involved in a given capital case? Was there a certain—

TRITICO: Well, it depends on where you live, quite frankly. In Harris County, the judges have gone out of their way, in the last twenty years, to ensure that the people that get appointed to do capital cases have the skill and the ability to do it. You have to take a test independent of your bar examination, and you have to be licensed so many years before they will even appoint you to a capital case. And before you can be a first chair, you have to have sat second chair on capital. And so they've gone a long way in Harris County to ensure that the people who get these cases know how to do them because of the risk involved. I actually applaud the judges for doing that.

CHAMMAH: Were there specific judges that really pioneered that? What was it like thirty years ago?

TRITICO: Well, when I first started practicing law, anybody who was a friend of the judge that wanted capital could get one, and that's why we had the- you know, Harris County is famous for the sleeping lawyer, and those cases that were famously reversed were because we didn't have a system to ensure good lawyers were taking these cases. And the lawyers that take them now, do it because they don't want the money and they're not looking for prestige, because there's not a lot of prestige in getting death sentences. But they do it because

they want to do it, and they want to make sure these people get treated right. And that's the system we need.

CHAMMAH: And I guess tell me a little more about the idea that a certain, special person, or a special mentality can get involved in capital cases—your feelings about that and then how that relates to this test that people have to take to do it here.

TRITICO: Well, the test has nothing to do with your mentality. The test is only about your knowledge of the law, and your ability to work through the law, which is something you clearly have to know if you're going to try any case, a capital case especially. But what I mean by a special mentality is when you get involved in a capital case, it is the only thing that you can do. You don't have time to have forty cases on your docket and try a bunch of cases while your investigators are out investigating other cases, which is the way a lot of cases are done. In a capital case, every decision that you make, every motion that you file, every objection that you fail to make at trial, that you forget about, might materially impact how long somebody continues to breathe. We're not talking about losing your job. We're not talking about going on probation. We're talking about somebody getting killed, and so if you're not ready to jump into this, one hundred and ten percent, and give it every moment that you can, you shouldn't be doing it, because you are literally cradling somebody's life in your hand. And the worst thing I can imagine, in having been at trial in capital cases, is you wake up in the middle of the night in a cold sweat saying, "I missed this objection yesterday." And in the back of your mind you wonder if this guy gets executed, is it because I missed this objection. The answer, generally, is no, but that's the kind of pressure you're under. So if you're not ready for that, then you better not get involved.

And then at the same time you're doing that for the amount of money that you would be charging someone to do a minor drug case, and so you have to be ready and willing and able to give it all that effort for almost no money, and have a practice that's strong enough to support that, because you just don't make enough money on court-appointed capital to run a law office, and so you have to be able to do it in a fashion that you can get the job done and not go bankrupt, and that takes a special person. But to handle that pressure takes a really special person, because the pressure is so great.

CHAMMAH: And in that regard, what's the difference between the people who do a handful of capital cases, every once in a while, in the context of other cases, and the people who make a career of doing just capital work?

TRITICO: You know, for me, I don't take a whole bunch of capitals. Matter of fact, I haven't taken one in years. The people that do it—the people that I know, Gerald

Bourque, primarily, here in Harris County—Have you talked to him? You need to call him. Gerald Bourque. Let me get you his number.

Gerald, the way he has his practice set up now, he and Rob Morrow take capitals all over South Texas under a court-appointed system, and that's what they want their practice to be. Gerald's son is practicing law with him now, so he handles the day-to-day operations of the other cases, so Gerald can focus on these capital cases. And God bless him, because every day of his life, he's dealing with someone else's death, and that is, in my view, an unsustainable life. I just don't know how I could deal with that every day, knowing that I've got to decisions to make that is gonna affect whether someone gets to continue breathing or is going to be executed, because the pressure is so great.

CHAMMAH: Is there a difference, in that regard, between people who do more appeals work and people who do the trials?

TRITICO: Well, the appeals are not nearly as pressure filled as the trial, because on the appeal, you're not dealing day to day with this person. You're not meeting with them every day. You might see them just a few times a year or something like that, and so you don't have that personal relationship that you have with a defendant that you're trying a case for. The problem with being the appellate lawyer, is you might get invited to go watch him die one day, and that's something that I hope I never have to do again.

CHAMMAH: And how many times is that?

TRITICO: I've only had to do it once. I was present when Tim McVeigh was executed, but I didn't witness it. Then, Eric Nenno asked me and Dick Burr to come and witness his execution. That was something I hope I never have to do again.

CHAMMAH: Well, I guess if we want to go back to coming out of law school, working your way up, was McVeigh the first capital case that you worked on?

TRITICO: No, but it was the first one I tried to a jury. I started out- As you know I started out with [Richard] Racehorse Haynes, and I started out with him in—actually, in 1979, two days after I got out of high school, I started working for Racehorse Haynes, and I did everything you could do there at that firm. I started out as an office helper. I made copies. My first assignment, and I'll never forget, the first day I was on the job, Don Fullenweider, one of the partners, one of the main partners, came to me and said, "This library book is two weeks late. Make me a copy of it."

And this was in the 70's and copy machines did not operate as quickly as they do today. It took me six hours to copy this library book because he didn't want to have to pay a fine for turning it in late. It was probably a quarter. So that was my entry into the legal field, and I stayed.

And I worked my way up through that firm in—at every position except a partner, and I didn't make partner because the firm split up nine months after I got my law license. And so how do you work your way up to that? It's having the desire to try cases, and that's what you're going to find, I think, from every lawyer who represents people in the trial phase of capital murder cases is someone who loves the trial, loves the aspect of getting in the courtroom and fighting it out and challenging the government at every stage. You have to have that mentality that you want to try cases, and as a young lawyer, I was trying fifteen jury trials a year, building myself up, learning the craft, and that's the type of mentality it takes to take the hardest of the hardest cases and going there and standing up and doing that.

CHAMMAH: So tell me a little bit about that craft in terms of- What are some things you learn how to do and then become that much more pressurized when it's a capital case?

TRITICO: Well, the thing about it is, and what I like about Harris County's system of making people wait, I think it's five years before you can even take a capital case, as a court appointed lawyer, is so that they know you've got the competence to go in the courtroom and be challenged with the evidentiary rulings and be challenged by the State, and you be able to challenge the State and make the proper objections at the right time. That's a skill and a craft that you have to learn as a litigator because you've got these twelve citizens who are watching everything you do, and if you make your objections and you alienate the jury in the way you make them, then you turn that jury off from your client, and you might lose because the jury thinks you're an ass. And so professionally making your objections, but making the right objections at the right time, and being just forceful enough to make your point is a skill you have to learn, and you learn that by standing in courtrooms and picking juries and doing that. So that's why young lawyers should try all the cases they can. Because when you're trying D.W.I's, ninety-nine point nine percent of the people charged with a first time D.W.I., if they lose, they get probation, and, so not that you want to pick a jury because you're planning on losing, but if you gotta lose, isn't that the place to do it?

And so you build that skill, so that you have the confidence in yourself, because it's hard to stand in front of a jury and say, "I'm here representing Tim McVeigh, and I'm proud to represent Tim McVeigh, even though they want to kill him." And you have to be able to say that to a jury, and be convinced that you're telling the truth. They have to believe in you. Because if the jury doesn't believe in you, you're never going to win anything, even if you're right.

CHAMMAH:

So how did that play out in the McVeigh trial?

TRITICO: Well, look, in the McVeigh case, there was no real illusion by any of us that we were gonna win that case. Okay, I mean, the president of the United States called a press conference and said, "We're going to execute this guy." It was pretty much over at that point. The government did a great job of demonizing Tim McVeigh long before I ever got appointed and met him, and so the case was weak, quite frankly, evidentiarily. And had there only been three people killed, or two people killed, A. It wouldn't have made that kind of press, and the public wouldn't have hated him the way they did, and so we may have had a fighting chance. But the way the case laid out, the way the evidence was, a hundred and sixty eight dead people, I don't know how many of them are babies, you're not going to win that case. So going in, in my view, and I think I could speak for everybody, going in it was "We are going to do everything we can to protect this guy's rights, knowing that he's going to get convicted and get the death penalty."

And Tim knew it. There was no illusion by any of us, and we didn't hold any punches with him. It's not fair for a lawyer to be a cheerleader instead of an advocate. In my view, you tell them the truth. And when you're asked, "Am I gonna win?" If you know they're going to lose, then by golly, you ought to tell them they're going to lose. And so there wasn't any real illusion on what was going to happen. But the way I looked at this trial was I have a duty and an obligation to challenge everything I can challenge, like I said, do it in a professional basis. I got brought into the McVeigh case six weeks before we picked the jury, was when I started, and I was given all the forensics except for finger prints. So I had six weeks to learn how to make a bomb, blow up a bomb, clean up a bomb, and all of that that goes along with it. And I never even took chemistry or physics at all, so I had to learn all of that, along with the other forensic aspects of the case that we had to deal with, which- numerous. The FBI lab notes that I got when I got there—there was five thousand pages that I had to read and learn a bunch of stuff I didn't understand. It was an enormous task. But I approached it from the standpoint that the forensic aspect of this case, if we're gonna win it, it's here, because factually the jury is already going to hate this guy. And so the only way to make any inroads is to attack the F.B.I. crime lab and attack the work they did. And we did a pretty effective job of doing that. I was told, and you need to talk to Terry Nichols' lawyers, Mike Tiger and Ron Woods, who's here in Houston. Mike's in Washington, but Ron Woods is here. Ron told me that they did not recall, in the Terry Nichols trial, they did not call any of the witnesses that I cross-examined in the McVeigh trial. Because we had just destroyed them with their own work. That's what I'm talking about, okay, and you have to be able to do that, like I said in a professional manner, but have the guts and the will to stand up against forces that don't want you to be able to prove this sometimes. Now Judge Matsch is a good judge, but sometimes you're in front of judges who are not defendant-friendly, and want to go out of their way to ensure that the defendant doesn't get a fair trial. And so, you have to be ready to get up and fight that stuff, and that's what we did in that case, and I'm proud of that. I'm proud of what I

did, and I'm proud of what we accomplished. Even though he got executed, I'm proud of what we did.

CHAMMAH: Were you involved with the litigation around trying to get that execution filmed, or all that kinda turned out later on?

TRITICO: Well, actually, I was the lawyer that they called. When—oh, I haven't been asked about that in years—when we were trying to stop the execution- let me just back up- we tried the case and Tim got convicted and they appealed it to the tenth circuit, and while the case was pending review, I don't know if they'd filed the writ of certiorari with the Supreme Court or they were preparing it. But Tim ordered them not to appeal it to the Supreme Court, and he waived his appeals. Very, very shortly after Tim waived his appeals, and knowingly waived them, the government announced that there was, I think they said five thousand pages of evidence that we never got to see in the trial, and that's when I got reappointed on the case; me, Nathan Chambers, Rob Nigh, and Dick Burr. The four of us were reappointed to represent Tim, to look into this, and decide if we needed to file for a motion for a stay of execution, or whatever—just decide what we needed to do.

So we started working on it, and we very quickly found out it wasn't five thousand pages. It was a hundred banker's boxes like those of material that no one had ever shown to us. I don't know how many pages that holds, but it's probably a hundred thousand pages of material that we had never seen before we tried the case and we haven't seen today. Nobody knows what's in it. When we found this out, we started filing motions to stay the execution so that we could get this material and see it. Now, the argument that was always made was, it's not going to change anything. The answer is, how do we know? Because we don't know what's in there.

Well, Judge Matsch denied our motion for a stay of execution, to allow us to see it, which stunned me. The Tenth Circuit denied it, which didn't stun me, and we were preparing to file an emergency motion for a stay of execution with the Supreme Court, and I believe Justice Souter was who we had gone to, from that region, I think it was Justice Souter, and Tim ordered us to stop again. And so we thought that Justice Souter would grant us that stay. Tim ordered us to stop and said he didn't want to proceed anymore. So we never got to see what was in the boxes. I don't know what the evidence was. I don't know if it would have helped. I don't know if it hurt. Obviously it didn't hurt, or the government would have used it at the first trial. And so my guess is there was stuff in there that was either negligible at best or was very helpful to Tim McVeigh and that's why we never saw it. Who knows? So—I forgot what the question was.

CHAMMAH: Oh, the stuff about filming the execution.

TRITICO: Oh yeah. So while we're doing that, while we're working on these motions and the research and flying literally all over the country trying to figure out what's in this evidence, as we're finding pieces of evidence, pieces of information, I get a call from a lawyer- I don't remember who it was or where it was—you can actually find the story if you want on the internet. It's still out there—He called and said he represented a guy who was gonna get executed by the federal government, I think it was the federal government, and then—I don't remember, anyway. He had a claim, the guy was going to get executed, they wanted to film Tim McVeigh's and use it in their writ.

No, I'm sorry I'm messing up the whole story. They had a guy who was gonna be tried, and they wanted to film Tim's execution to show it to the jury during punishment of their trial to try to use it as mitigation evidence to show that the death penalty is a horrific thing that we shouldn't be giving people.

CHAMMAH: McVeigh because McVeigh was so famous?

TRITICO: I think McVeigh because that was the one they knew was about to happen.

CHAMMAH: Got it.

TRITICO: I never asked, but that's my view. I told the guy that I didn't personally object but I'd have to talk to Tim. I flew to Terre Haute, met with Tim about it. He said he didn't care, so we approved it. They filed the motion and then somebody in the media picked it up and that's how it went nuts. It really wasn't—it wasn't us pushing to do it. We didn't know anything about it. They just asked if they could do it, we said yes, and we were out of it. I mean, it was their motion. I didn't have anything to do with it. None of us ever thought about it. None of us cared. It wasn't something that I had time to deal with. A lawyer called me, I did what he asked me to do, and I was done with it. When the story took off, it was a huge distraction. When we're trying to stop an execution, I've got everyone in the world calling to do an interview with me about why I would allow his execution to be filmed, and quite frankly, it just wasn't that big a deal. And at the end of the day the judge, rightfully, in wherever the state was, the judge rightfully said, "No, we're not doing this." And that was the end of it. It just really - it blew out of it was one of those stories that grew from nothing into this huge story that really in my view was never merited a headline.

CHAMMAH: Right. Well, and then you've also—this is making me think—you've then gone on to do a lot of public media work.

TRITICO: I did. After the McVeigh trial ended, I was working with a radio station here in Houston. And I'd go on and answer legal questions with them. And then when I got reappointed the execution, I—Rob called me, and I had been doing a little bit of work for this radio station. Rob called me and said that he was going to get me reappointed to help him, and I said, "Fine, yeah, I'm up for it."

He said, "Well I'll call you back." He called me an hour later and said, "You're appointed." He said, "I need you in Tulsa." That's where he lives.

And I said, "All right. How long am I going to be there?"

He said, "Three days."

I said, "Fine." So I packed for three days, drove to the airport, flew to Tulsa, and I came back thirty one days later. And I had three days worth of clothes. I just never got home. I couldn't even find my car, when I got back, I couldn't remember where I parked. I had to go wash my clothes—I had to go buy clothes. I had—two suits was all I had. I wore those two suits every day for thirty one days. They were—I'd throw them away, I think.

And so we—What was the question? How did we get off on—

CHAMMAH: We were talking about after McVeigh.

TRITICO: Oh yeah, how I got involved with the media. That started-The end of the trial was a huge, as you remember, media blitz. Stuff I will never forget, walking out of that courtroom and having cameras—you can't see anything but lenses—is all you can see all around you. Just everything, just lenses and flashes. It makes all the hair on your body stand straight up. It's the most amazing thing when that happens the first time. And then the whole time you're thinking, I've got to act cool. [laughter]

And so—And for some people that turns into anger, unfortunately, and it doesn't look good, so it's an acquired emotion, I think. Anyway, when the trial ended and I did a lot of interviews, but it didn't really blossom into what it did now. So I was doing a little on this radio station, and then when the execution occurred, it reignited all of that publicity, so when I got back after the execution, I was hot with the news and the media again, so I was doing a lot of legal analyst stuff, really all over the country at that point, for the networks. And about that time the—Who's the lady who killed her kids? Andrea Yates trial gearing up. And so, because I had just been dealing with them, and all of the networks knew that I lived here, they all started calling me, and I was doing interviews for Andrea Yates for every show in the country for months.

CHAMMAH: But you had no involvement in the case?

TRITICO: No. George Martin was a good friend of mine. That's really as close as I got. And so I did these interview for months, and one day, one of the reporters for a local radio station, KTRH, who I had been doing a lot of interviews for, he called me and said I need to come and do an interview with you. And I was taking the afternoon off because I had been working every day, not only doing these interviews, but I was also trying to earn a living, and so I actually took the afternoon off and I went with some friends of mine, we were at a bar having drinks. And he calls and says, "I need you to do this interview."

And I say, "Man, I've been drinkin'. I don't think so."

He says, "You sound fine." So he came by and I was doing this interview in a damn bar. It was radio, so you couldn't see it, but just this thought or this image, my whole career is going away because I'm getting drunk doing this interview. And we did the interview, and we got through it, and I said "You know I've been really thinking of doing a radio show."

He said, "Really?"

I said, "Yeah."

He said, "I'll see what I can do."

Two days later, a head guy from Clear Channel in Houston called me, Ken Charles. He said, "You want to do a show?"

I said, "Yeah. I do."

He said, "What do you want to do?"

I said, "I want to do a legal show. I've got a guy who wants to do it with me. We want to take questions and answer them." I said, "I think it'll be fun."

He said, "I do too. When do you want to start?"

And that was it. So that was pretty close to Christmas, and so I said let's start in January. No sense to kick off a show during the holidays. So in January of that year, whatever year that was, I started doing a show called Hearsay on the radio. And we did that, that was me and Brian Clary, we did that for—that show lasted eight years. And in the middle of that, I got a second radio

show, just the Chris Tritico show, that was just talk, straight talk. And so I did that for as long as that lasted, and Clear Channel went in another direction and I lost both my shows. Then they called me back and I did the Chris Tritico show again, and then when that ended the local T.V. station, FOX, the local FOX station called me and asked me if I wanted to be their full time legal analyst, and so I do my legal segment. My legal analyst work for FOX, I've done that for about five years.

CHAMMAH: Does being the public face of the legal profession have any effect on how you actually practice law?

TRITICO: Not on how I practice, but it certainly affects the way you try cases. Once you get a name out there, and people know who you are, and when you're picking a jury, the people that listen to my radio show or watch me on FOX, they know who I am. And the judges always introduce everybody, "Does anybody know the prosecutor?" Maybe a hand comes up, maybe not. And then they say, "This is Chris Tritico. Does anybody know him?" Half the jury's hands sometimes come up which, you know, kind of cool, until you find out that they don't like you. And then you've got to talk to them about why, you know—and I've always made a joke out of it, because it doesn't matter to me if you like it or not. I just want to know. So I ask, "Did you believe everything I said on the radio?" If they say "Yes," then it means they like my radio show, and I say, "Well, you will be the foreperson of this jury." And if somebody says "No," I say, "Thank you very much, we won't be needing you anymore today." And I just kind of make a joke out of it. But I ask them so I know, because if it was somebody that—their politics were so adverse to my politics, and a talk radio show, that's it, it's about politics. It's about my politics, because I have to set the show and set the stage, and so, if they don't like it, then I'm going to probably try to find a way to get rid of them, because I don't want, if they have any anger against me because of my politics, I don't want that to come through to my client.

But that's it. I mean, that's it. Really the fun thing about it is when you have a media persona like that, is when you're trying a case against a young prosecutor, who doesn't know who I am, and sometimes during the middle of the trial, they'll say "I googled you," which is really kind of fun. But the best thing is when you got a brand new prosecutor and the judge says "Does anybody know Chris Tritico?" and half the hands come up and you can see this young prosecutor going "Oh shit. What is going on?" But other than that, it's no big deal.

CHAMMAH: Well, to shift gears, I'd be curious to hear about how you got involved in the Nenno case.

TRITICO: I was sitting in my office one day and my secretary called in and said, didn't say judge, she said Ewing Werlein is on the phone. This was a fairly new legal assistant. And I said, "Federal District Judge Ewing Werlein is on the phone?"

She said, "Yes."

I said, "Is it for me?"

She said, "Yes."

And I said "Hang on a minute," and I was frantically looking around, trying to find out if I had a case in there and I missed a court appearance or something. I couldn't imagine why he was calling me. And so I took the call and I talked to him, and he said "I have a capital case, a writ I'd like you to take." And he said, "I understand you've done some capital work."

I said, "Well I have done some capital work, Judge, but I've never done a federal writ."

And he said "Well, what capital cases have you worked on?"

And I knew what was going to happen when I said, "Well I represented Timothy McVeigh."

And he said, "Well that's significant."

And I said, "Well, I thought so."

And he said, "I think you can handle it."

And I said, "Okay. I'll do it Judge, but on one condition." I was really not in a position to tell a federal judge you have conditions, but I thought "What the hell? I'm going to do it anyway."

I said, "I'll do it only if you will appoint Dick Burr to do it with me."

And he said, "Well who's is that?"

And I explained who Dick Burr was, and why I wanted him, and he said "Well that's fine. I will appoint Mr. Burr. Get me his address and phone number." And I said, "Okay, I'll call you back in just a few minutes."

I hung up and I called Dick real quick and I said, "Before he calls you, let me just tell you what I did to you."

And so Dick and I took it and worked on it together. That's really just, out of the blue Judge Werlein called me and my policy is if a judge calls and says, "Will you do this?" I'm going to say "Yes." You just can't say "No" to that, and so- it happens from time to time.

CHAMMAH: And why particularly Dick Burr?

TRITICO: Dick's the best writ writer I have ever met. Dick Burr knows more—has forgotten more law than I'll ever know. He can dictate a brief off the top of his head that is just brilliant. And if you've got to have somebody at your back helping you write a writ, that's the guy you want in my view.

CHAMMAH: And so I guess if you just want to continue telling that story about-

TRITICO: Well, we got the case and we got the record. We decided that the best thing to do, before we go in and try to meet the client, we would get the record and learn what we could about the case. He had of course been tried and got the death penalty.

And the facts were horrible, just a horrible fact situation, and I clearly understood why he got the death penalty once I read that case. And after I looked at the photographs that the jury saw, there was no way to stop that execution from coming, I mean the death sentence, from coming.

So after we did that, after we both read the record, we called each other and said, Now let's go to Livingston and meet Eric. So we went up there, and we met there, and have you ever been to Death Row in Texas?

CHAMMAH: Mm-mm [negative].

TRITICO: Okay. When you walk in—Have you ever been to a prison?

CHAMMAH: Mm-hmm [positive].

MR. CHRIST TRITICO: Okay, well you know how you have to go and check in and there's always kind of an ante-room. I don't know what it is, but it's the room before you actually go in the secure part of the prison. At Death Row in Livingston, you walk in and on the door, the metal door that slides, there's a big red sign, man that big, red, bright red, and it has white letters about that big, "No hostages released through this door." That's what it says. Dick and I walked

in. He had been there a thousand times. That was the first time I had been to this unit, and I looked at that sign and I said, "That sign is on the wrong side."

He said, "What?"

I said, "That's the information I want to know when I'm running out of the place. Not coming in."

Now if you think about that, that is a very, very funny joke. You're the only two people that did not laugh at that joke when I told it. And, I'm sorry, except the guard, when I told it to him, he didn't find it amusing either. Anyway, so we go in there. Death Row, and this is—I've been to the Walls, Death Row when it was at the Walls, and now I've been to the Livingston Death Row, and I've been to Death Row at Terra Haute, Indiana, and they're always the same. It's the most surreal place you will ever step foot on. All these people waitin' to die. And they're sittin' around, talkin' to their loved ones, takin' photographs, laughin' and it just strikes me, every time I go in there, it strikes me. "How could you people be so cavalier about this?"

It's just bizarre. There was a guy, the first time we went there, or the second time I went there. I can't remember. I may have been alone this time. There was a guy about to be executed. It was a very famous guy in Texas for the crime he committed. It may have been the "Candyman," or something like that. I can't remember. All of his appeals have been turned down, and he was literally waiting till the next day, when they transported him to execute him, and I walked in and I recognized him, because I had seen his picture on the news that morning before I left for Livingston. And he's having a meeting with somebody. I don't know who it was. It looked like maybe a pastor and a lady [inaudible], and they're laughing' and having this wonderful conversation and telling jokes. I could hear that—I couldn't hear him because he was behind the glass, but I could hear the jokes they were telling this guy and I'm just sittin' there thinking, "This is nuts. This is bizarre that they're doing this."

Anyway, we get to meet Eric, and you know there's no contact in these. Now with Tim McVeigh, we always had contact visits, but in Texas you never get that. I suppose you could, if you fought hard enough you could, but they really never do it. So we're always talkin' to Eric over those little phones through the glass. We can barely hear right, half of them don't work. And Eric was probably the fourth or fifth person I had met who was charged with capital murder, and in this case convicted of it. And every one of them has always been the same. You always expect, and I felt this way when I first met Tim McVeigh. I didn't when I first met Eric, because I finally caught on to this. You always expect to meet this monster. How can anybody do what you have been convicted of and not be a monster. And when Tim—They had so demonized him in the public—that's what I knew was what you knew, and so I expected to meet this seething monster.

And they're always nice. They're always respectful, nice. Eric Nenno called me Mr. Tritico until the day he died. He never would—I told him, "Call me Chris." He never did it. He called me Mr. Tritico. Every time you did something for him, he thanked you. It was the oddest thing in the world. Here's a guy whose accused of, in this order, kidnapping, killing, and then raping a seven year-old girl, and he's calling me "sir" and thanking me every time I file a motion on his behalf. And you have this conversation with him and he's friendly, he's complete, he's funny, and you just can't figure it out. You don't know why, or how, we got here with a guy that's this nice. And I've never figured it out, and I've never met a capital defendant that wasn't that way. I'm sure there are some, but you know, in the movies, when you grow up and watch the movies, the capital defendants are always these nuts. They're throwin' stuff at you through the bars, and they're always cussin', and they're just not that way. They're humans, and it's hard to get used to that, because you want these people to be demons, don't ya? If we're gonna kill someone, don't we want to kill a demon? We don't want to kill a nice guy. And that was one of the lines that I said that got the most play after McVeigh's execution, when I said to, I don't remember who, I said, "You don't know the Tim McVeigh that I know." And that just went nuts everywhere, that I would call this guy a nice guy. But he was. And Eric Nenno was a nice guy. How they get to this position is something we'll never be able to figure out.

CHAMMAH: Mm-hmm [positive]. And so my understanding is that it was at that point in the process that you started to learn more about Eric Nenno's background that hadn't come through with the trial.

TRITICO: Yeah, and I wish I could take credit for this, but I've got to give Dick credit for asking the right questions, because he's that much smarter than me. We're talking to Eric, in the first meeting actually, we're talking to Eric about what he'd done, his history, his background. And he told us that he had been in the Navy, and he worked on hydraulics. And it meant nothing to me. Okay. He worked on hydraulics. And Dick started saying, "Well, what did you do?"

And he explained how they would fix the leaks and whatever in these ships.

He said, "What was the hydraulic fluid?"

And he gave us some—rattled off some name that sounds like it ought to be on the back of a diet coke can, it's that long. And Dick wrote it down, and he said, "Well, let's look into that." And we moved on. And we leave, and Dick said, "We need to look into this. This may be something."

So we start investigating it and sure enough—Eric had told us that this fluid would leak out and they would stand in it all day long. It'd just be floatin' around in the bottom of the ship. And so they'd be standing in this fluid all the time, mixed with water and whatever. And so we looked

into it, and it turns out that this fluid, if you look at the barrel it comes in, the fifty-five gallon drum, on it is "Do not touch." It's got the skull and the crossbones, "Do not touch. Neurotoxin."

All these warnings. And so we looked into it further and it destroys your brain. Not all of your brain. It destroys that part of your brain that involves your sexual motor function. And had Dick not asked those questions, we would have never learned this. And so we thought that that was a very significant point, and it was one that was not brought out at trial at all. And so when we started looking at it, we were thinking that we had ineffective assistance of counsel claim. As we investigated further, and the lawyers, who were both very good friends of mine, were really ticked that I was investigating this this way. Because they didn't think they had done anything wrong. And it really strained two very good friendships for me. But I told them, I said, when I first broached the subject and they were mad about it, I said, "I've got a job to do." [Phone rings]. Oh, I'm sorry.

[Tape cuts]

CHAMMAH: Keep going.

TRITICO: What was I saying?

HENERY: You were talking about your—

CHAMMAH: The trial lawyers, your relationship with them.

TRITICO: Oh yeah. And so it really strained these relationships, and I just said, "Look I've got a job to do and I don't know how I would respond." Well, actually I do know how I would respond, because they filed a writ on me in McVeigh, and I said, "Look, the point is if you screwed up, you screwed up, and I'm sorry, but I'm going to do my job."

Well, it turns out that they didn't have the science. At the time they tried the case, the science wasn't there to show that these neurotoxins would have done this to his brain. And so even if they had a thought to ask him that question, it wouldn't have gone anywhere. So they didn't really do anything wrong. And that's the part of it that was the greatest stumbling block for us, is we couldn't- there wasn't any way to prove it scientifically at the time they tried the case. Our argument was it doesn't matter. We know now that it does and we ought to have a chance to have that evaluated. The second problem that occurred, is the state court writ lawyer did not raise any issues in the state writ. He only raised the issues that were in the direct appeal. He didn't raise any new issues-

CHAMMAH: Who was he?

TRITICO: I don't know. He didn't raise any new issues. Because he didn't raise any of these issues, we were procedurally barred from raising these issues. And so Eric Nenno was executed without anyone ever actually investigating whether or not these neurotoxins caused a brain malfunction in him that would allow him to do this. We were never allowed to do the work because we couldn't get the money approved because we couldn't procedurally raise the issue on his writ. He was executed without anyone looking into that issue properly.

And that's one of the major flaws in our capital system. And Texas does not recognize that appellate lawyers or writ lawyers can commit ineffective assistance of counsel. So because of that you can be as crappy as you want to be, and no one can do anything about it. And so Eric Nenno was executed because no one ever looked into this in a timely fashion. It was Dick Burr, ten years after the guy was convicted, it was Dick Burr who figured it out, and that was seven and a half years too late for Eric.

Now would it have mattered? Let's say that we raised the issue, they reversed the case, they give us a new trial, we call an expert to say, This stuff causes your brain to malfunction.

They'd have killed him. Okay? It didn't matter in my view. He was going to get executed no matter what because the facts of that case were so horrific, you were never going to get past that. And I don't care how many grandmothers you put on that jury. They're going to be mad at Eric Nenno because of what he did.

But you know, Eric had never done anything wrong. Anything. He had a misdemeanor marijuana conviction. That was it. He had never exhibited any signs of being a sexual deviant. He had never been arrested for anything. He just had a stellar life, but for this one event, and that's why I think that we were on the right track, that it was these neurotoxins that attacked his brain, because there's nothing in his background to indicate he would ever do that. It had to be something else.

CHAMMAH: And how did he respond when you talked about that as a potential—

TRITICO: He said, "Do whatever you've gotta do." Do whatever you've gotta do. And he was not- he never got excited about anything. He just said, "Investigate it, and we'll see where it goes, and if it helps, then that's great." And his letters were always, "Thank you for everything you're doing."

And Dick, when we found out what the outcome was going to be, Dick was out of town, so I had to go tell Eric by myself, which I didn't really want to do, but I did. And his response will be with me the rest of my life. It was, "Well, you did everything that you could do, and I thank you." That's all he said.

I'm about to cry, telling this guy, "You're gonna die here in about a month."

And all he said, "Well, listen, you did everything you could do, and I really thank you for it."

I didn't know what else to say at that point. I just said, "Okay," and I left. Because, how do you follow up? I don't know- there wasn't anything left for me to talk to him about at that point. I had said everything I had.

So that was that, and then he had asked us to call his sister and ask her to come—to tell her what was going on. And she said that she could not come to the execution. She said, "I can't do it. I can't watch it."

So we went and told Eric that, and he said, "Well, will ya'll come to watch?" He said, "If ya'll don't come, I won't have anybody there." Now there was the one guy from Sam Houston State.

CHAMMAH: Dennis Longmire?

TRITICO: Yeah, Longmire. Dennis was gonna be there. But he said, "I don't have any family, other than my sister, so I would appreciate it if ya'll would come."

We said, "Yes." And when we left there, I was thinking I really don't want to watch this. I had no desire to watch this. But we did it. And I mean I felt like it was my duty. We didn't get paid for it. Our pay had long ended after the writ was done. Everything we did after that was just for free. But we met there. Dick and I met there, and everyone ought—Everyone who is in favor of the death penalty ought to have to do what I did that day, to round out your education. You show up and they have a—The prison in Texas has done a pretty good thing and they have a house for defendants' families and guests to stay at for the execution. And then on the absolute other side of the walls here, they have some secure place for the victim's family. It ought to be that way. We should never see each other. For me it doesn't matter, but there are people who should never see each other at these times.

And so you go in. Well, I had gotten there first, so first I wanted to have a meeting with Eric before his execution, and as his lawyer I had a right to do that. So I went. Dick went another time, separately. And I'm in there meeting with Eric, and I don't know what to say. This guy's literally an hour and a half from execution and I'm in there talking to him. I don't know what to

say to him. We're kind of making some talk, and I leaned up against a wall, I was leaning up against talking to him through the mesh and I looked around and I looked in the glass and I'm leaning up against the door of the death chamber. And it just- I lost it. I was about to start crying, and I thought that was a fairly unprofessional thing to do at that time, and so I just said, "You know what. I've got to go." And I couldn't shake his hand, but I touched the thing, and I said, "I did everything I could do." And he said, "I know you did." And he said, I'm happy to have had you as a lawyer, and I'm happy to have you as a friend, and I thank you for everything you did." And I left. It was the last time I spoke to him.

So I met Dick over at the house and we meet with the chaplain, who explains the process to you. And this guy, he's a man of God, but he only refers to Eric as "the inmate." He never says his name. "I'll be with the inmate." And it just pissed me off. I didn't say anything. Just how dare you not treat this guy like a human, claiming that you're going to be in there to give him comfort, while you're calling him the inmate.

Eric had written a letter to the victim's parents, apologizing for what he had done, and I had it in my pocket, and I wanted to give it to her parents. And I asked the chaplain, I can't remember his name, how I could do that, and he said, "Give it to me. I'll run it by the warden, and we'll see if we can give it to her."

And I said, "Well, if the warden says 'No,' I want it back."

And so I left it with him and we went over to the unit, to check in, to go do the- for the execution, the walk. When you leave, they have escorts. Two or three of the guards come escort you, because you have to go across the street to the Walls Unit. And when you walk out there, there are these protestors that are down, about fifty yards away. And then these bullhorns. And there's a lady that's always there with her bullhorn, and as we're crossing the street, she's screaming in this bullhorn, "You're participating in the murder of Eric Nenno. How dare you murder this man."

And you're already nervous. I mean, you're about to see this. You don't want to see it. And it's just—It's like pins being pushed into your body. It's so painful to listen to this woman yell at you when you're with him. "I'm on your side, lady." It was a horrible- I'll never forget it.

So we go in, and nobody speaks. Just stand around waiting for them to take you into the death chamber, and finally, they come and get you. They put you in first, so you have to wait while they go get the victim's family. They put you in this room that is probably designed to hold four people, and you're literally just standing next to each other. Dick and I are up against the glass, and they close the door, and you know those prison doors, they turn that—You can hear it turning, "ta ta ta ta ta tun," and you know you're locked in. And then they put—you can hear

them next door putting the victim's family into their room and locking them in. And then they open the screen and there's Eric laying there on the table.

And he's all—everything's—they strap you down with the leather straps, like this of course, and he's got the I.V. coming down, but then they take ACE bandages and they wrap. You can't see anything except his head. Everything else is wrapped with those ACE bandages, so he can't move anything, except his head can go like that [turns head side to side]. And so he looked at me, and I put my hand on the glass, and I don't remember if I said anything. He can't hear me anyway. I may have said something. I don't know.

They asked if he had something to say, the warden did, and he said "No," or "No, Sir." And that's when they—They had already told us, whatever he has to say, as soon as that's over, it starts right then. So we're standing there. Nobody's saying anything. And all of a sudden his eyes start flutterin', like that and I didn't know if he was just feeling the IV fluid coming in. You ever had an IV? It first hits, it's cold, and you can feel that coming into your veins. And that goes on for a little while. It seemed like an hour and half. It was probably thirty seconds. And then he kind of stops and he shudders, and he doesn't—his body doesn't move but he shudders in this loud breath. [Makes sound]. Just his life leaving him. And he freezes and he does it again. Loud exhale. Doesn't move again. Just lays there. And by law, you have to wait until every drop of the fluid is in his body, and you don't know how far that IV fluid is when he actually dies. And so we stand there for what seemed like an eternity, watching this dead guy on this table just lay there, with this pastor who only calls him inmate standing there not doing anything. And finally, the doctor comes in and pronounces him dead. And I didn't realize I had been standing there with my hand on this glass the whole time, and when they said, "You can go now," and they opened the door, I took my hand away and there was sweat drippin' down the glass from me holding that. And we walked outside and they're escorting us across the street where our cars were and that lady hits us again with that bullhorn. And my legs are weak already. It was really, literally, one of the most horrible experiences I've ever been through, watching somebody die like that. I think it would be worse watching someone get killed, if somebody got shot in front of you, but this was just something that took my breath away. So this lady hits me with this bullhorn again, and it literally took my breath away to have that happen that way. I'm a big believer in the First Amendment. I believe everybody has a right to say what they need to say, but that was over the top.

And so that was it. That was my whole experience with watching people get executed. People have asked me, when I've told that story to classes, I speak to colleges or high schools and I tell them that story, they always ask, Are you going to do it again? And my answer is, like it's going to be to you right now, is, I don't know. I hope not. I hope I never have to try another one of those cases, but if I do and my client asks me the way Eric did—Will you come watch me die? I think I'll have to say yes. But God, I hope they never do.

I had a friend of mine, not too long ago, I was this telling this story to him, and he said, "I'd've just said no."

I said, "How do you say no to somebody you spent five years with, at that moment." I said, "If you can say no to that, then you need to sit down and write that down and explain to me how you can turn that guy down. I don't know how."

Anyway, I hope I never have to do it again.

HENERY: Stop the tape?

CHAMMAH: The tape, yeah. We've got to change—

[TAPE 1 ENDS]

[TAPE 2]

CELESTE HENERY: Start again?

MAURICE CHAMMAH: Yeah.

HENERY: Here we go.

CHAMMAH: I was curious through that process, up to the execution, including if you had- who you had interaction with other than Mr. Burr and Mr. Nenno and - I mean was there any interaction with the victim's family?

MR. CHRIS TRITICO: We reached out to them.

CHAMMAH: The Bentons?

TRITICO: We reached out to them. I actually called Ashley's father and told him that Eric wanted to write a letter, and I wanted to make sure that if I brought it out there that I would be able to do that. I mean I didn't—These people have been through enough, all right? And I didn't want to open wounds that didn't need to be opened and I didn't want them to think that we were doing anything remotely disrespectful to the memory of their daughter or for them, because like I said, they've been through enough. And when I first called him, he was hostile. And I expected—I would have been. I would have been. I said, "Sir, you don't know me. You ought to check into me." I said, "What I'm telling you is the truth, and the letter that I get from Eric will be approved by me and Dick Burr, and it will be what we as professionals will approve him to say, and I promise that it will not be disrespectful." And I said, "Well you just think about it. You think about it and let me know." And I never could get back in touch with him. And so that's why—I already had the letter. That's why I wanted to see if the warden would give it to him because Eric really wanted them to see the letter. And he thought—Eric thought that it would help them in understanding a little bit about what happened, and how, and why, and it was a true statement of sorrow. You know, it was from a guy who had already been executed and so it's not- He had nothing to gain by what he said. It wasn't like he could take that letter and say, "Now don't execute me." We were trying to deliver it after he was dead. But they never got to see it, and that's a shame.

CHAMMAH: So you gave it to the—

TRITICO: I gave it to the pastor, and I said if the warden isn't going to give it to him, then I want it back. The next day, when I got back to work the next day, I didn't

get in 'til like one, but I called him and he said, "Oh yeah. The warden said that Eric's not allowed to give them a letter." And he shredded it.

I said, "Do you recall me telling you I wanted it back?"

He said, "Yeah. I do."

And that was the end of it. That's your man of God.

CHAMMAH: Wow.

TRITICO: Yeah. And it was a beautiful letter. It is what it is.

CHAMMAH: Yeah. So that was the closest- that was the interaction with the victim's family. Was there any interaction with—Who from the State, other than the people at the Walls and the judges you interacted with—Was there any, as the final appellate lawyer, are you interfacing at all with the prosecution or—

TRITICO: I don't recall us interviewing any of the prosecutors that tried the case. What we were looking at at that federal writ, they didn't have any input in, or anything that could have helped us. They wouldn't have given us anything anyway. Like I said, that was such a horrific act, it didn't matter what I told those prosecutors. It wouldn't have changed their mind. Now and then you see a prosecutor who says, "You know, I was wrong." There was never anybody going to think they were wrong in Eric Nenno's case, regardless of what Dick and I had uncovered. And I don't blame them. That's a hard case to try and I don't blame anybody for having hard feelings about that, even today, after all these years, it's that horrific.

CHAMMAH: Well, to kind of draw back as we close out, you had kind of mentioned really early on the idea that capital cases are something you kind of work towards from smaller kinds of trials. Is that the end of the line in terms of that progression?

TRITICO: Well, there's not much you can do. After I tried the Timothy McVeigh case, I kind of had to sit back and I was under forty and I had tried the biggest case in American history and I'm not exactly sure where you go from there. [laughter]

CHAMMAH: Yeah.

TRITICO: I found that reaching that goal that I had of trying capital cases was not the rainbow that I thought it was going to be because they're so hard. The pressure

was so great. I mean I—Look, I'm glad—There isn't anything I've done in my legal career that I'm not happy about, that I'm not proud of having done, or worked on, and Timothy McVeigh and Eric Nenno—exactly right there. I'll go to my grave being proud of what I did in the Tim McVeigh case, and in Eric's case. But with that said, when you take on a case like Timothy McVeigh's, I left on Valentine's Day in 2007, and I came back in June. And in that period of time, I saw my wife and kids twice. I talked to them on the phone, but my son was two, and so you know he didn't know what happened to his dad. My daughters were a little bit older than that, so at least I could talk to them about it, but I remember vividly the first week I was there, my wife and kids were watching the news and I was on the news, and Debbie said, "Chris," that's my son's name, "There's daddy." He started crying, and she called me and put him on the phone and he was crying, and I said, "Don't ever do that to me again." It was horrible, choking me up now. That's the kind of stuff that you're willing to do. And, you know, I've tried cases all over the country and my family has paid for that, but if you believe in what you're doing, and you believe in the Constitution, and you believe that everyone has a right to have that quality of defense, then you have to be willing to do those things, but what you find in a capital case is, I think the price is too high for what you get out of it at the end of the day, to go through this exercise and watch somebody die, when the alternative of life without parole is out there. I just don't know that we get anywhere by going through this exercise. I watch these families at these executions. I saw all the victim families at McVeigh's execution, and I didn't see the victim's family at—I can't think of the name, Benton.

CHAMMAH: Benton—

TRITICO: I didn't see the Bentons at Eric's. But I did talk to her father, and the pain that he was going through, all these years after his daughter had been murdered, I just don't know that really is any—I don't know that did them any good. And if it's not doing them any good, then what the hell are we doing it for? I've been an opponent of the death penalty my whole life, and my work on capital cases has hardened that view.

Now with that said, I could probably highlight cases in my life that I've seen, that I thought, "I could kill that guy for that." But really, having worked on the cases, I don't see the purpose. I don't see the need, and I don't see the benefit to society in going through this exercise. And now we've got this huge debate going on in Texas whether or not we've executed an innocent person, and if we've executed an innocent, even one innocent person, that system is wrong. It's one thing to lock somebody up and let them out twenty years later and give them a million dollar check and say we're sorry. But we can't do anything about it when we've killed somebody, and we didn't do it right. We didn't have the evidence right, and if the system is that imperfect, we shouldn't do it at all.

CHAMMAH: Do you have any questions?

HENERY: No.

CHAMMAH: I guess, one more thing that I'm just curious about, because this is something I just like to ask almost everyone is—You've practiced your whole life in Texas, except this big capital case was a federal case. Are there things about Texas that feel particular or unique in terms of-

TRITICO: Well, Texas is a unique place anyway. I mean having been the only state in the union that was an independent country, we still feel that way. I mean, you can see that. You can hear that. We talk that way here, and so the uniqueness of Texas is that—our independence. You don't get it in a lot of places in the country. But what you do get in Texas is this conservative mentality of—that's why Harris County is the death penalty capital of the world, is because if Texas law says you can execute somebody, then by God, we're gonna do it. And there's a comic, I can't remember who it was, that said that, "In Texas we have a law that says if you kill somebody, we will kill you back." And that's exactly what we do. But you're going to find—You can look around the country and you won't find any group of criminal defense lawyers any better than the group of criminal defense lawyers that are located in Harris County, Texas. The quality of litigation that comes out of this city is by far above anywhere else in the country, in my view, on the criminal defense side. And it's because of the Percy Foremans and the Racehorse Haynes' and the people who were here that fostered this idea of how to try cases. And there are very few people in the world that can try a case the way Percy did and the way Haynes does still, and those of us who had the benefit of that education, have been able to show what that type of education does and how you can be a good lawyer. And really, there's a group of lawyers here that grew up learning from those two guys, that are the best litigators in the country.

CHAMMAH: And do you feel like these people that learned from them could someday meet that standard that they've set out, or is that a sort of golden age?

TRITICO: Well, litigation is different than it used to be. We don't try cases. The first murder case that I tried with Richard Haynes, twenty years ago, it lasted two months in the state court. That's unheard of. Because those guys, Percy and Richard, they grew up learning how to cross-examine and the way you slice your questions and they're just—he can ask the same question twenty different ways to finally get to the answer he wants. And juries don't like that anymore. I mean we're used to LA Law, where you have a trial in an hour with four commercial breaks and somebody has an affair with their legal assistant in the middle of it and then you get a verdict. And so you have to adapt your ability and the way you try cases a little bit to the way society wants it. Now, that doesn't mean that you should rush it, but we've had to change the way we do it, and Richard and those guys are still those old school guys who

are gonna cross-examine—In that trial I was telling you about, he cross-examined—they rested without telling us they were gonna do it, so we had a whole day one day with no witnesses because Haynes wouldn't—long story, but Haynes didn't have any witnesses. So he called this Captain of the Sheriff's department who had nothing to do with this investigation other than that he drove to the scene, "Everything okay?" "Yes." and he drove back to his office. That's all he did. He crossed him for eight hours. Eight hours. He didn't get any information out of him, but he bought the day, and when we finished, the prosecutor, when we finished for the day Haynes literally in the middle of a question says, "And did you Captain—Oh I see it's five o'clock. I'll pass the witness," and just stopped. And we sat there all day for nothing, and the prosecutor said to Richard after the case, he said, "That was chicken shit."

Richard said, "I'll tell you what was chicken shit, you fat son of a bitch, I asked you yesterday if you were gonna rest and you lied." [laughter]

CHAMMAH: Man.

TRITICO: You know, very few lawyers could have cross-examined a witness for eight hours over nothing. But what I've learned, and what I've adapted from that education is not only how to cross-examine a witness, but then you learn how a jury wants to hear things. And so what Haynes would do in six weeks, the rest of us will do in a month, or three weeks, and get it done in a more efficient manner, but still get the job done, and that's the change. You've seen this change. You've got technology in the courtroom, so what would take weeks to get done when you had paper, you get done in hours because you've got it all on computer. It doesn't take as long to go through all the mechanics to get the trial done. So you've seen those changes. But what hasn't changed, and what will never change, is that direct confrontation that you get through cross-examination and your ability to ferret out the truth through cross-examination. That's what wins cases. That's what makes good lawyers, and that's what gives the defendants the process that they're looking for. That the process that the constitution requires is having a lawyer who can get up and challenge that evidence and do it in an effective way.

CHAMMAH: Mm-hmm. Okay. We've learned a lot. Thank you so much.

HENERY: Thank you.

[TAPE 2 ENDS]