

## NEWSLETTERS

# Three Former U.S. Attorneys Talk About Private Practice And What Motivates Them

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With the addition of [Patrick Miles](#) in May 2017, Barnes & Thornburg LLP became the first major law firm with three former U.S. attorneys who are African-American. Miles resides in the firm's Grand Rapids office, while [Michael Battle](#) and [Roscoe Howard](#) are based in the Washington, D.C., office. All are members of the firm's White Collar and Investigations practice.

Miles served in the Western District of Michigan in Grand Rapids under President Barack Obama; Battle served in the Western District of New York in Buffalo under President George W. Bush; and Howard served in the District of Columbia, also under President Bush.

In a wide-ranging interview, the three spoke about their career trajectories, most challenging legal moments and advice for minority lawyers entering the profession.

## 1. How does private practice compare to your stints as U.S. attorneys?

**Roscoe Howard:** Well, I've been in the private sector since 2004, when I left the U.S. Attorney's Office. Since then, I've been at four firms, and I've enjoyed all of them. I'm always looking for the best fit, making sure I'm at a place I enjoy going to each morning, while making sure I'm surrounding myself with good people. And, with Barnes & Thornburg, it really was the comfort factor. It helps that I've got two other former U.S. attorneys with me now; when you get us together, you'd think we were brothers.

The transition from prosecuting to defending people and corporations, for me, felt seamless. I look at it this way: in both positions, I'm upholding the Constitution and defending people's rights. In both jobs I've had to "block and tackle" in the same ways.

**Michael Battle:** I left the public sector in 2007 after spending my entire career there, and I've been at two firms since. Luckily, I had friends, Roscoe among them, to help me transition from public to private. Roscoe was a great resource for me, especially because I had stayed in the public sector for so long.

**Patrick Miles:** I started my career at big firms before becoming a U.S. attorney, so I knew that I wanted to return to Big Law eventually. It was really a matter of finding the firm with the right platform for bringing on new clients and retaining old ones, both nationally and locally. And for me, Barnes has that. I really like the collaborative nature of the firm, especially among the partners and the offices across the country. We are all about client service, which is what I wanted to focus on when I left the U.S. Attorney's Office.

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## 2. How did your time in public service make you a better lawyer?

**MB:** In each position I had while in public service, I was able — immediately — to go to court and advocate for clients. I discovered early on that I really enjoyed this aspect of practicing law. I started out at the Legal Aid Society defending tenants from powerful landlords in Harlem and throughout Manhattan. Those experiences gave me confidence in being able to handle matters in court. From there, I accepted a position as an assistant U.S. attorney in Buffalo, New York.

Practicing in Buffalo gave me the opportunity to learn how to better prepare for trials, and how to better apply the law and facts to my cases.

Later, when I became a trial court judge, I had to learn how to listen rather than advocate, which has also contributed to my skill set.

**PM:** My service as U.S. attorney not only gave me a broader practice perspective, from the wide variety of cases the government handles, but also the experience of being the chief legal and law enforcement officer for the district. I understand better the challenges and needs of CLOs and GCs.

Now, in private practice, I'm applying the skills and knowledge I've developed and I'm helping clients solve their problems — or I'm helping them avoid problems. Being able to do this is extremely satisfying.

**RH:** After law school, I started at a large private firm in Washington, D.C., but I felt that as a young lawyer, I was not getting the opportunities I needed to test myself, particularly with cases that mattered. So I moved over to the Federal Trade Commission and, later, the Department of Justice. Working in those roles, you did all the work yourself, because the DOJ doesn't have the same resources as the big firms, who had teams of eight or nine lawyers working across from you as a prosecutor. Working for the DOJ, I went up against some formidable firms and learned a lot about myself. I realized what I could do and that I measured up to the lawyers at these large, major firms.

I also think you get a good sense of the gravity of some cases when you work for the DOJ. You could be going up against a polluter or a killer — cases with important outcomes. You're able to put your feelings aside and become a zealous advocate for your side — in this case the United States. That's an important skill I've brought over to the private sector: learning how to put your own personal feelings aside and doing your job. I believe there's a certain nobility to private practice because you are the embodiment of the Constitution; everyone is entitled to a defense, even if they clearly violated the law, and you are there to provide that defense.

You really learn the Constitution in these types of public service roles, I've found; you're practicing the law the way the Founding Fathers intended — and that's thrilling, it really is.

## 3. What have been the most formative, watershed moments of your career?

**PM:** Connecting with a true mentor as a second-year lawyer was a big moment for me. He was a tough partner; people at the firm talked about how he burnt out other associates. I was warned against working with this

guy because he was too much of a perfectionist and too demanding. But he was practicing in the telecommunications field and that was what I wanted to focus on. And we just clicked very well. Together, we expanded the practice, we became national experts, we brought on new clients, and I was able to foster good relationships with his clients, like the City of Detroit.

Running for Congress was another formative moment in my career. Even though it wasn't successful, I still learned a lot of skills, such as growing thick skin, and honing my public speaking skills and learning to engage audiences.

And, of course, being appointed the U.S. attorney in western Michigan was a privilege. Through that role, I was able to garner respect as the chief legal and law enforcement officer for 49 counties. I had never been a prosecutor before, so for me it was a great intellectual exercise and a way for me to expand my knowledge base, particularly in federal criminal law.

All of those experiences taught me to take risks.

**RH:** I was offered a position in the Chronic Offender Unit of the D.C. U.S. Attorney's Office, which was a prestigious group of seasoned prosecutors handling the prosecutions of the city's most notorious criminal offenders. And before I had accepted the job, a very senior prosecutor who was a legend in the office told me "don't be afraid," because I was obviously nervous about taking the position. At first, it was kind of like a bird being kicked out of the nest, but then I realized I could fly. After that, I began to fully realize what I was capable of doing. I began to believe in myself.

Being a federal prosecutor, I was making a difference in communities and changing lives of citizens of the District of Columbia. It was wonderful realizing that I could make life better for people whose communities are being contaminated by drug gangs. It was especially gratifying to be able to go back to my hometown when I moved to the U.S. Attorney's Office for the Eastern District of Virginia and take out serious criminals while showing those in the community what they were capable of as law abiding members of the neighborhoods.

It was never about the money for me. I like to think I made a little corner of the earth a little better and that's about as good as any of us can do.

**MB:** During law school, I had a job at an organization called Pretrial Services, which involved me getting up at 4 a.m. to visit the jail and take notes on the previous night's arrestees. I then appeared in court to provide bail recommendations to the judge. Through that job, I was able to make connections which led to other opportunities.

Campaigning to retain my seat as trial court judge was a very new experience. I was a complete novice and had to deal with a lot of political "stuff." I campaigned during the evenings and weekends. Thankfully, all the hard work paid off – I won!

And of course, being appointed as U.S. attorney was a seminal moment in my life.

#### **4. How did you develop your confidence?**

**RH:** I think you develop confidence by taking on things, or jobs, that

people say are too much or too complex for you to handle. I think by working through a case with a lot of problems, developing your own methodology, and doing it, builds confidence. There is nothing like practicing law. Taking on the tough cases and working through them, or working with the “tough” partner, who is demanding and exacting, teaches you how to succeed and builds confidence.

**PM:** I believe my religious faith gives me confidence. I was raised in a religious, Christian household; I believe we are all endowed with special gifts and talents that we are obligated to put into the service of others. When I am in doubt, I lean on my faith.

**MB:** I think by not being afraid to make mistakes. And by doing things over and over and getting good feedback. And I’m always trying to learn; you can’t sit back and think “I’ve made it.” In a way, I’m always running scared.

I pretty much had to start over in 2007 when I left the public sector, and having good people to go to for advice on navigating Big Law was important.

## **5. Describe a mistake early in your career and what you learned from it.**

**RH:** It was during a trial with one of the Independent Counsels, who are the former federal Special Prosecutors, with whom I served. We were about to go through rebuttal when we received a new piece of information related to a piece of evidence admitted in the trial that I thought would destroy the defense’s closing argument. We discussed it as a group. I wanted to put it in first thing as part of our rebuttal, but the other members of the prosecution team voted to hold it for our surrebuttal, certain that we would get the chance to give a surrebuttal. But as it turned out, leaving that piece of information out was a mistake, because the opportunity for surrebuttal never came and we never got a chance to mention it.

So, what I learned was, if it’s your case, it’s your decision. Fail on your own terms. You should still value others’ input, but in the end, if it’s your case, make the decision. You have to trust yourself, because when it comes down to it, nobody really knows what is going to happen at trial.

**MB:** I have two examples. One: I was representing the Bureau of Prisons in a wrongful death action. I had an expert witness testifying for us and I did an unnecessary redirect after the plaintiff cross-examined him because I had a point I really wanted to drive home. And on the redirect, the witness changed his answers. We ended up having to settle the case, when we probably would have won, had I not done that.

For my second example, I had a witness, an agent I had been working with, who withheld information from me. That information later came out during the cross examination and we almost lost that case because of the agent’s reticence to disclose everything. When you’re working with government agents, you have to make them understand that if they withhold something that impacts the case, that’s on them, not you.

**PM:** As a first-year associate, I received a research assignment and had to write up a memo. But the partner who assigned it to me never gave me a deadline. So I went back to my office and completed my other work. A few hours later, that same partner came to my office and asked about the

memo, which, of course, I hadn't done. But he warned me not to let him down. So I spent the rest of the morning and afternoon doing that assignment and gave it to him before the end of the work day. And a few days later, I realized that he hadn't even looked at it yet. So after that, I always made sure to get clear, firm deadlines from people — fellow lawyers and clients — and I learned how to manage expectations. From then on, I learned everyone has to be on the same page with deadlines.

## 6. What advice would you give to younger minority lawyers coming up through the ranks?

**MB:** Finding a mentor is extremely important. Also, not being afraid to ask questions. Never wallow in ignorance — that is simply something you cannot do. And another thing I would suggest is to not get stuck on geography — there are lots of opportunities everywhere, not just big cities like New York or Chicago. Plus, in smaller towns, you really get a chance to practice and hone your skills, and then you can be choosier in terms of where you want to go.

**PM:** I would agree with everything Mike said, and I'd add that young lawyers should do everything they can to develop good writing and analytical skills. They need to learn how to write clearly, concisely and persuasively. That is critical, especially for young minority lawyers. In Big Law firms, sometimes there tends to be a presumption of incompetence with people of color — you're incompetent until proven otherwise. And if you can demonstrate those analytical thinking skills and good writing skills, that will help you overcome that presumption. Surprise them with your skills.

**RH:** I would also echo everything that was already said. Finding a mentor can help you navigate the firm. I'd also say it's important to then turn around and become a mentor. It's fine to raise your boat, but you're in a bay with lots of other boats. We need to raise all the boats.

Another thing — no matter which firm you go to, there may always be someone who is just smarter than you. You can't do much about that. But you can always outwork somebody. If you roll up your sleeves and rework a tough case, you will stand out.

Finally, no matter where you are, you may see something that seems wrong to you. For whatever reason, it just seems wrong. Maybe you have a different moral compass than anybody else. However, you just need to speak up. You can't be quiet about bad things going on around you. If someone says something sexist, racist, inappropriate or illegal, you can't stay quiet — no matter who said it. You are in that room for a reason, and you should make it count.