

**INTERVIEW WITH JUSTICE PETER G. VERNIERO
OCTOBER 24, 2019**

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PART 1 of 4

Developing ‘A Sense of the Law’: Early Life, Education & Work in Law & Politics

Justice Verniero describes how both sides of his family traced their lineage to Italy and had established themselves in Newark, N.J. His father, an electrician, and mother moved the family to Montville in Morris County, N.J., where he grew up and graduated from Montville High School (1973-77). While in high school, Justice Verniero became interested in politics and writing, resulting in letters to the editor being published in The New York Times and Time Magazine.

Justice Verniero studied political science at Drew University (1977-1981) under the mentorship of Julius Mastro. His burgeoning political activity at Drew brought him to the attention of Congressman Jim Courter, who took him to Washington, D.C., as a LBJ Intern in the Summer of 1980. In 1981, he worked on Tom Kean's successful run for Governor of New Jersey. He studied law at Duke Law School (1981-1984), served as law clerk to Associate Justice of the New Jersey Supreme Court Robert L. Clifford (1973-1994), then practiced at Pitney, Hardin, Kipp and Szuch for several years.

In 1989, Justice Verniero went to work for Congressman Courter's campaign for Governor of New Jersey and served as the Executive Director of the Republican State Committee. During this time, he met and married his wife, Lisa. After Courter lost the race, the Justice went to Herold and Haines, where he met and worked closely with future Governor Christine Todd Whitman, a client of the firm. When Whitman ran in 1993, he joined her gubernatorial campaign as head of its compliance system.

Illingworth: This begins an oral history interview with retired Associate Justice of the New Jersey Supreme Court Peter G. Verniero on October 24, 2019, in Newark, New Jersey, with Shaun Illingworth. Thank you very much for having me here.

Justice Verniero: Thank you for coming.

SI: All right. To begin, I'd like to know a little bit about your upbringing, your family background. First, can you tell us where and when you were born?

Justice Verniero: I was born in Montclair, New Jersey, not too far from here, in a hospital that I don't think exists any longer, St. Vincent's Hospital. We moved to Morris County when I was young, my parents and my brother and sister and I. I lived in Montville in Morris County through high school and college. Then, when I went to law school, I moved to Durham, North Carolina. I went to Duke University Law School and moved to North Carolina for that.

SI: For the record, can you tell me your parents' names and your siblings' names?

Justice Verniero: My parents are Peter and Geraldine Verniero. My middle initial is "G" for Gerald. So, I have my father's first name and I have an adaption of my mother's name as a middle name. So, I'm Peter Gerald, because my father's Peter and my mother's Geraldine.

My father is actually Peter A. Verniero, so, I'm not technically a junior, although growing up, living in the same house, we often had to figure out the mail situation, whose letter belonged to whom, and so forth. I'm not technically a junior, but I thought it was a very nice gesture on their part to give me both of their names. I appreciate that, because I admire them both and I'd like to think that I have good qualities adapted from both.

[Editor's Note: Justice Verniero's father, Peter A. Verniero, passed away in 2020, five months shy of his 90th birthday.]

SI: Do you know anything about your family history on either side?

Justice Verniero: Yes. My great grandfather on my mother's side, Grandfather Sebastian, came to the United States from Italy and became a street sweeper in New York City. His son travelled to the United States actually to look for him. It was a custom back in those days where the husband would maybe journey away first, and then, the family would follow later. That happened with my family.

So, my grandfather, my mother's grandfather, began in New York City and in Newark. Then, my father's father also settled in Newark and my [great] grandfather was involved in politics and government locally here in Newark. So, both parents are of Italian heritage and both settled in the same place, roughly at the same time. It's interesting that here I am now in Newark at basically the same place, at a different time. So, that's the short version of the family tree.

SI: Okay. You have very interesting deep roots in Newark.

Justice Verniero: Yes, we do.

SI: Your family had moved out to Montville. What was that neighborhood like? What was your street like, for example?

Justice Verniero: It was a quiet street, suburban area. At the time, Montville may have even been considered more farmland than suburban. Montville High School, where I attended, was actually on the edge of a cow farm. I think that's no longer there, but it was very much a country setting.

We had dear friends who lived on the block, other families that went to high school. In those days, you had friends really almost for life when it came to your neighbors. People just freely joined each other for supper, did things socially. It was a fairly close-knit street and neighborhood. That has somewhat changed. As the children grow older, they move, the families move. It's a little different now there, but it was a very friendly area. We made a lot of friends.

SI: What did your parents do for a living?

Justice Verniero: My dad is a retired electrician. He worked very hard at that and did very well. His father was a plumber, another tradesman. So, I have very deep respect for labor unions and for the trades. My mother was, I guess the term was a stay-at-home homemaker at the time. She cared for the house, she ran the house, and so forth.

My oldest sister was also in state government for a period of time as a social worker. She has her master's degree in social work. My brother has a business degree and he works in the business community. He works in Florida. He was in California, now, he's in Florida.

SI: Would you say that your parents encouraged you and your siblings to seek out an education, go further in your education?

Justice Verniero: Absolutely. Education was always very important to both my parents. We were encouraged to seek higher education and we did so, and we were supported when we did that.

SI: Did religion play any role in your life growing up?

Justice Verniero: It did, and it still does. I was raised a Roman Catholic. My dad was an usher, for as long as I can remember, at St. Pius Church in Montville and I think, up until a few years ago, he was still an usher. He'll be eighty-nine in November, so, he's slowing down a little bit. I am an usher at St. Joseph's Church in High Bridge in Hunterdon County. So, I have kept that tradition.

I can't say that we went to Catholic school or private school, although those schools are very fine schools. We are a product of public schools, rather than parochial schools.

I've been very privileged in the course of my career to meet the Pope, Pope John Paul II, and I've also met the Dalai Lama, two very significant religious leaders in the world.

I have always felt religion is an important part of my life. It's not a part that I talk much about as a public official, but it certainly has provided strength and guidance to me at appropriate points in my life.

SI: Tell me a little bit about your early education in the Montville public schools.

Justice Verniero: Montville public schools, first-rate schools. High school, as I say, was on the edge of a cow farm, which is kind of interesting. I was not very athletic, I must say, in high school, but I did have many other interests. I was very interested in student government, ultimately became the president of the senior class at Montville High School, Class of 1977. I loved to write, was always interested in writing. So, ultimately, I became the editor-in-chief for the school newspaper.

I was very interested in drama and the arts and student directed a number of different plays. Little known fact, I was Linus in *You're a Good Man, Charlie Brown* [laughter] and had my starring role singing *My Blanket and Me*, which, back in those days, there were no cellphones, so, happily, there's no video clip of that that could ever emerge. [laughter] I enjoyed student acting, student directing and really enjoyed student government and writing for the school paper.

SI: Do any teachers stand out in your memory from high school or earlier?

Justice Verniero: My history teacher, Phil Mancuso, certainly stood out in my mind. My writing teacher, the administration, the principal--the principals, the vice principals--really stood out in my mind. There was a time in high school where I actually thought about becoming a medical doctor, but, then, biology talked me out of that. Having to dissect the animals and draw my own blood to view it under a microscope prompted me to pursue the law instead of medicine.

SI: What about activities? You mentioned some in school. Were you involved in community activities, Boy Scouts, that sort of thing?

Justice Verniero: For a while, I was involved in the Cub Scouts. Once I was in high school, I was so involved with the school paper, with student government (before becoming president of the class, I was vice president of the class). So, there really wasn't a whole lot of time to do community activities beyond getting very good grades, which I've always been pleased I've always gotten, whether it's high school or college or law school. So, studying and working on the academic [and] the extracurricular activities kept me fairly busy.

SI: From your youth up through high school, how would you describe yourself in terms of being a consumer of information about the world, about the nation? Were you

reading the paper often? I would imagine, since you were involved in your school paper, you probably read a lot of papers.

Justice Verniero: I did. My guess is I was a bit atypical for my age. I read a number of newspapers in high school, *Time Magazine*, *Newsweek Magazine*, *The New York Times*, *The Star-Ledger*. I was very engaged in public events and I was a frequent letter writer.

I wrote a letter to the editor to *The New York Times* that actually got published, which is extremely difficult to do in terms of just the sheer number of letters that *The Times* gets. I remember, my journalism teacher said that anyone who got a letter published in *The New York Times* would earn an automatic "A" in her class. So, I got an "A." I think I tested at the same level, but it was automatic because I got a letter to the editor published in *The New York Times*. Then, I got a letter to the editor published in *Time Magazine*, which is also fairly unique, I think for any person, especially someone who is in high school.

So, I was always an avid consumer of the news. Now, of course, we are bombarded with news twenty-four/seven. I still try to keep up with the print papers, although I read them now online. I read *The Wall Street Journal*, *The New York Times*, *Star-Ledger* online. I try to keep up with some of the outlets online, but there are so many of them, it's hard to keep up.

SI: Was this kind of an interest that you developed on your own or were politics discussed around your family dinner table, for example?

Justice Verniero: We really didn't discuss politics much around the family dinner table. I really think my interest in politics and government, I think that was fostered in the classroom as opposed to the kitchen table. That's when, as I said, my history professor, my English professor, writing teachers [had an impact].

I had a particular mentor at Drew University, my undergraduate school, a professor by the name of Julius Mastro, who really was a fine individual. I was his teaching assistant. He, more than any one person, really opened my eyes to government, politics and all the good things that you could achieve through government service and public service. Then, it was through Julius that I met Thomas Kean, and then, I eventually met Jim Courter, two well-known political names in the State. I became active in the campaigns of both.

[Editor's Note: Dr. Julius Mastro served on the faculty of Drew University in the Political Science Department from 1960 to 1986 and served as department chairman from 1971 to 1976. Republican Thomas H. Kean served as Governor of New Jersey from 1982 to 1990. Republican James A. Courter served in the U.S. House of Representatives from 1979 to 1991, initially representing the 13th District, then, the 12th District after redistricting in 1983.]

I was actually Tom Kean's driver for a while, when he first--it wasn't his first run for Governor, but it was the run for Governor in which he was successful. It was the summer between law school and undergrad. He had won the primary. He was the nominee. I was his driver, traveling aide, I think we called it back then.

[Editor's Note: In 1977, Governor Kean, then a New Jersey Assemblyman, pursued the Republican gubernatorial nomination, but lost to New Jersey Senate Minority Leader Raymond Bateman, who went on to lose to incumbent Democrat Governor Brendan Byrne (1974-1982) in the general election. In the 1981 New Jersey gubernatorial race, Kean ran against Democrat James Florio, then a U.S. Congressman. The close election night returns initially led many observers, including two television networks, to call the race for Florio, but, in the end, Kean amassed a narrow margin of 1,677 votes.]

It was a fascinating job, because it gave me a window to a level of politics that you just can't get by reading the newspaper, for example. I traveled wherever he went. He usually had me sit in on all of his meetings. I was a silent observer, but you could learn a lot being a silent observer.

You also learned the State of New Jersey quite well. Back in those days, there was no GPS, there was no MapQuest. One of my jobs as driver was to figure out, by using the county maps and municipal maps, and to work with the scheduler, to figure out, "Okay, how do we get from 'A' to 'B'?" How do we get the candidate there on time?" and we did that.

To this day, I remain close to Governor Kean. He's just a tremendous human being. We regularly try to have lunch. I just saw him actually, three or four weeks ago. You form a real bond with someone when you're his or her driver. Same with Jim Courter--I worked on the Courter campaign. I was active in both his Congressional campaign and his campaign for Governor.

[Editor's Note: In 1989, Congressman Courter ran for Governor against Democrat Congressman James Florio.]

Jim Courter is the reason, or one of the reasons, that I am married and have a wonderful wife and two beautiful daughters, because we met, Lisa and I met, during the Courter campaign. She was working in his Congressional office. I was working in his campaign office. So, we technically were not working for the same office, but, occasionally, we would see each other and that's where we met. So, I could honestly attribute politics and government service to a wonderful marriage and family.

SI: Which year was that?

Justice Verniero: I was married in 1989, so, the Governor's race was in 1989. We were married shortly after the Governor's race. Jim Courter did not win that race, but he and his wife traveled to California (my wife's from California) and he attended our wedding, which was very nice of them to do.

SI: Let's step back. You graduated from Montville in 1977.

Justice Verniero: Correct.

SI: Then, you went to Drew. Why Drew?

Justice Verniero: Drew had, and still has, a very strong reputation as a liberal arts school, which is what I wanted. I wanted exposure to different fields of law. As I said, after my brief interest in the medical profession, I had a sense of pre-law, of becoming a lawyer and a liberal arts education is really a very strong background for that. They have a very good reputation, tremendous faculty there. As I say, I met Julius Mastro, who really was a mentor and one of the persons that I could say really changed my life in a positive way. It was a very good fit for me.

I commuted the first year, as I remember, and then, lived on campus. It's a beautiful school tucked away in Madison, New Jersey, not very well-known at the time. Now, it's very well-known. Once Tom Kean was its President, Governor Kean really brought a lot of attention to the school in a very positive way.

[Editor's Note: Governor Kean served as the tenth President of Drew University from 1990 to 2005.]

SI: The letter-writing, was that in-between high school and college?

Justice Verniero: Letter-writing was in high school, mainly. Since then, I've written a number of op-eds and that's really been throughout my professional career. I've had op-eds published in *The New York Times* (these are full-scale essays, not just letters), *The Wall Street Journal*, *Star-Ledger*.

I just enjoy the written word. I enjoy expressing myself and to do it clearly and concisely. Jumping ahead, that's one of the things I enjoyed most about being on the Supreme Court, is writing opinions, which is a big part of the job.

SI: I read the letter to the editor from *The New York Times*. You touch on the subject of, in the post-Watergate years, Republicans not hiding, being more public, showcasing how they're different from their past and, also, their competitors. I'm just curious--was your family Republican? How did you become interested in Republican politics?

Justice Verniero: Yes. Well, I would say, at the time, Montville was probably a Republican town, so-to-speak. I think it still is. Morris County is still fairly Republican, although the demographics are changing.

I remember, after Watergate, there was a significant defeat of Republicans at all levels and a lot of pundits and commentators were saying, "The Republican Party is dead. The two-party system is dead," and so forth. Maybe it was the moderate, moderation in

me that said, "Well, it's not quite that bad. We still have a two-party system. We still have bipartisanship," and I wrote a letter to the editor that expressed that. I predicted the Republican Party would come back and, of course, it did, a few years later, electing Ronald Reagan and George Bush.

SI: And Governor Kean, obviously.

Justice Verniero: And Governor Kean and Governor Whitman and Jim Courter, and so forth.

SI: In other interviews I've done, people have pointed out how Governor Kean represents a different wing of the Party than, say, President Reagan. Was that a wing that attracted you more?

Justice Verniero: Well...

SI: At that point in your life, were you aware of that difference?

Justice Verniero: I'm not sure I was actually aware of the labels and the differences. My sense is the differences were far less than they are today, and so, they were maybe less apparent, less pronounced.

I'm not a big fan of labels (I've written on this, I've written some op-eds on this), because I don't think a label is really fully descriptive of someone. So, when I hear that someone is an "activist judge" or a "conservative judge" or a "liberal judge," I think that is not a very good way of describing someone, because there are a lot of judges who you may think are, quote, "activist" that really are not and vice versa. Those labels usually are in the eyes of the beholder, in terms of what they actually mean.

So, I never really identified myself with one wing of the Party versus another wing. I did ascribe to broad principles of the Republican Party, as they were articulated back then, several years ago. Yes, I would say Tom Kean was a leader of the Republican Party. He was a leader of inclusiveness, same with Christie Whitman. Jim Courter was a leader in the Republican Party in terms of sound economics and conservative tax policy. I was very comfortable with their policies.

[Editor's Note: The interview pauses while a technical issue is resolved.]

SI: All right. You had done these jobs on the campaigns during your breaks in school.

Justice Verniero: Yes.

SI: Did you have other jobs while you were going through school?

Justice Verniero: Well, one of my jobs with Jim Courter, in terms of working on his campaign for Governor, that was a full-time job. That was not a job during a break. I

think one of my summer jobs--this is really going back--I worked as an intern in a travel agency in Caldwell, New Jersey, was kind of interesting, but my main summer jobs were either law-related or related to politics or government.

SI: Does anything else stand out about your time at Drew? You were very active in high school. Were you active in college?

Justice Verniero: I was. I did not do as many extracurricular activities because I was singularly focused on my grades at Drew. Drew, at the time, was not easy. It was a challenging school and I was happy to graduate near the top of my class, earned Phi Beta Kappa and *Summa Cum Laude*. That absorbed a great deal of my time. I did a little writing for the student newspaper. I was the President of the Political Science Honor Society, which turned out to be significant, because that was the year that Ronald Reagan and George Bush were running for President.

We invited then Vice Presidential candidate George Bush to speak at Drew University, not really expecting him to say yes, but he did. So, it really got me exposed, at a very up-close level, to national politics, because I saw how the national campaign, the advance team, and so forth, the media covering the Vice-Presidential candidate, I saw how all of that worked.

As President of the Honor Society, I introduced George Bush to the audience. On the stage that afternoon was Julius Mastro (again, my mentor) and Jim Courter and Congresswoman Millicent Fenwick, because their districts, Jim Courter's district and Congresswoman Fenwick's district, I think, were joining at that time. So, we invited both, and there were a couple other folks onstage.

[Editor's Note: The Ronald Reagan and George H. W. Bush ticket won the 1980 and 1984 Presidential Elections. Republican Millicent Fenwick represented New Jersey's Fifth District in the US House of Representatives from 1975 to 1983, when the Fifth was redistricted to the 12th District.]

So, that was very interesting for me, but other than those two activities, a little bit of writing for the student paper and the Political Science Honor Society, I was basically what the old-fashioned term would be "bookworm" at Drew University. I mean, the joke among Drew was, they had a chair named after me in the library, because that's basically where you could find me most of the time.

SI: Was that the first time you had met Congressman Courter or had you met him before?

Justice Verniero: That's a good question. No, it was not first time I met Jim Courter, at the Bush event. I believe I met him sooner, earlier than that, yes. When he became a member of Congress--actually, now, it's coming back to me. I worked as a research assistant for Jim Courter when he was a candidate. That was through Julius Mastro.

Julius had introduced me to the folks who were running Jim Courter's campaign and I worked for [the campaign for] a summer.

Jim was running against an incumbent Congresswoman, a popular incumbent, Helen Meyner, and he won. He won that election. He took me to Washington as a Lyndon Baines Johnson Intern. So, I worked for the summer in Congress as an intern, and that's when I really got to know Jim Courter. I don't remember the timeframe, whether I was still in school or not. I think I was. I'd have to check the chronology.

[Editor's Note: Democrat Helen Day Stevenson Meyner, wife of New Jersey Governor Robert B. Meyner (1957-62), represented the 13th District in the U.S. House of Representatives from 1975 to 1979. Justice Verniero may have served his Lyndon Baines Johnson Internship in the Summer of 1980.]

SI: Any memories from that summer in Washington?

Justice Verniero: Yes. I enjoyed it. To be a young person in Washington, D.C., and immersed in federal issues and to have the resources that a member of Congress has was a terrific experience. I lived with my cousin in D.C. She lived, I think, in Virginia at the time. So, I commuted to the city. I enjoyed it very much. As I suggested earlier, Jim Courter was in politics and in government for all the right reasons, a very principled individual. He was a very fine mentor as well.

SI: After Drew, you went to Duke.

Justice Verniero: Went to Duke University, again, a tremendous experience down at Duke, first-rate law school, met some friends that I still keep in touch with, a very rigorous program at law school, at Duke in particular. Duke is known as having small class sizes, which is one of the things that attracted me to Duke. As a consequence, you get almost a personal education, really got to know my professors. I excelled at Duke in large measure because of the professors who were so accessible to me and to all the students. The reputation of Duke obviously speaks for itself.

SI: Any of those professors stand out as meaningful in your interaction or as other mentors?

Justice Verniero: Yes, well, John Weistart, my contracts professor, was a mentor, James Cox, who was my business/corporate law professor or securities professor (I think both). Fast-forward to the time when I was on the New Jersey Supreme Court, I actually had the occasion to cite to Professor Cox. He's a known scholar in the corporate law area. I cited to one of his law review articles in an opinion that I had written. Sara Beale, my criminal law professor, she and I still keep in touch with some frequency. So, I have very fond memories of Duke Law School, and of Drew.

[Editor's Note: John C. Weistart, now a Professor *Emeritus* of Law, has served on the Duke Law faculty since 1969. James D. Cox, the current Brainerd Currie Professor of

Law at Duke joined the Law School in 1979. Sara Sun Beale joined the Duke faculty that same year and now holds the position of the Charles L. B. Lowndes Distinguished Professor of Law.]

SI: Were you involved in any activities there, like law review or moot court?

Justice Verniero: I was involved with moot court. I was a quarter finalist at the moot court competition, as I remember. Years later, when I was on the New Jersey Supreme Court, Duke asked me back to judge their moot court, which was very special for me.

SI: What would you say was the most difficult part of law school for you?

Justice Verniero: The fact that you had, in most cases, one test worth a hundred percent of your grade, so, not a lot of room for error there, not a lot of second chances there. So, it really taught me how to be very disciplined, how to keep up with my work. Folks who cram in law school are really doing a disservice. It's very difficult to say, "Well, I'll just study the night before." There's just too much material and just the volume is too great.

That skillset, if you will, has stayed with me throughout my professional career. I am not one to cram. If I have a deadline, I try to be as early as I can, get my work done before that deadline. I'm not one to pull a lot of all-nighters, although I have on occasion, but those are very rare.

SI: In law school, would you say that you specialized in any particular area?

Justice Verniero: No. It was general, general curriculum. I followed the basic courses you have as introductory courses. Again, I like to write, so, I really enjoyed the legal writing, legal research. I enjoyed the moot court, the trial advocacy. I enjoyed those areas. I think, in large measure because of John Weistart's guidance and his mentoring, I enjoyed contracts and criminal procedure and the business law courses that I had.

SI: In the summers in law school, would you go work for a firm or do anything like that?

Justice Verniero: Yes. One summer, I believe it was my second summer at law school, I was a summer internship at a very fine law firm. At the time, it was called Pitney, Hardin, Kipp and Szuch. Now, it is Day Pitney. It's one of the largest firms in the Northeast.

Back in those days, summer associate classes were very large, fifteen, sixteen folks, and that was the main recruiting tool of a law firm. So, rather than apply directly from law school to a law firm of that size, typically, you had to go through the summer program, and then, you were invited to join the firm out of that program. That's what happened with me.

I was summer internship and, at the end of the internship, the firm invited me to become a permanent associate after graduation, but the policy at Pitney was that if you did a judicial clerkship, which a lot of firms encourage, which is usually a year following law school graduation, then, Pitney would keep your employment offer open. That's also what happened. I applied to the New Jersey Supreme Court to be a law clerk and I was privileged to receive a clerkship. Then, when I concluded that clerkship, I went to work full-time at Pitney Hardin.

SI: Before we talk about the clerkship, you passed the bar in 1984.

Justice Verniero: Yes.

SI: What was that experience like?

Justice Verniero: An intense experience. I did not work that summer, other than studying for the bar. That also is one test worth everything, so-to-speak. It was actually two days of testing.

At the time I was waiting for the bar results, I was clerking for the Supreme Court, for then Justice Robert Clifford, a magnificent mentor, one of the most important influences in my professional career, I would say, in the law at least. The Supreme Court, as you may know, is the chief regulator of the bar. It's really an arm of the Supreme Court that administers the bar results.

So, Justice Clifford, feeling that myself and my co-clerk were getting a little anxious and nervous waiting for the bar results, he came back to our office and he says, "Gentlemen, let me just say something to put your minds at ease." He paused and he said, "No law clerk of these chambers has ever failed the bar exam," and then, he walked away. So, of course, that just magnified all of the anxiety that we had. [laughter] I'm happy to say both my [fellow] law clerk and I passed on the first try, but I do remember that as an intense period.

[Editor's Note: Justice Robert L. Clifford served as an Associate Justice on the New Jersey Supreme Court from 1973 to 1994.]

SI: Tell me a little bit about that year clerkship with Justice Clifford. You shared a little bit of your impressions of him, but anything else you might want to add to that, and then, what it was like working in the office with him.

Justice Verniero: Clerking for any judge, I believe, is a once-in-a-lifetime experience, because it is really the only time, other than being a judge, where you can see that side of the bench, where you can really have an up-close, inside view of the judiciary. So, I mentor a lot of young lawyers, law students, and I'm always touting the virtue and value of a judicial clerkship.

Working for the Supreme Court of New Jersey was a special treat, because the Court has such a tremendous reputation and, particularly, Justice Clifford was such a tremendous teacher, that it was unlike any experience I could have had. He was a deep thinker. He was a person of genuine good humor. He was an exquisite writer.

He probably was the de facto grammarian on the Court at the time. He really was a role model when it came to the written and spoken word. I used to joke to him that he was the only person I knew who spoke in final draft. I mean, his sentence structure, just in conversation, was always perfect, perfect syntax, such a very clear thinker, could engage in rigorous analysis, legal analysis, like no one else I knew.

He was open-minded with his clerks. I mean, I could remember a time where I went into his chambers and I made a pitch for how I thought the Court ought to decide a case. Most times, he had a pretty clear view of things, but, sometimes, he was very accepting of his law clerks and their [ideas] and was persuaded.

I do remember one particular discussion where we were really kind of getting into our own arguments, in terms of the merits of the case, and the conversation was going on for quite some time. Then, I realized, at one point, of the two people in the room, only one person had been appointed by the Governor and confirmed by the Senate to hold this job--and it wasn't me. So, at that point, I gave up and I said, "Your Honor, you're right," [laughter] but it was just a rewarding experience, at many levels, clerking for Robert Clifford.

SI: After that year, you went to work for Pitney Hardin.

Justice Verniero: Yes. So, then, after my clerkship--oh, one other thing, if I can, just to go back--this was sort of a double treat, so-to-speak. Justice Clifford had his chambers in the Morris County Courthouse, because he lived in Morris County, and Justice Pollock had his chambers in the Morris County Courthouse. They were very close to one another, I think the one was on one floor and the other was directly above or below it. That allowed me to interact, more so than perhaps I otherwise would, with Justice [Pollock] and his law clerks.

[Editor's Note: Justice Stewart G. Pollock served as an Associate Justice on the New Jersey Supreme Court from 1979 to 1999.]

So, we all became great friends, the law clerks. I would assist, from time to time, Justice Pollock on things. If I had written a bench memo, and then, he was writing the opinion of the Court, he may call me in to pick my brain on certain things. Both Justice Clifford and Justice Pollock were good friends and very fine colleagues. So, it added to the atmosphere and it really almost was an extension of the clerkship. At times, I felt like I was getting sort of a double clerk experience, which I really enjoyed.

SI: Getting into your practice, what were your specialties, what kind of cases would you take?

Justice Verniero: Well, when I went to Pitney as a permanent associate, I was assigned to the corporate department. As a young corporate associate, I did the typical things a young associate would do. I incorporated entities; I was responsible for incorporating a number of companies. I did a lot of legal research. I enjoyed that very much. Research, at that time, was not as automated as it is now.

If you wanted to research unreported or unpublished opinions, you didn't go online to do that. You went to the law library, you read through the stack of paper opinions, the so-called "slip opinions," or you flipped through the pamphlets. That's how you did your research, but I enjoyed that.

It kind of goes back to when I was in high school, editing the school newspaper. Any time I could write or do a writing assignment, complete a writing assignment, I always felt like I was a little bit in my element. So, young associates do a lot of research, a lot of writing, and I enjoyed that very much.

SI: How long were you at Pitney?

Justice Verniero: I was at Pitney, I believe it was two years, and then, it was at that point that I took some time to work in the Courter campaign, if I have my chronology correct, worked in the Courter campaign, worked for his gubernatorial campaign and, also, for his Congressional campaign.

When Jim Courter became the gubernatorial nominee, he had recommended that I become the Executive Director of the Republican State Committee, which was a typical thing you did back then. I think it's still the case now, where the gubernatorial nominee of a given party would then select the chairman of the state party and the executive director of the state party. So, there was a time when I was a full-time Executive Director of the Republican State Committee, had an office in Trenton.

Kathe Donovan, who eventually became the Chairman of the Port Authority, the Chairperson of the Port Authority [(1994-1995)], she was actually the Chair of the Republican State Committee. She and I got along quite well. We had a tremendously positive professional relationship and we still keep in touch, I'm happy to say.

Then, after Jim Courter lost, he went back to Congress, ultimately retired. Then, I decided, rather than go back to Pitney, I went to a smaller firm by the name of Herold and Haines.

That turned out to be a consequential decision on my part, because I was assigned a client of the firm one day, just almost by happenstance, and her name was Christie Todd Whitman. I may have met Christie Whitman beforehand, but I don't really remember meeting her or having any kind of real interaction with her when I was working for Jim Courter or when I was the Executive Director of the Republican State

Committee, but I do remember very clearly the work that I did for her when she was my client at Herold and Haines.

[Editor's Note: Republican Christine "Christie" Todd Whitman served as Governor of New Jersey from 1994 to 2001. She resigned from office to become Administrator of the U.S. Environmental Protection Agency from 2001 to 2003.]

She was the perfect client. She was reasonable. She sought your advice. She was a pleasure to work with. I started working on land-use matters for her and other matters, and that's when we really got to know each other. She ran for Governor in 1993. I took a leave of absence from Herold and Haines to work full-time on her campaign, which, for me, was kind of a gusty thing to do. I'm not much of a risk-taker in the business sense, and she was way behind when she was running.

She was running against an incumbent Governor and, until Christie Whitman's election, no incumbent Governor had ever lost in a general election. So, Christie Whitman was very much the longshot, but I was very attracted to her policies. We had developed a very strong professional relationship. She asked me to go in-house and, basically, run her compliance system for the campaign.

In those days (and this is still true today), when you are running for Governor and you are accepting public money, you are heavily regulated. There are a tremendous amount of rules and regulations, you have to file very meticulous campaign matching reports to get matching funds. It's really a full-time operation.

So, between myself and our treasurer, Bill Morrison, we basically ran the compliance office of the Whitman for Governor campaign and it was a significant undertaking. Then, of course, she won, and then, I went into state government.

INTERVIEW WITH JUSTICE PETER G. VERNIERO
OCTOBER 24, 2019
PART 2 OF 4

Crafting Policy & the Law: Service in the Whitman Administration

Justice Verniero recalls the election of Governor Whitman and the transition to power in Trenton. He describes his Executive Branch service in the Whitman Administration as Chief Counsel to the Governor (1994-95), Chief of Staff (1995-1996) and, ultimately, Attorney General of the State of New Jersey (1996-1999). He recounts his role, as Chief Counsel, in the nomination and confirmation of Justice James Coleman (1994-2003).

As Attorney General, Justice Verniero argued two of the Abbott v. Burke education cases (Abbott IV and Abbott V) and two federal Megan's Law cases, E.B. v. Verniero (3d Cir. 1997) and Paul P. v. Verniero (3d Cir. 1999). He also discusses the Attorney General's Office's successful argument of New Jersey v. New York (1998) before the U.S. Supreme Court, which established New Jersey's jurisdiction over much of Ellis Island. He also played an active role in the National Association of Attorneys General and its pursuit of the historic Tobacco Master Settlement Agreement of 1998.

Illingworth: Can you tell me a little bit more about your time with the Courter campaigns--most importantly, what you learned from that experience that you brought forward to the Whitman campaign, and then, later on in your career?

Justice Verniero: Sure. Well, I did a little campaign driving for Jim Courter as well. I was his traveling aide for a while, which I like, because I like the exposure to different people and different ideas, and so forth. As I mentioned earlier with respect to my experience with Governor Kean, with Congressman Courter, driving him, being his traveling aide, brings you in very close proximity to the candidate. You get to know the candidate, the candidate's family, and so forth. I very much enjoyed that.

What did I learn from it? Jim Courter, like my other mentors, extremely smart, articulate, very focused--he, Jim Courter, is an effective public speaker, to this day. I was in New Orleans not too long ago and I heard Jim give a speech as the past Chair of the Board of the World War II Museum, which is a spectacular facility. They were having their main gala event and Jim gave a speech. These many years later, I was still impressed with his speaking ability.

So, he too is very good at formulating words and speeches and sentences, and so forth. I learned a tremendous amount from Jim Courter. Doing research for Jim also honed my skills in research and writing, which, as a judge, you need to do a lot of research and writing, and as a law clerk, and so forth.

SI: You worked in compliance on Governor Whitman's campaign--any memories of election night or starting on the transition?

Justice Verniero: Well, election night was very exciting. It was very crowded, as I remember, because, as the results were coming in and it became clearer that Christie Whitman might actually win, there were suddenly a lot more people supporting Christie Whitman. [laughter] The rooms at the hotel got very crowded. There was a time where we weren't sure she was going to win, but Governor Florio conceded. He was a real gentleman about it. He conceded, and then, all of a sudden, our lives changed.

SI: At this point, I will mention that you were also interviewed by the Center for the American Governor program at Eagleton at Rutgers. We will cover a little bit about your time with the Whitman Administration, but people can also refer to that interview for more information.

[Editor's Note: On January 31, 2014, the Center for the American Governor at the Eagleton Institute of Politics, Rutgers, the State University of New Jersey, conducted an oral history with Justice Verniero on his experience in the Whitman Administration. Their interview can be accessed at: <https://governors.rutgers.edu/video-library/?administration=governor-christine-todd-whitman>]

Justice Verniero: Yes. I mentioned this to Rutgers; I will mention it here for completeness. It's a very well-known, public fact that after this tremendous victory, this come-from-behind victory, we had an incident involving Ed Rollins, who was the chief consultant, had given a speech shortly after the election in which he boasted and bragged about how the Whitman campaign contributed money to a number of black churches whose pastors then, from the pulpit or through other means, had sought to have black voters suppress their own vote and not turn out on election day.

It was a horrible allegation from many levels. One, it would've been illegal. Secondly, it would be very degrading to the African-American community, to think that pastors would even engage in that (or any community regardless of race), that any pastor would even engage in that or that any member of a church would be receptive to that. So, from many levels, it was a horrific allegation.

As you would imagine, there were a number of investigations, federal, state. Suddenly, it looked like perhaps Christie Whitman's victory might be taken away, because she did something that I think is probably the singular most courageous thing a candidate could ever do. She, in the midst of this, said publicly that if there was any truth to this allegation, if it was proved, then, she would not take the oath of office as Governor. That shows the kind of integrity that she has.

As a result of many, many investigations, of course, none of it was proved. It didn't happen. According to the books and records that I helped maintain, it could not have happened. We had such a tight control over money and funds, based in large measure

to the compliance systems we had put in place. Of course, Mr. Rollins completely recanted. I don't remember exactly what he said, but it was along the lines that he was just boasting and bragging. He's written about this as well.

[Editor's Note: Ed Rollins, in his 1997 autobiography *Bare Knuckles and Back Rooms* (written with Tom DeFrank), stated, "The truth is, I had absolutely no direct knowledge of any voter suppression, any payments to ministers or their favorite projects or charities, or any illegal or unethical conduct by anyone allied with the Whitman campaign. It was worse than talking out of school--I was maligning people based on hunch and supposition. I was talking about events I thought had occurred but didn't know to have occurred. I never wanted to fool or mislead anyone, but, in the vernacular of the street, I was talking trash (p. 294)."]

Eventually, all the investigations were dropped and she became Governor, but it really took a lot away from the transition, because transitions are very compressed to begin with. You only have a certain number of days between election day and taking office. So much of the Whitman transition was consumed by these investigations that it really was a very different, unique transition. I don't think there's ever been a transition like it, but, through that turmoil, you really saw Christie Whitman come into her own as a leader and as a person of great integrity.

SI: The first position you had in her administration was Chief Counsel.

Justice Verniero: Chief Counsel to the Governor. It's the only position in the Governor's Office that actually has a statute behind it. Chief of Staff, there's no statute. Chief of Policy and Planning, there's no statute. The Chief Counsel to the Governor has a statute, which gives the Chief Counsel a tremendous amount of statutory authority.

I was her first Chief Counsel, so, when we got to Trenton, first job we had to do was hire an office, structure an office. As I say, this was the first time in modern history where a challenger had defeated an incumbent of a different party, obviously. So, there were not a lot of people who wanted to stay over, hold over. So, a lot of the positions, the senior positions, were vacant. Some of the administrative folks stayed on, but the assistant counsels and the deputy counsels, and so forth, all of those positions were open. So, my job was to really structure the office and to fill those positions.

I was very blessed to have a very supportive boss. Christie Whitman, who is not a lawyer really deferred a lot to me in terms of how I should set up the office, who I should hire, and so forth. I tried to hire people whose skills would add value to the skills that I brought.

So, what do I mean by that? I did not have a lot of experience in criminal law, so, I wanted to make sure I had at least one former federal prosecutor on my staff. That was John Farmer, [whom] I hired. He then, of course, went on to become Attorney General and, now, he has had his own splendid public career. I did not have much experience in education law, so, I hired a gentleman by the name of David Hespe to be one of my

assistant counsels. Dave Hespe then went on to become Education Commissioner and president of a college, and so forth.

So, I tried very hard to bring the best talent I could to give Governor Whitman the best Counsel's Office that she could possibly have.

[Editor's Note: John J. Farmer, Jr., served as Governor Christine Todd Whitman's Chief Counsel from 1997 to 1999, when she nominated him to become New Jersey Attorney General, where he served until 2002. David Hespe served as Education Commissioner in the Whitman Administration from 1999 to 2001 and later became President and CEO of Burlington County College.]

SI: You were in that position for a year.

Justice Verniero: I was in that position for about a year, 1994 to '95, as I believe, and then, the Chief of Staff position opened up. Just as an aside, these positions, Chief Counsel, Chief of Policy and Planning, Chief of Staff, they're very intense positions. Folks usually don't last long in those positions, either because of fatigue or they just move on for other reasons. So, it's not unusual that you would work in those positions for a year, a year-and-a-half, maybe two years.

So, after a year, the Chief of Staff moved on. I then was asked by Governor Whitman to become Chief of Staff, which is sort of seen as "the first among equals." She had three primary senior aides, myself as Chief Counsel, Chief of Policy and Planning and Chief of Staff. When I became Chief of Staff, it was known as really the first among equals. So, I had an even bigger portfolio as Chief of Staff.

SI: From your time as Counsel and your time as Chief of Staff, what would you say were the biggest challenges you faced?

Justice Verniero: Well, being with a Governor who's newly elected, a big challenge was just getting up and running. I mean, there was no infrastructure in place. I mean, we had to fill in all the positions. So, I mean, there was an institutional infrastructure, but there was no human infrastructure. We had to hire everybody.

So, that took a lot of time and a lot of thought. We took pride in being a diverse administration. We took pride in getting the best of talent we possibly could, in different fields and walks of life. We put a lot of thought and effort into who we would hire and how we would staff these very important positions.

The Governor had made a significant campaign promise of reducing taxes. There was a lot of skepticism when she ran that she could achieve that, but she did. That took an effort, working with the Legislature. She had made a commitment to reform the tort system, to put some reasonable boundaries on verdicts and damages, and she did that as well. There were a number of things that she had promised in the campaign that she

then had to turn into legislation or, through executive order, turn into public policy. So, we were very focused on those things.

SI: What about appointments to the Supreme Court, any memories of those?

Justice Verniero: Yes, and I'd be curious to see what Justice Coleman's memories are. Hopefully, they're the same, [laughter] but we did have one appointment to the Supreme Court during my tenure as Chief Counsel. I'm happy to say that the appointment was Jim Coleman, James Coleman, who was then an Appellate Division judge.

I could say this publicly because I think he has said this, that one of my jobs in vetting Jim Coleman was to read each of his Appellate Division opinions. I don't know how familiar you are with the Appellate Division, but they write far more opinions than the Supreme Court, and Jim Coleman had been on the Appellate Division for many years. So, I had read dozens and dozens and dozens, probably hundreds now, looking back, of Jim Coleman opinions, and he was on the trial bench, and so forth.

I became very familiar with his body of work. The more I read his work, the more I got to know James Coleman, it was very clear (and Christie Whitman felt the same way), it was very clear that he was the right person for the position and he did extremely well in the position, I'm happy to say.

SI: Any insights into the process or the media coverage that goes into an appointment like that?

Justice Verniero: Any time you make an appointment to the Supreme Court, it generates media attention. Jim's was particularly historic. He was the first African-American to serve on the Court. So, I'm sure that enhanced the media attention. He's such a gentleman. He handled the attention with such grace and eloquence. His confirmation was a labor of love.

He then excelled on the Court, which we knew he would based on his background and his prior work as a judge. Jim Coleman is one of the few judges, I think, that has served nearly every judicial level before sitting on the Supreme Court, including as a worker's compensation judge. So, he really had a breadth of experience that served him very well on the Court.

SI: You mentioned how intense these jobs are. Can you give us a flavor of what your typical day or week would be like in that time period?

Justice Verniero: Well, it depends on the job. So, let's talk about the Governor's Office. So, back then, emails were not invented, so, we didn't have emails, but we did have faxes and we did have telephones. My phone sheet, at that point in my career, was off the charts. Everyone (at least everyone interested in state government) wants to speak to the Chief of Staff, the Chief Counsel or the Chief of Policy and Planning and

they'll get to you either through a phone call, through a fax, or maybe they'll just show up at your door or buttonhole you at an event.

So, my day was constantly filled with returning phone messages, meeting with folks or responding to faxes. There was a point in time where I kept a portable fax in my trunk of my car. So, if I went somewhere, I could plug it in to a phone jack and receive a fax. Now, of course, everything is through emails. I'm not sure what's worse, the emails all day long or the fax machine all day long--probably, they're even--but it was intense in that sense.

So, not only were we trying to craft an administration, serving the Governor and implementing her vision for the State, but we were also, at the staff level, dealing with the myriad of administrative issues that you can imagine would come up in a given day or a given week in a complex organization as large and multifaceted as state government.

SI: At this time, you also had a young family.

Justice Verniero: I did. I had a young family. My oldest daughter, my first child, was born in 1992. So, I was not yet in state government when Jennifer was born. Madeline was born in 1997. I was Attorney General at the time.

[Editor's Note: The name of Justice Verniero's oldest child was changed from Jennifer to Jaye in 2022, consistent with their gender identity.]

I remember that quite well because I was in my car on my way to give a speech to swear in the prosecutor of, I think it was Ocean County. We did have cellphones at that point, car phones. The phone rang and it was my wife saying that she was on her way to the hospital to give birth to our second child.

So, I was about ten minutes away from the event at which I was supposed to speak. I walked in. I walked right up to the microphone. I gave my apologies to the prosecutor who I was supposed to swear in. I said, "I'm sorry, folks, but I'm having a baby." [laughter] So, I walked out and went to the hospital.

I did make a joke. I said, "If it's a boy, we'll consider naming the boy David," because David Millard, I believe, was the person I was going to swear in. It turned out it was a girl. Her name is Madeline Rose. I remember Dave Millard sent me, sent Lisa, some roses for her middle name.

[Editor's Note: The Honorable E. David Millard served as Ocean County Prosecutor from 1997 to 2002 when he was appointed to the Superior Court in New Jersey's Vicinage 14.]

So, two wonderful daughters, Jennifer and Madeline, but, yes, they were very young. Unfortunately, I spent far too much time at work, not at home, but we've managed to catch up.

SI: You became Attorney General in--was it 1996 or 1997?

Justice Verniero: '96, '96 to '99. Yes, I was five years total in the Executive Branch, one year as Chief Counsel, one year as Chief of Staff, three years as Attorney General, and then, five years in the Judicial Branch as a Supreme Court Justice. I am told (I think this is true), I am the only person in history to have served all four of those positions. There have been other combinations of Attorneys General and Justices or Chief Counsel and Justices, but there never has been, I am told, the same person to have held all four positions of Chief Counsel, Chief of Staff, Attorney General and Justice--all by the age of forty. [laughter]

SI: You mentioned this story the other day. You took the Attorney General's position from Chief Justice Poritz, who was then going on the bench. What about that experience?

Justice Verniero: Well, that was a fascinating experience. We had, of course, the sad death of Chief Justice Wilentz, so, there was an opening in the Chief Justice position. Debbie Poritz was the Attorney General. I was then the Chief of Staff. Governor Whitman nominated Debbie Poritz to become Chief Justice, and then, she nominated me to become Attorney General.

[Editor's Note: The Honorable Robert Wilentz served as Chief Justice of the New Jersey Supreme Court from 1979 to 1996. Chief Justice Deborah Poritz served as the Attorney General of New Jersey from 1994 to 1996, then as Chief Justice from 1996 to 2006.]

So, we moved through the confirmation process together, basically. We actually had the same swearing in ceremony; we shared the swearing in ceremony. She was sworn in first as Chief Justice, and then, her first act as Chief Justice was to swear me in as Attorney General.

We actually thought about, she and I thought about, the propriety of that. "Would it be an inappropriate mixing of the two branches of government to have the judicial ceremony and the executive ceremony together?" We concluded that there was nothing wrong with that at all. It actually turned out to be a very pleasant experience, where we had a number of the same folks we would have invited in any event. So, it was actually very efficient, in addition to just a very nice celebration of the rule of law and the workings of the branches.

Although we do have separation of powers in New Jersey--it's very important--the three branches in my experience do try to work together when they can. They can't always do that. They sometimes have to be at odds, but, at an event like that, it's certainly an

occasion when you can work together between the various branches. It was a very pleasant ceremony from that perspective.

SI: The Attorney General of New Jersey has a lot more responsibility than some of their colleagues in other states.

Justice Verniero: Yes, the Attorney General in New Jersey is considered by many to be the most powerful state attorney general office in the country. We don't often think of that because New Jersey is a relatively small state, geography-wise, but, in terms of the structure of the Attorney General (and if you think about it, it really is unique), we have no elected prosecutors, we have no elected DAs in New Jersey. All of the county prosecutors are supervised by the Attorney General. The Attorney General can supersede any office of a county prosecutor.

The Attorney General of New Jersey has supervisory authority over the State Police, Gaming Enforcement, Division of Criminal Justice, the Racing Commission, Consumer Affairs, Division of Law. It's an enormous office, bigger in terms of jurisdiction than most any other state office.

So, with that authority comes a great deal of responsibility. To your question about the intensity of the days, probably no day was more intense than a day as Attorney General, because not only are you dealing with the complexities of managing what at the time was a six-thousand-person department, but there are all-of-the-sudden things that happen, the tragic things, like a police officer being shot and killed. There were emergencies, and so forth. All of that flows through the Attorney General's Office; so, not a lot of sleep back in those days.

Plus, I assigned myself some very important things, because I thought it was critical to the mission of the department to argue cases that were important to the State. So, I argued two of the *Abbott v. Burke* education cases [*Abbott v. Burke*, 149 N.J. 145, 693 A.2d 417 (1997) (*Abbott IV*) and *Abbott v. Burke*, 153 N.J. 480, 710 A.2d 450 (1998) (*Abbott V*); see Appendix II] and I argued two of the most important federal Megan's Law cases [*E.B. v. Verniero*, 119 F.3d 1077 (3d Cir. 1997), and *Paul P. v. Verniero*, 170 F.3d 396 (3d Cir. 1999)].

At the time, Megan's Law [*N.J.S.A. 2C:7-1 to -23*] was just getting started. Other states were just implementing their own version of Megan's Law. I was involved, in the Governor's Office, [dealing with]--the horrific death and tragedy of Megan Kanka's [murder], the crimes committed against her were unspeakable--the outcry and the public need for a notification system. I helped draft Megan's Law. I helped work on that.

[Editor's Note: On July 29, 1994, Jesse Timmendequas, a previously convicted sex offender, raped and murdered seven-year-old Megan Kanka in Hamilton Township, New Jersey. Later in the year, the New Jersey Legislature passed "Megan's Law," which became a model for federal sex-offender-registry legislation passed in 1996.]

Then, when I became Attorney General, it was being challenged in federal court. I argued before the Third Circuit Court of Appeals and, at the time, the Court decided Megan's Law in our favor. It was the first federal appeals court in the country to uphold any state's version of Megan's Law. So, it was very important at the time.

Deborah Poritz, when she was Attorney General, she argued the case at the state level [*Doe v. Poritz*, 142 N.J. 1, 662 A.2d 367 (1995)]. So, between the two of us, we handled the two most important cases that had affirmed Megan's Law. So, that was a big part of my job, and so forth.

SI: I want to talk about some of the other matters you handled in that regard, but how, when you get into a job like this, do you determine, one, wrapping your head around the scope of it, but, then, also, how do you determine what the most important steps to take next are?

Justice Verniero: Well, you surround yourself with good people, which I did. When I moved over from the Governor's Office to the Attorney General's Office, I brought in a couple of folks, but not a lot of people. I had a lot of confidence in the senior aides that Debbie Poritz had put in place. Of course, as Chief of Staff and Chief Counsel, I had worked with the AG's Office, so, I was familiar with a lot of those folks.

So, I kept a number of those folks, but I did bring over my own First Assistant Attorney General. That was Janice Mintz, who ultimately left to become Commissioner of Personnel. She was a cabinet officer in her own right, but Janice was my Deputy Chief of Staff. So, I brought Janice over and she became First Assistant Attorney General. She's just superb in every way, as an administrator and as a thinker and as a lawyer. So, I was very pleased that she went over and served in that position. I had a very strong senior management team at Law & Public Safety.

[Editor's Note: Janice Mitchell Mintz served as commissioner of the Department of Personnel in the Whitman Administration from 1998 to 2002.]

We had daily staff meetings. We met during the day as well, but we always had at least one main staff meeting. Part of that job is really managing the issues, managing the paper, keeping track of the various jurisdictional issues that you have, managing the various divisions under you, and leading the department. So, you have to put a premium on time management and you have to put a premium on delegating and relying on the advice and recommendations of others.

SI: I wanted to ask about the *Ellis Island* case [*New Jersey v. New York*, 523 U.S. 767, 118 S. Ct. 1726, 140 L. Ed. 2d (1998)].

Justice Verniero: Yes.

SI: Which eventually went up to the Supreme Court, the U.S. Supreme Court. Tell me about how that got started and your role.

Justice Verniero: Well, it got started in the 1800s, if you want to go back to then.

SI: The modern form of the case. [laughter]

Justice Verniero: Yes, where there was, *is*, a boundary line separating the Hudson between New Jersey and New York. Ellis Island is physically on the New Jersey side of the boundary line, but, when the compact between the two states was drawn, the way it was worded is that New York would retain its present jurisdiction over what was then a three-acre island on the Jersey side of the Hudson, but anything else that happened to the island would be within New Jersey sovereignty.

So, the federal government, during a period of great immigration expansion, began expanding Ellis Island by filling in the land to its present configuration of--I think it's about twenty-seven acres. So, the dispute in *Ellis Island*, in the *Ellis Island* case, was, "We know the three acres New York is sovereign. How about the rest of it?" the twenty-four acres, which was, at that point, the majority of the island. New Jersey felt that was New Jersey sovereignty.

We filed suit--I did not; it was a predecessor Attorney General filed suit--but, by the time the case reached the United States Supreme Court, I was Attorney General. So, my office had to argue the case and we won. It was a very simple argument: a deal is a deal. It was very clear that three acres belonged to New York sovereignty and twenty-four was in New Jersey, twenty-four acres were in New Jersey. The United States Supreme Court agreed.

The way the configuration worked out, the gift shop in the Ellis Island Museum is actually in New Jersey, so, we get the tax revenue from that. So, it was not really a case about money. It was as much a case about the significance of Ellis Island and a principle of law, that boundaries and agreements should have integrity to them and should be fulfilled. So, I could honestly say the Whitman Administration is probably the only administration in modern history to have enhanced the territorial jurisdiction of New Jersey in that way. So, that was a big case that we worked on.

SI: You alluded earlier to the *Abbott* cases.

Justice Verniero: Yes, the long running *Abbott v. Burke* centered on the "thorough and efficient" clause in the state constitution. What does it mean? How much money does the State need to put into school districts to bring parity to school districts? It was a long-running litigation that started in the '70s, as I believe, if I recall correctly [see Appendix II]. I argued two of those cases as Attorney General.

I did that for a couple reasons. One is, first of all, I like being a lawyer and it was a nice change of pace to actually do some real lawyering, as opposed to administrating the department. Secondly, I thought it would be good for the other deputies and assistant lawyers that I had to see me working as hard as they work when they prepare a case. I

just thought it would be good for the department to see the Attorney General working as hard as they were working. So, I did that. I enjoyed that aspect of it.

Thirdly, it was probably one of the most important cases that we had at the time. I thought it was just very appropriate. A bit unusual--some Attorneys General have never argued cases, some have--but, as I say, I argued four of them during my tenure, the two *Abbott v. Burke* cases and the two Megan's Law cases.

SI: In terms of *Abbott v. Burke*, were there other parts of the administration that were formulating the policy and you were defending it or were you a part of the policy formulation as well?

Justice Verniero: Well, this is one where you had all three branches of government were involved. There was a statute that was at the heart of the cases. Every *Abbott* case (or most of the *Abbott* cases) had a statute that was sort of the core of the case. Then, there was the administrative policy and the educational policy implementation around the statute, and then, of course, there was the judicial findings and the judicial conclusions. So, *Abbott v. Burke* was the type of case that touched all three branches.

Yes, I had worked on not so much the statutes, but I had worked on implementing the statutes and was involved in educational policy from that perspective, as was the Education Commissioner.

SI: Anything surprise you about those cases, or anything that turned out to be more difficult?

Justice Verniero: Well, preparing for any case before the state Supreme Court is time-consuming and difficult in the sense that you want to do your best. Those cases were especially complicated because anyone who's read the education statutes, it's almost like reading a math textbook. There are a lot of formulas, and so forth. So, you had to really master a lot of very intricate detail to understand, really, how these statutes operate.

There aren't many lawyers in New Jersey that are even familiar with these education statutes at that level. So, I had to learn. I had to learn the statutes and how they worked, and so forth. So, that was particularly challenging. Then, just being on your feet and arguing before the Court is always a challenge for any advocate.

SI: What was the end result of those cases?

Justice Verniero: You know, it depends on your perspective. My perspective is, one case, I think it is fair to say we did not succeed because the Court did strike down the statute, or part of the statute, as unconstitutional. The second case, I think it is fair to say we did win. We did succeed because the Court accepted our proposal that was pending at the time, and they did something very significant.

The Court then did not retain jurisdiction, which meant it had enough confidence in what we were doing that it took a step back. It then, years later, got back into the *Abbott* cases, but that was a particularly successful outcome in the *Abbott* case. To have the Court uphold the Whitman Administration program that was at issue at that time, and then, to not retain jurisdiction, to take a step back, was seen as very significant.

SI: You were also involved in the Attorneys General Association.

Justice Verniero: Yes. There's a very active association called the National Association of Attorneys General--its nickname is NAAG [pronounced "nag"]--and every state is a member. It's a very influential group from the perspective of a lot of policy gets done at the national level with the state AGs. At the time, New Jersey was part of the multi-state litigation against the tobacco industry. The NAAG meetings really became very vital, where we would confer with one another on how to manage those cases.

Then, ultimately, when there was a settlement that was being negotiated, and actually achieved, we broke ourselves up into committees on how to distribute the money. I was on the Compensation Committee. I think that's what it was called, but I was on the committee that helped determine which state would get which amount of money. So, New Jersey, I'm happy to say, did very well in that allocation. We restored several billion dollars to our state treasury as a result of that litigation. I think it was like a seven-billion-dollar share of money that New Jersey got, if I'm not mistaken.

[Editor's Note: In November 1998, the Tobacco Master Settlement Agreement went into effect, under which Philip Morris, R. J. Reynolds and other tobacco companies agreed to pay hundreds of billions in restitution to the states to recover healthcare costs. The agreement resulted from a series of Medicaid lawsuits brought by state attorneys general from 1994 to 1998.]

SI: In a case like that, how often are you traveling to meet with other AGs?

Justice Verniero: Well, the NAAG meetings, they were mainly twice a year. One is always held in Washington, D.C., and the other is usually held on the West Coast. I tried to go to both, if I could. There were also regional meetings. New York and New Jersey worked well together. New York, Pennsylvania and New Jersey, the three of us would work well together. So, occasionally, I would be in New York or I would be in Pennsylvania, but it was mainly going to Washington or one of the West Coast venues.

SI: That whole process kind of set the template for efforts like we see now with the opioid crisis.

Justice Verniero: Yes, I mean, that's absolutely right. The multi-state tobacco litigation has since become a model, if you will, for other multi-state actions, but that was the first real multi-state action of that level of significance. So, in hindsight, it was

quite historic and, frankly, it made a lot of folks really take a look at state AGs as an institution.

It gave all the states, all the state attorneys general, sort of added influence and added authority, because folks now could see the power and influence of a state AG office, particularly when it was joined by other offices. So, it really became a significant force in law enforcement to have that collective, multi-state ability that was really emulated and reflected in the tobacco lawsuit.

SI: You [NAAG] were representing every facet of the country, I am guessing a wide slew of political perspectives. How did everybody get along? Was it difficult to reach consensus on things?

Justice Verniero: I have to say the state AGs, almost to a person, in my experience, professional, collegial, cordial, not afraid to advocate for his or her own state, so, they're independent in that respect, but all very professional. The interesting thing about New Jersey is that we are an appointed AG in this state. Most states are elected. Forty-one, forty-two [forty-three] Attorneys General are elected.

To me, that is an anathema, because I cannot imagine being a law enforcement officer and having to campaign, ask for votes, ask for campaign dollars, put up TV commercials. So, when I would go to the NAAG meetings, a lot of AGs were very envious of the fact that I was appointed and I didn't have to run for the office. So, whenever they were kind of discussing TV ads or campaigns, I used to do other things. I didn't need to engage in those conversations, but, as a group, as a whole, a very impressive group of lawyers. I really can say that.

SI: It is also a high-visibility job. You are called on by the press often. Would you say it was a significant part of your job to explain things to the press or--maybe not sell ideas--but get across what you were trying to achieve?

Justice Verniero: I do think any public official at a cabinet level has a duty to explain to the public what the policies are and to respond to legitimate inquiries that can arise. Now, a lot of what the Attorney General does is through the grand jury, which you cannot speak about.

So, many cases, I was not permitted to speak about things that my office was working on, but, when it came to legal policy, I certainly could explain that. When it came to announcing law enforcement initiatives, I certainly was able to do that.

The AG in New Jersey is probably less visible, I think, as an appointed official than maybe other AGs are who are elected. That's just almost by definition, but there were a number of times where I had to respond, and so forth.

We obviously (and I mentioned this, I spoke at length, in the Rutgers interview), but, during my tenure as Attorney General, there were allegations, serious allegations,

raised against State Police about disparate treatment of minority motorists. That certainly became a very important topic that I worked on as Attorney General. I received some criticism for that. I believe I worked earnestly and to the best of my ability and actually put more reforms in place than anyone else at the time.

[Editor's Note: On April 23, 1998, two New Jersey State Troopers patrolling the New Jersey Turnpike in Mercer County pulled over a van with three African-American and one Hispanic-American men inside. The stop resulted in the troopers firing shots into the van, wounding three of the unarmed men. This incident re-ignited criticism that the New Jersey State Police was pulling over minority drivers based solely on race.]

I'll let history be the judge of that, but, certainly, that became a period where I was frequently responding to press inquiries and, also, making various public statements. So, that is all part of the job of a modern-day state Attorney General.

SI: In 1999, that was when the process began to eventually nominate and confirm you, but when did it first cross your radar that you might be selected for the opening position?

Justice Verniero: For the opening--oh, when Justice Pollock retired?

SI: Yes.

Justice Verniero: That's a good question. I mean, it's actually quite a blur. It was a bit unusual that any member of the Supreme Court would voluntarily retire early. Since then, others have done it, but I can't say it was an everyday occurrence back when Justice Pollock announced his retirement.

The sequence was, he announced his retirement. At some point, I got a call from the Governor's Office asking if I would be willing to be considered. I went through the process, like any other nominee would. Eventually, Christie Whitman asked me. I accepted and became a Justice, was confirmed and became a member of the Court.

INTERVIEW WITH JUSTICE PETER G. VERNIERO
OCTOBER 24, 2019
PART 3 OF 4

Setting Precedents: Tenure on the N.J. Supreme Court & Later Career

*Justice Verniero remembers his nomination to the New Jersey Supreme Court in 1999 and explains how his earlier service prepared him for his role in the Judiciary Branch. He describes the nature of work generally on the Supreme Court and his philosophy towards working with his law clerks and writing opinions. He then delves into memories of various cases, including the school drug testing case *Joye v. Hunterdon Central Regional High School Board of Education* (2003), search-and-seizure cases, death penalty cases and cases that dealt with the interrelationship of the state government's three branches. He also details how he determined which cases to recuse himself from as a former Attorney General.*

Illingworth: We want to start talking about your tenure on the Court. Of course, there is the whole approach to being asked, to being nominated, and so on. That began with Justice Pollock announcing his retirement. What do you remember about that period?

Justice Verniero: I remember it being very blurred, fast-paced. The announcement of a retirement of a member of the Court before age seventy is not a usual event. It's not an everyday event. So, I don't think a lot of folks even thought about anyone retiring early. So, it happened fast.

Justice Pollock announced his retirement. I was then approached by someone in the Governor's Office. I believe it was the then Chief Counsel to the Governor, or it might have been the Chief of Staff. I was nominated, went through the confirmation process and was sworn in on the Court.

In the interim, there was another opening on the Court, which was even more unusual, to have two openings basically at the same time. Justice Long was nominated for that position. So, again, I had sort of a dual swearing-in ceremony, where Justice Long and myself were sworn in together. So, it was somewhat similar to when I was sworn in together with Chief Justice Poritz. Virginia could not have been a more magnificent partner in terms of us both going on the Court at the same time. So, we had a lot of fun planning that ceremony and I really enjoyed serving with her.

SI: How do you prepare yourself for a role like this?

Justice Verniero: Well, you really don't. It's not something you could plan for. You can't plan on growing up to become a member of the Supreme Court of New Jersey. You could plan on becoming a lawyer. You could plan on being interested in public

service. You could plan on expressing an interest in government, but there is a lot of fortuity involved in becoming a judge or, particularly, a member of the Supreme Court.

I've heard one judge refer to it as being struck by lightning. There are a lot of many, many qualified lawyers who could serve on the Supreme Court, but only a few of us have the privilege and opportunity to do so. So, you can't really prepare for it in the sense that you could prepare other steps on your career path, but you certainly can prepare yourself in terms of being the best lawyer you can and being schooled in the law and paying attention to legal issues and those sorts of things.

Being Attorney General, being an incumbent Attorney General at the time of my nomination, I think helped (helped in terms of my preparation), because so much of the work of the Supreme Court is dealing with interpreting statutes, setting legal policy, cases like school funding and Megan's Law, I mean, the big type of cases that the Supreme Court hears, and those are issues that I dealt with as Attorney General. So, in terms of legal preparation, I felt that being Attorney General helped prepare me.

Of course, it's not a prerequisite. You don't have to be an Attorney General to be on the Supreme Court, but, at least in my case, I thought that was a good prerequisite and, also, my other government experience, in the Governor's Office, and so forth. As we alluded to earlier, a lot of what the Court does is interpret actions and conduct of the other two branches of government. To have some firsthand experience in one of those other branches, I think, can just broaden your insight as a member of the Court.

We are all the product of our own experience. We're all the product of our own insight. So, there are a lot of different avenues to the Supreme Court. Mine is one, but that doesn't mean there aren't others equally as good in terms of preparing you.

SI: Can you tell me a little bit about the regular work cycle of the Supreme Court? It works on a two-week cycle, I assume, still in this period. What was it like jumping into that system?

Justice Verniero: Well, the Court term usually begins in early September and the Court usually rises for the summer sometime in August, although it will stop hearing cases, sometimes, in sometime in May. Actually, one year, the last year I was on the Court, I believe we heard a case in the summer. That was more of an emergent type of thing, but, typically, the Court sits and hears cases beginning in September, concluding sometime in the late spring. Then, during the summer months, there's work finishing up opinions. There's a brief recess, usually in August, and then, back at work in September.

In terms of when the Court is sitting, oral argument is heard every other week, for usually two days a week, and then, in the off week is when the Court sits in conference, preliminarily votes on the cases it heard the preceding week. Then, the Justices spend the rest of that week deciding motions, petitions for certification, and continuing to work on their own opinions.

Of course, the big thing about the Supreme Court of New Jersey (and the Supreme Court of the United States shares this same element) is what's called the Petition for Certification. In the United States Supreme Court, it's called the Petition for Certiorari. That's just the Latin term for certification. What that means, in essence, is that you do not have an automatic right to an appeal to the Supreme Court. You have to first apply or petition the Court to hear your case.

There's one exception to that, one main exception. In New Jersey, if there is a division in the Appellate Division, if you have in the court below, the decision below, one dissenting judge, because those panels are three-judge panels, if you have one dissenting judge in the panel below, then, you have an automatic right to an appeal on that one issue or two issues, or however [many] issues where there was a dissent.

Those are rare. The main way to get to the Supreme Court is to petition it through the Petition of Certification process. So, it's a process that we spend a lot of time on. The Court spends a lot of time on that process and takes it very seriously, because we know that's sort of the end of the line for you and your case, unless you somehow have an avenue to the United States Supreme Court. So, it's every other week hearing arguments, deciding motions and cert petitions in the off weeks.

SI: I have also heard it is an incredible amount of material to get through, much less the deciding part of it, writing about it.

Justice Verniero: Right.

SI: How did you deal with that increase in work? Was it comparable to what you had been doing in the AG's Office?

Justice Verniero: The overall time spent on the job was the same. I worked long hours as Attorney General, I worked long hours as a member of the Supreme Court. The workload is different in the sense that you have a little bit more control over your schedule when you are on the Supreme Court. You may put in the same hours in the day, but you have a better opportunity to arrange those hours.

You don't get a call in the middle of the night on the Court, unless it's really an extreme emergency. That never happened when I was on the Court, but you do get calls in the middle of the night when you're the Attorney General or Chief of Staff, and so forth. So, in that respect, it was different, the two jobs.

The reading is--I've never thought about this--but, probably, the volume of reading was more at the Supreme Court than as Attorney General, although I have to say, when you're managing six thousand employees, as I did as Attorney General, there was quite a lot of reading there, too, but it's different.

In the Court, when you're on the Court, you're somewhat secluded. You're reading material and you're speaking with your fellow Justices, your colleagues on the Court, your law clerks, your secretary or administrative assistant--and nobody else. So, it's very secluded. The only time you really speak formally with any lawyers is during oral argument. You don't get many visitors to chambers. Occasionally, my mother would call. [laughter]

So, it's a quiet place, particularly when you're back at chambers, whereas the Attorney General's Office is a very dynamic place. There are a lot of calls and a lot of meetings and a lot of folks wanting part of your day and time. That's not the case when you're on the Court, much more subdued.

SI: Where were your chambers located?

Justice Verniero: In New Jersey, the rule is that you are permitted to have your chambers anywhere you like. You could have it in an office building in your home county. You could have it in a county courthouse. So, when I first got on the Court, I succeeded Justice Pollock. While my chambers were being prepared in Hunterdon County, where I live, in the Hunterdon County Courthouse, I worked in his chambers, which were in the Morris County Courthouse, which was not a far drive for me.

In some respects, it was like going home, because, as I mentioned earlier, when I clerked for Justice Clifford, I clerked in his chambers in the Morris County Courthouse and that's where Justice Pollock's chambers were as well. So, I worked there for, I think it was about a year, and then, I moved into my chambers at the Justice Center in Flemington, Hunterdon County.

SI: You talked about your role as a law clerk under Justice Clifford. How would you describe your philosophy towards using your law clerk's talents in your own work, your philosophy towards working with them?

Justice Verniero: It's a good question. Well, it starts with the hiring process. When I was on the Court--I'm not sure this rule is the same now--but, back in those days, you had to hire your law clerks two years ahead of their start date, which meant that anyone who was appointed to the Court, no matter when they were appointed, they were way behind the hiring process. So, my first year, I remember there was a very fine clerk who was clerking at the Appellate Division and she just extended her stay, and then, clerked for me. Then, I forget how I got the two other clerks, but I got my clerks set for that first year, and then, I kind of caught up in the hiring process.

At the Supreme Court of New Jersey (or any state supreme court, I'm sure, is the same), you get a very qualified set of applicants. They just come in the mail. They come through the door. I always took that very seriously. I had no real quotient or quota, but it just seemed to always work out that I had at least one law clerk from a New Jersey school, Rutgers or Seton Hall, and it seemed to always work out that I had one

clerk from, like, an out-of-state school, whether it was Georgetown or some other school.

I did like the Whitman hiring practices. I did place importance on diversity, on finding well-qualified candidates who were diverse candidates. I'm happy to say I achieved that. I think there was one year on the Court where I may have had the only minority clerk. I'm not sure about that, but I think that may be true. In any event, I always tried to have diverse chambers, women, men, minorities, diversity. So, that was very important to me.

In terms of how I utilized clerks, this is a personal preference. I've never really had an in-depth conversation with my colleagues on how they've utilized clerks. I'd be curious to watch these interviews and maybe learn something. Because I just enjoy writing so much, I usually did a first draft of my own opinion, and then, gave it to the clerks to look at and review and make sure the cites were accurate and fill in the blanks and make sure the research was proper, and so forth.

Sometimes, I would ask them to assist initially with a section or two, but I usually wrote my own opinions, first drafts of those opinions. Then, I would give them to my clerks and I would invite them all in my personal office, my personal chambers. We would sit around my conference table and we would literally go through every paragraph in every page of my opinion, to make sure it was accurate, to make sure it made sense, to make sure it was clear, to make sure there was nothing in the sentence or the paragraph that could be misunderstood.

It was a painstakingly-careful process, but worth every moment, because the Supreme Court is in the business of deciding cases and expressing its opinion. So, the opinion is the ultimate work product and it has to be right. You can disagree with any of my opinions or any opinion of the Court, but, hopefully, you will not believe or not think that somehow the opinion is deficient as a work product. I hope that's the case with my work product and I think it is. So, I took a lot of care in writing my opinions and my clerks were helpful in that regard.

SI: Had you done any kind of preparation in terms of opinion writing? I have heard some people take a course.

Justice Verniero: Yes, that's a good question. Well, of course, I had worked on some opinions when I was a law clerk with Justice Clifford, although, now that I'm thinking about this for the first time, he wrote most of his opinions as well. So, maybe I just kind of inherited that trait from him.

Yes, I went to--I spent, I don't remember how long it was--but there was a course at the Judicial College in Reno, Nevada. Justice Zazzali (he was Justice then, not Chief Justice), he and I went to Reno together and we sat in this opinion writing course that I found very helpful, very useful.

SI: You wound up writing a large number of opinions. Was there any particular reason why or was that usual for most of your colleagues as well?

Justice Verniero: I am told that it was not usual. I believe the number is 124 opinions that I wrote in a five-year period, either majority, dissenting or concurring opinions. I've never researched this, but I am told that it is the most number of opinions in that period of time of any member of the Court.

I don't think it happened by design as much as I just enjoy writing and maybe I felt the need to express myself more than others in concurring and dissenting opinions, or maybe Chief Justice Poritz had sufficient confidence in me that she gave me more opinions than others, although I think she tried to even out the work as best she could, but it just turned out that I wrote a number of opinions.

SI: You served under Chief Justice Poritz for the entire duration of your time on the Court--any reflections on her leadership of the Court?

Justice Verniero: She was a terrific Chief Justice. I think we've been blessed in New Jersey of having very fine Chief Justices, starting from the first, Chief Justice Vanderbilt. It's been a very fine tradition. I knew Debbie Poritz in our tenure together in the Whitman Administration, the Executive Branch. So, it was a very easy professional relationship.

I have tremendous respect for her. Not only was she a good administrator, but she herself is an excellent writer, Chief Justice Poritz. I think she was an English major, if I'm not mistaken. So, her opinions were always extremely well-written, clear, organized, and so forth. So, it was a real pleasure to serve under her.

SI: Turning to the cases themselves, you worked on, as your colleagues have as well, a wide variety of areas of the law. One case that often comes to the fore is the case involving Hunterdon Central [High School] and its drug testing program [*Joye v. Hunterdon Central Regional High School Board of Education*, 176 N.J. 568, 826 A.2d 624 (2003)]. What do you recall about that case and its impact?

Justice Verniero: Well, I recall that the Court was divided in that case ultimately, as reflected in the opinion itself. It was a 4-3 opinion. I wrote the majority opinion. Justice LaVecchia, I believe, wrote the dissenting opinion. The interesting thing about that is that every court, every major court, that looked at that issue was also divided. I think it reflects, perhaps, how society itself is divided on the whole question of drug testing.

As you know, we have two constitutions that we need to worry about in New Jersey, so-to-speak. One, of course, is the federal constitution and the other is the state constitution. Under federalism, we have constitutional rights under both. If something doesn't pass muster at the federal level, then, of course, it's the law of the land and it wouldn't pass muster at the state level, but it is possible that a state constitution can provide greater rights than the federal constitution.

So, the United States Supreme Court had upheld drug testing for students, random drug testing, under federal law [*Board of Education v. Earls*, 122 S. Ct. 2559 (2002)], but the State of New Jersey had not yet acted or not yet spoken under state law. So, the fact that it was constitutional under federal law didn't mean, automatically, it would be constitutional under state law, but, under federal law, the United States Supreme Court decided that it was constitutional.

Going back to my earlier point, that was a split decision at the federal level. The Justices were divided, but they had upheld drug testing. When the issue came to New Jersey, it started first, of course, at the trial level. Then, it went to the Appellate Division and it goes back to your earlier question. The Appellate Division was divided. It was actually 2-1 decision at the Appellate Division, which gave it an automatic right of an appeal to the state Supreme Court. Then, of course, we were divided.

So, it just tells you that the issue was a divisive issue in the sense that judges, and I think people in general, folks in general, are divided on that issue, but the Court upheld it based on the record that we saw in the case. The Court decided that Hunterdon Central had done a sufficient job in documenting the drug use and the negative consequences that flowed from that drug use and we issued the opinion that we did.

That was the first time the state Supreme Court had decided the question. It was very widely reported at the time. The rules that we set in that case, in terms of how you can go about and must go about if you want to have a program, a drug testing program, those rules, as I understand them, are still in place. So, it was a big case.

SI: Another area that has been pointed out in the articles on your tenure are the law-and-order cases--the search-and-seizure, Fourth Amendment type things, law enforcement's role. Again, we can put in the actual names later, but do any of those stand out in your memory as being particularly memorable?

Justice Verniero: Well, the main thing about a search-and-seizure case is, they are fact-sensitive. We say this all the time and you read it all the time when you're reading a search-and-seizure case, is that much of a Fourth Amendment case will be decided under what's called "the totality of the circumstances."

So, you have to look at all the circumstances of a case. You have to look at the entirety of the police conduct, the entirety of all the facts that the police were dealing with or the government was dealing with, and then, decide, under various standards, whether the police conduct was constitutional.

It was always interesting to me to work on those cases, because the difference of one fact from this case versus another case could be the difference between one outcome being constitutional and one outcome being unconstitutional. So, I ended up writing a lot of those cases. It would be a good question to ask Chief Justice Poritz, who assigned me those cases, on why she gave me as many as she did. Maybe she was

just looking for consistency and uniformity of having one person do those cases, but, either way, because I enjoy to write, I didn't mind doing them. I did many of them.

As it turns out, and this was not by design, but I had the occasion not too long ago to kind of look up my cases to see where I ended up in terms of siding with the government or siding with the defendant who was challenging the search. It was almost a fifty-fifty split, where half of the cases, I sided with the government and the police, and the other half, I sided with the suspect or the defendant.

So, I think that holds true to my belief that these cases are fact-sensitive. Also, I'd like to think it's true to my philosophy of being a good judge, which is not to prejudge anything, decide each case on the facts and the law, one case at a time. That was my overall, overarching approach to judicial decision-making and I think the search-and-seizure cases are very illustrative of that.

SI: I have heard also that the death penalty cases are some of the hardest you can deal with. You dealt with at least one, I believe.

Justice Verniero: I wrote at least one [see e.g., *State v. DiFrisco*, 174 N.J. 195, 804 A.2d 507 (2002); *State v. Koskovich*, 168 N.J. 448, 776 A.2d 144 (2001)], sat on others. Clearly, they are difficult cases because of what's at stake, the most severe penalty, irreversible penalty of death, from the defendant's perspective, but, also, from the victim's perspective, from the family of the victim's perspective, these are horrific cases. The facts are horrific. There's always a lot of public interest in that. So, those are tough cases. They weigh on you.

I can remember, on the one case that I did work on and other cases when I was just having to decide how to vote, those are the cases where you maybe put in the longest hours, in terms of reviewing the record not once but several times, to make sure you haven't missed anything, to make sure you understand exactly what the issues are, what the facts are and what the standards are. So, those are among the most difficult cases. We no longer have a death penalty in New Jersey, but we did when I was on the Court and you always took a death penalty case seriously.

SI: Was there a particular type of case that you maybe enjoyed weighing in on more than others?

Justice Verniero: I don't think so--that I enjoyed it. I mean, there were some cases that maybe were a little bit more interesting. I mean, some cases at the Supreme Court, even though we deal with large policy issues, some cases are a little more technical than others. Some cases are a little bit more interesting than others because they're not as technical, but I can't remember a single case where I said I didn't like writing the opinion or being assigned the opinion.

Certainly, there are some cases where there was much more notoriety. I did like writing especially, or working especially, on any opinion that dealt with the interrelationship

between the branches of government. Because of my background, that always interests me. So, we had some budget cases. We had at least one budget case. We had some debt limitation clause cases, where you have to decide whether the Executive Branch violated what's called the Debt Limitation Clause in our state constitution [see e.g., *Lonegan v. State*, 176 N.J. 2, 819 A.2d 395 (2003)].

I always found those cases very interesting because they demonstrated the three branches and how we have to interrelate with one another and, ultimately, how the Judicial Branch is the final arbiter of any dispute between the three branches. So, those cases always interested me.

SI: Did Chief Justice Poritz give you any other responsibilities? I know, occasionally, they will have to assign people [to additional duties].

Justice Verniero: Yes, all members of the Court, at least when I was on the Court, we were liaisons to various other committees of the Court. So, I had some of those assignments, whether it was the Lawyer's Fund [the New Jersey Lawyers' Fund for Client Protection] or some other court entity. Each year, a member of the Court was selected to give the keynote address to the Conference of New Judges. The nickname was "Baby Judge School." So, one year, I was selected and gave the opening statement, so-to-speak.

So, there were those types of assignments, not many. I mean, for an Associate Justice, you're mainly deciding cases, hearing cases. We all had our share of emergent duty. So, we did have what's called single-justice relief under our court rules. So, there were instances where I was the only member of the Court working on a matter, but, mainly, it was hearing cases, deciding cases, writing opinions, helping with other opinions that other members of the Court may have been working on, that sort of thing.

SI: Since you were the Attorney General, there were matters you had to recuse yourself from.

Justice Verniero: Yes.

SI: How is that decision reached? Is it just that you personally decide this or is there a system, a rubric?

Justice Verniero: Well, I put in a system. I don't know whether others have followed it, other Attorneys General who may have served on the Court, but, because I went directly from AG to the Court, I wanted to make sure that I would never sit on a case in which I had substantially worked on. That's, I think, the overarching standard, is direct and substantial, because when you're Attorney General, every single case that is brought in the office is brought in your name.

So, when I was Attorney General (this is probably true of every AG) there were thirty thousand cases pending in my name, roughly, civil and criminal. The vast majority of

those cases I never worked on, had no involvement, but there were many that I did have involvement. So, what I did was, I set up a system that when the Court had taken a case or we were considering a case, I would send a note to a person that I had designated as sort of the informal conflicts manager for me at the Department of Law & Public Safety.

This, of course, only was when the State was involved in a matter, right. So, if the State was involved in a matter, I would have this formal communication with the state Attorney General's Office. They would open up the file to see whether I had worked on the file in any significant way. If I had, they would tell me and I would recuse myself. If I hadn't, then, I would work on the case.

I mean, there were some cases that I was so clearly involved in, like school funding, I didn't have to ask. I just recused myself, but the recusals were manageable. There weren't many of them. So, that was a manageable process, but I was careful enough to set up a specific system, because I wanted that validation that there would be no conflict if I sat on a case.

SI: What would you say was your most vivid memory or experience during your time on the Court?

Justice Verniero: Vivid memory. Well, the quiet atmosphere, [laughter] as I alluded to earlier. Going from the AG job and the Governor's Office jobs to joining the Judiciary at an appellate level, it's a very quiet atmosphere. So, that was vivid in my mind, just that contrast.

Working with my colleagues was one of the happiest professional experiences I've ever had. They were all (and all are) just magnificent lawyers, first and foremost, but just fundamentally decent human beings and really nice people. [laughter] That doesn't mean they would give in on a matter or that you could take their vote for granted. Everyone is very independent on the Court, but together, as an institution, we always got along together and got along well.

We always appreciated the fact, at least I did, that I wasn't really a court--I was one-seventh of a court. There wasn't much I could do individually, but, together, we could decide a case on the merits. So, that collegiality stands out as a vivid memory.

SI: That has come up quite a bit in these interviews, I think every interview. That was kind of reflected in your last day of oral arguments. They had a nice ceremony for you.

Justice Verniero: They did.

SI: Any memories of that event?

Justice Verniero: I do. My main memory was, it was a complete surprise and it was not on my copy of the Court's agenda for that day. It really was very special. I

remember, at the end, Chief Justice Poritz turned to me and said, "Is there anything you'd like to say?" I think I said something like, "Well, this was a surprise to me, so, I think I'm just not going to say anything," and I didn't say very much except thank you. So, that was quite nice.

SI: Any other memories you want to share about your time on the Court?

Justice Verniero: Working with my law clerks, extremely gratifying. In some respects, I have the same feeling as I do toward the members of the Court in terms of my law clerks. They were each very bright, each very able. Chambers is a very close-knit environment. If you think about it, it's a workplace with three people, plus yourself and your law secretary, administrative assistant.

So, there, too, a certain degree of cordiality and whatnot was very helpful to the workplace environment. I had just a tremendous group of law clerks, three each year. We keep in touch to this day and I think they feel the same way I do, that it was just a very rewarding experience to work with one another. So, that stands out in my mind.

My chambers in Hunterdon County, I enjoyed that because it gave me a chance to interact with lower court judges, other judges. That's one of the reasons I picked the Courthouse. I could have picked, as I said, an office building, but I just wanted to be part of that judicial atmosphere. So, I would go to lunch with other judges and that gave me kind of a sense of what other judges were experiencing.

I think one of the things that every member of the Supreme Court feels is a certain degree of isolation. Anything that could be done, within appropriate bounds, to open that up to allow members of the Supreme Court to experience and know more about what others are experiencing, I think, is a good thing.

There's a lot of mystery surrounding the Supreme Court, how it works, how it decides cases. Some people like that mystery. I think that the more accessible the Supreme Court is to the public the better, within limits, of course. The Court conferences should always remain private, and so forth, but I think anytime you hear a member of the Supreme Court speak about how cases are decided, how they're assigned, what the opinion process is like, I think that's a good thing, to have that kind of education and openness.

INTERVIEW WITH JUSTICE PETER G. VERNIERO
OCTOBER 24, 2019
PART 4 OF 4

Serving in the Legal Community: Career After the Bench

After his term ended in 2004, Justice Verniero joined the Sills Cummis & Gross firm. He also took up authorship of Gann Law's Rules Governing the Courts of the State of New Jersey after the passing of original author Judge Sylvia B. Pressler. Justice Verniero recalls his work on various committees of the Supreme Court, task forces and other bodies established by various New Jersey Governors and community-oriented boards. He concludes with reflections on major changes in the field of law, from the advancing role of women and minorities to the changes wrought by new technologies.

SI: You left the Court and you came directly to Sills Cummis.

Justice Verniero: Came to Sills, Sills Cummis & Gross. It wasn't called that then. It had a much longer name, but, over the years, it's had a much longer name, Sills Cummis & Gross, 2004. I've been here ever since, a tremendous law firm here, wonderful colleagues, smart, honest, a very pleasant place to work.

The firm has given me the opportunity to do some other things, given me the time to do other things, such as working on the Gann Law treatise, the rules governing the Courts of the State of New Jersey. For many, many years, it was authored by Sylvia Pressler, who was then a highly-regarded Appellate Division judge. When she passed away, the publisher called me, literally out of the blue. I had not applied for it. I don't think I had ever met the publisher. He called me out of the blue and said, "We would like you to continue Judge Pressler's work."

[Editor's Note: The Honorable Sylvia B. Pressler joined the Bergen County Court in 1973, the Superior Court in 1976 and the Appellate Division in 1977. She served as Presiding Judge for the Administration of the Appellate Division from 1997 to 2004.]

I ultimately said yes, so, it's now *Pressler and Verniero on the Court Rules*. Because the book is cited so frequently by both judges and lawyers, I am cited more now, doing the law book, than I was on the Supreme Court. [laughter] Everyone cites that book, at least in the legal profession. So, that's been a labor of love. So, I've enjoyed doing that.

I was, for many years, ten years actually, on the Board of Trustees of the Hunterdon Healthcare System, which is the largest healthcare system in Hunterdon County, in western New Jersey, where I live. Part of the system is the Hunterdon Medical Center. Both of my daughters were born there, so, I have very pleasant memories and was

thrilled when they asked me to join the board. I ultimately was on the Board of Trustees of the parent company and served on the Executive Committee, the Compensation Committee, the Quality Committee.

I got a real good insight of how the healthcare system works in New Jersey, which has actually helped me with clients (I also was on the audit committee), because, in my law practice, one of the things that I do is corporate internal investigations. I sometimes have to interact with the audit committees or executive committees of boards. I think I'm better able to do that having served for so long in that same capacity at the Hunterdon Healthcare System.

I've also served for many years on the board, the editorial board, of *The New Jersey Law Journal*, writing editorials. I was on the board of the Legal Services of New Jersey for a time. That was great work, rewarding work, for an absolutely indispensable organization, Legal Services, can't say enough about that organization and the good work that it does. For a while, I was on the Board of Visitors for Drew University. I don't know whether that was; I don't think that was after I was on the Court. I think that was before. I enjoyed that. So, I've had a kind of full life thus far after the Court, but to be continued.

SI: Yes. One of the experiences you had was being brought back as a--special prosecutor?--on the *Abbott XXI* case [*Abbott v. Burke*, 206 N.J. 332, A.3d 1018 (2011) (*Abbott XXI*)].

Justice Verniero: Well, actually, I was just outside counsel

SI: Outside counsel.

Justice Verniero: For the *Abbott* cases. I think I'm right in saying it was the first time the State had ever hired outside counsel to argue a school funding case. In every other case, it was a member of the Attorney General's Office who argued the case, but, yes, I was brought in as outside counsel, argued that case, worked alongside some very fine lawyers within the Department of Law & Public Safety.

Also, the Supreme Court, my former court, has appointed me to several court committees. I was the chairman of the court committee that helps the Supreme Court write the Rules of Professional Conduct, the RPCs. I was chairman of that committee. I was chairman of a special committee to design the system of continuing legal education we have in New Jersey. So, I was the head of the committee that made a proposal for the current system.

I am currently the Vice-Chair, along with the Chair, Jack Sabatino, who is a magnificent judge in his own right, together, we lead the Civil Practice Committee. In that capacity, we help the Court draft the Rules of Civil Procedure. It's interesting for me because, in my Gann treatise, I have to supply comments to those civil rules and, in my capacity on

the Civil Practice Committee, I work with the Court in adopting those rules. So, really, the two jobs go almost hand-in-hand. So, that's been very interesting to me.

[Editor's Note: Since 2006, the Honorable Jack M. Sabatino has served as presiding judge of the Appellate Division.]

SI: You have also been called upon to be on other committees.

Justice Verniero: Yes. I was asked to serve as the Co-Chair, along with former Attorney General John Degnan, to look at the whole issue of gun violence in New Jersey. Governor Christie asked me to do that and I was happy to do it. We issued a report with, I believe, fifty recommendations, unanimous.

This was a bipartisan committee. I take a lot of pride in the fact that we were unanimous on some issues that are usually quite divisive, but we managed to find unanimity on a set of very thoughtful recommendations. That report is still reviewed and discussed from time to time.

[Editor's Note: John J. Degnan served as Attorney General of New Jersey from 1978 to 1981. Republican Christopher James "Chris" Christie served as Governor of New Jersey from 2010 to 2018. The NJ Safe Task Force issued its report in April 2013.]

I was also the Chairman of a committee called the Judicial Advisory Panel, which helps the Governor vet nominees to the Superior Court before they're announced. So, that was very interesting work. I was happy to do it. I did that for almost five years. I recently completed a project reviewing the hiring practices of Governor Murphy's transition office.

[Editor's Note: Democrat Philip D. "Phil" Murphy took office as Governor of New Jersey in 2018.]

So, over the years, I've assisted Governors of both parties, I've worked with Governors of both parties and I think, in part because I have such respect for the Office of Governor, no matter who the Governor is, that whenever asked, I try to assist if I can.

SI: In looking at the vetting of future judges, what are the challenges inherent in that?

Justice Verniero: Well, we're in a time of divisiveness, unfortunately, in the country in general, and some of this in New Jersey as well, where the vetting has become very intense. None of us are perfect. None of us are without fault. Sometimes, I think the vetting process can become too intense in the sense of being unforgiving.

I'm all in favor of a complete vet. Folks should have all the facts about everyone who's up for a senior position, but I do wish sometimes that the process was a little more forgiving of mistakes than it is now. My fear is that high quality, good quality, honest

people, good, honest folks, will not want to serve because of the vetting process and the length of it, which has also become a problem.

This is especially true on the federal level, where, just using New Jersey as an example, we have so many vacancies at the federal district court level because there seems to be difficulty in agreeing between the Executive and the Senate on who should fill these positions. So, someone may get nominated and literally hang out there for years, months if not years. That's unhealthy for the person and it's unhealthy for the system.

So, I wish there were a better way, but we have the system that we have, so, we have to just tolerate it.

SI: We also like to ask kind of big picture questions about how the profession has changed over your career, which is not over yet.

Justice Verniero: Right. [laughter]

SI: Going back to when you first passed the bar in the early 1980s, how have you seen the role of, starting with women, change over time?

Justice Verniero: Well, happily, the role of women and minorities [has] changed in a positive way and that was starting when I was in law school. At Duke Law School, my entering class was roughly fifty percent men/women. That was not the case even five or ten years earlier at many schools, but, at Duke, I am happy to say, at that point in time (this is 1981, when I started law school), we had a pretty good gender diversity at Duke--not at all schools, but certainly at Duke.

I think that is true in the profession in the sense of seeing progress being made over time. I think we need to see more progress made, both with women and minorities, but I know there is, at least at my firm, a conscious effort at diversity. I see that in different institutions as well. So, that's one big change.

The struggle is not over by any means, but there have been great improvements, I think, over the years and that, I think, is true of other areas of professional life. Progress has been made, but not enough, and we can never let our guard down. We can never think we're done, because we're never done when it comes to bringing in quality, diverse candidates to any institution.

SI: Another topic we talked about earlier a little bit was changes in things like technology and methods--any comment on that?

Justice Verniero: Yes, that's a big change. I know the Internet and electronic communication, these are forces of good, but they are also forces of great stress. In the case of the Internet, there's real harm that can be done and there are real dangers lurking on the Internet, particularly when dealing and thinking about young people and children, a lot of predators on the Internet, a lot of bullying, and so forth.

So, I think, my own personal view is, technology has a great upside, but, also, a downside. We're constantly having to figure that out, as a society and as a legal profession and as a court system, too. I mean, we're just now in New Jersey--I say just; it's been a while, but it's been incremental--where we're converting to electronic filings, and so forth. So, that's something relatively new. So, the law sometimes moves very slowly and the court system sometimes moves slowly. We're all having to keep pace with technology, but it's so very hard to do because technology is always changing.

I think I'm fairly decent at using emails and the computer, but I'm nothing compared to my two daughters, who have far outpaced me when it comes to working technology and understanding it and communicating through it and all the rest. I would be perfectly happy if we returned to library books and legal pads, but I'm afraid that's gone.

SI: We have also been talking throughout regarding the unique nature of New Jersey's legal system, the appointed aspects, that sort of thing. Do you see that as continuing in the same vein or have you seen any changes there in terms of the same standards being upheld over the years?

Justice Verniero: Well, we went from probably one of the worst judicial systems in the country to, now, I would like to think, one of the best state systems. That was all a result of the 1947 Constitution, which eliminated the prior overlapping, overly complicated legal/judicial system we had to one that is fairly streamlined, where we have one Supreme Court, the highest court, an intermediate appellate court and the trial court.

Then, of course, we have the municipal court system, which is a separate conversation. Actually, in New Jersey, if you really want to know where the action is, so-to-speak, it's at the municipal court level. The State of New Jersey at any given time has about seven million cases pending and six million of those cases are in the municipal court.

So, I have a lot of respect for municipal court judges because, in many ways, they are the face of the Judiciary. Most people will never see a Supreme Court Justice or an Appellate Division judge, but a lot of folks will see a municipal court judge, whether it's contesting a speeding ticket or whatever the case may be. So, certainly, that has all changed, the volume and the work.

The volume of the work at the Supreme Court has changed. Again, using 1947-48 as the first year of the modern Supreme Court, there were less than twenty Petitions for Certification in the first full year of the Supreme Court's operation. Today, that number is about 1,400 cert petitions--so, an enormous uptick in volume at all levels.

Whether that means we've become more litigious or folks have become more confident in a judicial outcome, whatever the case may be, whatever the facts are, there is simply more work than there are judges to decide the cases. So, we do unfortunately have a backlog, but, certainly, at the Supreme Court level, we do take pains in ensuring that

every case that the Court decides is decided for the right reasons and with the appropriate amount of time and deliberation put to that particular case.

SI: Is there any other aspect of your career, or your life in general, you would like to talk about?

Justice Verniero: No. I mean, I turned sixty in April, so, I hope I have a few more years left in me. If you just go by family tree, my father turns eighty-nine in November, next month. My mother is in her eighties as well. So, I think I have a few years left in me and I'd like to contribute, in some small way, to the development of the law.

I do that through the Gann treatise, my commentary, and I do enjoy the court committees. Whenever the Court asks me to take on a new assignment, I usually say yes. I've enjoyed working for Governors when they've asked. Hopefully, I will continue along that same path.

SI: All right. Thank you very much. I appreciate all your time today.

Justice Verniero: Thank you.

Appendix I

During his tenure on the New Jersey Supreme Court from 1999 to 2004, Justice Peter G. Verniero, served with the following Chief and Associate Justices:

Name	Years of Service
Chief Justice	
Deborah T. Poritz	1996-2006
Associate Justices	
Name	Years of Service
Barry T. Albin	2002-Present
James H. Coleman	1994-2003
Marie L. Garibaldi	1982-2000
Jayne LaVecchia	2000-Present
Virginia Long	1999-2012
Daniel Joseph O'Hern	1981-2000
Gary S. Stein	1985-2002
John E. Wallace, Jr.	2003-2010
James R. Zazzali	2000-2006

Note: Justice Zazzali was elevated to Chief Justice upon Chief Justice Poritz's retirement in 2006, a position he held until 2007.

Appendix II
Select School Funding Case Citations

***Abbott v. Burke* Series**

Abbott I, 100 N.J. 269, 495 A.2d 376 (1985)
Abbott II, 119 N.J. 287, 575 A.2d 359 (1990)
Abbott III, 136 N.J. 444, 643 A.2d 575 (1994)
Abbott IV, 149 N.J. 145, 693 A.2d 417 (1997)
Abbott V, 153 N.J. 480, 710 A.2d 450 (1998)
Abbott VI, 163 N.J. 95, 748 A.2d 82 (2000)
Abbott VII, 164 N.J. 84, 751 A.2d 1032 (2000)
Abbott VIII, 170 N.J. 537, 790 A.2d 842 (2002)
Abbott IX, 172 N.J. 294, 798 A.2d 602 (2002)
Abbott X, 177 N.J. 578, 832 A.2d 891 (2003)
Abbott XI, 177 N.J. 596, 832 A.2d 906 (2003)
Abbott XII, 180 N.J. 444, 852 A.2d 185 (2004)
Abbott XIII, 182 N.J. 153, 862 A.2d 538 (2004)
Abbott XIV, 185 N.J. 612, 899 A.2d 1063 (2005)
Abbott XV, 187 N.J. 191, 901 A.2d 299 (2006)
Abbott XVI, 196 N.J. 348, 953 A.2d 1198 (2006) (inadvertently withdrawn from bound volume, but reposted at 203 N.J. 157, 1 A.3d 299 (2006))
Abbott XVII, 193 N.J. 34, 935 A.2d 1152 (2007)
Abbott XVIII, 196 N.J. 451, 956 A.2d 923 (2008)
Abbott XIX, 196 N.J. 544, 960 A.2d 360 (2008)
Abbott XX, 199 N.J. 140, 971 A.2d 989 (2009)
Abbott XXI, 206 N.J. 332, 20 A.3d 1018 (2011)