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Interviewee: **Jill Harris**

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Interviewer: **Sarah Schulman**

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SARAH SCHULMAN: Okay. So if you could just start by telling us your name, your age, today's date, and where we are.

JILL HARRIS: My name is Jill Harris. I'm fifty years old. It's June 27, 2008, and we are in Brooklyn, in my house.

SS: And that is?

JH: This is Angie.

SS: And how old is she?

JH: She's ten.

SS: All right, Jill. Well, you've done so much in ACT UP that I hope you're comfortable, because we have a lot to talk about. Let me just start with where did you grow up?

JH: I grew up in Oregon, Eugene, Oregon.

SS: Eugene? You were born there?

JH: I was born in Portland, actually, and when I was three and a half, my parents got divorced, so I went to Colorado for a couple of years with my mother's mother. We lived there for two years, then we moved back to Oregon when I was about six, and then I lived there through high school.

SS: So is your family longtime Oregonians?

JH: My mother was born in Idaho, in sort of rural Idaho, and raised by her father on sort of a farm kind of place. My father's family came out from somewhere in the Midwest, but his parents were in Oregon, and he grew up there.

SS: Wow. So that's your home turf.

JH: Yep, yep.

SS: And so you grew up in Eugene in the sixties.

JH: Yeah.

SS: Okay.

JH: Yeah.

SS: So I have no idea of what that was like. I only have clichés in my mind. So why don't you tell us.

JH: Well, I was a little behind the sixties, right? So I was kind of a hippie wannabe, kind of an activist wannabe. I was in junior high, and so it was sort of a little derivative or something. I would go down to the mall where all the hippies would hang out and kind of hang out with them, but I wasn't really part of them. The big demonstrations I wasn't really part of. I mean, it was all going on.

I remember this really horrible thing that happened, I think it was in '68 or something, it was right in the middle of all of the demonstrations, and the president of the university committed suicide because it was just so nasty. And I'm sure he had other problems, but he had this tiny little car and he drove his car up into the mountains and drove head-on into a logging truck. And those logging trucks, they come barreling down those hills, and he just pulled right up into it. There was a picture of his car smashed into the logging truck. I don't know why this just came to me this second when you mentioned it, but I remember that image from that time.

SS: Was your mother involved in anything?

JH: Not really. My mother was a schoolteacher and basically progressive and was married at that time, not to my father anymore, but to a guy who was kind of a

working-class Republican guy who – very law and order, very – if you saw *This Boy's Life*, kind of a little like the Robert De Niro character in *This Boy's Life*, this very stern guy. I remember one time when I was in junior high, I had all of these pictures on my wall that I had cut out of *Life* magazine and *Newsweek* magazine, like the picture of the guy – or I don't know if there's a guy – but putting the flower in the barrel of the National Guard rifle and the guy giving the finger to the camera in the demonstration, and just all of these different images that I had put up on my wall, and he came down and he said, "Well, this one's coming down because it's obscene," because it was this one, and he ripped it off the wall. And then he goes, "And this one," and he just sort of passed judgment on each one, and then he got to the one of the guy putting the flower in the barrel of the gun and he said, "This one's just stupid, but it's not obscene, so you can keep it." So anyway, that was kind of who my mother was dealing with at the time.

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So she was women's lib. She would say, "I'm women's lib." She was kind of, I don't know, rebelling against him that way and kind of putting it in his face, so that was kind of a big deal. When I was in high school, Gloria Steinem came to speak in Portland, and my mother took me out of high school so that she and I could go up together to hear Gloria Steinem give a speech because she was a hero to my mother.

SS: Do you remember what she said?

JH: I don't. I reported on it for my high school newspaper. I wrote this big article about it, but I don't really remember. It was at Portland State.

SS: So where did you get your sense of justice?

JH: You know, she was pretty much about treating people fairly, and she was a schoolteacher, and so she really tried to help kids fulfill their potential, and she sort

of believed in people not being limited by kind of external circumstances or something. And it may have been because of just being so different and being so sort of marginalized as kind of this sort of tomboy kid. I think that I had this sense of otherness indifference, and so I would kind of always be drawn towards people who were marginalized and always sort of reacted really strongly against abuses of power directed at marginalized people. If there's kind of a thread, that would be sort of where it is.

SS: Did you come out in high school?

JH: No, I came out after my freshman year of college.

SS: Where was that? It's still in Oregon?

JH: No. I went to Harvard, so I went all the way across the country where I had never been and didn't know anybody, and so it was a pretty weird experience. After my freshman year, I took a year off, went back home, worked in a bookstore, kind of chilled out a little bit, and that was where I came out, back in Eugene.

SS: And why do you think you had to leave school?

JH: It was really a terrible environment for me. I had never been further east than Colorado in my life. I went to public school. I just didn't get any of how you swim in those waters and how you speak that language. I didn't get any of the class stuff, really. I mean, we were sort of comfortable, but Eugene, they didn't have private schools. The rich people in Eugene were the people that owned the cement company, the Rexiuses. They were rich because they had the cement company. But it wasn't like this enormous wealth of bankers and inherited wealth and all that kind of stuff. I didn't know that. I didn't know how that worked.

So you get to a place like Harvard, and there are all these people whose families were there and they went to private schools, and they just kind of know how to maneuver. And I was just at sea. I didn't know anybody, and I was just really miserable, gained all this weight, really unhappy. Sometime towards the end of my freshman year I just went, "You know, I don't have to be here." And kind of this light bulb went on in my head and I was like, "You know, I can leave. I don't have to be here." And I was so happy to be able to get out of there.

Then when I came back after my year off, I had come out, I moved off campus, I just kind of decided I was going to do it a different way, and it was better.

SS: So you came out into the famous Eugene lesbian community?

JH: Kind of, but I was nineteen, so I couldn't really do –I played softball, and of course that was a big dyke scene. That was fun. What ended up happening was I had my first girlfriend was at this place where I worked, and she was actually involved with this other woman at the place where I worked. But they were both married to men and they were having all of these problems, and I got with this one, and it turned into this whole drama, my first introduction to dyke drama when I was nineteen. What ended up happening was I went over to see *my* girlfriend one night, and they both answered the door, and I was like, "What's up?" And they decided to be together, and they decided to leave their husbands, and there wasn't any room for me. So I was kind of heartbroken.

I went down to Southern California, where my father lived, and that's really where I came out. He was a doctor. He had this technician that worked with him who was a lesbian, and he made a big point, even though I wasn't sort of officially out to him, of introducing me to her because he thought we could be friends. She ended up

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giving me her birth certificate so that I could get a fake I.D., and then I would hang out with her and this group of her friends in these bars in Long Beach and Torrance and all of these places in Orange County, California, and had this group of friends. We hung out and went as a group to Disneyland, and it was really – it was cool. It was fun.

SS: So then you came back to Harvard.

JH: Right.

SS: And what was it like to be a lesbian at Harvard in the seventies?

JH: It was fun. They were agitating at the time for women's studies.

There wasn't any women's studies, and so we were sort of organizing for that. There was a lot going on in the Boston community. There was the whole women's music scene. There was this huge community, huge lesbian community, and so a lot of my involvement in the community was outside of college, but more sort of in the neighborhood, in Boston, in Cambridge, and I had a lot of friends that weren't associated with the college.

SS: I think that was pretty typical of the seventies, right? I mean, the idea of being gay on campus really wasn't in place yet, so most gay people had their lives off campus or their gay lives.

JH: Yeah, but there was a sort of little scene. I mean, there was my advisor. I majored in psychology. My advisor was a gay man, as it turned out. When I came back, I was going to take control of my situation, I was going to pick my own advisor, I wasn't going to take this guy they made me get, and so I went and talked to him, and he turned out to be great. His name's Clint Anderson, and he does a lot of stuff

in the American Psychological Association now, and he just got some award recently. I read his name.

And there was a group of us that would meet to agitate for women's studies, to agitate for some gay studies. It was very much the beginning of it. There wasn't any queer studies thing going on at all, but we had our little group, and there was one kind of dorm where more gay people would be there, and so there would be parties there. I remember there being a kind of a community at school, but I was sort of part of it and sort of part of this other thing.

SS: What was your community involvement at that time? What was the name of that big famous lesbian bar in Boston? It was called like Our Place or –

JH: Somewhere.

SS: Somewhere. That's right.

JH: Somewhere. I worked there.

SS: What?

JH: I worked there.

SS: You worked at Somewhere?

JH: I worked at Somewhere.

SS: So you were in Lesbian Central.

JH: Yeah, yeah. I was a waitress at Somewhere between college and law school. I stayed in the Boston area for a couple years after I got out of college, and I worked at – the Marquee in Cambridge was a big bar, I was a bartender there, and I was a waitress at Somewhere. It must have been like '80. It was fun. It was a blast.

SS: Did you ever get into GCN or any of that?

JH: No, but I met some of those people. I was in this thing called – well, there were two main political things that I was in. I was in this thing called the Coalition to Stop Institutional Violence, which was a group that was organized around this prison unit in Worcester State Prison that was a kind of hybrid prison psychiatric thing that was going to use these sort of really sensory deprivation and all of these kind of intense torture-like techniques on this sort of select group of women. I don't know how I got involved with them, but I was a psychology major, and just the whole idea of sort of institutionalized oppression using this psychiatric system, it got me somehow. So we organized to shut down this unit and so we organized hearings, and basically they were trying to open it up without going through with the procedures they were supposed to. They were supposed to get a request for proposals and do all of these kinds of things, which they didn't do. They just tried to just do it, so we sort of forced them to do what they were supposed to do. And they had to have open hearings, and then once they had hearings, it kind of got out what they were doing, and they ended up not opening it, so that was good.

Nancy Gertner was our lawyer, and she is a federal judge now. Harvey Silverglate and Nancy Gertner were the big lefty lawyers in Boston, so that was cool to meet her. So that was one of the things I did.

Then the other thing was there was this thing called the Lesbian and Gay Parents Project, which started in like – I think I might have still been in college. I don't know, it was like '79. And it was just sort of one of the early groups that dealt with the gay and lesbian family thing. I never was that into children and never wanted to have

them, but there was something about people getting their kids taken away that just really got to me.

SS: Oh, it was the custody movement really.

JH: Exactly. These were the people, the woman usually, but some men, that were in these straight marriages and then they came out, and they had these kids and were getting them taken away, so that was a big deal. So those were kind of the main two kind of political things, other than just marching and then all the things that would kind of pop up.

SS: And what made you decide to go to law school?

JH: I'm argumentative. People always said, "You should be a lawyer. You're good at arguing." It seemed like it made sense. It wasn't like I was dying to be a lawyer. I wasn't good at math, so I couldn't be a doctor. I didn't have any art. I didn't have anything else that was kind of grabbing me, so I thought that it made sense.

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SS: So where did you go to law school?

JH: NYU.

SS: Okay, so you come to New York.

JH: Come to New York to go to law school.

SS: And what year was that?

JH: That's '82.

SS: Okay. So you arrive at NYU, and were you in the community at all? Because law school is so all-consuming.

JH: Somewhat, yeah, somewhat. Mostly the bar scene.

SS: What bars did you hang out at?

JH: Oh, god, I can't remember them.

SS: The Duchess, the Cubby Hole?

JH: The Duchess, the Cubby Hole. There was one on Greenwich Street that we used to go to in law school that had a pool table. Bonnie and Clyde's was still there for a while down on West Third. I think it was West Third. There was a bar on West Third that we would go to for a while that was kind of downstairs. There was one uptown that was kind of a fancy one.

SS: Sahara?

JH: Yeah, it could have been that. Sherry something? I can't remember. So there was that. I'm trying to think. At some point I got involved with Lambda and doing some of that stuff. I got involved in kind of the porn, all of that porn debate thing that happens in the early eighties, so I was involved in that a little bit there.

SS: Okay. So you have to explain. What porn debate and how were you involved?

JH: Well, there started to be – I'm not exactly sure which came first, the anti-porn people or the porn people, but sort of at the same time in the early eighties there was a big debate about porn in the lesbian community, about whether it was oppressive, whether it was patriarchal, whether lesbians who were into porn or into S&M or into any of those things were bad lesbians. And so there was a movement in certain parts of the feminist community to do these laws that would sort of ban pornography based on kind of human rights grounds. Not pornography's bad because it's obscene and it's terrible and you're some sort of dirty old man in a raincoat, but rather that this violates women's rights because it objectifies women and leads to violence against women, and therefore

we have to ban it on that basis. And they were really successful in Canada in doing it, but less so in the United States.

SS: This is the Catharine MacKinnon thing?

JH: Right.

SS: Okay.

JH: Right. That. And there was a whole conference up at Barnard where this issue was joined, and when I was in my last year of law school we organized the Woman in Law Conference in New York, and so I was part of the organizing committee for that. One of the things we did was a debate between Kitty MacKinnon and Nan Hunter, who was the other side, and it was this big deal. So I was I doing some research for Nan Hunter at the time around some of this stuff. When I was in law school I interned for her when she was at the ACLU. And we went to the Meese Commission and monitored it and protested outside of it, so there was that part, too, when I was in law school.

SS: So then what happened when you got out of law school?

JH: I went to work at Legal Aid as a criminal defense attorney, which was really great and really fun and really perfect, which was good because I don't know what else I really would have done in the law. I don't find the law that interesting. So criminal law was really compelling, and I really, really liked it.

SS: Did you have any activist participation aside from in your role as a lawyer?

JH: In ACT UP, you mean?

SS: In anything.

JH: Yeah, I got arrested at the Supreme Court in '87. The *Hardwick* decision was in '86. That was a really big deal. I had just gotten out of law school, and we watched the case. We had watched the case from Texas go up where this guy was in his house, in his bedroom, with his boyfriend and the police break in. I mean, these things never really happen. You've got all of these laws in the books, and they're almost never enforced in that way. They're used against people in other ways. So we had heard that this guy had actually been arrested in Texas in his own house for having sex with his boyfriend, and you sort of watched it go up the courts and just thought somebody was going to come to their senses at some point. It goes all the way up to the Supreme Court, and the decision comes down that sodomy laws are legal, and at the same time it was just the language of the decision was just a punch in the stomach. It's just like "You think you have rights. You don't." It was just mean-spirited and just awful, and so that really was intense and there were demonstrations right after that.

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My mother was in town for something with the Brooklyn Bridge or the Statue of Liberty or something or some centennial. My mother was in town for it. She was into it, and so we're walking and I see this *New York Times* stand, and there's this decision. In the summer the decisions all come down, and they're in the upper right-hand corner of the *New York Times*. So if you were sort of watching for it, you go by and it says, "Homosexual" or whatever, and I look at it and it was just like, "Oh shit." I stopped to read it, and then I said to my mother, "There's going to be demonstrations about this and I'm going to go."

She's like, "Well, I'll go with you. I don't want you to get arrested, though."

And so we came, and there was a march a couple of days later, and it went down to like Foley Square, and then people wanted to go on to wherever, the Statue of Liberty. And she was a little nervous because it was starting, people were angry, and it looked like there might be some risk, so we kind of got off the train at that point. But I remember that.

Then there was all of this agitation for a big march the next year, and I don't know if that march had already been planned before the decision. But after the decision it focused it. And there was this big CD at the Supreme Court, and I got arrested.

SS: In Washington? The march in Washington?

JH: March in Washington, and it was at the United States Supreme Court, and I got arrested. And our group was the first group to go and get arrested, so it was before – I mean, I was long gone, but I heard it got kind of hairy with people running around and stuff. Initially they thought it was going to be very orderly and they were going to let us go up on the plaza in orderly numbers and get arrested and do our symbolic thing, and then they would take us away. And so we got up there, we didn't know what was going to happen, and they just opened this little gate with like a velvet rope or something, and they said, "Go ahead."

We were on this plaza, and it's kind of big, and we're standing there. And I was with this group of lesbians in D.C., and they all started singing this awful Holly Near song. I was just like, "No, you're not going to do that. Please don't sing that stupid song." I was so upset. But that's what they did, and we got arrested.

This cop wanted me to get on my knees. It was so weird. He came up and said, "Get on your knees."

And I'm like, "Why?"

And he's like, "I just want you on your knees," and that seemed weird to me.

I'd never been arrested before, but that seemed weird to me, and so I just said, "No. No, I won't resist, but I'm not going to really get on my knees, no." So we walked off.

Then later, people just got tired, apparently, of this little orderly thing, and they just started running around and up over the bushes, and I think it turned into kind of a free-for-all. But there were, I think, eight hundred people arrested that day, and it was the largest CD since the sixties and the largest arrest ever at the Supreme Court. And that was intense for me to be a lawyer and be arrested and to show up in court as a defendant and all that. It was the first time I did that, and I had been arrested in ACT UP a few times after that, but to be there in that different role, even though it was kind of a place where I was comfortable because that was where I practiced, not in D.C. per se, but in a courtroom. I know my way around it and how things go, but to be there as a defendant was strange, most powerful.

I got back and was in a cell talking to one of my Legal Aid clients, and this other guy – they have these holding pens behind the courtrooms, and this guy was trying to get my attention, which always happens when you're back there talking to your client, because everybody's waiting for their lawyers to come and then sometimes they don't even come. So people are always trying to ask you questions, and you're talking to

your client, and you have to sort of be nice but not just be there for every single person who's there because you have limited time. This guy kept trying to get my attention, and finally I'm just like, "What do you need?"

And he said, "Were you in Washington last weekend?"

I said, "Yeah, actually I was."

He said, "I read about it. I saw it on TV. It was amazing." This guy, this random guy in this cell. So that was cool.

SS: How did you first become aware of AIDS?

JH: I was working in a bar in Cambridge, the Marquee. I was a bartender, and the owner of the bar was this gay guy named Charlie, and he used to talk about the gay cancer, and he was scared about the gay cancer. And I had read in maybe *New York* magazine or something about the gay cancer. I remember him saying something about it. It may have been that I was thinking about going to New York or something, and he said, "Oh, I wouldn't want to go to New York now."

And I said, "Why?"

And he said, "Well, the gay cancer."

And I said, "Aw, is that really a big thing?"

And he's like, "Yeah, it's really a big thing." And that was the first that I kind of registered it. I mean, I had seen the article but it hadn't totally landed until I had that conversation.

SS: Did you know people with AIDS before you came to ACT UP?

JH: I don't think, not as close friends. I met people, probably, but not as close friends.

SS: So how did you first get into ACT UP?

JH: I can't totally remember all the order of it, but after the CD action in '87, that felt amazing to me to do that, kind of put your body on the line that way and make a statement that way or participate with other people in something like that.

SS: Okay. So you were telling me how you got to ACT UP.

JH: So I was working at Legal Aid, and I saw an action. It was at Foley Square at some point. I don't know if it was before Washington, D.C., before the Supreme Court thing or after. Saw these guys get arrested, a bus came up, and I was attracted to that and interested; saw them at Gay Pride when they did the concentration camp thing. So I just kind of wanted to be part of it at some point. I can't remember if David Barr invited me to come, or if I just saw him when I got there but I had been friends with David Barr since law school. We were in law school at the same time, and I had met him either at Lambda or at the ACLU, someplace along the way. And I don't know if he said, "You should come because we need more lawyers," or if after I got there I just saw him in the room and he said that. But I just wanted to keep doing something about this. It felt like our community was really threatened. I felt very gay-identified, and it just felt very scary.

SS: So what was your first participation?

JH: I did legal for FDA. That was the first one in '88.

SS: Okay. So can you describe what the structure of legal was for the FDA action?

JH: David Barr had started already doing a lot of the legal by the time I got there, but we divided it up. It was mostly the two of us. It was part of a national

action, so there were people from other parts of the country that came for it. Since the Supreme Court action had just been the year before, we got in touch with a lot of the lawyers who had done that because this was near D.C., and there were some D.C. lawyers involved. The structure was the question, or the legal structure?

SS: Legal structure.

JH: So we had local lawyers, who would maybe handle cases, and then we had the lawyers who were sort of the main lawyers for it, and we had legal observers. And we had to find lawyers in different jurisdictions because it was in Rockville County, Maryland, and so we didn't know if people were going to be arrested on local charges or federal charges and where they would be taken. Who arrested them would determine where they were taken, and that would determine who their lawyer needed to be, so that was the structure. We had some lawyers, who were on call, lawyers who were coordinating legal and legal observers.

SS: So how many lawyers would you say for the FDA action?

JH: Well, it's David and me and maybe a couple of other people. I don't know if Bill Dobbs was doing legal for that. Mickey Wheatley was doing it at that time, so he was part of it. Maybe five or six participating really directly, and then a lot of other people providing materials and providing advice and being on call and being available.

SS: So would you pick up the phone and call some lawyer who was on a list and say, "Hi, this is Jill Harris. Would you help ACT UP?"

JH: Mm hm.

SS: And what were people's reactions? Did everyone say yes, or was it hard to get people?

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JH: People usually said yes, because it would depend on where we got them from. Right? Like with for FDA, we got these lists from – Nancy Polikoff was a lawyer for the Supreme Court action in '87, and so she gave me names, and so those were people that had already done it and were totally into it and wanted to. In other cases, I would call the public defender of a jurisdiction out of the blue, and since I was a public defender and they were a public defender, we sort of had a bond. Typically public defenders are anti-authoritarian and into that kind of thing, so it wasn't usually that hard to find people who wanted to help.

SS: So what ended up happening at the FDA legally?

JH: Almost everybody was arrested for the same charge, and I don't even know what the charge was. Usually it's some kind of a trespass. There was one person who was arrested before the thing even started. I wonder if that was Richard Deagle. I can't remember. But for spray-painting something, which was a different charge. Jim Lyons got arrested for some federal charge and ended up being taken to a federal facility. He was the only one that was separated out that I remember. But most everybody I think had pretty much the same charge. Sometimes they would, if somebody resisted or struggled with the police, they would add something. But for a lot of these mass actions, they just wanted to treat everybody the same to the extent that they could.

SS: Do you remember how many people were arrested at the FDA?

JH: It was a lot. I don't know.

SS: And did you have to go back for trial or –

JH: No, there weren't any trials that came out of it, and I don't remember going back. That's one of the things that sometimes the local lawyers would do. If we

had court dates that happened afterwards, a lot of the local lawyers would do the appearances. We tried to make it easy for people to be arrested and not have to deal with the aftermath if they didn't want to, because people were getting bused in from places all over the country in that instance, and we tried to make it so that they wouldn't have to come back for court and that they wouldn't have to deal with anything afterwards.

SS: What was the political function of getting arrested? I mean, looking back, what was its impact?

JH: I think its impact was getting attention, getting in the media, getting attention to the issue, and kind of freaking out the people at the places where we got arrested. The FDA, they notice when a hundred or however many people it was get arrested on your doorstep, and there's pictures of it. And the police hauling people away who are screaming, it's just always a good picture, and we always got that picture.

SS: And do you think that the people who are getting arrested, what you just said, was that their motive for getting arrested?

JH: I think people had different motives. The times I got arrested, it was partly that and it was partly I feel so passionately about this, this is so wrong, so I just have to put my body down. I can't say it in words. I can't say it in court. I can't write a letter. I can't do anything else but just put my body in the way of it if I can. That's what it felt like, and that's probably – I'm sure what it felt like to a lot of people. But at the same time, the group, as we planned them, we knew that getting arrested as opposed to not getting arrested and just going and picketing, it just made it more powerful and made more of a statement.

SS: So what was the role of lawyers in determining a strategy of an action?

JH: We didn't really have that much of a role in determining the strategy. It was more a facilitating role and kind of an informational role. If I had questions about a strategy, I would really try hard not to pose those questions as a lawyer but rather pose them just as an individual, and it's kind of hard to separate those. But I didn't really talk about the strategy that much.

I remember with FDA one of the things we would do is we'd go to the affinity groups and we would find out what they were planning, if they wanted to tell us, just because different things have different consequences. So part of the preparation of an action, I would go around to the different groups and say, "Any questions, you want to tell me what you're doing," blah, blah, blah, and Peter was going to do his smoke bomb thing.

SS: Peter Staley?

JH: Yes. Peter Staley wanted to do his smoke bomb thing, and I felt really strongly that he shouldn't do that. First of all, I looked up the statute on incendiary devices, and it was a pretty serious – theoretically it could have been interpreted that way, and it was a pretty serious crime. And I just also thought that it could endanger people, it could make the cops feel like they needed to escalate the thing, just freak people out in a way that would make it unsafe and take away from our message. And so I tried to talk him out of it, and he was not dissuaded, and it ended up being fine. He looked like Karate Kid with his little headband, and he was shooting off his little bombs, and it looked like he was having fun. That was really, I think, one of the only times that I really

tried to dissuade somebody from doing something. Thinking back, one of the things that I've been thinking about since I've been looking back, is just the difference between then and now. I mean, now if someone were to like set off something that was smoking on a federal building, it would just be so different.

SS: Because?

JH: Because of terrorism and 9/11, and just that things look different now. A lot of our actions, I think, would look different now than they did then. If you were a commuter and you came into Grand Central Station and there were hundreds of people screaming and banging on things and all this noise and you couldn't get anywhere, I think people would – it would freak them out for a minute. There would be a different thing that they would think that it was right away and that they would be more scared, and that would make the cops react differently, and just the whole thing would be different. I mean, trying to shut down the Holland Tunnel, a lot of the things that we did then, it would just be really different to try to do them now after 9/11.

SS: So what happened after the FDA? What became your role in ACT UP?

JH: I did legal a lot for a lot of the actions. Some of the actions I would get arrested instead. I didn't want always be observing and at a remove. I wanted to sometimes be involved in the actions. So I was arrested at City Hall. There was a Chicago action, kind of a women's action. I was arrested in San Francisco.

SS: What was the Chicago women's action?

JH: Chicago, it was organized by ACT UP/Chicago, and they were a really good group, and they invited people to come to do a national action, and it was about a

couple of different things. Partly it was about insurance companies. We had a march that went by some insurance companies. I don't know, I think maybe the AMA Headquarters might be in Chicago? The route might have gone by there. I can't totally remember. But the issue that our group of people was protesting was the hospital there, the county hospital. I think it was Cook County Hospital had sixteen beds for women in the whole thing, and so that was the action. We had hospital gowns and these mattresses, and we carried them through the street, and then at a certain point we sat down on them, and that was how we got arrested. Sixteen beds, women are dying. So I did that one.

I was arrested once in San Francisco, once at the AIDS conference. Well, twice actually, once by accident.

SS: What was the circumstance?

JH: The second one? The accidental one?

SS: Both of them.

JH: The first one was there were a few different days of actions with the conference, so we went out there, and every day was a different theme. So I was arrested on one of the days. And then this other day, I was supposed to be a legal observer, and the police had been preparing in a certain kind of way, and they had this strategy where they would just encircle everybody, and then they'd move the circle in and everybody within the circle would get arrested. And I was enclosed in the circle, not intentionally, and tried to get out, and this cop knocked me on my butt, just took his stick and knocked me on my butt. It was on the TV, because it looked really violent, and I was like {IMITATES SOUND}. So that was the second time. That one ended up getting dismissed.

But other than those, I mostly was legal. So I was legal for NIH and a CDC action.

SS: Let's talk about the NIH. What was the demand of the NIH action?

JH: There were a lot of them. There was a whole big sheet of them, and I'm sorry to say I don't remember a lot of them. I think it had to do with the trials. I think it was mostly the trials, and that the trials weren't being done in a way that was inclusive enough, and essentially a lot of the demands all along were that the people who were affected, who were sick, who were the experts who knew what was going on weren't asked or weren't included or weren't at the table in the discussions of how these trials should go. So all along the way, one of the demands was always that people with AIDS should be part of the decision-making process around these trials.

Tape II
00:00:25

SS: Okay. How had legal evolved from the FDA to the NIH? What was different in the way legal was organized around the NIH?

JH: I don't think it was that different. I think it was basically the same thing. The legal people would – it's interesting, because I went through my notes about this. We'd research the local statutes; we'd figure out all of the different jurisdictions there were whose laws could come to bear; we did the research on that; we found local lawyers; we talked to the affinity groups; we talked to the floor; we'd have pre-action meetings; we'd do legal trainings; we'd do legal observer trainings. Usually we'd write some kind of a pre-action handbook for the large actions, and they'd have things on support and all these different things. And the legal part would typically be what the potential charges are, where you're likely to get taken if you're arrested, things that you

should bring with you or not bring with you, that kind of stuff, and contact information for the lawyers. And then we would recruit local lawyers, we would recruit legal observers, sometimes we would meet with the people, the law enforcement people, in advance, and sometimes we wouldn't.

SS: Did affinity groups all tell you what they were going to do?

JH: Not necessarily. I felt like mostly they did.

SS: And what was the relationship internally with the lawyers? By the time of NIH, how many ACT UP lawyers were coordinating?

JH: It's hard to know. I can't really remember. There were different people that would come and go. I brought in some people from Legal Aid. Laurie Cohen was a Legal Aid lawyer; she came in. Terry McGovern I had known; she came in. I think she came in around the time of the church. Michelle Adams was on one of the lists I looked at. Steve Statsinger was an appeals lawyer at Legal Aid who did some stuff with needle exchange towards the end. Mike Spiegel was there. I think pretty early on Mike was there. He wasn't always at the demonstrations, though, but sometimes he was.

It stayed basically the same, and people rotated in and out. When I first got there, David was doing a lot of legal stuff, and then he wanted to be more into Treatment and Data, so he pretty much stopped doing legal stuff, and other people would come in. When people started doing trials, Laurie did stuff a lot. Mary Dorman came in.

SS: What was the relationship with Lambda Legal Defense and the lawyers of ACT UP?

JH: Not really much of one. They didn't take any of our cases, really. Maybe I'm missing some big thing that they did that I don't remember, but I don't remember them being that much a part of what we did.

SS: And what was the reason for that?

JH: Well, I don't know. Well, first, of all Mickey Wheatley and David Barr both worked there, so in the beginning they were, at least as individuals they were. I think Lambda, they can only take a certain number of cases and they like to pick their cases carefully, with an eye towards what the larger legal implications are going to be, and I don't think that we were doing anything that was that legally groundbreaking that they would be that interested.

There was a thing that happened at St. Vincent's with these two women. One woman was raped and her lover tried to go see her, and they wouldn't let her in. Joy DiVincenzo, who was an ACT UP member, we tried to get them to take that case, but they didn't want to take it. And that actually was about a bigger issue, but they didn't want to take it. So I don't know what they were.

SS: What finally happened with that case? I remember that.

JH: It ended up being dismissed, because I actually was going to take that case to trial. It was one of the few cases that I would actually take to trial because it wasn't just about sitting down in the street or something; it was about a different thing. But I think they ended up dismissing it. They did end up dismissing it. Yeah. And that would happen a lot with cases where they didn't have the resources really to try it, and so they just were like, "You know, it's not worth it. Get rid of it."

SS: So what happened at NIH in terms of arrests in legal?

Tape II
00:05:00

JH: I don't remember it that clearly. There were a lot of arrests and people got processed. I'm sorry I can't give a better example. I don't remember anything that stands out in my mind that was so different from other things that we did.

SS: When was the first time that you went to trial for ACT UP?

JIM HUBBARD: Before you do that, talk about the NIH, because there's footage of you at the pre-action meeting talking about the federal statute, so I wonder if you could talk about it. Did people get arrested under federal statutes there, or were they local?

JH: I don't remember anybody getting arrested under the federal statutes, and so typically they didn't. What would happen, it was always a weird thing about the lawyer's role, to tell people what all of these possibilities are that could happen to them, and they're all like each one is more dire than the next. So it was this line to walk between giving people information about what might happen to them and freaking them out and scaring them. So people would say, "Well, can I do this?"

And I'd say, "You can do whatever you want."

"Well, what's going to happen if I do this?"

I said, "Well, the worst possible thing that could happen is this, but that's not likely to happen. What's more likely to happen is that." And as we went on, we got better information about what was likely to happen. But I tried a lot to really walk this line. I felt like it was right to tell people what the worst thing is, but I tried to deemphasize it and say, "But that's really so unlikely to happen." Because people, not everyone was, but some people were really nervous. They were very intimidated by the legal system. Some people had a lot of bravado, but a lot of people really didn't and they

were scared, and they wanted to know they were going to be okay. And so it was this line to walk, to say, “This is what’s probably going to happen, but here’s a really bad thing that could happen.”

Since we went to a lot of federal buildings, there was always some kind of federal jurisdiction involved potentially. But what tended to happen was, it was these local statutes that would come into play, because they would call on local people. The federal government only had so many resources. They didn’t typically have a lot of law enforcement personnel staged at these places because they were just office buildings, so they’d have to bring in people. And a lot of times also they were in these small suburbs sometimes, so they didn’t have a lot of suburban police either, and so they would have to bring people in from the county, from the state. I’m sure they had their own little meetings where they got together and agreed on who was going to do the arrests and what charge it was going to be, and I would assume that they did it in the way that was going to make it the easiest for them to process the people most quickly. So if there’s a court that has a bigger capacity to hold two hundred people, then they’d decide, okay, they’re going to go to that court, and then the decisions about what the charges were going to be and who would arrest them would flow from that. That’s what I think. I mean, I was not in on those meetings, but that’s what I would assume.

So typically what would happen is they would bring in police, state police or countywide police, and they would be arrested either on these local ordinances or county ordinances, very rarely on federal charges. Every now and then, they’d pick off somebody, like Jim Lyons at FDA, and they’d make some different set of charges, but for

the most part, their whole idea was just to get everybody treated the same and kind of pushed through and out as quickly as they could.

JIM H: Then, with Jim Lyons is that the FDA or the NIH?

JH: If you tell me it was the NIH, I believe you.

SS: It's the NIH.

JH: If he said it was the NIH, then it was the NIH.

SS: We have the footage.

JIM H: He made a mistake, actually. He said it's the FDA, but the film footage, it's the NIH. Did you handle that case?

JH: Yes, I handled it initially. I went in after he was arrested and he had an initial appearance, and I stood up on that case. I had to get admitted, because each district court you have to be admitted separately, and I was admitted in Brooklyn and in New York, but not there, and I had to do this little song and dance to get admitted for that purpose of standing up on that case. I think, as I remember it, the case just was adjourned, and then it was worked out down the line and went away. I don't remember that he had to come back again, though that could be wrong. It's been a while. The federal cases tended to take that - the same thing tended to happen to them. Some charging guy, some police officer or somebody low on the totem pole would decide to make an example of somebody in the moment, and then it would get up to the people that were in charge of deciding what would actually happen with cases, and they'd say. "This is crap," and they would just want to get rid of it.

SS: So when was the first time you went to trial for ACT UP?

JH: The needle exchange case.

Tape II
00:10:00

SS: That was your first ACT UP trial?

JH: Yeah. I didn't really like to do the trials. You know, it was my day job, and also I was philosophically opposed to the idea of doing trials in a way, and I know it didn't feel this way for the people that were on trial. I know to them it felt like a powerful thing. But to me, as someone who was in the criminal justice system all the time, I felt like it doesn't slow down the system at all. It doesn't throw a wrench in the system at all. If it does, it's to the detriment of other people who are actually in jail who really would like to be out of jail and need their trials faster. So anything that slows the system down just would hurt the people in jail rather than the system, which is just not subject to that much influence on it.

So I just didn't agree with it really as a strategy. I didn't think it would get anywhere, and even if people got – well, first of all, they weren't likely to get acquitted because they actually did the things they were accused of doing. It wasn't like the needle exchange case where there was a defense. It was like you sat in somebody's office, you sat in the street, you did that. You did that, and so there's a part of me that thinks if you do something, you take the consequences for it. So to try to go and get acquitted for a higher purpose is almost saying there are other people who are real criminals and they deserve what they get, but we're not real criminals, and we should skate. And it was just what I thought personally, and I didn't talk to people about it that much because I didn't want to discourage people from doing what they felt like they needed to do for themselves, but I just didn't feel very motivated to want to do those cases.

SS: So do you think that that came from a sense of entitlement or privilege on the part of members of ACT UP?

JH: I don't know if I would characterize it that way. They weren't familiar with the system, criminal justice system, and they didn't know how it worked, and I don't think they necessarily saw what the consequences were to other people with what they were doing. I just think it was a lack of knowledge, maybe, or maybe they just thought – because I might have had the conversation with somebody like Ann Northrop, and she just had really good reasons for why she wanted to do stuff. I wouldn't say it was out of arrogance. She had her own reasons for why she thought it was important. And some of the trials they got some attention for and maybe thought they were good.

SS: So why did you decide to take the needle exchange?

JH: Well, the needle exchange case was a different thing completely. The needle exchange case was a necessity defense, so we weren't saying, "We did this. We sat down in the street because we needed to call attention to the fact that the government is not doing what they're supposed to do on AIDS." We actually were doing something that needed to be done that the government should be doing but wasn't doing, and we were doing it because we had to save lives because we were in an emergency. And so it was just a whole different thing conceptually. We were doing the right thing, and we should not only not be punished for it, we should be able to keep doing it. In fact, the government should do it. So it was a totally different kind of a trial, and it had the potential to change government policy on needle exchange, and in fact it did.

SS: Now, were you involved with the pre-planning of the action?

JH: Yeah.

SS: So can you take us through the whole thing?

JH: As much as I can remember.

SS: Okay.

JH: Okay, because it's been a while. We decided we were going to –

SS: Who's we?

JH: We. Well, I'm not sure who all the people were. Richard Elovich was definitely one of the ones who wanted to make this a test case. There was a guy from Boston named Jon Parker who had gotten arrested in Boston, and actually Nancy Gertner's firm represented him. I think he might have been successful in a necessities defense in Massachusetts, and so he wanted to come and do this. It was his thing. Gregg Bordowitz. And I don't know if they were all there in the beginning. But Gregg Bordowitz, Deb Levine, Kathy Otter, Monica Pearl. There was another woman who just showed up the day of the action, heard about it and showed up.

Anyway, so I don't know who all was there in the early planning stages, but we just planned a time to go there and to get press around it and to make sure we were arrested. One of the problems was that people had been doing needle exchange and not been getting arrested.

SS: ACT UP people?

JH: Yes. Because the police didn't think it was that bad of an idea, so a lot of times the police would just look the other way and let it go on, and people had been doing it for a while and not getting arrested. So part of the thing was we wanted to make sure people got arrested, so we put the word out, "We're going to do this. We're giving out clean needles on this day at this time in this place." And they had to at that point, right, because the press was going to be there and what were they going to do, just let us do it? But there was a little bit of a concern that they wouldn't, that was the point.

And then when we got to the trial, which maybe I should talk about that later, but it was interesting because we had the opposite issue, which was that in order to show the necessity defense, we had to prove that we actually were there to give out clean needles, not to get arrested, not to have a protest. So that was this whole thing that came up at the trial that was interesting. So that's pretty much the planning of it. We talked about it. We got the defendants. I think people were wanting to get some people who were active drug users, some people who were former drug users; we wanted it to be representative of different people who are affected. And that's pretty much all I remember.

SS: So what was the action, and when did it happen?

JH: The action, it happened in March of 1990, and I only know this because I went back and looked at my notes since I would totally not have remembered this otherwise. And we met at Katz's Deli, and this woman—Cynthia [Cochran], I think her name was--showed up and said, "I heard about this and I called somebody and they said come to Katz's Deli," and she just showed up. She was an older white woman, very WASPy-looking, I guess. So she was great. Her picture, being hauled away in her little scarf and her gray hair.

So we went to this place we said we were going to, Delancey Street, and set up a table, and there was a demonstration, because ACT UP had put out the word that this was happening, so there were tons of ACT UP people with signs, and tons of cops. As soon as they took the stuff out, they just came in and arrested them. As I remember it, it was really fast. It was this one corner where on Delancey Street there is a lot of traffic,

so it was very bunched up. In the pictures, everybody's just all jostled and stuff. So they got arrested.

SS: What was the charge?

JH: Possession of a hypodermic needle.

SS: So were they kept in jail?

JH: No, they were given desk appearance tickets and released and given a day to come back, and then they had to come back and come back and come back for a long time. I think we did a Clayton Motion, which is a motion to dismiss in the interests of justice which we would do in a lot of cases, and I'm pretty sure that was denied. I know if we did it, it would have been denied, but I'm trying to remember if we did it because maybe we actually wanted the trial and not the dismissal. But I think we did that, and it was denied. And it took like a year for there to be a trial, which is typical in criminal court cases. They just kept being adjourned and adjourned.

SS: So then what happened? Well, first of all, how did you hammer out the strategy? Was it a collective between you and the defendants? Who were the other attorneys?

JH: Mike Spiegel was the other attorney, and Mike and I worked really closely together, and it was really a great collaboration and a great relationship. We'd call each other in the middle of the night, "Okay, I thought of this great thing," and it was really exciting and fun to work with him.

There was another guy there, named David Patterson, and I only remember him because I was looking through the papers and saw his name. He was the Legal Aid lawyer who I knew who had his own drug issues and wanted to be a part of it

but ended up not being a big part of it. I don't know if he dropped out or if he just didn't participate that much, but I don't remember him doing that much participating, but I see his name on papers. And Richard Elovich represented himself, and Richard and I worked really closely.

We did have group meetings and we talked about stuff, but mostly the defendants deferred to us on the legal issues, and we would talk about them and explain them and, "This is how we're going to argue it," and stuff. But they mostly deferred to us on how we set the trial strategy. And then each one, I think we probably divided people up and we went over their testimony because we had specific points we wanted to get out with each witness. So we would go over the direct testimony and make sure that we hit the points and make sure that they go to say what they needed to say about why they were doing it and why it was important.

I worked with Richard really closely because he was representing himself, and I was in support of him doing that and helping him with his testimony. His voice was really important, and helping him get his voice out there was important. We worked together really closely, and we're really good friends still. At one point he was going to do cross-examination. He was going to cross-examine the witnesses himself. He practiced it a little bit, and he ended up feeling like it didn't necessarily add that much if he did that as long as we did it well. So he had the right to, if we didn't ask a question that we thought needed to be asked, he could stand up and ask questions himself after we were done or whatever, or we would talk about what questions he thought were important to ask. But I don't remember him doing that much of that stuff, but he gave his own

summation, as I remember. And then he testified, and I guess one of us probably must have led him through his direct when he was testifying.

SS: So what was your principal legal theory?

JH: Well, the necessity defense is basically that – and there's five elements. What you're doing is something that's necessary to prevent an imminent harm, and there's no other way you can achieve the same end, something like that. Basically it's like that you're doing something that's bad, but you're trying to prevent something that's worse. We had these witnesses to talk about these different things and these different elements, and we had some amazing witnesses. Like we had Stephen Joseph, who had been the Health Commissioner and who had tried to start a needle exchange program and did it in this really stupid way. Because of politics, he was forced to do it in a really stupid way, so it wasn't successful. Basically by that I mean rather than have the needle exchange programs in the community where people were comfortable, which is how we did it, they had it down at the Health Department, which is about a block from the police headquarters, so no one was going to go and get needles there. Joseph didn't want it to be that way, but that's the way they made him do it, and so it was unsuccessful, so they stopped it. That was under Koch.

Then Dinkins came in, and he was very ideologically opposed to it, and so he got rid of it. And he had a new Health Commissioner, Woody Myers. I don't know if he was one of the witnesses for the prosecution or not, but they were against it. So we had Stephen Joseph as one of our witnesses to talk about why the program had failed, why they had stopped it, that it was about politics, that it was a good idea and that it should've been kept.

We had Don Des Jarlais, who was the leading expert on HIV transmission, and he was an advisor to needle exchanges all over the world and was probably the leading expert in the world on needle exchange and the prevention of HIV. So he testified about the epidemic, about how AIDS is transmitted, how HIV is transmitted through needles, why needle exchange programs are a good intervention, and why they've used them in other parts of the world, and all of this stuff.

We had Velmanette Montgomery, who's a state senator, come and basically say, "I think this is the right thing to do. I've tried to get this through the state legislature. It's not going to happen. There's no way to accomplish this legislatively." And even though that wasn't one of the elements that we had to prove, we just put it in there anyway to say that we would do it. If there were another way to do it, we would try. But we can't, and this person is saying we can't do that.

I think Marie St. Cyr, who – I can't remember the name of her organization, but it was in Brooklyn, I think, did a lot of stuff with women and HIV. She testified about different communities that were affected. I can't remember if Yolanda Serrano testified or not. She was on our list. I don't know if she ever did testify. A guy who worked in a treatment center who was a former addict talked about the number of cases in New York and just how much HIV's spreading among IV drug users in the city.

So we had all of these different witnesses to make these different points so we could prove these different elements of the thing. So, yes, there's a harm, there's a great harm, an imminent harm. There's a way to ameliorate it. There's no other way to do it but this. We can't do it legally. It got shut down. And we proved all the elements of necessity through these different witnesses. And then each of the defendants testified

about their own experience with needle exchange and how they saved people's lives and how they knew that they had saved lives.

SS: Stephen Joseph, he was public enemy number one at ACT UP for a long time. So how did you get him to come testify for ACT UP?

JH: You know, he was into it. He was like, "No hard feelings," as I remember it. I just remember we called him, and he thought it was important and he came to do it. Some people hold grudges, but some people who are powerful, they just brush it off. It's like, "You know, "Back then we were fighting, and now we're just on the same side." It just doesn't land on them hard and they just move on.

SS: And what about the prosecution? Who were their witnesses?

JH: I don't think they had Myers. I think they had somebody who was from the Department of Health, who was some kind of expert. He might have been some national expert. They didn't have very many witnesses. They may have only had him. His testimony was that this was a band-aid solution and that it wasn't really going to make that much of a difference, and what really needed to happen was all of this underlying causes of addiction needed to be dealt with, because there's still going to be poverty and there's still going to be unemployment, and there's still going to be all of these terrible things that contribute to addiction, and this wasn't really going to help.

SS: So did the city really try to win?

JH: Oh, yeah.

SS: They didn't present that many witnesses. What was their strategy?

JH: Well, I'm not exactly sure. I think that their strategy was to just say, "But it's illegal. It's bad, but it's illegal."

And I just wanted to get back to this one thing that was interesting about the demonstration. Initially they tried to say they really weren't giving out clean needles, they really weren't trying to save lives, they were just trying to have a demonstration and get arrested. So we had to answer that, and we had to say they actually would have given out needles if they hadn't been arrested and they had needles and stuff.

But the thing that ended up happening that was so weird that we were shocked by, because this was all in pre-trial things, is that they ended up doing this stipulation, which a stipulation is an agreement, and maybe they didn't care that much and maybe they didn't want to devote resources to it, and maybe at some point at some place in their hierarchy somebody was on our side, but it didn't feel like that when we were going through the process. They put this guy, Paul Scheckman, who went on to become Governor Pataki's criminal justice coordinator, and he was a pretty important – he was one of their top prosecutors, and they put him on this case. They had a lower-level guy doing a lot of it, too, but he was there for the trial, and he did some of the cross-examinations.

But they ended up stipulating to a lot of the facts, right? So rather than have the police come and say, "Well, I was at this corner on Delancey Street on this day, and I saw these people with needles, and I went and arrested this one, and I searched him and I found this needle, and here's the needle that I found on him," like what would typically happen in a trial. They just stipulated on March whatever, 1990, "These people had needles on this corner at this time and intended to give them away." And we were

like, “Thank you.” We were so happy. We were like, “Thank you. You helped us so much.” Because we thought they were going to figure it out. We were just like {WHISPERS}, “I can’t believe that they’re doing this.”

It might have been an issue, right? Because we invited the press. We told people that we were going to be there. We told demonstrators to come. If you were to say now did you really think that any addict was going to come up with like tons of cops and tons of cameras and get a needle from you? Did you really think that was going to happen? I mean, they could have probably succeeded if they had done that. I mean, we were prepared for that and we were going to say that that was our intention was to give them out and blah, blah, and we were going to say it with a straight face. But they just did it for us, and we were glad. Did they do that because secretly they wanted us to win? I don’t know.

SS: Was there a jury or was it a judge?

JH: It was a judge.

SS: And who was the judge?

JH: The judge was Laura Drager.

SS: And what was her history?

JH: She was a criminal court judge. She went on to become a Supreme Court judge. She had had some of our cases before. She had denied Clayton motions. I don’t know if she had been a trial – she might have actually even been a trial judge in some of our other cases, like the trespass cases, and we hadn’t won with her.

SS: So you had no idea what was going to happen.

JH: Yeah, right.

SS: Did you expect to win?

JH: We did a really good job.

SS: Yeah, okay. {LAUGHS}

JH: We did a really good job, and it was great. I remember we both did summations, and Mike gave an awesome summation, and I remember in my summation at the end I said something like, "These defendants, they took action. They did what was necessary, and each one of them knows that they saved a life. They saved lives. They don't have to have studies to show that they saved lives. They know they saved lives. And Your Honor Judge Drager, you know it, too."

And her eyes got teary, and she got up really fast, and she left the bench, and I was like, "Wow, that was good."

SS: So after you won, what happened? What was the consequence?

JH: Well, they started some needle exchange programs. It was a while later. We kept doing our thing and people felt much freer to do it, right? They knew that if worse came to worst and they were arrested, they were going to have precedent, and so they were not going to be prosecuted for it. Eventually Dinkins changed his mind and supported needle exchange, and they started amfAR, gave grant money to set up, I think, three of them in different parts of the city, and people who were part of the needle exchange programs would be issued cards. So I would have clients who had come through the system who would be arrested, and they'd say, "I have my card. Here I'm part of this program," and the cases would get dismissed.

Now, why they would arrest them and make them come to court in the first place is this whole other thing. Maybe there some recalcitrance in certain places or

Tape II
00:30:00

they didn't publicize it right or something, but it basically made it legal in the city, and that was a big deal, not necessarily well funded.

SS: What is the situation with needle exchange today?

JAMES WENTZY: Over the counter in drugstores now.

JH: That's right. They were decriminalized a few years ago in the state legislature.

SS: So what does that mean? Anybody can go into a drugstore and buy a needle?

JH: Yeah.

SS: And has that affected the HIV rates?

JH: I don't know the answer to that.

SS: Just out of curiosity, what do you think about the new Bronx policy of testing every adult in the Bronx for HIV?

JH: I think it's good. I think it's good, and I hope it's true that we are in a different place than we were years ago when people were talking seriously about tattooing people and quarantining people, and there was a real fear that information about someone's HIV status could be used against them in all kinds of ways that were scary. I mean, there's still a stigma attached to it, and there's still issues probably with insurance and stuff. But I don't think that we have to be quite as paranoid as we were then about people being tested. I think it's good. I think there should be less whatever, less stuff around it. It's treated so differently from anything else, and I just think it should be more routine.

SS: Did you do any other major cases?

JIM H: Wait, I have a couple of questions about the needle exchange.

SS: Okay, go ahead.

JIM H: One is that there are ten hours of video of the actual trial, and I was wondering what the legal situation was around that, because normally movie cameras aren't allowed in trials, are they?

JH: Yeah and no. They're usually not. Sometimes if they're particularly newsworthy, they are. A judge is pretty much in charge of what happens in a courtroom, so they're allowed to let that happen anytime they want. They don't necessarily want that kind of scrutiny, and they, I think rightly, sometimes feel like things can just become a circus. Especially if you've got a case with a lot of notoriety, sometimes it hurts a defendant to have a lot of things in there, and they want to make sure that their cases are not going to get reversed and that the defendant's rights are going to be protected and the defendant isn't going to be able to say, "I got an unfair trial because there was all this media in there and it was a circus."

So they tend to, for all those reasons, not want to have cameras in the courtroom. But they are allowed to, and they can, so when we asked and she said okay. Zoe Leonard was doing the filming, and there was a moment when we wanted to call her as a witness or somebody wanted to call her as a witness, and so they said, "We're going to call Zoe Leonard. She got out from behind her camera and walked innocently to the witness stand.

And the judge blew a fit. "You're a journalist. You're not a witness. You've been in this court," because typically in a trial the witnesses aren't there for all the testimony, right? Because that could taint their testimony, so if you're going to be a

witness, you're kept out of the trial, and here she had watched the whole thing. And so the judge, who really did have a terrible temper, which I learned about after that, she started screaming at her and had a big shit fit, and I can't remember if she was allowed to testify or not. She might have said, "Oh, forget it then," or she might have testified, I don't remember. But I remember there being some big brouhaha about that.

JIM H: Actually, Drager wouldn't let her testify.

JH: Wouldn't let her testify, okay.

JW: And they got a new cameraman.

JH: Yeah, she had a big fit. So you have her tirade on camera?

JIM H: No, you just have Zoe walking there. The sound is really bad, unfortunately, so you can't hear all of what Laura Drager was saying, but at some point the camera goes off.

JH: Yeah. She likes things to be under control.

JIM H: And the other thing is I was wondering how you and Mike divvied up responsibilities.

Tape II
00:35:00

JH: You know, we just divided it up. It was very easy. We worked really well together, and it was seamless. We just said, "Okay, you'll do this first, and then I'll do this second, and then I'll do this second and you do this first, and then we'll divide up the witnesses." I think if there was one thing that we really wanted to do, we would do it. Initially we planned to have one of us do the summation, Mike was going to do the summation, but then I just felt like I really had some things to say and really wanted to do it. So I said, "Can I do one, too?" And he's like, "Sure."

JIM H: So on the summation, it wasn't just Mike does A, B, C, and you do D, E, F?

JH: A little bit. A little bit. I mean, we did, I think, divide it up. I think he might have done the elements more, because I don't remember doing that in mine. I don't exactly remember, but they were different. We weren't exactly saying the same thing.

SS: Did you do any other major legal after that for ACT UP?

JH: When was that? That was March. I think the CDC was after that, but that wasn't really major.

SS: What was your role in the CDC?

JH: I was legal, I think. Yeah.

SS: But you didn't go to trial?

JH: No. And I did legal for the church, but not for the trials. That was before, though, before the needle exchange. Needle exchange was later on. I'm trying to remember what else there was in '90 or '91. The last one I did was like '92, which was the ashes one in Washington, and I was already not even in ACT UP that much at that point. But I got a call from somebody, I can't remember who, saying, "We could use some legal for this one. Would you come?" And I came for that.

SS: Can you describe that experience, the Ashes Action?

JH: That one was really hard. It was – I don't know. You have film of it, so you remember. In my mind, it was really gray and really just dismal weather and people were so upset and sad. It wasn't like signs and boom-boom and a lot of energy like a lot of our actions. People were carrying the ashes of their loved ones, and there

was this incredible solemnness about it, this incredible sadness, and it was just really grim, just marching. I don't know if there was a drum beating or something, there might have been. But I just remember this, and it was just so sad. It's like '92, so we'd lost a lot of people, and there just was the cumulative weight of it.

My memory of this isn't great, it's spotty, but the police got freaked out at a certain point. It's the White House, it's the fence, I think they thought people were going to climb the fence. And they had horses, and they were being really aggressive with the horses. And people sat down, and people were just so upset, and I remember people screaming and all they just wanted to do was to get – I mean, their friends, their lovers had said in their wills, "When I die, this is what I want you to do with my ashes." So they're fulfilling this person's last request, and they took it really seriously, and they were going to fucking do it.

And these police were just doing their police thing of, "No, can't do this. Can't go there," and it got really heated, and the horses were just in people, and people were – and I did something that I never did at any other time, which was I went to the police and I said, "Just let them do their thing." Usually I never would talk to them or intervene, I would just let things happen however it happened. But this one, I was like, "Look, they came to do a thing. They're not going to stay. They're not going to try to climb the fence. Just let them do their thing. Just back off." And the way I remember it, people at least had the opportunity to do what they were doing, I think. That's how I remember it now. But I remember people rushing the things, throwing the ashes, and some of them blew back. It was this really fast thing, and it was really just intense, and then it was over. I don't think people were arrested. Maybe I'm wrong. You guys could

tell me. You were there and you have the film. But I don't remember anyone being arrested. People just left, and it was sad.

Tape III
00:00:30

SS: So we want to talk about the culture of ACT UP and the experience of being in ACT UP. So how much of your life was ACT UP?

JH: A lot of it. A lot of it. Monday night meetings, and I don't know what other meetings I would go to. Around actions there would be different things related to the action. I was with Wave Three for the City Hall action. That was my group.

SS: Your affinity group?

JH: Yes, but I didn't meet with them all of the time.

SS: Who else was in Wave Three?

JH: Russell Pritchard, Mark Fisher, Richard Elovich, Richard Deagle, Marvin Schulman, Pam Earing.

SS: Pam what? I'm sorry.

JH: Earing, I think.

SS: Do we know?

JIM H: Russell [Pritchard speaks about her].

SS: Oh, okay. And what did you guys do?

JH: At City Hall? We just sat in the street.

SS: No, I mean your group relationship.

JH: I got invited into the group for – I think it was either for the City Hall Action or just before, so it was for that and that was it. They, I think, met on more of an ongoing basis, and I was sometimes there and sometimes not.

SS: So who were your friends in ACT UP that you hung out with?

You were involved with Catherine Saalfield [Gund].

JH: Yes.

SS: For like three years or something?

JH: Two.

SS: Two years. So what was it like to have your relationship be with someone who's a major figure in ACT UP? I mean, doesn't that make ACT UP twenty-four hours a day?

JH: It was great. It was actually really great because there was a lot of passion and there was a lot of intensity in the group and in the relationship, and to be really in love with someone and have that intense thing happening in the context of this other really intense thing, it was mostly great. I mean, there was some epic fights in there that were – I don't know if they were magnified by it or not, but it was great.

SS: So who were your friends in ACT UP?

JH: David Barr was my friend, Gregg Bordowitz, Catherine, Ray [Navarro] was her friend but our friend, and Anthony [Ledesma]. I'm trying to think of who I hung out with there. I didn't have like a super tight group of people that I hung with a lot. I sort of roamed.

SS: Did you party with ACT UP people? Did you go to ACT UP parties?

JH: Some. The girls would go to the Clit Club, or we'd have parties sometimes at Catherine's loft. We'd go to Escuelita. We'd go to – what's that place on 14th Street? That was a bar. The Pyramid. There was a place on 14th Street that wasn't

there for that long. It was a really fun place. Went to the Pyramid. Before and after meetings we'd go to Benny's Burritos or some other places and hang out, so I hung out some.

SS: But what's it like to be so involved in something that your romantic life is there, your sexual life is there, your social life is there? How did that affect you?

JH: You know, it just felt right. I mean, the thing about ACT UP, one of the things about it that was really great, was it just felt so good to be on the right side and putting your energy in the right direction and things just feeling like they fit. One of the things about – I don't know if it's about me personally or just my legal training or whatever, but I tend to see gray areas a lot. I tend to not be a real black and white person. I can usually see lots of shades of gray and sort to be in a situation where I felt like we were on the right side and it just felt very righteous. And just the feeling of that and then just the friends and relationship, and it just all felt like it was going in the same direction, and I could just give myself to it completely. There was no distraction. It wasn't like I had to go – I mean, for a while, actually, when I first got involved with Catherine, we were both seeing other people, so for a while I had this pull with this other person I was seeing, and it was hard. It was in Montreal, and I wasn't in Montreal because I was with this other person, and that both having two relationships but also this pull of not being there and she wasn't that into a lot of the stuff that ACT UP was doing. It was hard.

Once after we broke up and I was just wholly in this other thing, it just felt great. It felt like everything was of a piece. At least when it felt like things were moving and we were doing things and being effective, it was really great. You don't have that

many opportunities in your life to feel like you're part of something that's bigger than you, that's righteous, that's there's so much love for everyone around you and passion, a passionate connection to the thing that you're doing. It's just a lot of us have been looking since then for that, for that same feeling of passionate connection to something.

SS: How about the experience of having relationships with people who were getting sick? Do you remember the first time you went through that? And how did your relationship to that change?

JH: Well, I guess for a while we knew people who were sick, but some of them were asymptomatic or they weren't that sick yet or whatever, and then it added to this sense of urgency, this sense of intensity that we were fighting for our friends' lives, and they might not be long and we want them to be longer. Then when people started getting sicker and sicker, it just made it urgent, made it more urgent, and, I don't know, I got very sensitive to the fact that there were very different stakes for different people in what we were doing.

SS: Did you talk with people directly about their illnesses?

JH: Not really. Not really. A little bit with Ray because a lot of people were involved with Ray when he was sick, so it would be in the context of not really the two of us together talking but just me being a little bit a part of what was going on with him and the different treatments and his trips in and out of the hospital. It wasn't so much talking to him as just being around him.

SS: Were you ever in a care group?

JH: Not really. A little bit with Ray but not really. Just on the periphery. It was mostly Catherine and Gregg and Deb and other people.

SS: So what made you decide to leave ACT UP?

JH: I'm not exactly sure. Well, after Catherine and I broke up, we divided it up so we'd go alternate weeks because we didn't want to deal with each other, and probably more I didn't want to deal with her. She probably would rather have just kept going, but anyway. So I was going less often and it just didn't feel – it was more just drifting away. It wasn't like one day I decided I wasn't going to go anymore. It was more like a drifting away, going less often, and when I did go, feeling less connected to it. There weren't the same people there. People had died. People had left. It didn't have the same energy. It didn't feel like it was accomplishing the same things. It just didn't feel the same, and so I just gradually stopped going. I'd check in every now and then, and then you'd come back and it would just be like it's so different.

SS: And what are you doing now?

JH: What do I do now? Well, I'm actually trying to figure out what the next thing's going to be. What I have been doing for a while, up until recently, was doing political campaigns. So I was with Legal Aid until '99, and then I left Legal Aid then and went to work as a political campaign manager. So in 2000 I was working for Al Gore in Florida, and in 2002 I did a Senate campaign.

SS: You worked for Al Gore in Florida?

JH: Yes.

SS: Are you a character in that HBO movie? {LAUGHS}

JH: No, I'm not. I'm not. I wasn't actually there for the counting part. I left after that.

JW: That's why.

JH: That's it. If I'd have stayed, it would have all been different. No, but I was there for the campaign part.

Actually it was interesting, because I was in Miami and when the results were coming in, I was excited. I thought we had done a good job. I was a field person. We had mobilized our people. We had good turnout in our areas. I was a statewide LGBT turnout person and also I did field stuff in Miami. Al Gore did this twenty-four-hour thing the night before the election. He went to all these places, and he came to Miami, he came to South Beach, and we had this deejay there. So all the gay people came, and so it was the night before the election and our whole community was there, and he was there. We were giving out these things about where you vote, and there was all of this energy, and it was fantastic. So we felt like we had done a really good job of turning out our people, and other people who were working with different constituencies felt they had done a really good job at turning out their people. And then when I had come back after we were done and the polls were closing and we were coming back for the results, my boss who was the head of the Miami office said, "Oh, this is great. How's it going? This is great."

And I said, "Oh, I think it's great."

And he said, "Well, there are some issues."

And I said, "What?"

And he said, "I can't say anything. There are some issues."

And I was like, "Okay."

And then the whole thing unfolded. As it unfolded, we thought we won and then we thought we lost and all that. I remember when we won Pennsylvania, and it

was like, “Yay, we won Pennsylvania.” Then we won Florida, it was so great, and then they took it away. And then the next day I was like, “Okay. So what do we do? What do we do?”

And he had been told, everyone had been told, “Just don’t do anything. They’re coming from Nashville. The national people are going to come in. Just sit there and don’t do anything.” And it was so excruciating, that I left. I just couldn’t stand to just be sitting there being told like don’t do anything, just wait. So I just said, “You know, my lease is up, and I’m going back to New York,” and then I left.

SS: So your investment in the Democratic Party, is that something you – I mean, it’s the opposite strategy of the ACT UP strategy.

JH: Yes. I know there are a lot of people who disagree with me in ACT UP, but I think the Democrats are really worth fighting for. I really believe in the lesser of two evils, and I really believe in trying to avert greater disasters, and my heart is 100 percent behind Al Gore, John Kerry, anybody we want to put up, anybody we want to put up because – and I’m mystified when anybody doesn’t understand and doesn’t see what the Republicans do when they’re in control. Not only the Supreme Court but the entire federal judiciary is controlled by the president, and there’s just this stuff going on now legally that’s just affecting all of us every day is horrifying. And so anything that can be done to avert that I think is worth it, and so I’ve gotten very practical and very forgiving of Democratic politicians.

SS: So are you involved in the Obama campaign, or is that where you’re going?

JH: No, I'm actually not. I may yet be. I was thinking that I was going to do this presidential campaign and then I was going to go find another thing, an organization, an advocacy group or something. And then the primary took a really long time to resolve, and I didn't get on a train early enough to be in the early part of the process. So then once the primary was resolved, I started to put feelers out. It turns out my dad's sick, so I'm going to be going out to see him later in the summer, and I didn't feel like I could do it. I had an offer to go to Ohio, not for Obama but for Change to Win, which is a labor coalition that's going to be doing stuff in support of the campaign. And I also started to hear back from some people about some potential in the campaign, but I really feel like until I get out to Oregon this summer, I don't feel like it.

But I'm sorry, it's just historic and it's amazing, and it would be amazing to be part of it. It's really what has felt the closest to that energy from ACT UP is doing these campaigns where you're with a group of people and you're working really intensely and there's a very specific time frame, and you've got this thing that you've got to do and you're all just like working your hearts out and then it's done. It's been good to do that.

SS: So I only have one more question. Is there anything we haven't covered that you think –

JH: I'm trying to think. Let me just think for a second because I –

SS: Sure.

JH: As I was thinking in my mind that I was going to talk to you, I think there were things, and I may have said them all. I don't know.

SS: Okay.

JW: Perhaps your thoughts on the high principles of civil disobedience?

SS: What do you mean, James?

JW: I mean, as a member of the legal community and once I was voir dired for jury duty, and one of the questions was have you had any associations with people who have been arrested? Yeah, thousands. And the judge's mouth dropped and, "How's that?" And I had mentioned ACT UP, and he said, "Oh, that's okay. I was arrested once for civil disobedience, too."

JH: The judge said that?

JW: The judge said that, yeah.

SS: What are you asking her exactly?

JW: Civil disobedience. What are some of the noble qualities.

SS: And drawbacks?

JW: Or what makes it legally permissible?

JH: I don't know about the noble. I just think this isn't even a legal answer or a legal analysis even though there's a lot of people that have analyzed it from a legal point of view. Sometimes you get to a point where you have to do something different. There are other strategies that aren't working, aren't available, and so you have to up the ante, and that's one way to do it, both in terms of trying to accomplish your ends, and then as a person who wants to speak out or express yourself or be heard or make a difference. Sometimes it just feels like personally you have to take the next step.

With ACT UP, there was a particular time when it really just worked so beautifully in all those different ways, and then maybe later less well, less satisfaction, less attention, less usefulness in terms of achieving the goals.

SS: Okay. So –

JW: Not to sound cynical and jaded, in your opinion has there ever been any change in society without radical activism that you can think of? That's a trick question maybe.

SS: That is a trick question.

JH: It is a trick question.

SS: So my last question is, what do you think was ACT UP's greatest achievement, and what do you think was it's biggest disappointment, as far as you're concerned?

JH: Well, there were a lot of achievements, there were a lot of concrete achievements, in terms of decreasing the amount of time it took to get drugs approved, then changing the definition of AIDS to include women, and lowering the dose of AZT, and lowering the price of AZT, and lowering the prices of different drugs, and changing the way the trials worked. There were a lot of really specific things that were successes. Just the fact that patient activism and patient empowerment is a huge thing that is different.

And it's not only ACT UP, but I have friends who have other illnesses who are dealing with some of the same issues that we dealt with and it's just a different landscape now. The professionals do not just think that they know everything and the people who are affected know nothing. It's just it's really, really changed, and ACT UP

was a big part of that. Then to just have that movement, that moment in history, and those people, every single person – and I've talked to people since then, and we've been talking to each other lately, it changed all of our lives, who are still alive, to have been there. And everything that all of us have done since then is affected by that somehow, and so whatever successes that we have now, they are the fruit of that even if they aren't specifically the things we were going to try to do then. And the people who we mentor or teach or whatever, it just goes on. I mean, there was just something that was created then, that energy is still rolling, I think.

Tape III
00:20:00

In terms of disappointment, that, like I said, it couldn't keep rolling in that way. And maybe it just is something that has a finite life and can't sustain itself, and that's probably true. It probably just can't keep – everything changes. Every group I've ever been in, everything changes somehow, and a lot of times for the worse. It doesn't stay, nothing stays. And so maybe that's not even a disappointment. I mean, I feel bad about the way the splits happened at the end and the way some people took things out on each other personally. It wasn't always everybody's finest hour in some of those discussions towards the end. That's about it.

SS: Okay. Thank you, Jill.

JH: Thank you.