



Group To Alleviate Smoking Pollution



Advocating for smoke-free policies since 1977

Tobacco Lobbyist Victor L. Crawford Reveals His Tactics (1995)

SHAKESPEARE said it in Julius Caesar. "The evil that men do lives after them/The good is oft interred with their bones." Oft, but not always. Sometimes someone who does what many view as wrong has both the time and inclination to make amends.

Victor Crawford does not have much time he is dying of T2, N2c squamous cell stage IV carcinoma of the base of the tongue with pulmonary and bone metastases but he does have the inclination to undo much of the harm he says he believes he caused as a lobbyist for the tobacco industry.

Crawford, an attorney and retired Maryland state legislature who live in Rockville, MD, worked as a contractual lobbyist for the Tobacco Institute during the late 1980's. He did it for the money, he says, although it wasn't very much. He estimates that he made at least \$20,000 during the 6 years he helped the tobacco industry fight public health efforts to restrict smoking.

Crawford was a skilled persuasive lobbyist. He has served 16 years in the Maryland legislature, first in the House of Delegates and then in the Senate, before he retired from it in 1982 and became a lobbyist. Working for the tobacco industry was his chance to get a "black hat," client "the kind that have very liberal lobbying budgets and let you do a job the way it's supposed to be done."

In January 1991, Crawford felt a sharp pain in his neck, which was misdiagnosed as an inflamed artery.

The next year, he learned the truth. A biopsy of a lesion in his throat revealed the presence of squamous cell carcinoma that his physician told him was "a textbook case of cancer caused by smoking." In 1993, metastases were found in his lungs, liver, and pelvic bone. He underwent several surgical procedures and received experimental taxol treatments to slow the growth of remaining tumors. Recent tests, however, show new lesions in his lungs for which his physicians are recommending chemotherapy.

Crawford had been a smoker since he was 13 years old, starting with cigarettes and switching to a pipe and cigars in his late thirties.

In 1994, a chance meeting with Michael Pertschuk, former chair of the US Federal Trade Commission who is now with the Advocacy Institute, an antismoking group based in Washington, DC, led to Crawford's reluctant agreement to provide, anonymously, background information about lobbying for the tobacco industry to journalist Roger Rosenblatt. The journalist, who was working on an article for The New York Times Magazine, persuaded the ex-lobbyist to go on the record.

Crawford decided to speak out because, he says, "if you stay in the closet, you die in darkness." Never before has someone who worked so closely with the tobacco industry's top political and propaganda strategists come forth to clear the air.

Despite advancing illness, as long as he is able, Crawford is determined to bear witness against the industry that markets the products that he says robbed him of his health. He has appeared in antismoking television and radio public service announcements. Last year, his testimony to the Maryland legislature helped pass one of the toughest antismoking laws in the nation. The law bans smoking in virtually every indoor workplace, including bars and restaurants. Also, in 1994, he helped to fight a statewide referendum in California, supported by the tobacco industry, that would have replaced tough local antismoking measures with a weaker state measure. The referendum was defeated. This March in Florida, he fought the attempt to repeal a law that makes it easier for the state to sue tobacco companies to recover public money spent on treating tobacco-related illness.

Despite his emotional testimony, the legislature voted for repeal. Gov. Lawton Chiles vetoed the legislation; a major lobbying effort is under way to override the veto.

In this interview, Crawford shares some of the secrets of the tobacco lobbying trade from the perspective few if any held outside the tobacco industry. Sharing his knowledge of industry tactics here and in other forums is a good that will live long after him.

JAMA: How did you get to work for the Tobacco Institute?

Mr. Crawford: When I retired from Maryland legislature in January 1983, I started lobbying, first for what we call the "white hats," such as the Montgomery County Council, Olney Theater, the Bar Association, things like that. But while whites don't have the big money, it's the "black hats" that do; race tracks, gambling, liquor, tobacco, banking, insurance. When I was approached in the mid 1980s by the people at the Tobacco Institute to be one of the contract lobbyists here in Maryland, I jumped at it. The money was good and it was a way to break into that part of the field. In every state they have lobbyists they use on a case-by-case basis. The only full-time ones they have are at the Tobacco Institute, and they usually work on the Hill.

The Tobacco Institute monitors every state, and everything that comes up on the state level, in the statehouse, courthouse, county council, county executive, little townships, anything that relates in any way to smoking, tobacco, or to their industry, for example, vending machines, they approach like a big cat at a mouse hole when they see something move, they pounce. Thanks to the technology of communications and computers, as soon as that mouse sticks its head out of the hole, boom, they know. And then they'd call me and I'd get down to headquarters and say, "Okay, what do you want done?" And they'd tell me.

My job was unusual in that because I was in Maryland, right here in a suburb of Washington, I would go down to the headquarters of the Tobacco Institute in the District and meet them. In most states, they would fly somebody out and meet with their local people.

JAMA: What exactly would you do?

Mr. Crawford: Let's pick a recent case. Montgomery County (Maryland) made restaurants set aside a certain part for nonsmoking. We fought that tooth and nail. Then a city in the county, Takoma Park, in 1990 decided to ban all smoking in all restaurants. Well, we (the tobacco lobby) can't live with that, because first of all, it's a suburb of Washington, DC, so the Washington Post will pick it up and everybody on Capitol Hill will read it. Number two, the head of the Tobacco Institute lives in Montgomery County, and all their bigwigs live out here. Number three, that would set a terrible precedent for banning smoking in restaurants. No other municipality or subdivision had absolutely banned all smoking in all restaurants at that time.

So we had a meeting at the Tobacco Institute. I came up with the idea that Takoma Park and the area it's in are full of immigrants from Central America El Salvador, Nicaragua, Honduras, Guatemala and also it's a very liberal area. They made themselves a nuclear-free zone and all sort of stuff.

Now it's obvious to us that people from Central America smoke like chimneys and if we could identify those Hispanic restaurants that were inside Takoma Park and those that were just outside the city limits, we would have a hell of a good argument by showing that antismoking law would force these poor Central Americans, who came here pursuing the American dream, out of business all their customers would walk across the street to the restaurants where smoking is allowed.

So on the computer, we located where all the Hispanic restaurant owners were, contacted them through the phone bank, had them all show up at the hearing screaming bloody murder, waving signs, you know, "You're anti-Hispanic," "bunch of racist bastards," and so on. They protested that the law would ban smoking in their restaurants but not right across the street (outside Takoma Park) at a Hispanic restaurant run by an archrival, who would get all their business because customers could just walk across the street to smoke.

Well, the bill died. We killed it. It was because we were able to identify every Hispanic-owned restaurant in Takoma Park. We did it all in a few weeks. It's amazing what can be done with computers. In every district, (the Tobacco Institute) knows the smoker's names, addresses, sex, race, and in many cases even the brands they smoke. With computers and the phone bank they can turn out a demonstration in 24 hours, 500 people out there screaming "Protect smoker's rights," "Protect our constitutional right to choose," "Leave us alone, you Princetonian, Harvard-educated eggheads." Very effective.

JAMA: So the first thing is to identify an approach, a battle plan?

Mr. Crawford: The first thing is, you go to the sponsor of the proposed antismoking bill and find out if they're serious or not. Many time the sponsor just wants to get his or her name and a nice big article in the newspaper, and if the bill dies they're not really going to cry about it. It looks good in their brochure.

However, sometimes they are very serious about it. They're health conscious, or they've had a mother who died of lung cancer or something, and they're very upset about it, and they want to push this legislation.

They you sit down and see if you can't work out a compromise with the sponsor, if there isn't some way that you can sidestep the issue or work something out whereby you don't have to do battle. It's the old Chinese adage from The Art of War. The best general is the one who never does battle but is able to outmaneuver his enemy. That's what you try to do. If you can't do that, then go to war.

And you go to war by mobilizing everybody and getting up all the opposition until finally, if you can't get the bill killed, you get it amended to the point where it really doesn't do much.

JAMA: Was the elevator bill in Maryland an example of that?

Mr. Crawford: Oh, it was beautiful example. This was years ago when the antismoking thing was just getting started. A state senator from Baltimore put in a bill to ban smoking in elevators, which actually was a good bill. If you're in an elevator and someone is smoking, it's terrible. But up until a few years ago, everybody could do it. First of all, it was obvious that the senator was going to get something through. We'd had her bills killed so often that people were starting to feel sorry for her.

So, the first amendment on the thing was, it had to be enforced by the state Department of Labor and Industry, because they regulate elevators. Now, they don't have any police force, no enforcement mechanisms, but we put in the bill it has to be enforced by the department. Secondly, we put in that there had to be a large sign in the elevator, something like a foot-and-a-half by a foot, saying that there was a fine of \$25. Then we added that in order to enforce the law, the smoking had to be done in the presence of a police officer. And then to make absolutely sure the bill didn't do anything, the police officer had to be uniform. So with these amendments, we figured if somebody's dumb enough to walk into an elevator that has a big sign saying no smoking \$25 fine, with a cop standing there in a uniform, and they light up anyway, they deserve to be arrested and pay a \$25 fine!

That's how you could take a bill and amend it so it looked good in (the senator's) brochure. She put an antismoking bill through but it didn't do anything. You can't enforce it. So we can live with that. And that's how, with a lot of bills that make it through, you find out that they don't really do anything.

Another good example: for years, antitobacco activists have been trying to make the owner of a store not the person who actually sells the cigarettes criminally or civilly liable for selling cigarettes to minors.

The reason is simple. In these little convenience stores, the salesperson is usually a third-world refugee who's trying to pursue the American dream by holding down three jobs. Busy as hell, he turns his back and somehow he sells a pack of cigarettes to a guy who's 16 or 17. Well, who wants to prosecute him? What state's attorney wants to give this poor dude a bad time when the one who's making a profit is the owner of the store? But you can't get a bill through making the owner responsible. We wouldn't let you.

We would say that the criminal responsibility be put where it belongs, on the criminal. And who is the criminal? The guy who sold the cigarettes. He shouldn't have done that. He violated the law. But how the hell wants to prosecute him? In return for a favorable amendment, we would offer to agree to increasing the penalty for selling cigarettes to minors. Send him to jail. Hell, give him the gas chamber.

JAMA: Can you comment about the tobacco industry strategy of always trying to take the fight up to the state level, away from the local?

Mr. Crawford: We could never win at the local level. The reason is, all the health advocates, the ones that unfortunately I used to call "health Nazis," they're all local activists who run the little political organizations.

They may live next door to the mayor, or the city councilman may be his or her brother-in-law, and they say, "who's this big-time lobbyist coming here to tell us what to do?" When they've got their friends and neighbors out there in the audience who want this bill, we get killed. So the Tobacco Institute and tobacco companies' first priority has always been to preempt the field, preferably to put it all on the federal level, but if they can't do that, at least on the state level, because the health advocates can't compete with me on a state level. They never could.

On the local level, I couldn't compete with them. And that's why all your antismoking legislation without exception has started at the local level, all across the country. The Congress itself has done virtually nothing. Even the states are just starting to act. But back in the 1980s it was the little counties, municipalities, townships, where your antismoking legislation was coming from. And that's what was driving the tobacco

guys crazy, because they had to pay people like me to run around and fight the damn things. And every time I'd put out a fire one place, another one would pop up somewhere else.

JAMA: You've commented in some news stories I've seen on the philosophy, "If you can't attack the message, you attack the messenger."

Mr. Crawford: That's also the "Nazi" technique. Here's how we would do it. I'd say, "Now, you've heard all these witnesses who sway that smoking causes lung cancer and emphysema and heart conditions. Now, ladies and gentlemen of the county council, the jury is still out on the issue. There is right and wrong probably on both sides, there are scientists on both sides, some agree, some don't agree, and that's not settled and cast in stone yet. But that's not the big issue. Let the medical people determine that issue. That's not the issue before you.

The issue before you is the constitutional basic right of your citizens to be able to choose their lifestyle and what they want to do. And these people are trying to take away that right."

So now, I've gotten away from the message and I'm attacking the messengers, and I start raising hell about them and wave the flag and play the Star Spangled Banner, and if it's done right, the message gets lost.

It's the messengers who are on trial and often the messengers are not equipped to defend themselves.

JAMA: Do you know anything about local smokers' right groups that have been supporting all over? How closely tied are these groups to the tobacco industry?

Mr. Crawford: As much as I can tell you without going into attorney-client privilege would be that there is nothing that happens in this area that is not known about and supported or funded or somehow nourished by those who will profit from it. That is a basic given. And who is going to profit from it? You (as a tobacco lobbyist) often work for front groups. For example, if we wanted to get rid of (FDA chief David) Kessler, who's the biggest thorn in their side, I would have funded AIDS groups and got them fired up that he's not approving anti-AIDS drugs fast enough. Raise all dins of hell and go to (President) Bill Clinton and get him to fire Kessler. And who would benefit? Tobacco, of course. But the AIDS people would do the dirty work because they're so involved, and that's how it's done. You never leave your fingerprints at the scene of the crime.

JAMA: But they haven't done that yet?

Mr. Crawford: (Laughs). Well...I'm not going to comment. But let me tell you something. Don't you think there hasn't been a lot of stuff going on in Washington there's an election coming up, a lot of money's needed for the election, a lot of business ties need to be cemented don't you ever sell them short. You are dealing with the Tobacco Institute, with the smartest, toughest, brightest bunch of people you have ever met.

And ruthless. If you ever want to see a bunch of cowboys work, watch Philip Morris. They are tough. I mean they shoot from the hip. It was Philip Morris who did that California thing (the failed statewide referendum that, if passed, would have superseded tough local antismoking laws), after they were advised not to. That California thing was dumb, because they had their name attached to it. They should never have done that.

JAMA: They got very bold there.

Mr. Crawford: Oh course they are. And they're getting bolder. It's a take-no-prisoners fight. You're talking about \$100 billion a year in gross profits. That's a lot of money. And man, anything goes. And anything will go. And don't ever think they won't come out and try to strike a deal on something down there (in Washington). They've already got control of Congress. You're not going to see any antismoking legislation come out of Congress as long as the Republicans have control. They've already said that. You're in the big leagues, and you've got to expect to get beamed and spiked. That's the way it is. It's one of the most sophisticated, well organized lobbying machines in the world.

JAMA: You've recently received an award for you antismoking efforts, I believe.

Mr. Crawford: Yes, an award from the Smoke-Free Maryland Coalition. I also just received the first lawmaker of the year award from the American Heart Association Maryland affiliate, which the association has named after me, the Victor L. Crawford Lawmaker of the Year Award. The Bar Association also gave me one for having had the courage to speak out. I don't think it's so courageous, but evidently nobody else seems to be doing it. I think I know why, but I can't make any comments on it, because of the attorney-client privilege.

If you'll notice, the best lobbyists the "black hats" hire are in many cases attorneys, because that gives them an extra layer of protection. If I disclose any confidential information, the people I worked for can go to the Bar Association's Grievance Committee. I've never been before the Grievance Committee in 35 years of practice and I'm very proud of that. The attorney-client privilege is not my privilege, it's theirs (the Tobacco Institute). And you're never going to get them to waive that, that's for sure.

JAMA: Did you have any qualms when you were working for the other side?

Mr. Crawford: Not really, because I was a professional. You do it because you have the American impetus to win. Winning is everything. That's why they hire you as a trial lawyer, because you win cases. That's why they hire you as a lobbyist, because you win in front of legislative bodies.

I'm a trial lawyer, I represent criminal defendants. You've got to learn to compartmentalize, it's the only way to get through life you're in denial and you compartmentalize. I knew in my heart it (smoking) was wrong, but it (cancer) wasn't going to happen to me. What I didn't know was what suffering it really does cause, and nobody knows that until they go through it.

JAMA: There are a lot of people working for the tobacco industry in various capacities. They're moral people, and they are not totally bamboozled even by what they're saying, but they are similarly compartmentalized. Can you reach them in any way?

Mr. Crawford: They know. In their hearts they know. But they don't know how bad it is until it happens to them. The money is good and you can make a similar argument (that the product causes illness) about liquor.

But liquor at least has some redeeming values. Tobacco has none. None.

But all I can tell them is they've got to follow their own conscience. They don't realize the suffering that they're causing until it happens to them, and the suffering that they're causing is beyond words.

by Andrew A. Skolnick

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