Project:

ICTY ORAL History - Documented by SENSE

An Interview with

Peter McCloskey

SENSE Transitional Justice Center

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Interviewee: Peter McCloskey (PMcC)

Interviewer: Mirko Klarin (MK)

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MK: Let's start with the beginning. How did you find yourself in The Hague and how you became the part of the Srebrenica investigation team?

PMcC: I arrived in The Hague on 1 October 1996 and heard that I was going to be assigned to the team investigating Muslim perpetrators, Naser Orić and those. But by the end of the day, on the 1st, I had been told I was assigned to the Srebrenica case and I think I went out to a local pub with Jean-René Ruez that first day or two and learned about the case.

MK: At the beginning who was in the Srebrenica team?

PMcC: At the time I started Jean-René Ruez was the team leader and Stephanie Freas came on soon thereafter I think as the analyst. Asif Sayed, Pakistani investigator, was there early on. And then there was different people. At that point it was still what Jean-René referred to as the ghost team because he had to borrow various investigators and people for his missions because the Srebrenica events occurred while the Tribunal was up and running and most of the small resources at that time were taken up with other cases,

Sarajevo and elsewhere. So in the beginning Jean-René had to borrow people and I was one of the first full-time people, the lawyer assigned to the investigative team as was the practice and the policy at the time.

MK: But that was a year and a half after the crime. Did you find it very strange? And it was a year after Karadžić and Mladić had been indicted for genocide in Srebrenica.

PMcC: Well, we didn't have anything to compare... I didn't have anything to compare it to. All of us that arrived at about that time or even before thought that this would be an interesting European adventure, that we'd be there for one or two years, nothing would happen, no arrests would be made, we would do our best to find out what we could and try to meet the mandate of the UN, but the expectations were extremely low. So when I got there and met Jean-René and learned about the case it was all very exciting. He wasn't complaining about the lack of the team size, he was telling me about all the work that he and the team had done and what needed to be done, and he wanted to get on with it. And at that time it was a grand adventure just in the beginning stages. I was too new and too stupid to worry about anything except what was happening the next day.

MK: When did you go on the first crime scene mission after you joined the team? When did you find yourself in Srebrenica region?

PMcC: I arrived on October 1st and I was sent to Tuzla on my first mission. I'd learned from Jean-René Ruez that summer of 1996, the first summer after the summer of the murders in 1995, that a team of forensic scientists was able to exhume some of the mass gravesites that Ruez and others were able to find and that the remains of those people had been autopsied at a set up, makeshift morgue outside Tuzla, in Kalesija, and that

certain artefacts, as we call them, had been taken from the remains, from the graves, from the persons of the victims and that we needed the lawyers' and investigators' eyes to determine what may be needed for evidence in potential trials. And no one really had any idea what we might need, what might be in those personal belongings and other items that could be helpful for us. And so they sent me and I believe Stephanie was on that mission to Tuzla, and I found myself arriving at an enormous warehouse in Kalesija, at an old factory of some sort, and I'll never forget the opening the doors of that, looking into that huge factory and the whole factory floor was covered with white UN body bags and had this unforgettable smell that did not go away, that you took back on the airplane with you. Thankfully it was November, it was very cold in Tuzla so that wasn't a problem. The smell of the coal that is burned in Tuzla is something that is over the top of everything. So it was that smell of death and the coal and just you know the Balkans in the wintertime that is what stays in my memory in that one vision. And yes, there was a a group of plastic bags and materials piled up in the corner that I was told was removed during the autopsies. But first the remains of the people needed to be removed. I was surprised that I was coming to finding hundreds of body bags. And a truck showed up, a kind of beat up, old military truck with one driver. And so myself and a few others spent the first two days of the investigative mission picking up body bags and taking them into the back of the truck. They were cheap UN body bags made out of plastic and they would occasionally rip open by bone and spill out its contents. So the first couple of days I was much more of a humanitarian aid worker than I was a prosecutor. And that's a memory that is etched into my brain that I'll never forget.

MK: You said that you felt like a humanitarian worker. It's interesting that the IFOR

soldiers at that time also considered those investigators as a kind of human rights activist. How did you find the cooperation of the international forces, IFOR, in the investigation?

PMcC: That first mission to Tuzla was in the Federation territory and we did not need the security of IFOR, the initial international NATO force that went in. But in the late winter, early spring of 1997 we went on one of our first missions into the Republika Srpska. I had joined the mission about a week after it had started, and we were going to go to a place called the Petkovci dam. We stayed in the American base and we met with a colonel who was not really happy that we were there and told us so - that we were making his mission difficult and that this country was on edge, and that both militaries were still looking at each other with armaments, and that his job was to keep the peace and that was his priority. Then he said, "but go talk to major so-and-so and he'll tell you what support you're going to get". And then we went and talked to the major. The major had the same attitude that "you're making our job more difficult", it's going to be dangerous for his soldiers to be taking us into this area, that he preferred to be back on his duty station in Germany where he was assigned with his units. But then he told us to go to see the lieutenant, and we went and saw the lieutenant who was a guy fresh out of the military academy. And we met his guys, the sergeants and the corporals and the privates, and they were a recon company who had been going crazy stuck in this camp and were delighted to help us, couldn't have been happier to be able to take us out and support us in the investigation. So the next morning we got together with those guys, 18, 19 year old guys, and off we went with five to eight humvees, with large caliber machine guns mounted in turrets on the top, with our little three UN cars in between. And off we went to Republica Srpska. And they had told us I believe that morning that, "well, we can't take you to the

dam". I said, "why not?". "Well because that's in the Russian sector." "The Russian sector, okay." We'd already known about the British sector in Banja Luka, the American sector, I knew the French were around, and I thought, "God, am I in Berlin? The Russian sector?". I hadn't known about that. So sure enough we met the Russians at a particular agreed point and off we went with a unit of Russians, followed an enormous APC belching smoke at us, and went to the Petkovci dam and did our work and found indications of a mass grave and were able to come back later and have that grave fully exhumed as a result of that early work that we had done identifying it.

MK: But as far as I remember, it was already emptied. You found a small number of corpses at the Petkovci dam?

PMcC: The Petkovci dam was... We had heard from survivors of this location and from David Rohde, the journalist who had interviewed some survivors we believe and had actually been arrested by Serb forces and held up the Dayton peace accord for a while, we'd learned about this site and we had aerial imagery that showed there was a disturbance there. And we had learned from aerial imagery of the Branjevo farm and the Orahovac graves that the original imagery showed disturbed soil in July and then it showed disturbed soil in September. And we knew from the examinations of 1996 that the vast majority of the bodies in those two mass graves, Orahovac and Branjevo had been robbed, but the aerial imagery for Petkovci did not show that. However, as we were able to learn about later, the grave was dug on the plateau of an engineered dam and so it was hard, tough gravel and the aerial imagery did not show the disturbance as easily as it did when you take a meadow and you dig it up, turn it into dirt - that can be seen from the Moon.

So when we came back, I think it was in 1998 when we finally got on the exhumation priority list for 1998, the archaeologist Richard Wright dug down into that grave and soon was able to conclude from his expertise that this had been disturbed, that there was very few bodies in it. We went back to the aerial imagery folks and said: "Can you take a harder look, because our guys are telling us this has been disturbed." Sure enough, a few days later they said: "Yes, we have looked harder and we do see elements of disturbance in September. It was not as clear as the other ones because the soil was different, but yes, we do see that." So, you're correct. When that work actually was done it was found to be almost empty. It was one of the most efficiently removed primary mass graves because it's a really ugly work and the operators don't always get everybody out because they just want to start and then end it, as we found over the years.

MK: Thanks to this areal imagery you found the majority of the secondary mass graves?

PMcC: Orahovac, Branjevo, Petkovci, all of the three primary graves, including a grave near Bratunac, Glogova, as we were able to get in and do the exhumations on those we found that they were all disturbed. And, unlike most criminal investigations, there was an understanding in the management of the OTP that the world should know about what we were doing there, that there was no real reason to keep that part of the investigation super secret. So we had journalists with us and they knew what we were finding and what we were not finding, because they were there. And I think it was in 1998, earliest 1997, may be as early as 1996, because we realized we were finding primary graves and there weren't bodies in them, we had reports that it should have been 8 000 and we were finding not

even 800 and this was a concern.

Then a Newsweek article came out entitled “Genocide Without Corpses.” And Ruez became aware of that, we all became aware of it, and that became our a rallying cry, because this article very clearly set out the graves we had found and the complete lack of remains in those graves, which were completely inconsistent with the accounts of the survivors that had survived those mass executions and described hundreds and hundreds of people being killed with them, some actually witnessing the burial. So we were in trouble. We were in a very big trouble. Even after two years of investigation we found primary mass graves but basically we were living under the theme of 'genocide without corpses'. And that was driving us. We needed to figure out where those bodies had been removed to. The archaeologists and the imagery showed us beyond any doubt that they'd been removed but we had no idea where.

Then we got a break and had received information that south of Srebrenica, in an area called Zeleni Jadar, there was some activity with trucks and bodies and bulldozers. We were able to get a location where this occurred. We went to our aerial imagery folks and said: "Do you see any disturbed soil?" And they provided us with these amazing photographs that showed very specific areas of disturbed soil all along the Zeleni Jadar road, about six or seven sites, and they were at a particular 45 degree angle and all about the same size of disturbed soil, roughly four or five meters wide and maybe 10 or 15 meters long. So when we had a chance we took our shovels. The team was small at that time - it was Ruez and I and Jose Pablo Baraybar, as our forensic anthropologist, and a couple of other investigators and shovels. And with our map and our hands and the sketch that Ruez

had done from the window of the Embassy giving us an idea of where this area was, we started digging. But it had been raining and the water was pouring through this site and we came across bits and pieces of bones but mud was so deep that it was really difficult going. And one of my major legal contributions to the investigation was I saw that the water was pouring into the grave area from the road and so I walked up the road about 50 meters and saw that the bulk of the water was being washed down from one side of the road and going across the other side of the road. So I built a dam out of dirt with my shovel, pushing the water back to where it originally should have been going and it completely stopped the water going into the grave. And the grave began to dry up and we were able to dig. Ruez was very impressed by that. He thought, "god, here's a lawyer that's worth a shit because he knows how to use a shovel". And we had a good laugh at that. But we're really deeply happy that we were able to get our work done. Because every day meant something. We were able to identify that as clearly multiple remains.

But then, and more importantly, we were able to then go to the other sites and confirm those other sites and then we got back and reported to the aerial imagery specialists the results. We kept them informed so they knew that their work was being productive though it was always a one-way communication - we would tell them all about it and then we would get invited to the Embassy to see these photographs. And sometimes we didn't know why or where these photographs was coming from. And it was some time in I believe it was 1998 when we had no idea where the vast majority of the bodies were - we were able to figure out that these bodies in Zeleni Jadar were linked to the Glogova site, the site near the Kravica warehouse where some 500 people were killed, so we thought we probably through the Zeleni site, the Glogova sites and the Kravica massacre had identified

what Jean-René called Area south, the murders Area south. But the vast majority, we knew from the survivors, were killed in the Zvornik area and these were the empty primary graves that we did not have any idea about. And then one day Ruez is invited into the Embassy. We go in and we see along a road in an area maybe 20 kilometers south of Zvornik, it looks very similar to the Zeleni road, and the swaths of disturbed soil are the same size and the same funny 45 degree angle from the paved road and in similar distances apart from each other as the graves at the Zeleni were. So when you look at these images at an a4 sized piece of paper the Zeleni provides kind of a fingerprint of how whoever did this made the graves. And that fingerprint is very similar 20 mile, 20 kilometers south of the Zvornik.

We had not provided any information about that area so I got the impression that some keen, very motivated aerial imagery guy had basically looked at the photographs and zeroed in along the little roads in the middle of nowhere near blown-up Muslim villages, because we knew from actually public video from the Discovery Channel the capabilities that because the CIA that sponsored these programs had their own PR video on the Discovery Channel where they bragged about what they could do in the Bosnian war. And they showed us that they were able to take pictures from airplanes of huge areas, I think it was three or four square miles. Now you can't see anything when you're looking at a photo of or a negative of that big. So it tells you nothing when you're looking for a ten by five meter swath of disturbed soil. But if you zero in, these negatives clearly had the ability to be blown up, and so if you're zeroing that in and you're following roads at a certain distance you can see this. And somebody must have done that and it would have taken a hell of a long time to go along those roads but somebody obviously did the work. Unless they had

human intel from the ground. We'll never know. That's an appropriately held secret. But I got the impression that someone just studied this. They took the fingerprint of Zelani, they studied it, they gave us a map that showed 12 of these places along what we called the Čančari road.

Ruez and I and Stephanie and a Japanese NHK, a Japanese news organization with a camera, took our shovels and drove along that road with our maps and figured out where they were and started digging. And sure enough in every one of those 12 we came across bones within a meter, actually mostly less than a meter. And we marked those. And we were able to get our examination team back and other air imagery and sometimes with personal intel that we gave over the next year managed to reveal we think almost all if not all the primary graves and secondary graves. When I say "all" it's 90%, you never know if you get 100%, you probably never do. There are still roughly 500 to 1000 individuals that have been reported missing, that have been reliably reported missing, that are still not accounted for. Many of those will never be found, probably from the woods and distributed by nature but there's also mass graves that are still in those woods and hopefully will be found.

MK: If I understood well, somebody told me that only one mass grave was discovered thanks to an insider, a Bosnian Serb, who took the investigators to the mass gravesite.

PMcC: Many of the primary mass graves were found as a result of survivor testimony or, in the case of Dražen Erdemović, he helped in combination with survivor testimony and his corroboration of where he was killing people that Branjevo farm was found. Orahovac

was found as a result of survivors and Jean-René going to that area with survivors. Petkovci was a combination of survivors and journalists that led us there. Glogova was right near Kravica and we learned about that... you have to ask Jean-René about how we learned about that, I think Jean-René had information from different sources on how we learned about that. The secondary graves, as I said, were identified... Zeleni we found the footprint from a human source. However, once we were digging at the Čančari graves we got a call one day to go up to the area of Hodžići near the old Kalesija - Zvornik road and an American bulldozer that had been repairing that old road had scraped off the top of a mass grave and cut a few corpses in half and we recognized that as a secondary grave along the road. We asked the US for aerial imagery and sure enough there were seven of those very unique 45 degree angled areas. And with a little more work we were asked to go to the Embassy and found near the village of Lipje the same - maybe three or four or five of those unique graves. We dug those up and found that that had the engineered rock from the dam. Hadžići was eventually linked to Orahovac. Čančari was linked to Branjevo. And Kozluk as a major primary mass grave we found as a result of human information. After receiving the human information we asked for aerial imagery and got an aerial image that was clear as a bell, right next to the Drina. So it's a combination of human intel and the aerial imagery. But the aerial imagery of Čančari broke the spell of 'genocide without corpses'.

MK: So, coming to The Hague on a European adventure as a lawyer, did you expect that you will have to use shovel to dig mass graves?

PMcC: I didn't think about it. I had been an investigative lawyer for the Department of Justice, investigating crimes of racial violence and police brutality. And that required like

any investigator to get to the crime scene, to get to the area where you went. None of those crimes involved mass graves. They did involve violence and shooting. I remember going to an apartment in a town called Las Vegas, New Mexico, where black students had been fired upon by the locals. I followed up on the information of one of our witnesses who said they fired at the back door and I went up with the FBI agent and I found the bullet hole in the side of the house and traced it under the sink through the sheetrock and found the bullet under the sink. And the FBI appreciated that help. I have sought evidence in New Orleans in canals with divers. It's something that as an investigator, when you're working with the police, you do and you expect to do.

So when I went out to Tuzla and there was physical work to be done, first loading corpses, the next going through all the material looking for evidence and then when we had what we called the treasure maps to the graves, we either waited for a team that did not exist or we did it ourselves. We weren't going to be able to get Muslims out there. It was too dangerous. Nobody would have wanted to go. They wouldn't have been part of our investigation. The security would have been difficult. There wasn't a special examination team for us at that point. They were off in other cases, so we needed to do it. I'm pretty good with a shovel and so was Ruez and it turned out the French photographer with the NHK team was damn good with a pickaxe. And he actually found the first set of human remains at Čančari 1. When we got tired we gave the pickaxe to the cameraman and we didn't get it on film because the cameraman was digging at the time. But he's the first one that found it with that pickaxe.

So it's not unusual from our perspective. We had several lawyers from the Criminal

Section of the Civil Rights Division that all had been involved in field investigations and interrogating and going to the crime scene. So this was a great skill to transfer over to the ICTY because in most cases, as in my first work as a prosecutor, the investigators bring you the case, you send it back for a little work if it needs it, otherwise you just take it to trial and you're lucky if you get to the crime scene, if you have time to get there. But 10 years at the Department of Justice we were trucking through the swamps and in the mobile homes and the apartments, so that worked very well in Bosnia. And Mark Harmon, Alan Tieger, Alex Whiting, Nelson Thayer, Peggy Kuo, and I'm sure I've left some out, all came from this part of the Civil Rights Division of the Department of Justice and all had field experience.

MK: I don't think that all investigators, teams in other cases, did the same kind of job, in Krajina, Kosovo, Brčko... What is so special which makes you tough when Srebrenica is in question?

PMcC: Because Srebrenica came so late in the history of the Tribunal all the teams had been formed. Ruez had to be assigned from another team. And getting a team was a long time coming, that's why it started out as a ghost team. But Ruez was smart enough and lucky enough to get good people so we built a team that was just a fabulous team of people that got to work together and worked together for several years, both investigators, analysts and lawyers. I give Ruez credit for his leadership because there's a natural competition and a natural tension between prosecutors, who want their cases just right and want the investigators to get it just right, and investigators who want the prosecutors to take their hard work and get the job done in court. And they're both criticizing each other.

And like I've said before, in most cases investigators do the investigating and the

prosecutors do the prosecuting and most of the investigators we had with us were from that tradition and were not used to prosecutors-lawyers in the team. And in a lot of teams there was quite a bit of tension where the lawyers were cut out or creating trouble within, depending on your perspective in those teams. I never had that problem with Ruez. It's partly because he was so starved for help, he needed a guy that could wield a shovel. Also he was just open and recognized good people. The other thing, he was from the French judicial system, he was from the Judicial police, the highest police force in France. And they did their work under the supervision of an investigating judge, a lawyer. So Ruez was not a bit intimidated by lawyers or investigating judges, in fact he was used to working with them. So when this American guy shows up he was ready to take advantage of it and probably very happy I wasn't an investigating judge. We were able to get along and work together and when other investigators from a more traditional system would have problems with me being in an interview or being in the field Ruez would say: "No,no no, McCloskey goes in the interview, of course he does. You can lead the questioning but he will have a chance to question at the end." And he always did that. And we had great people, great investigators that followed Jean-René's lead and that stayed throughout the entire history of the team. From Jean-René to Aleister Graham, who later led the team, there was always a wonderful bond between the lawyers and the investigators. And I'm used to working with investigators. I relied on investigators for all of my trials from the State Court to the Civil Rights Division and had enormous amount of respect for them.

So we had a very good six years without any of the tension that many of the other teams were suffering from. Now that problem was largely resolved when Carla Del Ponte came on and put the senior trial attorneys in charge of the investigations. No longer were

the senior investigators in charge. That changed the whole dynamic of the chain of command and basically there was no more beefs because the lawyer had the final say for better or for worse. For example, the ICC is still fighting that fight - the investigators and the senior trial lawyers are on equal footing and so there's no one as commander over the other and there's still a struggle between those two sides. It really hurts the investigation. But we didn't have that problem so we got a lot done that others may have had a tougher time with.

MK: We went through important things like imagery, digging, human intelligence, human sources but what about this documentary footage from the time of crime? How important was it and how did you get it? Two films - one is Mladić entering Srebrenica and the same night in Bratunac three meetings there in Hotel Fontana and the second is Pirońanac's famous video. How did you get those? How important have they been for your investigation?

PMcC: Yes, we have absolutely incredible and compelling footage from the time Mladić and his forces and his tanks come into Srebrenica through the meetings at the Hotel Fontana. Basically the reason we have those is because of the arrogance and the egos of the Bosnian Serb commanders who sought to it that there was a combat cameraman filming them. There's a wonderful shot of Mladić going through Srebrenica and he's going up some stairs and you can tell he's talking to the cameraman saying: "Oh yeah, get me from this angle. This is my best angle". We were going: "Oh my god!". And same thing with the Hotel Fontana footage where he is in control and he knows this is a historical event and he wants to make a record of this.

Unfortunately the free market of selling video was very much in play here. And we

have intercepts, another topic, of the Mladić's chief PR and media general selling the footage to various news outlets. So that footage, the camera footage both of the Potočari walk and the footage of the Hotel Fontana, were basically purchased at various times both early on and later. Sometimes we got some of the footage because it was played over RS TV as well. Mladić's forces, for morale and to boost the public, gave a lot of their stuff to the RS TV and it was played. Thankfully the Muslim State Security was taping that material, because by the time we were able to get material like this from RS TV some key points were cut out of it.

The most famous one that was cut out when Mladić is going through Srebrenica and he turns to the camera and says: "It's now time to take revenge upon the Turks in this area" with this look in his eye. You don't see that anywhere. But the Muslim State Security gave us the same stuff, not near the quality that we had from the originals, and then suddenly you see Mladić turn to the camera and say this. So we realized that we are getting so much valuable footage that we needed a professional editor, movie person. We hired on Marta Fracassetti from Italy that put all this together and so on our first trial we had it all edited so it all made sense. That was fabulous.

The second film, the Piroćanac film, was again an ego issue where someone in Mladic's forces wanted documentation of the forces along the road. And he went with Borovčanin, the commander of the Republika Srpska special police forces, who was working closely with Krstić. He shot video all along the road including corpses piled up at the Kravica warehouse that he went and gave to Serb TV, and they played it and somebody recorded it. And then when finally Piroćanac sells his video for god knows how many

thousands of Deutsche Marks that part gets cut out, the corpses at the Kravica warehouse. But somebody had kept it. It found its way into our hands. So we again put that together with the other film and we're able to tell a much more complete story. In this day and age of cell phone video I can't imagine the work that the people that are looking at Syria and other places in the Middle East or Asia how they deal with the massive reams of digital material they have, and with the ease that the digital material can be faked. It's massively important because video is such a potentially good evidence that I know someone's got their work cut out for them.

MK: Did you participate in the searches of the military archives in Republika Srpska?

PMcC: Yes, I did take part in the search warrants that we did of the military barracks, bases and archives of the Republica Srpska. We were in the American Sector and we understood our American hosts as being very reluctant to get involved, especially in something as aggressive as a search. However, one of our other teams looking into the horrible crimes around Prijedor developed a connection with general Pringle, who was much more willing to take on the responsibility of searching the Krajina Corps. So, the entire OTP got together and put enormous resources, got search warrants from the judges and together with the British Army searched the municipal building, the police, the state security, the army barracks and archives - an amazing treasure trove of material, not just for the Krajina Corps area but from the Main Staff, from items that were important for all over Bosnia.

In fact, one of the most famous and important documents, the Directive 7, signed off

by Karadžić and put together by Mladić's Main staff that talks about making life unbearable for the Muslims of Srebrenica, was found in Banja Luka because it was a section of a larger document that went to all the corps. So the Banja Luka Corps had that document and so we got that. And an interesting thing about the makeup of the various forces that was IFOR and then later SFOR is that they were competitive. It's natural. Armed forces are always competitive with each other. The French would arrest someone, then the Brits would arrest someone, and then the Americans would get in. The Americans I think arrested Krstić after their fellow armies had done so. So the Brits did this incredibly successful search. There'd never been an officially sanctioned search like this before. They didn't do that in Nuremberg, they didn't have to. So this was a historically one-time thing and we thought: "Okay, let's go to the Americans and see what they say". And sure enough, the Americans... We didn't get to talk to a general, we didn't get general Pringle, they gave us a colonel. The colonel didn't really talk to us much, but his political officer did, chewed us out for making their job miserable, but approved one major to go with us on one brigade and another major to go with us on the Bratunac Brigade and said 'the cavalry would be would be over the hill if they needed us', which is an American thing from western movies. We were never quite sure if the cavalry was there, but I think they were. We had AWACS planes flying above us or at least we were told we had them. But it's amazing when you go to a military barracks and the Bosnian Serb Army see an American or British or whoever NATO soldier, armed officer, they pay attention. They know what is behind there. So when those two Americans went with us to these two brigades and we requested them to be searched, they got on to their commander and within 20 minutes we had authority from the very top to search. And we did search. And without the support of NATO that wouldn't have happened.

MK: The archive of the Drina Corps was found in Serbia, in Gornji Milanovac. Blaszczyk told us that story.

PMcC: One interesting thing about investigations of the sort that we did in the Yugoslav war. Normally the rule is you better get your case together within a few months of a crime because after that the evidence dries up. Well, that was true in some respects in the war in Bosnia but in other respects as time went on sometimes people were more willing to talk, archives that were buried appeared, video that was not found appeared. So had Mladić or Karadžić turned themselves in with those first indictments and demanded a trial we would have been hard-pressed to prove anything beyond a reasonable doubt. So we were happy that time went on and the politics loosened up. And of course that's what brought us Mladić and Karadžić - the change of time and politics - and allowed us to get something accomplished. So time was good to us at the ICTY.

MK: I used to say that Karadžić and Mladić had prolonged the life of the Tribunal with their successful hiding for so many years.

PMcC: Yes. Mladić's and Karadžić's hiding for so many years allowed us to collect evidence that proved their case beyond a reasonable doubt ten times over and we were able to in a period of, as you know, several years - unfortunately it took so long - but to show the world in vivid color and black and white the extent of their crimes, linking them to each and every major crime and showed them in the dock every day. And both have now received life sentences. It doesn't get any better than that in the field of international criminal law. And it's something that makes it difficult for the tribunals that are having to go forward without the advantages we had with NATO and the unity of the international

community behind us.

MK: Let's talk about the interviews with suspected accused or unwilling witnesses, the people from VRS, or the machine operators or truck drivers and so on. Did you participate in many interviews with the accused or suspects or unwilling witnesses?

PMcC: One of the other great legacies of the Department of Justice was those of us that had investigated and prosecuted police crime knew that the most important witnesses in police abuse, murder, rape, assault were other police officers, both honest police officers and dishonest police officers. The honest police officers you would interview them and get their stories under oath in a grand jury that could be later used in evidence. And the dishonest ones you could pin them down and keep their story static and so that if they came and testified you knew what they were going to say, and if you had the evidence you could disprove it.

For example, the Rodney King, the prosecution of the LA Police Department, that Alan Tieger, one of my colleagues from the Criminal Section, took part in. The first thing they did after the State lost the case was they interviewed in the secrecy of the grand jury every LA police officer that was on duty that night, and that was a lot of people, but they had the resources to do it. So we took that experience with us to The Hague.

Mark Harmon, who was the lead prosecutor in the Krstić case and I were sitting one day in his office and saying we're not able to interview Bosnian Serbs, soldiers, police, civilians because we can only go into the Republica Srpska with humvees and machine guns and no one will speak to us. And so Harmon opened up the rule book, our Rules of Procedures and Evidence, and found a very simple phrase that the prosecutor was allowed

to investigate crimes, interview witnesses and summons witnesses. That's all it said - summons witnesses. And there's a similar rule that said judges could issue summonses and subpoenas. But we were reluctant to go to the judges. We didn't know what they would require in the way of proof. We didn't know how much they were going to get involved in our case. A lot of them were civil law judges and could have been from the investigative judge background and might want to try to take over parts of the investigation or build any requirements. So we didn't want to do that. But we thought, "well, the prosecutor can do it so basically". My memory of this is Mark just started typing on his computer - center, SUMMONS, underline, and then just "The prosecutor of the Office of the Prosecution hereby summonses..." And then, "okay who do we summons?" Well because we searched the barracks we had lists of all the officers and the soldiers and their positions and where they were at what time, we had engineering records, we knew who the bulldozer drivers were. So then we went to Butler: "Who do you think would be the good person to ask about for example let's start off with a crime base?" And Butler said, "Well the engineering guys. You know the engineering record lists the chief of engineers, the commander of the engineering company and the bulldozers officers." So we put in Dragan Jokić, chief of the Zvornik Brigade engineers, that and about 20 others.

We went to Carla Del Ponte and said: "Carla, what do you think of this rule? We'll provide this to the RS. We don't expect anything out of them but we can't hurt by trying". She said: "Good". I think that was about as long as the meeting was. "Yes, good. Sounds good. I'll sign." Great, no big study, no psycho-social experts that had to come in and look into our brains and make sure that we were stable enough to type up a subpoena. So we provided those to the Republika Srpska liaison officer who we knew. He provided them to

the government. We got Ruez and Butler and Harmon and Frease and myself and our interpreter Adisa and went off. Stayed in a military barracks guarded by the Brits. And took a huge convoy to the only UN facility we knew of in the RS, a little place in Banja Luka, where the summonses had been issued to, and waited. And drank coffee. Wonderful coffee in Banja Luka, just like there is in Tuzla and Sarajevo, same coffee. But you have more than about three cups of that coffee and you are flying. So by about four o'clock nobody had showed up. We had about six cups of coffee each and we're in a tiny little motel room and then this UN guard comes in and said: "There's a guy at the front gate saying he's here to see the ICTY". And so here's our first guy. And somebody came in after that. And then the next morning somebody else came in. So we had roughly three of our 20. Next time we got four of our 20. The next time after that we got six of our 30. And we just kept doing it and doing it and doing it. And after about a year of that we were able to summons and interview almost anyone we needed to. Some didn't show up on it but many did. And how that happened, how the Republika Srpska allowed that to happen is a story that I hope a journalist or historian gets into one day.

I think it has something to do with the fact that the UN tzar of Dayton had the power to basically fire members of either government if they didn't cooperate with the international community and the ICTY. So there was this stick. And they had NATO on the ground with guns. So there was a certain amount of leverage we had, that these guys didn't want to get fired. So they distributed some of these summonses and some of these guys came in. And it was magic. It led to plea agreements, guilty pleas, witnesses from within the VRS testifying and telling the judges what happened from inside as well as from outside. That's a whole other story getting the International Criminal Tribunal for the Former

Yugoslavia to accept the idea of plea agreements, American style plea agreements. It took a while but we did it, with Dražen Erdemović and Dragan Obrenović and Momir Nikolić. Other teams did it with other folks. It really was another real major difference in the investigation, and in trials.

MK: Did you interview some of them?

PMcC: Yeah, all of the ones I've said - Dragan Jokić, Dragan Obrenović, Momir Nikolić, you name it. I was in on almost all of those early interviews, along with Jean-René and Rick Butler and Stephanie and Mark Harmon.

MK: But you interviewed them before they came to The Hague?

PMcC: Yes, we interviewed them. And in the case of Momir Nikolić, he lied his ass off. And we were able to clearly prove otherwise, so we indicted him. And we had this amazing record that we had taped, of course, of all his lies that we could disprove. So he was in deep trouble, not only because of the witnesses that have seen him in and around the crime scene but because he had this whole series of clear evasion and lies to us. So in the end, when he looked at the evidence against him and his pattern of lies in our summons mission, he pled guilty and then told in every successive and successful Srebrenica trial what he and others did from the inside, which was very important for the judges to see.

MK: Thank you very much, that's it

PMcC: OK guys….