Nancy Mayer-Whittington

Oral History Project
The Historical Society of the District of Columbia Circuit
Nancy Mayer-Whittington

Interviews conducted by:
Ellen Woodbury, Esquire
June 24, 2009, February 10 and 18, March 3, September 13 and 27, 2011,
October 4, 2011, March 12, April 12, and May 17, 2012
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NOTE

The following pages record interviews conducted on the dates indicated. The interviews were recorded digitally or on cassette tape, and the interviewee and the interviewer have been afforded an opportunity to review and edit the transcript.

The contents hereof and all literary rights pertaining hereto are governed by, and are subject to, the Oral History Agreements included herewith.

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With the permission of the person being interviewed, oral histories are also available on the Internet through the Society's Web site, www.dcchs.org. Audio recordings of most interviews, as well as electronic versions of the transcripts, are in the custody of the Society.
INTERVIEWEE ORAL HISTORY AGREEMENT

Historical Society of the District of Columbia Circuit
Oral History Agreement of Nancy Mayer-Whittington

1. In consideration of the recording and preservation of my oral history memoir by the Historical Society of the District of Columbia Circuit, Washington, D.C., and its employees and agents (hereinafter "the Society"), I, Nancy Mayer-Whittington, do hereby grant and convey to the Society and its successors and assigns, all of my right, title, and interest in the tape recordings, transcripts and compact disc of interviews, as described in Schedule A hereto, including literary rights and copyrights. All copies of the tapes, transcripts and compact disc are subject to the same restriction herein provided.

2. I also reserve for myself and to the executor of my estate the right to use the tapes, transcripts and compact disc and their content as a resource for any book, pamphlet, article or other writing of which I or my executor may be the author or co-author.

3. I authorize the Society to duplicate, edit, publish, including publication on the internet, or permit the use of said tape recordings, transcripts and compact disc in any manner that the Society considers appropriate, and I waive any claims I may have or acquire to any royalties from such use.

Nancy Mayer-Whittington 2/1/16

Date

SWORN TO AND SUBSCRIBED before me this 1st day of February, 2016.

BIMAL ADHIKARI
Notary Public

HOWARD COUNTY
MARYLAND

My Commission expires July 25, 2016

ACCEPTED this 12th day of April, 2016, by E. Barrett Prettyman, Jr., President of the Historical Society of the District of Columbia Circuit.

E. Barrett Prettyman, Jr.

Stephen J. Pollak

Stephen J. Pollak

CPAM: 8833777 1
**Schedule A**

Tapes recordings, digital recordings, transcripts, computer diskettes and CDs resulting from ten interviews of Nancy Mayer-Whittington conducted on the following dates:

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The transcripts of the ten interviews are contained on a compact disc.
INTERVIEWER ORAL HISTORY AGREEMENT

Historical Society of the District of Columbia Circuit

Oral History Agreement of Ellen Woodbury

1. Having agreed to conduct an oral history interview with Nancy Mayer-Whittington for the Historical Society of the District of Columbia Circuit, Washington, D.C., and its employees and agents (hereinafter "the Society"), I, Ellen Woodbury, do hereby grant and convey to the Society and its successors and assigns, all of my right, title, and interest in the tape recordings, transcripts and compact disc of interviews, as described in Schedule A hereto, including literary rights and copyrights.

2. I authorize the Society, to duplicate, edit, publish, including publication on the internet, or permit the use of said tape recordings, transcripts and compact disc in any manner that the Society considers appropriate, and I waive any claims I may have or acquire to any royalties from such use.

3. I agree that I will make no use of the interview or the information contained therein until it is concluded and edited, or until I receive permission from the Society.

Ellen Woodbury  Jan. 21, 2016

Ellen Woodbury  Date

SWORN TO AND SUBSCRIBED before me this 21st day of January, 2016.

[Signature]
Notary Public

My Commission expires May 31, 2020

ACCEPTED this 12th day of April, 2016, by E. Barrett Prettyman, Jr., President of the Historical Society of the District of Columbia Circuit.

E. Barrett Prettyman, Jr

Stephen S. Pollard

CPAM: 8740791.1
**Schedule A**

Tapes recordings, digital recordings, transcripts, computer diskettes and CDs resulting from thirteen interviews of Nancy Mayer-Whittington conducted on the following dates:

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The transcripts of the ten interviews are contained on ten tapes.
Ms. Woodbury: This interview with Nancy Mayer-Whittington, the Clerk of the Court for both the United States District Court for the District of Columbia and the United States Bankruptcy Court for the District of Columbia, is being taken as part of the Oral History Project for the Historical Society of the District of Columbia Circuit. This interview is being conducted in Nancy's office in the E. Barrett Prettyman U.S. Courthouse on Constitution Avenue in Washington, D.C. My name is Ellen Woodbury. I am a lawyer with the law firm of Chadbourne & Parke. Nancy, thank you for agreeing to participate in the Historical Society's oral history program. I would like to start today with your family background and your childhood growing up here in Washington. First, would you just state your full name and tell us when and where you were born?


Ms. Woodbury: Would you tell us a little bit about your parents and their families?

Ms. Mayer-Whittington: My father, Francis C. Mayer was born in Wichita, Kansas on February 18, 1919. His mother was Mae Spellman Mayer and his father was Hans Englebert Mayer. His mother, whose parents were both born in Ireland, was born in the United States and his father was born in Hamburg, Germany. Hans was sent to the United States when he was 15 or so to avoid having to join the German army. He went to live with his uncle, Leo Mayer, who lived in St. Louis. My father had an older brother, Russell and an older sister, Celeste.
My mother’s parents were Anna McHugh Herron and Patrick Francis Herron. My mother, Mary Rose Herron, was born in Hazelton, Pennsylvania on April 29, 1920. Her mother Anna, whose parents were both born in Ireland, was born in the United States and her father Patrick was the sixth of 13 children and the first one born in the United States. His older siblings were born in Ireland. My mother was one of ten children. She was second oldest and the oldest daughter.

Ms. Woodbury: Do you know how your father's family came to settle in Kansas?

Ms. Mayer-Whittington: My father's mother was born in Kansas and my father's father was a traveling insurance salesman. His territory included parts of Kansas and that is how he met my grandmother.

Ms. Woodbury: Did you know your paternal grandparents?

Ms. Mayer-Whittington: No. My grandfather died before I was born. My grandmother was not in good health in her later years and did not travel. She died in 1960 when I was 7 years old. My dad told us that although his father, Hans, had come to this country when he was in his teens, and later became a citizen, he never quite got rid of his German accent. He learned the English language and spoke it flawlessly. But, he also retained his fluency in his native German language. When Hans and Mae married, she forbid him to speak any German in the house. Tensions against Germany and the German people were still running high in the United States after the end of World War I. My dad remembered that when he was about seven years old, their next door neighbor ran up to my Dad's front door and told their family to stay inside and turn off the lights. A mob of people were coming to the house because they thought they had heard Hans speaking in his
native German language and they didn't believe he was an American citizen. A few minutes later, a big group of men arrived yelling and carrying torches. My dad said he had never been so scared in his whole life. Fortunately, the neighbor confronted the group and told them that Hans was an American citizen and that he was loyal to this country and the neighbor reminded them that most of them knew Hans and that he was a good neighbor and friend. Finally, the crowd left and my dad and his family could turn the lights back on. My dad said he never forgot that night or the bravery of the neighbor who came to their aid.

Ms. Woodbury: Did your father or your aunt Celeste on your father’s side talk about how the family was impacted by the Great Depression?

Ms. Mayer-Whittington: My aunt Celeste talked about all the changes that happened to their family as a result of the Depression. The insurance business was very slow so the family had to cut back on their living expenses because of the lost income. My aunt Celeste told us that they used to have a cook, and a housekeeper before the Depression. They had to let them go and do the chores themselves because they could no longer afford to live that way. My aunt Celeste was 12 years older than my dad and his brother Russ was 14 years older. Since my dad was so much younger, he did not recall a time when they had a lot of money. He remembers living in a very modest home and doing a lot of part time jobs in order to have any spending money. In fact, he told of the time when he was at his high school graduation and when he got his diploma and opened up the outer casing, instead of finding his diploma there was a note that said he owed the school $5 and he would not receive his actual diploma until he paid the outstanding
debt! Five dollars was a lot of money back then but his sister, Celeste, who had a steady income from her job, paid the fee and they never told my grandmother anything about it. My dad after high school went away to college.

Ms. Woodbury: Did your aunt Celeste also attend college?

Ms. Mayer-Whittington: Yes. She was quite a character! She had a part-time job when she was 16 and in high school. With her very first paycheck, she took the money and went out to the regional airport. She paid for a 30 minute ride in an open cockpit two-seater plane laughing as they circled Wichita and enjoying every minute. She never told her parents what she did, but she enjoyed telling her nieces and nephews all about her first trip in an airplane.

Ms. Woodbury: Do you remember or do you know which college she attended?

Ms. Mayer-Whittington: She attended Marymount College then transferred to Wichita State University. Her first husband, Buck Weaver, whom she married in 1948 died in 1958. She then married James C. Dolan in 1961 and he died in 1991. Aunt Celeste died in 2002.

Ms. Woodbury: Where did your father go to college?

Ms. Mayer-Whittington: My father attended Regis College in Denver.

Ms. Woodbury: Do you know how he selected that college?

Ms. Mayer-Whittington: I think he got a scholarship. He was an outstanding student who excelled in a lot of subjects but he was especially good in public speaking, debating and engaging anyone in conversation.

Ms. Woodbury: What year was your father born?

Ms. Woodbury: On your mother’s side, did you know either of your grandparents?

Ms. Mayer-Whittington: Yes. I knew my grandfather, Patrick Francis Herron. We called him Pat. He was a wonderful first generation Irish American. In Hazelton, he owned and operated a general store. The store was on the first floor and the family lived in the two stories above it. When the Depression came, they lost the store primarily because they had extended so much credit to their customers — and his customers couldn't pay my grandfather what they owed him. He in turn couldn't pay for more merchandise without cash because they were not extending him any credit either. At this time, the two oldest sons, John and Joe, had finished high school and went to Washington, D.C. to look for work. Both of them found jobs and the family decided to relocate to D.C. and start fresh. Things were changing but the family wanted to stay together.

Ms. Woodbury: Were there job opportunities available in Washington at that time?

Ms. Mayer-Whittington: Yes, my uncle Joe found a job working as a car mechanic and my uncle John found a job working in a grocery store. My uncle Terry enlisted in the Navy when he finished high school in 1942. The family moved to D.C. in 1941. My grandfather was 64 years old and he found a job working the produce department in a Safeway store. But he was allergic to the pesticides they used on the produce and developed a rash on his hands that made it difficult for him and very uncomfortable. He didn't want to lose the job because at his age it was hard to find work. Shortly after his son Terry enlisted in the Navy, his plane was shot down in the Pacific. Everyone got out
but Terry. He was the belly gunner and wasn't able to get out. They never found his body and his death was a huge blow to the family. A few months after this, a stranger came up to my grandfather while he was working at Safeway and told him about a job that was opening for a night watchman at the public water plant. My grandfather applied and was hired. He always told us that he thought the stranger was an angel sent by his son Terry to ease his sorrow and get him out of the produce business.

Ms. Woodbury: This would be your uncle?
Ms. Mayer-Whittington: My one uncle was a mechanic.
Ms. Woodbury: You said your father after he graduated from college applied to Catholic University? Did he tell you why he decided to go to law school or how he chose Catholic?
Ms. Mayer-Whittington: I think he chose Catholic, again, because he got a scholarship. He didn't have a lot of money so getting a lot of financial help was what he needed, But he also choose Catholic because of his and his family's interest in having a Catholic education. To this point, my father had gone to Catholic schools all his life, so Catholic University for law school was a natural choice. He also loved their theater program with their connection to Arena Stage. My dad loved appearing in theatrical productions.

Ms. Woodbury: All of your siblings are girls right?
Ms. Mayer-Whittington: Yes.
Ms. Woodbury: Did you ever wish you had a brother?
Ms. Mayer-Whittington: No, not really. But I don't know whether it was because not ever having
had a brother I didn't really know what, if anything, I was missing.

Ms. Woodbury: I was going to ask how you and your sisters got along and were you close while you were growing up?

Ms. Mayer-Whittington: Yes and we had our normal ups and downs…

Ms. Woodbury: Sibling's rivalries?

Ms. Mayer-Whittington: Somewhat but we were all so close in age to one another — my parents had 10 daughters in 12 years - that being a part of a big family was normal for us. We were and still are very close to one another. Our parents did a wonderful job of raising us and letting us know that getting along, helping each other and taking care of each other was the most important thing we could do for the family. I was the second oldest of the family and at an early age I learned that I should be a role model for my younger sisters. My parents gave me an opportunity at a young age to develop some leadership skills. They had expectations for all of us depending on our age and skill sets and I think that prevented the sibling rivalries and developed in all of us a strong sense of family love and pride.

Ms. Woodbury: When you were born your parents would have been in their thirties right? And they lived in Washington?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: And at some point they moved to Kensington?

Ms. Mayer-Whittington: Yes, when my sister Kathleen was born we were living in a two bedroom apartment in the Brookland section of D.C.. So, we moved to a three bedroom home in Kensington. They didn't want to go too far out because our dad was commuting downtown to the Federal Trade Commission every day for work.
Ms. Woodbury: You would have been still very young at that point?

Ms. Mayer-Whittington: Yes. I was 2 at the time.

Ms. Woodbury: Do you remember anything about Washington at all from that time?

Ms. Mayer-Whittington: No, I don't. I have seen pictures of the Brookland area but I don't have any real memories of living there. When my parents got married, my mom moved from the family home on Quincy Street in NE to the apartment. When we moved to Kensington, the only family members still living in the family home were my grandfather, and one aunt and uncle who had not married. So, they moved to a house across the street from us in Kensington. That was great because we got to see them every day.

Ms. Woodbury: What did you and your sisters do for fun?

Ms. Mayer-Whittington: We were a typical family. We played outdoors a lot riding our bikes, roller skating, playing kickball and baseball and hopscotch and four square. We had dolls and doll carriages and lots of doll clothes. One time when we cleaned up our basement and put all of our dolls on the wooden shelves my grandfather had made for us, we had 72 dolls all in a row and all in their Sunday best. I still remember how they looked all cleaned up and sitting side by side. I had a wonderful childhood. It was great growing up in a family with ten daughters.

Ms. Woodbury: What was that neighborhood like?

Ms. Mayer-Whittington: Our Kensington neighborhood was wonderful.

There were kids in most of the houses around us. We lived on a court for much of the time before they cut down the trees and added more houses to our street. Living on the court was great for kickball games, bike riding and hide
and seek. We didn't have to worry about watching out for cars since we knew everyone on the street and they would watch out for all the children. We really hated having to move but as our family size increased and the three bedroom house did not increase, well we had to find a bigger place. When we moved into our house in Rockville, our cousins bought a house across the street so we were happy to be able to see them all the time. This new neighborhood was a lot bigger and there were even more kids than in our old neighborhood. The new neighborhood was a fairly Catholic neighborhood with St. Jude's Church and school right down the street from us. With a Catholic neighborhood, you usually — at least back then — had families with lots of children. Our next door neighbors had 6 boys and one girl, our cousins had 8 children and another family two doors down had 7 kids. The smallest family on the block had three children and with 10 we were the largest family. It was great fun! We could field several teams for any sport and at the end of the street was the best hill ever for sledding. Since we were right down the street from St. Jude's we were able to walk to school which was huge because in our old neighborhood we had to take a school bus.

Ms. Woodbury: When you were in Kensington, what school did you and your sisters go to?


Ms. Woodbury: And were the classes all girls or boys and girls?

Ms. Mayer-Whittington: Boys and girls

Ms. Woodbury: And where was that located?
Ms. Mayer-Whittington: Holy Redeemer is located at the corner of Saul and Summit Avenue a couple of blocks off Connecticut Avenue in Kensington. It is not too far from the beltway and Rock Creek Park.

Ms. Woodbury: Were you there through age 10 when you moved to Rockville?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Were you sorry to leave the old school, you had been there for five years?

Ms. Mayer-Whittington: Yes, it was hard because I had a lot of friends there and I was very happy there. When we moved to Rockville, St. Jude's school had a waiting list for some grades so that my sister Kathleen, who is one year younger than me, and I had to go to the local public school.

Ms. Woodbury: Were all of your sisters in that same situation that they had gone to the public schools?

Ms. Mayer-Whittington: No, just Kathleen and I. We both went to Aspen Hill Elementary School. Kathleen went there for fourth grade and I went there for fifth and sixth grades.

Ms. Woodbury: When you went to high school where did you go?

Ms. Mayer-Whittington: Yes. That was a great experience for me. I was rather shy in grade school but I started to come out of my shell at Holy Cross. I loved the fact that it was an all girl’s high school so I didn't have to worry about impressing or making mistakes and getting teased by boys. I learned how to write at Holy Cross, how to take responsibility for myself and how to manage people and projects.
Ms. Woodbury: Were there classes or teachers that you particularly liked?

Ms. Mayer-Whittington: There was Sister Thomas Aquinas who gave me my love of creative non-fiction and poetry, Ms. Homorsky who taught world religions and opened my eyes to all the other faiths that exist all around us and Sister Rose Michael who encouraged me to run for president of the drama club — not because I wanted to be on the stage — because I had a knack for managing things.

Ms. Woodbury: Were there particular teachers that influenced you?

Ms. Mayer-Whittington: Absolutely, there was Sister Margaret Ann who taught me that I always have a choice in any situation. There may not always be a lot of good choices, but there are always choices. She would say, "If you give up your right to make a choice, you become a victim. God gave you free will. Use it."

Sister Grace who epitomized her name but always impressed on us the need to be an advocate for those who cannot advocate for themselves. But, she would say, "Do it with dignity and grace."

Ms. Woodbury: What kind of literature class did Sister Thomas Aquinas teach?

Ms. Mayer-Whittington: She taught English Lit and the Classics. But she encouraged all of us to find our voice through writing. I won a poetry contest once because she inspired me to try my hand at writing poems?

Ms. Woodbury: You mentioned the drama club.

Ms. Mayer-Whittington: Yes. I was the stage manager for all the plays and I found that I had a knack for telling people what to do. Not really telling them what to do but helping them stay on track and get to the right locations on stage in the right costumes at the right time. Those early beginnings have helped me develop
management skills that I use today. But, as I said earlier, at Holy Cross I
developed a real love of the written word. I love to write and at one time I had
hoped to be a sportswriter.

Ms. Woodbury: Why didn’t you pursue that?

Ms. Mayer-Whittington: There were very few women sports writers at that time and I guess I
lacked the confidence to give it a try.

Ms. Woodbury: Did your family travel?

Ms. Mayer-Whittington: Not really but we always made a point of taking a family vacation. Our
dad loved going to the bay or the ocean, so each year we would rent a cottage on
Broomes Island, Maryland or Fenwick Island, Delaware and then eventually
Ocean City, Maryland.

Ms. Woodbury: In your family, were there any female role models for you to emulate?

Ms. Mayer-Whittington: My aunt Anne was because she got up every morning and put on high
heels and pearls and went to work for the Department of the Navy.

Ms. Woodbury: Did your aunt give you any advice?

Ms. Mayer-Whittington: Her favorite expression was "It's a man's world!" But then she would tell
us that we were going to be better off because of our education. My aunt Anne
never went to college.

Ms. Woodbury: Did your mother talk to you about the problems of having a career and
family?

Ms. Mayer-Whittington: Not directly. My mother was more subtle. She would grab little
opportunities - like when she was helping us out by babysitting one of our
children — to remind us to keep things in perspective. Nothing was so bad that it
wouldn't look better in the morning. And, she was right. But she was clearly my role model for what a mother should be.

Ms. Woodbury: Were either you or any of your sisters interested in politics or public policy?

Ms. Mayer-Whittington: Yes. I was a little bit interested in politics because of the Watergate trials and all the intrigue surrounding the supposed burglary of the Democratic National Committee. I knew something about the Executive Branch of government because of my dad's position as head of Discriminatory Practices for the FTC. But I had no idea about the investigative side of the Legislative Branch.

Ms. Woodbury: You were aware that the nation's capital was right next door?

Ms. Mayer-Whittington: Yes. In the sense that I knew that my dad worked downtown and commuted there every day when we were growing up and that the FTC was on Pennsylvania Avenue with the Capitol at one end and the White House at the other.

Ms. Woodbury: How old were you when President Kennedy was assassinated?

Ms. Mayer-Whittington: I was ten years old and we had just moved to our new house in Rockville a few months earlier in August of 1963. Like everyone else, we watched the TV non-stop and it was interesting to me that all my mom's living brothers and sisters came to our house. They were so upset and so sad that the first Irish Catholic President was assassinated. They loved President Kennedy and were in a state of shock. Our aunt Anne took some of my sisters and I down to D.C. to watch the funeral procession and I clearly remember how quiet it was and the only sounds
you could hear were the clacking of the hooves on the horse drawn caisson, the riderless horse that trailed behind the coffin and the sound of people crying.

Ms. Woodbury: What do you remember about the anti-war movement and the Viet Nam war?

Ms. Mayer-Whittington: I remember that in high school everyone was divided into two sections. You were either a hawk that supported the war or a dove that did not support the war. Before high school these types of issues were very black and white for me. I saw the lack of support for the war as a sign that you didn't support our troops. To me that was unpatriotic. There were vigorous debates in our classes and through those debates — both formal and spur of the moment — I learned so much more about the war. I left high school knowing that the issue of being pro-war or anti-war was much more complicated than I had ever thought. I realized you could love America and hate the war. The Viet Nam war ended just as I graduated from college.

Ms. Woodbury: Right at the end of your college?


Ms. Woodbury: What were there discussions around the family dinner about the Viet Nam War?

Ms. Mayer-Whittington: My father was fairly vocal about the notion that you had to support our country, right or wrong and that you couldn't end the war until Communism was stopped. But as I mentioned earlier, I was learning there were so many facets to the war and I thought there were some reasonable arguments that my father should at least be willing to hear. I was disappointed that my dad did not embrace
my new found perspective but I appreciated that he listened to what I had to say.
Ms. Woodbury: Good morning. Today’s date is Thursday, February 10, 2011. Nancy, for today’s interview session, I would like to begin with your experience in high school and if we have time today, your work with the court here in D.C.. Where did you go to high school?

Ms. Mayer-Whittington: I went to the Academy of the Holy Cross, which is located in Kensington, Maryland.

Ms. Woodbury: What year did you start?


Ms. Woodbury: At that time, how big was the Academy of the Holy Cross?

Ms. Mayer-Whittington: Oh, it had about 500 students and it was an all girls’ Catholic high school.

Ms. Woodbury: Did it cover grades 9 through 12?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Looking back on it now, what was the best part of your high school experience?

Ms. Mayer-Whittington: I think the best part was the friendships and camaraderie. It was a really good experience for me being in an all girls environment, having grown up in an all girls family. It was kind of a natural continuation of that and it was a school that challenged me. I really grew academically. They had a lot of tough classes and thought provoking assignments. I had good relationships with the teachers and ended up learning a lot and being very well prepared for college.

Ms. Woodbury: Nancy, you said that one of the things that was positive for you about the school was that it was an all girls school. Did you regard that as valuable to you
at the time, when you were going, or looking back on it?

Ms. Mayer-Whittington: Well both. Probably more valuable looking back on it. I was not as reflective when I was living it. I was very shy at this time in my life and having all girls in my classes was great -- they were very supportive and would not make fun of you. When I was in the 5th and 6th grades, I attended a public school and sometimes I was afraid to make a mistake in front of the boys because they would make fun of me. Also, I was the one that would raise my hand and wait patiently to be called on while the boys yelled things out. Sometimes I’d think I knew an answer, but I didn’t get my turn. At Holy Cross, the environment was very supportive with everyone taking turns and respecting someone’s initial reluctance to talk and letting them talk when they were ready. Not nearly as competitive as in a coed environment.

Ms. Woodbury: Was there any part of your years in high school that you didn’t like or looking back that was not a good experience?

Ms. Mayer-Whittington: Well yes, in high school you were expected to get up and present papers and positions, in an effort to develop presentation skills. I was afraid of my shadow back then and sometimes. I would get so nervous that I would trip over my words. I hated that part of high school. I hated the whole idea that I had to get up in front of people. Ultimately, looking back, it was the beginning attempt to try to get over my fear of public speaking. But I still dreaded every time I had to get up in front of everyone, despite the fact that other girls were very supportive of me. I had this physiological reaction of a rapid heartbeat and stumbling over my words - and it took me quite a while to feel comfortable
speaking in public. Looking back that was an aspect of high school that I didn’t like.

Ms. Woodbury: While you were still in high school did you develop skills to help you get over that or did it ever get easier while you were still in high school?

Ms. Mayer-Whittington: Not really because you were expected to do presentations at various times. It wasn’t so much that you ever got so regular with it that you felt comfortable. It wasn’t until I was starting at the courthouse and had to regularly give the orientation speech to new jurors that it got a bit easier. I did it so often, that I finally got to the point where I wasn’t in mortal fear of giving the presentation. In high school there were just enough speeches that helped me get organized, but not enough practice in doing it.

Ms. Woodbury: Were there any other things about your high school years that, looking back on them, you think of as being very good or being negative?

Ms. Mayer-Whittington: Well, in spite of my intense fear of speaking in front of people, I joined the drama club and I would like to think it was because I thought if I did that more often I would be better, but it really wasn’t that. I joined it because I liked working behind the scenes. I liked helping with the lights and I liked helping with the different aspects of the production to the point where I became stage manager for most of the plays we presented. Ultimately, I became vice president of the drama club in my junior year and president of the drama club in my senior year. All the while never having had to perform a role on stage because that was not my interest. But I learned how to organize things. I learned how to direct people to do things and got that type of experience and I thought, "I kind of like
Ms. Woodbury: Were there other people in your family who were interested in drama?

Ms. Mayer-Whittington: It just looked like a lot of fun. And Holy Cross had a good reputation for having really good theatre productions. It didn’t hurt that my boyfriend was on the stage crew at Our Lady of Good Counsel which was a boys school. We had lots in common to talk about. Our cast parties would sometimes overlap and we would just have a good time. My oldest sister wasn’t interested in the drama club, but my younger sister, who was a year behind me, did some of the behind the scenes things too. Not on the stage but helping with the production. When we did the "King and I" my youngest sisters, who were twins and five years old, played the part of the King’s youngest children. They actually went on the stage!

But, really, my dad was the one who acted all through law school at Catholic University’s Hartke Theatre. He had a great speaking voice and the best sense of timing in delivering a line. We never saw him perform, but we did see him speak publicly very often. He had pictures of his performances in an album that my mother put together. It’s funny but when we were growing up we always put on shows for our relatives, everything from plays, to skits that we wrote, to talent shows. My grandfather wanted us to become the next "Lennon Sisters" because we all had fairly good voices, but that fear of a truly public performance kept my grandfather’s wish from being pursued.

Ms. Woodbury: It became a shared family experience?

Ms. Mayer-Whittington: Yes and that’s how I met some of my friends at Holy Cross who joined this."
the drama club and either performed or worked behind the scenes with me.

Ms. Woodbury: Over the time you were at Holy Cross were you on balance a good student or did you strive to be a good student?

Ms. Mayer-Whittington: Yes, I was a good student. I was on the honor roll all the time. I wasn’t a straight "A" student but I didn’t have to work extremely hard to get good grades. My older sister, Mary Pat, worked really hard and was a straight "A" student. My parents were really big on education. There were not many excuses for not bringing home good grades because they felt like we had enough time to study and encouragement to study. My dad had gone to law school and my mom had gone to nursing school and they had both continued their education. In our family, it was just assumed that you were going to work hard in school and do the best you can.

Ms. Woodbury: Were there certain subjects or teachers that you liked best or who were favorites for you?

Ms. Mayer-Whittington: I loved all my English classes. I love reading and I like to write. And one nun, Sister Thomas Aquinas, was just amazing. She was able to present a novel with both the ability to tell you what you should look for, when and where the author lived and their background and how they came to their points of views while still enjoying reading the book. She always made everything come to life. She was really good. I also had a world religion teacher, Miss Homorsky who recognized there were religions outside of Catholicism. We learned about Buddhism, and we learned about Islamic practices and Protestant and Jewish faith traditions and that was really an eye-opening experience for me and it was
presented very well.

Ms. Woodbury: At that time were other religions, say from Asia, Africa also covered in the high school curriculum?

Ms. Mayer-Whittington: Yes

Ms. Woodbury: So you learned about Buddhism and Hinduism as well?

Ms. Mayer-Whittington: Yes

Ms. Woodbury: Was your English teacher someone you had for more than one year or was it just a single year?

Ms. Mayer-Whittington: I had her for two years. I can’t think of the names of some of my other English teachers, but I just consistently liked that subject and I did well in it too. And I liked creative writing and that was explored in our junior and senior years.

Ms. Woodbury: Was the creative writing class a separate class? For example, to write stories or how was that done?

Ms. Mayer-Whittington: It was just a sub-set of the English classes, not a separate class but they did encourage everybody to try different mediums. I know that when I was a junior, I was a runner-up in a national poetry contest. But, I had to read my poem in front of an audience and I wasn’t really thrilled about doing that. I almost wished I hadn’t won because I still had such of fear of public speaking.

Ms. Woodbury: Where did you have to go to read it?

Ms. Mayer-Whittington: Down at St. John’s College High School in Washington, D.C. in an auditorium with lots of people. But I got a trophy for my poem and my family came to the presentation and everyone was very proud of me – so I guess it wasn’t so bad.
Ms. Woodbury: Did you continue writing poetry or doing creative writing after high school? Was that an interest that continued?

Ms. Mayer-Whittington: Yes, when I was in college, my grandfather who was 94 at the time passed away. He was kind of a character and big influence on me and all of our family so I wrote a poem about him. He died in June and I wrote the poem and gave it to my mother the next year as a St. Patrick’s Day gift since that would be our first St. Patrick’s Day without him. My mom, in particular, was thrilled about it, and my aunts and uncles and everybody thought it was wonderful. It was not a work of art or anything close to that but it captured some of the essence of my grandfather and it gave me and the rest of our family something concrete to remember him by. I wrote some other poems about our family from time to time and sort of became the one who captured family events in poetry. I wrote a poem for each of my sister’s weddings. They were read at the church initially by one of my sisters, and later as I got over my fear of public speaking, I was able to read them. The poems created a little bit of a chronology of our family history.

Ms. Woodbury: When you were in high school, apart from your work with the drama club, were there other extracurricular activities at the school that you were involved in, in or outside the school?

Ms. Mayer-Whittington: Not really at Holy Cross because I was in a car pool and that limited my after school activities. But when you have nine sisters and you live down the street from your eight cousins and you live next door to a family that has seven children, and then you have lots of things going on in the neighborhood that keep you busy. There was also lots of home work. And then I started working when I
Ms. Mayer-Whittington: I worked as a sales clerk at Montgomery Ward two afternoons a week and Saturdays. Everyone in our family pretty much started working when they turned 16.

Ms. Woodbury: Do you remember what department you were in?


Ms. Woodbury: Did you enjoy that experience?

Ms. Mayer-Whittington: You know, I did because I liked the idea of working with parents and children. I felt like I knew a lot about children’s clothing since we had such a big family. So, when parents came in and were not sure about sizes, I had some feel for that. But I was still growing out of my shy phase. From time to time, I would work in the back room stocking merchandise and taking inventory. I would work for hours by myself and get a lot done and not have to interact with customers. I remember thinking at one point when I was working in the stockroom that this might be a good career for me. I could stay out of the public eye and feel satisfied with my work and get paid for it. What more could I ask for?

Ms. Woodbury: But, you also have contact with customers? Were those contacts pleasant?

Ms. Mayer-Whittington: Yes, and I had a really, really tough supervisor. Her name was Miss Raugh, I remember to this day that she was really hard to please and so there was always a little bit of tension whenever you worked with her. She never actually yelled at me, I just saw her yell at other people and I saw the way she handled
herself and that made me nervous. That’s another reason that the stockroom had such an appeal for me. But eventually I realized that I did like helping people and that was a big part of the job. So, after learning how to run the register -- in those days there was no bar code or anything, you had to input the information yourself and that was also part of their inventory so you had to be careful to key in everything correctly - I started to really enjoy the work. I did like interacting with people and lots of the customers brought their children with them and I liked helping them find clothes, so I think that was a good fit for me.

Ms. Woodbury: Overall it was a good fit? Did you develop any interest at that point in business? I don’t know that management would be the right word, but in how they ran the children’s department or how they ran the company or the store?

Ms. Mayer-Whittington: Well, I liked when they asked me what I thought about something. I liked that I had some input in the decision making in the department. I liked arranging things and setting up displays. But I never thought about a career there because I realized that there was a lot of night and weekend work. I felt like it was something to do to make money, but I don’t think I ever thought about a career in sales.

Ms. Woodbury: I wanted to ask whether that from the time you started high school was it assumed or encouraged that you and your sisters would go on to college?

Ms. Mayer-Whittington: Yes, it was really very much assumed. My parents, especially my dad, weren’t the kind who preached a lot. He didn’t sit down and tell us what to do as much as he would tell us about his experiences and how valuable a college education was and how valuable it is to keep learning. But it was just assumed
we were going to go to college. It wasn’t a matter of, if you were going to go, it was where you were going to go.

Ms. Woodbury: Nancy, when you were still in high school did you have any idea what you wanted to do when you got out of college or what kind of classes you wanted to major in while you were in college?

Ms. Mayer-Whittington: I had the idea that I would like to be a writer and in particular I wanted to be a sports writer. I had an aunt and an uncle who were brother and sister and they had season tickets to the Washington Redskins. When they had a couple extra tickets they would take turns bringing some of us to the games and I just got hooked on the Redskins. I followed the Washington Senators until they left town and then the Baltimore Orioles. When I went to college, I started attending football and basketball games and fell in love with the Maryland Terrapins. I would read the sports page and figured out how I could have done a better job writing the story. So I had a vague idea that I would like to be a sports writer or any kind of writer. But to be quite honest, mostly I wanted to be a graduate. I hate to say I didn’t have a burning passion to be a doctor or something like that… I just kind of wanted to go through college and see where it led me. I think even then I knew it would be hard to make a living being a sports writer or just being a writer. I had done a little research on that. Unless you had a syndicated column you were considered a freelance writer and that wasn’t what people did right out of school. So as much as I thought I would love to be a writer I knew I would probably have to do something else to earn a living at least right after college. That was my state of mind - I would just have to see what comes up.
Ms. Woodbury: During your high school summers, did you have a job or jobs?

Ms. Mayer-Whittington: From the time I was 16, I worked during the school year a couple days and then Saturdays and during the summer I worked as many hours as they would give me.

Ms. Woodbury: In the children’s department?

Ms. Mayer-Whittington: Yes, at Montgomery Ward

Ms. Woodbury: Did you ever see if you could find a job relating to sports writing while you were still in high school?

Ms. Mayer-Whittington: Well, no because at that time there weren’t any women sports writers. I had written some letters to the editor at the [Washington] Post about some things… I actually got one of them published one time.

Ms. Woodbury: About sports issues?

Ms. Mayer-Whittington: Yes, why they didn’t have a "Sonny Jurgensen Day" at RFK stadium to honor Sonny upon his retirement from the Washington Redskins. The Redskins had held special ceremonies at halftime of other games to celebrate the careers of a players who had retired. I wrote to the Post to see if they could find out what was the reason behind the decision not to hold a retirement ceremony. Parts of my letter made it into a sports writer’s column – I felt like I had actually been published! What a thrill!

Ms. Woodbury: There weren’t that many openings [for girls]?

Ms. Mayer-Whittington: No, Christine Brennan was probably the first female sports writer in the Washington area and she would periodically decry the absence of other female sports writers. I remember standing around talking about sports with a group of
guys when I was in high school and most of the guys were in disbelief that I knew something about football, basketball and baseball. And they were even more surprised when I expressed an opinion. It was clearly not the norm for a woman to discuss sports.

Ms. Woodbury: Unusual for a girl or woman to have that interest or knowledge?
Ms. Mayer-Whittington: Right, and then to want to take it to the next level and actually write about it. Well, that was unheard of……

Ms. Woodbury: Were the aunt and uncle who took you to the Redskins games; were they both very knowledgeable about sports?
Ms. Mayer-Whittington: Yes. And my father who was very knowledgeable about sports.

Ms. Woodbury: What year did you graduate from high school?
Ms. Mayer-Whittington: 1971

Ms. Woodbury: Did you then go straight to college?
Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Where did you go?
Ms. Mayer-Whittington: The University of Maryland.

Ms. Woodbury: Where you living on campus or were you living at home?
Ms. Mayer-Whittington: I lived on campus the first year in one of the high-rise dorms in Cumberland Hall. I remember I was paying for some of my college education even though the tuition at Maryland was cheaper than at Holy Cross, but the room and board was expensive. But yes, I lived on campus the first year and then I came home for the second year, somewhat because I was home a lot during the first year.
Ms. Woodbury: You mean it was a waste of money?

Ms. Mayer-Whittington: Yes, a little bit. And of course, I had a boyfriend and he was two years older and he was living at home too at that time.

Ms. Woodbury: In your neighborhood?

Ms. Mayer-Whittington: No. The boyfriend I dated in high school lived next door, but this was someone else. But I was going home a lot on weekends. It’s kind of hard to explain, but in a big family there is always something going on, there is always someone’s birthday, or anniversary or some other event. When I lived on campus, I would find myself missing out on some of that, and I wanted to come home. I really didn’t give myself an opportunity to meet a lot of people on campus that year because I was dating a guy who was going to school there so I just hung around with him and his friends. So the second year I came home and lived at home for my sophomore year. Then for my junior and senior years, I got an apartment off campus with a friend.

Ms. Woodbury: After you graduated from high school and started college did you stay in contact with friends you made and teachers from your high school years?

Ms. Mayer-Whittington: No, not teachers really. Somewhat because I still had sisters going to school there so I would hear about what was going on with the teachers I knew. But I didn’t have contact with them. My two best friends from high school were Patricia Farrell and Anne Baldwin. Patricia went to Dayton University and Anne went to the University of Arizona. We kept in touch and still keep in touch to this day, but nobody that I was close to in high school went to Maryland. I went from a 500 population school at Holy Cross to a 35,000 population school at
Maryland. This was what I wanted. I wanted the whole big school experience after having a very small high school. I did make some new friends at Maryland.

Ms. Woodbury: Was your older sister at the University of Maryland?

Ms. Mayer-Whittington: No, she went to Frostburg State because she wanted to be a teacher and they waived your tuition if you going to be a teacher and work after graduation for the state of Maryland. So she went there for her four years of college.

Ms. Woodbury: Once you were enrolled at the University of Maryland what year were you at the time you were asked to declare a major?

Ms. Mayer-Whittington: You didn’t have to declare until your junior year. When I first started I wanted to be journalism major. I started taking classes with this in mind. But then they made this new requirement that you had to take a foreign language. Even though I had taken French for four years at Holy Cross, and therefore didn’t need a foreign language in college for the general requirement, I did need one to be a journalism major at Maryland and I remember thinking I was not good at languages. I didn’t have a really good ear for languages. I had worked hard at Holy Cross to get through French. It was probably very shortsighted, but I was not going to do a major that required a foreign language. So I made that my minor and I declared a history major.

Ms. Woodbury: Was there a particular field in history that you wanted to specialize in? American History or European History?

Ms. Mayer-Whittington: American History and I had a professor who was outstanding. He is one of the main reasons that I became a history major.

Ms. Woodbury: Who was that?
Ms. Mayer-Whittington: His name was Gordon Prange

Ms. Woodbury: What was his specialty?

Ms. Mayer-Whittington: American history in particular World War I and World War II. He was a special attaché to General MacArthur. He wrote the book. This book was about the Japanese attack on Pearl Harbor. It was the screenplay for the movie *Tora, Tora, Tora*. He was an older professor but he was a dynamic speaker. He had interviewed many of the major participants to World War II and he could give firsthand accounts of their personalities and their views of the war. Dr. Prange was absolutely amazing! Students would stand outside his lecture hall to hear him talk. They would be hanging in through the windows to listen to him because his classes were so popular and they would fill up so quickly. When I learned that the administration gave preference to his class to students that were history majors, that made my decision about my major an easy one. He made history come alive.

Ms. Woodbury: Given how popular he was, his classes were probably large. Were you able to have any personal contact with him? Do you go to his office hours or go to a seminar?

Ms. Mayer-Whittington: I talked to him several times after class because he would make himself available for questions and discussions after class was over. I remember my first class with him was my second semester of my freshman year. I signed up for classes as early as I could and I lucked out and got into his class. I didn’t know much and I didn’t really read my syllabus thoroughly. We had to choose a history book and write a report about it. It wasn’t until I was finished with it that
I realized that the book I had chosen, *The Guns of August*, was required reading for the class and that you weren’t supposed to…. 

Ms. Woodbury: Choose one of those?

Ms. Mayer-Whittington: Yes. But I had finished the report and I wasn’t sure what I should do. I am sort of panicking and thinking maybe I am going to have to drop the class because he will know I did not read the syllabus and he will wonder what kind of student I am. So I waited until after class and I got into the line to talk to him. I was the last person to talk to Dr. Prange because I let people go in front of me, so nobody would know how dumb I was. When I told Dr. Prange what had happened he took my paper from me and "Did you do a good job"? I said "I think so." And, he said, "Well, that is all that matters to me."

Ms. Woodbury: How nice of him and how supportive. That’s a very nice story to hear about a professor with these huge classes -- that he was interested in his students at that level and wants to encourage them.

Ms. Mayer-Whittington: Yes. I got an "A" on the paper and I was like…. 

Ms. Woodbury: Floating?

Ms. Mayer-Whittington: Yes, actually, and I was thinking "Oh my gosh" this is the best possible experience I’m ever going to have. It made me appreciate him as a person not just as a professor. He taught four classes Pre- World War I, World War I, Pre-World War II and World War II and I took all four of his classes. He made such an impression on all of his students – he was a legend at Maryland. I hated taking my World War II class with him because I knew it was the last class I would be able to have with him. On my final exam in my last class I got my first "A+"
from him. He said he had never given an "A+", usually just "A’s".

Ms. Woodbury: That was also a high point?

Ms. Mayer-Whittington: Absolutely! I still have that exam in my memory box because he wrote at the end of my paper, "Your work justifies a professor’s existence." I was so humbled and appreciative of his words and even more on the impact he had on my academic life at Maryland. About 10 years after I graduated from Maryland, I received a note from one of Dr. Prange’s teaching assistants. He told me that he had found my name on the rolls of students who had taken Dr. Prange’s classes. Dr. Prange had been diagnosed with a terminal illness and his former teaching assistants wanted to put together a book of letters to Dr. Prange from his students letting him know how he had impacted our lives. I wrote to him about his reaction to my mistake in writing a report on *The Guns of August* and how he had made me feel good about my report – not bad about the mistake. I told him how much I loved his lectures that were really storytelling at its best. I let him know that his words on my final exam were the highlight of my time at Maryland. It felt really good to be able to let him know, again, how much I had learned from him and that it wasn’t just about history. He died a year later after sending out a thank you note to all of his students who had contributed to his memory book. Even now, so many years later, I feel a glow and can’t help but smile when I think about him. He was really one of a kind.

Ms. Woodbury: Were there other teachers from your college years who made a big impact on you in terms of either a personal relationship or their being able to communicate their love of their subject?
Ms. Mayer-Whittington: I took a creative writing class when I was a senior and, of course, I don’t remember the professor’s name. He was so encouraging and so open to trying different things. I really enjoyed that because he wanted to help us take risks with our writing. He wanted to see us get a little more depth in our writing, and to remember there are no rules. He would say, "You know, you have got to write from your heart." I found a new way of expressing myself in that class. That has helped me with sideline of writing creative non-fiction stories through the years.

I had some other good teachers, I had a good teacher who taught family history and that was really fascinating. But, I guess what I do remember from my time at Maryland was that I could count less than five teachers who I thought were not up to the task. The majority of my professors were quite good!

Ms. Woodbury: Looking back, do you regard college as a good experience? Positive?

Ms. Mayer-Whittington: Yes. I’m coming from this small Catholic high school where the Viet Nam war was going on and we debated that in the classroom and we had opportunities to express ourselves, but it was much more subtle, subdued. Then I go to Maryland and there’s tear gas and there’s marching on the administrative offices because they had fired a quirky professor or they had changed some rule that got everyone up in arms. College students were actively trying to influence their environment and I was impressed with their knowledge and passion. The Viet Nam war was the biggest catalyst for student marching and the war seemed to go on forever. One day you have the students marching and protesting and tear gas being used to break up the crowd and then another day you would have this big art festival going on with all these really fabulous student created works of art.
and another time you’d have people playing ethnic music and there would be lots of dancing. I just thought it was so amazing that attending a big university could mean that all of this could co-exist and appeal to so many different people. It was so cool.

Ms. Woodbury: Very exciting.

Ms. Mayer-Whittington: So exciting, yes I loved it.

Ms. Woodbury: Did you carry on your interest in drama when you went to the University to Maryland?

Ms. Mayer-Whittington: No. No, because I ultimately realized I was more interested in arranging things and organizing people and projects than I was in actually being a part of the drama group.

Ms. Woodbury: Were you involved in any extracurricular activities at the University of Maryland that allowed you to develop those skills further?

Ms. Mayer-Whittington: No, not really because I was still working…

Ms. Woodbury: At Montgomery Ward?

Ms. Mayer-Whittington: Yes, at some point in college I transitioned to a place called Memco, which was a forerunner for Costco. It was a big retail store in Rockville where you had to show a card to get in. You had to be a member. It had groceries and clothes and household items, and I was working there because they paid me more money than I was making at Montgomery Ward. I had a friend who started working there and he said you have got to come here. It was also a little bit closer to my home.

Ms. Woodbury: Did you work there all the years you were in college?
Ms. Mayer-Whittington: No, I didn’t work the first year of college when I lived on campus. I worked at Montgomery Wards during the summer all the time and then in my sophomore year I worked at night again. I started working for Memco in my junior year.

Ms. Woodbury: During your college years did you have any discussions with your father or your mother about what your future career might be or were you thinking about that on your own?

Ms. Mayer-Whittington: I was thinking generally that I wanted to work for the government, the federal government, because my dad was an attorney with Federal Trade Commission and he really enjoyed his job. He thought that working for the government was a good way of giving back. He said it is not necessarily the best paying job compared to some jobs in the private sector but you get to work on lots of interesting things that come across your desk. He said there were a lot of opportunities for work with the government since we lived right outside of D.C. So I thought that is what I would like to do. I thought maybe I would go to law school at some point, but that was just sort of a vague idea. I didn’t know how I would pay for law school and I wasn’t really passionate about practicing law. My parents were really good about suggesting I should try different things and see what interested me.

Ms. Woodbury: See what was a good match for you?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Did you ever think about going to business school while you were in college?
Ms. Mayer-Whittington:  

No, not really. Some of this thinking originated at Holy Cross. There were two tracts that students could follow. There was the college prep path and the business school path. I knew I was following the college prep path and I had a lot of assumptions about the business school path that were not necessarily accurate. To me, the main things you were going to learn in business school were how to type faster, how to take shorthand and how to be a good assistant. I made the decision, and I didn’t really share it with anybody, that I wasn’t going to work very hard to be a good typist. I wasn’t going to be anybody’s secretary. I would have a secretary someday. I didn’t know what I was going to be doing, but I had this general idea that I wasn’t going to be a secretary. A lot of women in those days went to business school and that was the career path. I had two aunts in the work force. Both of them were secretaries. And although my one aunt always went to work with gorgeous pearls and high heels, I liked how she dressed but I didn’t want to be a secretary. I took typing classes at Holy Cross. I think I sabotaged my efforts to type well because I didn’t want be good at typing and wind up with a secretarial position. But I didn’t think any of this through very well because my poor typing skills made it very hard to type my reports and term papers. My thinking was very shortsighted.

Ms. Woodbury:

Was your concern in high school that being interested in business was going to channel you as a girl, as a women, into a kind of narrow secretarial path rather management?

Ms. Mayer-Whittington:

Yes, because I don’t think in high school that I really knew a lot of women managers. I didn’t have a lot of role models of female managers. I didn’t
see a lot of examples of that. I saw more women in traditional roles of nurses, my mom was a nurse, or teachers, or saleswomen for Avon products. The role models for people who had leadership roles were all men. My dad headed a bureau for the Federal Trade Commission. The dad of the big family who lived next door to us was a CPA for the Government Accounting Office. Our neighborhood had a lot of government workers but not a lot of role models for the business world.

Ms. Woodbury: Of women doing that kind of work or what they might do?

Ms. Mayer-Whittington: Right.

Ms. Woodbury: What year did you graduate from the University of Maryland?


Ms. Woodbury: And you ended up with a BA in History?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: When you graduated did you have any plans to continue with graduate school or were you planning to get a job out of college?

Ms. Mayer-Whittington: I planned on getting a job. I was ready to work.

Ms. Woodbury: You were?

Ms. Mayer-Whittington: I wanted to earn some money. I didn’t have a car at the time. No actually I did have a car. I had a second hand car, but I didn’t have much money left over after I paid my rent on my apartment and help pay for my tuition. So I wanted to work so I could earn some money and get a better car and maybe a better location in which to live. But, at our commencement the speaker was T. Boone Pickens, who said "Congratulations to all the future taxi cab drivers and wait staff and
messengers of the world because there are no jobs for you."

Ms. Woodbury: That was a very unusual message for a commencement speaker to deliver to a newly graduating class.

Ms. Mayer-Whittington: It certainly was depressing. He said the economy was so bad, the worst it had been in nearly 20 years for new college graduates. Ultimately, his message was that you have got to be entrepreneurs. You have got to think outside the box. But all I heard was no jobs. Although, I do have to admit that I was not listening very carefully. I had a transistor radio and I was listening to the Baltimore Bullets’ basketball game that day all during my graduation. I really, really liked sports and it was the third game in the championship series.

Ms. Woodbury: By the time you graduated had you pretty much given up on the idea of being a sports writer as a career?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: At the time you graduated had you already lined up a job or were you just starting to look?

Ms. Mayer-Whittington: I was starting to look, but I was severely handicapped by my inability to type 40 words a minute. Plus, the federal government job register was not open. They had no job openings. The preferences were for veterans coming back from the war so they really weren’t hiring. My plan had been to work for the government and then I had a double whammy that they weren’t hiring and they were looking for people who could type. So I started looking for jobs that required no typing which was very limiting. In the meantime, after I graduated, I could work full time at Memco and they were somewhat unionized so that you

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got fairly good wages, but I would look every day in the classified section of the newspaper for jobs and I would follow-up and call and send my resume. I always got this polite little "sorry" we’re looking for somebody with experience. Of course, I couldn’t get experience without a job. The whole thing was very frustrating. I graduated in May of 1975. I sent an application in December of ’75 to The Washington Law Reporter and they called me back for an interview and I went down for an interview and got the job. No typing required.

Ms. Woodbury: No typing required?

Ms. Mayer-Whittington: No typing required and it was a kind of an odd ball job. The Washington Law Reporter was a family run very small, legal newspaper located in Washington D.C. Every day I would go down to the Federal Courthouse, the Superior Courthouse and the Tax Court and write down all the new cases that were filed the previous day. I would write down just the caption of the case, the case number, the amount in controversy and whether it was a jury trial or not and the judge to whom it was assigned. Then, I would pick up slip opinions from the Courts of Appeals, both the D.C. Appellate Court and Federal Circuit, and then pick up notices for publication from the Register of Wills. I would write all of this down by hand on a legal pad. I would often have to wait because someone else was looking at the document I needed to record. At that time the court only made one extra press copy, they didn’t make…

Ms. Woodbury: Multiple copies?

Ms. Mayer-Whittington: Right. You didn’t have computers on which to look things up. At least not ones that were available for the press or the public to use. When I was
finished collecting the information, I brought all that information back to the *Law Reporter*. At the office, someone would take my hand written notes and make a mock-up of the paper using a type cast machine. Then, I would proof read the mock up. While I was waiting for this to happen, I would be proof reading some other notices for them.

Ms. Woodbury: Your father was lawyer and practiced in D.C. Did you have any familiarity with courts before you started this job?

Ms. Mayer-Whittington: No. No, I didn’t. I knew the word "court" but I was much more familiar with the Executive Branch or Legislative Branch just from television and that sort of thing. But no, I really knew nothing about the courts.

Ms. Woodbury: Internal workings of the court?

Ms. Mayer-Whittington: Right

Ms. Woodbury: How long did you stay in this job?

Ms. Mayer-Whittington: I stayed at the *Law Reporter* for about 18 months. It is funny but when they first offered me the position my father thought it was crazy to take it. He said you’re making more money right now where you are, at Memco, you work ten minutes from where you live and now you’re going to have to take a bus all the way downtown to make less money. I said I know that, but I have to get my foot in the door somewhere. I can’t be pushing a broom at night while I’m on the late shift at Memco. I have a college degree I want to start using it. So I started at the *Law Reporter* in February of ’76, and that was my first exposure at the courts really because I got to go to the courts every day.

Ms. Woodbury: Did you get to know people at the courts?
Ms. Mayer-Whittington: Yes, I did. I met people at the new case desk in the District Court. Superior Court was a different experience because they were so big. Case information was handed to you through a glass window and you had to scramble to find a seat to record the information. I didn’t really develop as much rapport with them as I did with the people at the Federal Court. The Federal Court had a much more civilized environment. I hate to say that but…

Ms. Woodbury: The Federal Court?

Ms. Mayer-Whittington: Yes. Sometimes when I went to the Superior Court I couldn’t find a place to sit down and write, I would be writing balancing on the window sills. It was a very busy court and it had a lot more traffic going through it than the Federal Court. The two courts were like night and day. But I enjoyed the work and the opportunity to learn more about how the local and federal courts worked. It’s funny when I was at the Law Reporter it was owned General Millard Lewis and the managing editor was Colonel Twaddell, they were both retired military.

Ms. Woodbury: Military?

Ms. Mayer-Whittington: Yes. They had very successful military careers but seemed out of place managing the Law Reporter. My first day on the job I was trained by the woman who had been in that position, she was moving out of the area. She took me down to Judiciary Square and introduced me to people at the court and then she stayed with me for a two week period. We would usually get back to the office around 2:00 or 2:30 and then send the notes back to be type-set. Then we would proof read it and that would take the rest of the day. After she left, I was on my own. I would finish right around lunch time. The General and Colonel told me if
I finished around lunch time to go ahead and get something to eat and come back after lunch. The first time I came back right after lunch they said "Are you sure you’re going to all the places and getting all the information?" When I said yes, they couldn’t understand what was going on. They said, "You’re back an hour and half ahead of when Lindsay used to come back." So after two weeks of coming back earlier than Lindsay with all the correct information, General Lewis called me in to his office and said, "Hey we just figured out what has been happening. Lindsay was taking her time and going shopping on our time."

I didn’t know what Lindsay had been doing, all I knew was when I finished the job I had been given and had eaten my lunch, it was time to go back to the office and do the work they had there for me. They were so impressed that I was back earlier and that I could do more for them. They were happy I could do more to help them and embarrassed a bit that they had no idea how long the work should take.

Ms. Woodbury: I was going to ask if they expanded your job to fill your day.

Ms. Mayer-Whittington: Yes. They published petitions for people who wanted to change their name. These were big money makers for the paper and they wanted to see if they could increase the number of names they were receiving as recently they had noticed that more petitions were going to a rival paper. When I went to the office in Superior Court where petitions were handled, I asked the clerk if there had been any changes recently in their procedures. The clerk said there had not been any changes. I got the information from the box and sat down to make my notes. Another clerk came out from the back and said the first clerk I had been speaking
with was directing petitioners to the rival paper. She told me to write down the number of petitions the rival paper was getting and compare them with our numbers and have someone from our office call the clerk’s manager. I took that information back to the Law Reporter and the General called the clerk’s manager that afternoon. The issue was resolved, the clerk was let go and the numbers increased for the Law Reporter. I helped the woman who did the typesetting get all the information from the petitions that were often handwritten. Because I was able to help the typesetter, she was able to leave earlier and not put in so much overtime. The Law Reporter started getting more revenue from the petitions, the typesetter got to go home earlier and the paper cut down on overtime expenses. My reward for my help was a chocolate Tootsie Roll pop! My expectations for any monetary reward were short lived. But, I still remember how good I felt when the General was giving me the lollipop and telling me what a great job I was doing for them. This so resonated with me that it was a constant reminder in my later days as a supervisor and manager for the courts that recognition of a job well done can be more important than any monetary reward.

The staff of the Law Reporter was very small so that everyone relied on one another to get the job done. They had an office on 16th Street and I took the bus back and forth from the courts and then I rode the subway the first day it opened because it opened in March of ’77 and I was still working there.

Ms. Woodbury: Beautiful new subway?

Ms. Mayer-Whittington: Yes it was and so much quicker than the bus. But sometimes not as much fun, there were always characters on the bus. But as a result of going to the
courthouse I met the new case clerk who at the time was Miss Evelyn and her assistant was Greg Hughes, who is now the Chief Deputy at the court. They would say to me…. "You should apply for a job down here, you could do this work." I decided finally that I had to disclose that I could not type. The jobs were very clerical.

Ms. Woodbury: Did you say: "well I can’t type"?

Ms. Mayer-Whittington: Yes, I said I can’t type. I can do other things but I can’t type. Then one day they said to me there’s an opening in our jury office and all you have to type are lists. They said you really should think about it. So, I did. I applied for the job and I took the typing test and I think I typed 26wpm with 13 errors.

Ms. Woodbury: Was the typing test part of the application?

Ms. Mayer-Whittington: Yes. And so I thought "Well, that’s history." I took it on a manual typewriter. I forgot to hit the return bar. I clearly did not have my best foot forward there. I remember leaving thinking there’s no way I’m going to get this job and then thinking to myself… "Well, maybe you need to take a typing class because this is going to continue to be a problem."
Ms. Woodbury: Good morning. This is the continued interview of Nancy Mayer-Whittington, formerly Clerk of the Court for the United States District Court for the District of Columbia. Today is Friday, February 18, 2011. When we broke with the interview last time, Nancy was talking about applying for the position of assistant in the Jury Office for the Federal Court here in the District of Columbia and I’ll ask Nancy, What was the result of your application? Did you get that job?

Ms. Mayer-Whittington: Yes, I did get that job.

Ms. Woodbury: What year did you start working at the Court?


Ms. Woodbury: What exactly was your job when you started in the Jury Office and what was that office like?

Ms. Mayer-Whittington: It was a two person office. There was a jury supervisor and a jury deputy clerk and I was the deputy clerk. My supervisor was Joe Burgess, who actually still works for the court. The Jury Office’s primary responsibilities were to do juror orientations, assign jurors to panels, record and track jury information, and prepare vouchers for juror payments. At that time the Jury Office did not do any of the work qualifying jurors. Staff from the office of the Jury Commission had the responsibility of determining juror qualifications. The Jury Commission was located in an office next door to our Jury Office. The Jury Commission was an independent office with three jury commissioners one of whom was in charge of the Commission. There was also a staff of three persons who supported the
office. Because we shared the same jury pool of prospective jurors with the D.C. Superior Court, the Jury Commission qualified all the jurors for service on both courts. Staff from the information technology section of Superior Court maintained and processed the database of prospective and qualified jurors. The Jury Commission would send a request to the Superior Court when we needed names to be pulled from the source lists to create a master wheel. From the master wheel, names were pulled to create a qualified wheel of prospective jurors.

Ms. Woodbury: Nancy, when you say that the Jury Commission qualified the jurors; what does that mean?

Ms. Mayer-Whittington: A qualification questionnaire would be mailed to all the prospective jurors who were randomly drawn from, at that time, the Motor Vehicle registration list and the list of registered of voters in the District of Columbia. The completed questionnaires would be returned to the Jury Commission. The Jury Commission would make sure that each juror was qualified to serve in the District and that meant that they had to be 18 years of age or older, had resided in the District for at least 6 months, could read, write and speak the English language and had not had a felony conviction that would have precluded their service as a juror. After determining the qualifications, the Jury Commission would send a list of qualified jurors to Superior Court. Superior Court would maintain this "Qualified Wheel" from which they would draw on a monthly or as needed basis. The Jury Office had a standing order to draw a certain number of names each month from the qualified wheel. A summons would then be sent to each of these prospective
jurors. With the summons, there would be an information card that needed to be completed and returned to the Jury Office. Our office would then review the information and make sure the person was still qualified to serve. Since there was always a time gap between the original qualification process and the actual summoning, there was the possibility a juror had moved out of D.C. or taken some other action that could disqualify them from service.

In addition to re-qualifying those who responded, we also reviewed requests for temporary deferrals. Those requests came from prospective jurors because they either had pre-paid travel plans or they had health problems that conflicted with their ability to serve or some other reason that made it necessary for them to ask to have their service deferred to another time. The Chief Judge delegated authority to our office for all requests for temporary deferrals. Joe Burgess and I would take all of the information cards that were returned by the jurors and we would mark the master list as to whether they were ultimately qualified and could serve or if they were qualified but were deferred. We also had a percentage of people who did not respond, who either ignored the summons or, as we found out later when we studied this issue, had moved to another place in the District, but we didn’t have a new address for them.

Ms. Woodbury: Nancy, do you remember what percentage of the people didn’t respond at all?

Ms. Mayer-Whittington: I think that it was in the 25 - 30% range.

Ms. Woodbury: Once you had people who had responded and were able to serve, what was your role?
Ms. Mayer-Whittington: Our role was, on a daily basis, to draw randomly from the information cards which meant literally putting the deck of cards into your hand and shuffling them and dealing out how many jurors you needed for a jury panel. If you had a criminal case you would need 30-35 prospective jurors and in a civil case you would have 18-20. The civil cases at that time impaneled 6 jurors plus 2 alternates. Criminal cases had 12 jurors plus 2 alternates. In both selections, the plaintiff’s attorney or the government’s attorney and the defendant’s attorney could have jurors stricken from the jury by using peremptory challenges or challenges for cause. So 30-35 was a reasonable number in order to get a jury and accommodate all of the strikes on a criminal case. We would draw names for the jury panel and then we would put the juror’s name on a recorded message. Jurors were instructed to call in the evening after 5:00 to find out if they were scheduled to report the following day. Once the jurors reported, if it was their first day of service, we would do an orientation to let them know a little bit about their service, answer questions and show a film that talked about the responsibilities of a juror. Then we would type a list of jurors for each panel and would wait for the call from the courtroom that jurors were needed to go to court. When the call came, we would announce the names of the jurors who needed to report and then send them to the courtroom for voir dire. There was always a lot of waiting time for the jurors. In the jury assembly room, we would have magazines and provide the opportunity to watch television so that they would have something to do while they waited.

Ms. Woodbury: Did you personally deal with the jurors who were called in to potentially
serve on pending cases?

Ms. Mayer-Whittington: I’m not sure what you mean?

Ms. Woodbury: Was it part of your job to give the orientation, how did you split that?

Ms. Mayer-Whittington: Well initially, since I didn’t know what I was doing because I was new and Joe had all the experience, he would conduct all of the orientations. I did more of the typing and the filing until I got comfortable with the actual orientations, and then we would literally take turns. You wouldn't have to do orientation every day because jurors were on call for a two week period. Whenever a new set of jurors came in we would do the orientation, but that would usually happen on the first three or four days of the two week period. You wouldn’t have to do the orientation again until you had the next panel that would come in for the second two week term of the month.

Ms. Woodbury: Prior to you taking this position, had you ever been called to serve on a jury -- you were living in Maryland then?

Ms. Mayer-Whittington: I was living in Maryland then and no. I had not been called to serve on a jury. I had no idea what they did. In fact, I remember the first time Joe did the jury orientation; I sat there just like the jurors absorbing everything he had to say. When Joe started the orientation film, I sat and watched it and took notes. I was learning with them because I didn’t know anything about the role of a juror other that what I had seen on television.

Ms. Woodbury: Once the juror was called to be on a panel did you follow through with that process? Did you go into the courtroom or was your job ended at the time the panels went to the various judges?
Ms. Mayer-Whittington: It ended in one sense, in that we handed the jurors over to the courtroom deputy, who was assigned to that judge, and they would shepherd them through the actual selection and service on a trial. On occasion we would walk the jury to the courtroom, but for the most part we would tell them where the courtroom was located and they would go there. We would ask everyone to form a line as their name was called and then go as a group to the courtroom. Some judges requested that the jurors file into court in the order in which they were listed on the panel sheet, so the courtroom deputy would meet them outside the courtroom to make sure they were all in order. Other judges just let them walk in and sit as a group and go through the voir dire process that way. As the jury was selected, jurors who were excused would return one at a time to the Jury Office. Once the selection was completed, the jury panel sheet would be returned to the Jury Office and it would show who had been selected, who had been stricken peremptorily by either the plaintiff or the defendant, who had been stricken for cause and any jurors who were not needed. Our responsibility for jurors selected was to track attendance for that jury panel and prepare vouchers for payment. The courtroom deputy's responsibility was to call us every day of the trial and let us know that all of the jurors had reported for duty.

Ms. Woodbury: And if a juror didn’t show up? Was it your responsibility to follow through with them?

Ms. Mayer-Whittington: Yes, we had all the contact information for the jurors. If a juror did not appear we would give them a call. Most often we did not get an answer because the juror was just stuck in traffic or public transportation had taken longer than
they thought. This was the time before cell phones or email. On occasion we would call and a juror would say they were ill and that they hadn’t called in because they were too sick. For the most part, we did not have very many cases where a juror forgot to come back the next day or arbitrarily decided not to come back. By far, most jurors took their roles very seriously and were very conscientious about their jury service.

Ms. Woodbury: Was the only follow up contact with jurors who were chosen to be on a jury, the responsibility of the courtroom deputy?

Ms. Mayer-Whittington: Yes and no. On occasion, we would have a juror who was disruptive or was arriving late most of the time. Sometimes the judge would ask us to speak with the juror and remind them how important their jury service was to the court and to the parties in the case. Sometimes the judge didn’t want their deputy involved in that. Other times the courtroom deputy took on that role. But, once the jury was deliberating the responsibility was strictly with the courtroom deputy and the judge because you didn’t want any kind of outside influence on the jury.

Ms. Woodbury: During the time you served as the Deputy in the Jury Office, where there any changes in the procedure that you described?

Ms. Mayer-Whittington: Yes, the jury pool was expanded to include more people. The Department of Motor Vehicles issued ID’s to D.C. residents who needed some form of official identification but did not want a driver’s license. Those names were added to the source lists for selecting potential jurors in an effort to enlarge the number of prospective jurors for selection. Unfortunately, the D.C. Superior Court added the names without notifying our Court. We had to amend our jury
plan retroactively and remind them that every time they decided to make any changes in the way jurors were being selected, we needed to know so we could discuss the change and make the necessary changes to our jury plan. Every time they decided to do something a little bit differently than what we had agreed to we had to remind them that we had a statute that we had to follow. The other thing that changed was that we were able to start setting a fee for public transportation. When I first got there we had a map of the District of Columbia and there were seven concentric circles drawn around the courthouse. The innermost circle represented the area that was within a one mile radius of the courthouse. Each additional circle represented another mile. The last and biggest circle represented the area that was within seven miles of the courthouse. In other words, the longest distance any juror had to travel from their home to the courthouse was seven miles. The problem was the jury statute which set the reimbursement amount for jurors allowed us to pay each juror $.10 per mile for transportation expenses. This meant if you lived within a mile of the courthouse you would receive a total of $.20 to cover your roundtrip transportation. Even if you lived in the outermost areas of D.C. you would receive a total of $1.40 for transportation. This amount did not cover the cost of a bus trip or subway ride to and from the courthouse. Since we had no onsite parking except a few spaces for jurors who were disabled, we had to encourage jurors to use public transportation. It was hard to explain to the jurors during orientation, that unless they walked to and from the courthouse, they were going to lose money in an effort to fulfill their jury duty. We worked hard with our judicial representative on the Judicial
Conference Committee that handled juror matters to change the reimbursement rates. They finally did amend the statute to allow us to pay the minimum of public transportation. This was a huge victory for the jurors and it reduced our workload at the same time. No longer did we have to take a list of the addresses for each juror then go to the map and find the circle in which their address was located. Instead, we just paid every juror a set amount that covered the maximum cost of public transportation from the areas that were the longest distance from the courthouse. At that time we paid $4.00 a day and even though the jurors who lived closer to the courthouse were reimburse slightly more than their actual costs, making it uniform saved money in workload costs. That was a big administrative change for us and the first time we lobbied successfully with a Judicial Conference Committee for a change that had national implications as the statute was amended to allow for all courts to cover the maximum cost of public transportation for juror travel. Since the money for reimbursement of juror expenses was centrally held at the Administrative Office, the courts did not have to budget for this change.

Ms. Woodbury: And when you refer to the "Administrative Office," specifically what are you referring to?

Ms. Mayer-Whittington: There is something called the Administrative Office of the U.S. Courts, and the Director of the Administrative Office is the Secretary to the Judicial Conference. The Judicial Conference is the primary rule making and legislative body for the judiciary. The Administrative Office was created to centrally manage the administrative support to the courts. The Director and the Deputy
Director in charge of the financial section of the Administrative Office would appear with the judge who was head of the Budget Committee of the Judicial Conference before Congress to put forth our budget and explain the Judiciary’s spending plan. Initially when I started working for the court everything went through the Administrative Office. If you wanted to hire somebody you had to request the position, defend your need for the position, send your request up to them and they would approve it or deny it. Then they would set the salary for the position. If you wanted to buy paper you had to tell them why you need paper and how much you needed, and they would let you buy it and they would pay the bill. That sort of thing. So they paid all the jury money. All the jury money came out of the Administrative Office.

Ms. Woodbury: Nancy, when you say that you needed approval for a position or for supplies was that the Jury Office itself that, rather than going through the Clerk of the Court's office, you would go directly to the Administrative Office of the U.S. Courts for those things.

Ms. Mayer-Whittington: No. The Clerk would do all of that. The Clerk of the Court dealt with the Administrative Office. The system was very arbitrary and subjective. There were no uniform standards. It was based on how well you wrote your request, whether or not you had a good relationship with the person who would approve or deny your request and how much funding was available. The really savvy Clerks of Court invested time in forming relationships, documenting their requests and getting the request in early in the fiscal year when the funding was still plentiful. The Clerks of Court called it the "Mother may I" approach since
the system was more about how you made your request and to whom than it was about the legitimacy of your request. That was the way it was back in 1977 when I first started there.

Ms. Woodbury: Nancy, when you were hired as the Deputy in the Jury Office who approved your hiring? Was it just the Jury Office or was that done by the Clerk of the Court?

Ms. Mayer-Whittington: The Clerk did all the hiring at that time. He had not delegated hiring authority to anybody. He did all the hiring. In his defense, that was the system he inherited. His secretary was the human resource liaison. She would prepare the paperwork that would go up to the Administrative Office. Then the person who headed the Personnel Office, at the time it was Glen Johnson, would sign off on that paperwork and approve those positions. So the Clerk did the recruiting, interviewing and made the request on behalf of the Court, but the Administrative Office could say "Yes" or "No".

Ms. Woodbury: When you were in the Jury Office did you have contacts with the other parts of the U.S. District Court other than the individual judges that needed jurors?

Ms. Mayer-Whittington: You mean did I have contact with employees?

Ms. Woodbury: Other employees, other divisions or departments within the court?

Ms. Mayer-Whittington: Yes. We worked primarily with what used to be called the Courtroom Division. Every judge had a courtroom deputy and one of the duties of the courtroom deputy was to fill out a form each day that let us know the number of jurors they needed. It had to be filled out by 11:00 in the morning for the next
day. If they checked off that they were starting a criminal case, we would bring in thirty jurors. And if they wanted a larger panel than that they would have to make a request at least six weeks in advance because we had to summoned additional jurors. So a lot of our contact was with the courtroom deputies. We also had contact with the judges’ secretaries because in some cases the judges’ secretaries were fairly involved with the cases and they were the primary contacts for the judge. If we had a question and the courtroom deputy wasn’t available, we would talk to the judge's secretary. On occasion we would get in touch with the judges’ law clerks. Usually, a law clerk was assigned to each case and we would have some contact with them as well. The other office that we had primary contact with was our Financial Office because they produced the checks for the jurors and they produced the 1099s forms for tax purposes for jurors. Those were the two offices that were our primary contacts in the Clerk’s Office.

Ms. Woodbury: Did you have any dealings or contact with the person who was the Clerk of Court at that time?

Ms. Mayer-Whittington: Yes. The Clerk of Court at the time was Jim Davey. The Clerk’s Office was composed of two major divisions – the Docketing Division and the Courtroom Division. The rest of the office was made up of three smaller sections, the Jury Office, the Finance Office and the Property and Procurement Office. The head of each of these offices reported directly to the Clerk. When I became head of the Jury Office, I would meet with the Clerk once a week to keep him apprised of what was going on in the office and to set and then track the goals and objectives for the office. Also when jurors requested to be excused
from jury service and the nature of the excuse was not covered by the Chief Judge’s delegation of authority, I would discuss this with the Clerk. So, I did have regular contact with the Clerk of Court. I also had regular contact with the Chief Judge and would meet with the Chief several times a month to discuss the requests for excuse that I just mentioned and to discuss administrative matters related to our grand juries.

Ms. Woodbury: What was the court facility like when you started working at the federal court? Was it air conditioned? Were the facilities nice, were there…

Ms. Mayer-Whittington: Yes, the courthouse was air conditioned. The Clerk’s Office was fairly modern and functional. There were more cubicles than offices and the two major offices – Docketing and the Courtroom Division – had an open floor plan as was in keeping in the late 70’s with government offices that were open to the public. The jury assembly room had these blue and green chairs that were box shaped and arranged in three-sided squares. Though color wise they were visually attractive they were not designed to be comfortable so jurors wouldn't fall asleep while waiting to serve. In addition to being uncomfortable, they were hard to get in and out of because they were too low to the floor. We had a little office, Joe and I, in the middle of the jury assembly room so that we were with the jurors all of the time. They could come up to talk to us if they needed to and we would do all of our work there. The main room had magazines and books for jurors to read to keep them occupied while they were there. There were also 6 to 8 tables for jurors to sit and play cards or work puzzles. Off of the main room there were several smaller rooms. The largest of these rooms was the TV room. We had
one big television and we could only get 4 stations. It was also the smoking room. The station that the television was tuned into relied on the honor system. Ultimately, I learned there is no honor where soap operas are concerned. I can’t tell you how many times I went into the room to settle a dispute between groups of jurors. They had absolutely no problem with arbitrarily walking in and changing the station no matter who was watching the show. They called the soaps their "stories" and felt like they were being cut off from their families! Finally, we had to post a sign in the room that said Monday is channel 4 day, Tuesday is channel 5 day, and so on. We had to rig the TV so no one could change the station without our master key. That not only saved our sanity but helped us not succumb to second hand smoke because the room was always so smoky. The courthouse didn’t become smoke-free until the early 80’s. Anyway, there was another room that had some vending machines with snacks and sodas for the jurors and a refrigerator so the jurors could bring in their lunches. And finally, there was a quiet room with tables and chairs so if the jurors wanted to bring some work with them, they could do it in that room in a quiet atmosphere. At the time, the 1970s, people weren’t bringing in their laptops or anything, but the room was supposed to give jurors some choices and thus make their service more palatable.

Ms. Woodbury: Nancy, how long did you stay in your first position as Assistant in the Jury Office?

Ms. Mayer-Whittington: About a year.

Ms. Woodbury: And then what did you do?
Ms. Mayer-Whittington: Well, Joe Burgess, my boss decided that he wanted to advance up the ranks in the courthouse and the only way you could really do that was to become a courtroom deputy. The courtroom deputy position went up to Grade 11. The jury supervisor was a Grade 8 position and I was hired as a Grade 4. So, if you wanted a career path that paid you more money you needed to become a Courtroom Deputy. Any position higher than Grade 11 was a management position and there were limits to the number of managers that were in the Clerk’s Office at the time.

Ms. Woodbury: Did each courtroom deputy work for, I guess work for is not the right word… but were they assigned to a specific judge.

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Did Joe Burgess become a Courtroom Deputy?

Ms. Mayer-Whittington: He did, but what he had to do was to learn operations, learn docketing first because that was the entry way into the operations side of the Clerk’s Office. You had to learn how to process a case and learn how to process all the papers that came in to support a case. After doing this for a period of time, then you got to apply for the courtroom deputy training program. Then, if you got selected for the program, you got to be a courtroom trainee for a period of time. When an opening came for a courtroom deputy position, you could apply and be considered for that position.

Ms. Woodbury: When he moved out of the Jury Office did you take over his position?

Ms. Mayer-Whittington: Yes, but I had to apply for that position and go for a formal interview. It wasn’t just automatic. Clearly, I had more experience -- even though I had only
been there a year -- than anyone else in the Clerk’s Office because I knew the day to day operations and I could run the office fairly well at that point. But that didn’t prevent other people in operations from applying as well because they were looking to advance. I think they also thought it would be an easy job. It was funny. We were located on the fourth floor and the rest of the Clerk’s Office was located on the first floor. We had vending machines in our office in the jury assembly room so people from the different offices would come in there to get snacks and sodas from the machines. If it was the afternoon and all of our jury selections had been completed in the morning, they would say…. "Oh, it’s so nice and quiet up here. I would love to work up here". I would tell them how hectic it was in the morning with 200 jurors in attendance and Joe and I scrambling around to fill all the panels, but that didn’t convince them that the job had any stress or pressure. The isolation worked both ways. I did not have much contact with the rest of the Clerk’s Office. I didn’t know all the ins and outs of some of the operations of the other offices. Some of the problems that other people were talking about at our monthly Clerk’s Office meetings that they were seeing in the different offices, I didn’t have any knowledge of these issues. I literally would leave the jury office in the morning to go pick up the jury request sheets and, on occasion, go over to the Finance Office to drop off a voucher for a juror. I got to know by name the people in those offices and I would say hello to them, but the contact was limited. I did not know whether they were good workers or not because I wasn’t familiar with their work. And, I didn’t know how complicated or stressful their work was because I didn’t know exactly what they did.
Ms. Woodbury: Nancy, do you remember approximately how many people were employed at the court in the late seventies?

Ms. Mayer-Whittington: I think we had about eighty.

Ms. Woodbury: When you applied to take over as the head of Jury Office were you aware of the other people who were applying for that job?

Ms. Mayer-Whittington: Not specifically. I think I had heard that a couple of people from operations were applying, but back then everything was very hush, hush as to who put their names in and there was no public announcement. Personnel matters were considered very private. No one talked openly about it and, you didn’t ask questions. The organization was pretty top down and there wasn’t a free exchange of information or ideas. At least that is how it appeared from my perspective at that time. So as a result, information was passed along informally. Someone would say: "I think so and so applied.”

Ms. Woodbury: You heard it through the grapevine. Nothing official.

Ms. Mayer-Whittington: Exactly.

Ms. Woodbury: Was it your understanding or was it a fact that the Clerk of the Court would be making the decision?

Ms. Mayer-Whittington: It was a policy that the Clerk would make all the hiring decisions at that point. A few years later, he delegated hiring authority for positions that were a Grade 9 or below.

Ms. Woodbury: Were you interviewed by… was it Jim Davey who was the Clerk of the Court at that point?

Ms. Mayer-Whittington: Yes.
Ms. Woodbury: Were you interviewed by him for this position?

Ms. Mayer-Whittington: Yes

Ms. Woodbury: And did you receive the appointment?

Ms. Mayer-Whittington: Yes, I did.

Ms. Woodbury: And how long did you stay as Head of the Jury Office?

Ms. Mayer-Whittington: I think another four years. I think it was in all a total of about five years in the Jury Office.

Ms. Woodbury: Where there any changes in the way that office was run or the relationship between that office and the other offices within the court during the time you were the head of the Jury Office?

Ms. Mayer-Whittington: Yes, I’m pretty sure that there were; I have to think this out. The Jury Commission eventually went away and its functions were absorbed by the District Court. The jury statute had always allowed for a Jury Commission or for the Court to take on this authority. Because we shared the pool of jurors with Superior Court, the decision was made to have a Jury Commission. In the early 80’s, the Superior Court implemented its own jury plan to get out from under our federal statutes. The decision was made to separate the qualification process for each court and at that time, the jury office in our Court took on the process of qualifying jurors.

Ms. Woodbury: Were the Jury Commissioners appointed?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: By whom, do you know?

Ms. Mayer-Whittington: I think by the Court of Appeals because they had the appointment power
for several positions including Bankruptcy Judges. The jury statute said that if you were going to have a Jury Commission you had to have three commissioners and only two could be of the same political party. Kind of interesting ...

Ms. Woodbury: What was your title when you were the head of the jury office?
Ms. Mayer-Whittington: Jury Supervisor.
Ms. Woodbury: During that period of time, were you living in Maryland?
Ms. Mayer-Whittington: Yes.
Ms. Woodbury: And you were commuting in by public transportation?
Ms. Mayer-Whittington: I started commuting by public transportation for the first few years that I worked and then I car pooled with my dad, who worked at the Federal Trade Commission which was right down the street. He had a car pool at one point of four men and then one moved to New York and he was down to three people and so I rode with him, because he had a parking space at the Federal Trade Commission.

Ms. Woodbury: By the time you had worked at the court for a few years did you feel like you wanted to make a career of it?
Ms. Mayer-Whittington: Not really… I just wanted to learn more about it and to get more involved in things. Right around the time that I became the Jury Supervisor I decided that I wanted to try to get on some committees that were a part of the Clerk’s Office. There was a Performance Awards Committee and a Training Committee. I wanted to serve on one of those committees to learn more about that aspect of the court and to get to know my colleagues in the Clerk’s Office. At the same time, I was thinking that I might want to get an advanced degree at some point. Mostly
because I did miss school. I liked being in a learning environment, but I didn’t know exactly what classes I wanted to take. I remember thinking I wanted to learn as much about the rest of the court as I could. My parents stressed to us that we should always be "learning and growing." Although I hadn’t decided if I wanted to have a career with the Court, I did want to learn as much as I could. Not just about the operations of the Court but about how people interacted and what made them want to make the office successful. One thing I did learn while I was getting to know more about the operations of the Court was that I didn't ever want to be a Courtroom Deputy.

Ms. Woodbury: Say that again.

Ms. Mayer-Whittington: I didn’t ever want to be a Courtroom Deputy.

Ms. Woodbury: You said that to yourself?

Ms. Mayer-Whittington: Yes. As the Jury Supervisor, I would sometimes go to the courtroom at the request of the judge and sit in on the voir dire. This was much more likely to occur if the trial was a notorious case; the judge might say "Do you mind hanging around in case we have any problems?" The problems he was talking about ranged from a juror forgetting their jury number and/or attorneys asking about the qualification and random selection process that was used to get the jurors to court. As I observed the courtroom procedures, I couldn’t help but notice all the down time. I thought I couldn’t sit in a courtroom for so long with little to do. I couldn’t do that. Some people loved it. But most of the cases were not all that exciting.

Ms. Woodbury: Right.
Ms. Mayer-Whittington: And it was just like…. "No, I don’t think I want to do that." So I didn’t know what I wanted to do exactly, but I was kind of ruling out some of the things I didn’t want to do.

Ms. Woodbury: Did anyone within the court encourage you to get further education, to get a Master’s degree?

Ms. Mayer-Whittington: Yes. Ultimately Jim Davey did. As I moved up in the Court, he told me that if I ever had any thoughts about becoming Chief Deputy or Clerk of Court, I would need an advanced degree. But at the time I was Jury Supervisor there was a woman who was hired to do a special project, and I do not remember exactly what the project entailed. Her name was Helene Beale and she was young, married, and pregnant with her first child. She and I would talk regularly. I think we both felt a little like we were outsiders. I felt that way because of my physical location in the Clerk’s Office and Helene felt that way because the work she was doing was not a part of the mainstream operations of the office. When I expressed to Helene my uncertainty about my career path she would say "You need to go back and get some more education because that’ll help you. You’ll be able to do more and have lots more choices and that will help you decide."

Ms. Woodbury: Nancy, you said you were interested in serving on committees and learning more about the court. I think the committees you mentioned were performance awards and training.

Ms. Mayer-Whittington: Yes. There was a performance awards committee, and there was a training committee.

Ms. Woodbury: What did the performance awards committee do?
Ms. Mayer-Whittington: It would recognize people who went above and beyond the call of duty. Now this is before there was any monetary compensation. This was just an internal thing that Jim Davey had come up with as an incentive to employees to recognize them for all their efforts.

Ms. Woodbury: What was the training committee’s function?

Ms. Mayer-Whittington: The training committee was primarily trying to decide what type of training would benefit the office. It was not on-the-job training and not specialized training. It was more like would the office benefit from some communication classes or stress management classes, or organizational skills classes. That sort of thing.

Ms. Woodbury: Was that a committee that Jim Davey had also established?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Did you find your work on those committees valuable in terms of learning about the court?

Ms. Mayer-Whittington: Yes, mostly because I got to interact with people I didn’t normally get to actually sit across the table from.

Ms. Woodbury: At what point did you decide to go back to school?

Ms. Mayer-Whittington: It was 1980, 1981 that is when I thought I had really mastered my job as Jury Supervisor. I had been in the jury office for three years, one as the deputy and two as the supervisor. I’d done some different things there and I liked it a lot, but I didn’t know where I wanted to go next. I needed a new challenge and thought that graduate school would provide this. I had done my own research and I had talked to Jim and Helene and to some other people. For a little bit of
time I was toying with the idea of going to law school. But I thought I didn’t feel like I had that in me. I had more of a management focus, so I thought maybe public administration. At that point I could see myself having a government career not necessarily at the court, but a government career. I was intrigued by learning how to manage in an organization that didn’t make a profit. I would have to draw on other ways to motivate people and to measure their success. Once I decided that I was going to study public administration, I then decided that I wanted to concentrate in human resources.

Ms. Woodbury: Human resources?

Ms. Mayer-Whittington: Yes. In the public administration graduate programs I researched, you could concentrate in budget and finance, or human resources or facilities management. I thought that human resources sounded like something I wanted to learn more about, and I thought that concentration was broad enough that it would not restrict me to a career at the courthouse. At that time, there was an institute in Denver for people interested in pursuing court management where you could get a degree that focused entirely on court administration. But I thought that that was too limiting. I wasn’t sure if that’s really where I wanted to be.

Ms. Woodbury: So you were looking for an educational opportunity where a position in different governmental entities was still open?

Ms. Mayer-Whittington: Right, or a position elsewhere in the nonprofit sector. I wanted to get more education, and I didn’t know exactly where I wanted to end up.

Ms. Woodbury: At this point in your life, were your parents still in an influence in terms of encouraging you to get more education or about what you wanted to do in
Ms. Mayer-Whittington: Yes. I mean we are very close. We were always close in my family, and yes, we talked about that kind of thing not on a daily basis, but on a fairly regular basis. My dad always (especially at that point in my life when we were carpooling) would say…. "How is it going?" That was my opportunity to let him know how I was feeling about my work at the court and what I was thinking in the way of the future. I remember him saying this is a good opportunity since I was single and could devote the time to more schooling. He knew I felt I had mastered my job and he was a strong proponent of education. My mom was the one who always told all of us that we could do whatever we set out to do so the sky’s the limit. They were both very positive and encouraging.

Ms. Woodbury: And so, was it 1981 that you started or applied to graduate school

Ms. Mayer-Whittington: I found out that I had to take the GRE, the Graduate Record Exam, in order to get into graduate school so I had to find out how to do that. I took that exam and then I was looking around and the two places that had public administration degrees where it looked like their schedules would fit my schedule were the University of Maryland - University College and the George Washington University. As a Maryland alum, I really wanted to continue my education there. But, what tipped the balance, even though GW was more expensive than Maryland, was the ability to drive from work down to the campus - GW is located a couple of miles from the courthouse - or take the subway down there and not have to get out to College Park all the time.

Ms. Woodbury: Did GW have a program that enabled you to both study and continue with
your work?

Ms. Mayer-Whittington: Yes, I don’t think any of my class started before 4:00 p.m. It wasn’t like I was taking them during the day. From the beginning of my time at the courthouse they had a flexible work schedule. That was something other courts did not have. I’m not sure if it was available in the other branches of the federal government at that time.

Ms. Woodbury: Was the flexible schedule something that Jim Davey had started?

Ms. Mayer-Whittington: Yes. He started it I think in 1976, right before I came. It was not nearly as flexible then as it ultimately became in later years. Basically, you could begin your day at the office at seven, seven-thirty, eight or eight-thirty, but you had to work around certain parameters. You couldn’t start at ten because the court opened to the public at nine. So you had to work around the core hours that the court was open. But the starting and ending times that you worked were flexible. There was a history at that courthouse in particular, under Jim Davey's predecessor, where if you were scheduled to start at, let's say, 7:30 and you got there at 7:35 and you would have to sign in at 8:30, and they would make you put in a leave slip for an hour of annual leave. But, you still had to start working right away at 7:35 so that those 55 minutes you were working were really a gift to the government since you were putting in an hour’s worth of leave. It might have been more tolerable for the employees if you got to sign in at 8:00 and only put in a leave slip for thirty minutes but you were forced to take an hour of annual leave because you were not allowed to use half hour increments. As you can imagine, employees started to rebel against the unfairness and would say "If I have to put
in an hour of leave, I’m going down to the cafeteria and have my coffee and a cigarette." The result of this was the office was short staffed in the mornings which were always our busiest times. The underlying problem was that one of the main reasons people were late was due to traffic problems. As you know, the Courthouse is located at 3rd and Constitution Avenues, right in the heart of D.C. Traffic was very unpredictable and very heavy, especially in the mornings. Employees were constantly worried when they got stuck in traffic. When Jim Davey came on board he said he wanted to try a new system that would provide some flexibility to the beginning and ending of the day. Basically he said that if you are scheduled to begin work at 7:30 but you don’t get here one day until twenty of eight, you can do whatever you want until 8:00. At 8:00 you would sign in but then you would need to stay a half hour later that day to make up the thirty minutes you were missing. That was the first attempt at flexibility. Shortly after this was introduced, the flexibility was broadened to allow you the opportunity to make up time you were missing any time during the pay period. When I had to leave for a four o’clock class I could start work at 7:00 and make up the time. So I didn’t have to put in for leave to go to take my class, and that was huge benefit.

Ms. Woodbury: At that point did the court or any of the federal government agencies subsidize people’s continuing education or have any kind of grant program?

Ms. Mayer-Whittington: Yes. There’s an agency called the Federal Judicial Center. They are the training and education branch of the courts, and they would reimburse you up to, I think, $200 if you wanted to take a class. But the class had to be work related.
You had to show job benefits and you had to write an evaluation of the class.

You could not take classes for the sole intent of obtaining a degree. So if I took a class that was not specifically work related, they wouldn’t pay for that class.

When I took my first class, Introduction to Public Administration, they wouldn’t pay for that.

Ms. Woodbury: It was required for your degree but they didn’t think it was work related?

Ms. Mayer-Whittington: They couldn’t make an association between that and the work I was doing in the Jury Office. But then some of the other general classes, like developing presentation skills, working in the public sector; those would be okay because I doing presentations in the Jury Office and of course I worked in the public sector.

Jim was helpful about wording the request for reimbursement so that the Federal Judicial Center would see the connection and would approve it. But it had to be work related. It was much easier to make the connection that most of my classes were work related when I took my next position as Supervisor of Administrative Services. In that position I was responsible for finance, records management, jury, and property and procurement and court reporters. My work wasn’t as narrowly focused in this position as it had been in the Jury Office.

Ms. Woodbury: Nancy, how did you find graduate school and how did you find time to both work full time and be a graduate student too?

Ms. Mayer-Whittington: Well initially I was still working in the Jury Office where as I said I was pretty comfortable with what I was doing, and I was looking for an outlet to expand my horizons and to learn more. That’s what graduate school provided for me. It let me step back away from the nitty gritty of what I did on a daily basis,
and start looking at an office as a part of a larger organization. That was very interesting to me and so it really was not very difficult to keep up with the work load. I only took one or two classes a semester because it was very expensive and when I did receive financial assistance from the Federal Judicial Center, it only covered one third of the tuition. I was responsible for the rest. At this point in time, I was living in an apartment and had a car and had other expenses so, I didn’t have the luxury financially to take more than two classes at a time. At around this time, Jim Davey decided to reorganize the court and I applied for the position of Supervisor of Administrative Services.

Ms. Woodbury: When did he decide to reorganize the court?

Ms. Mayer-Whittington: It was probably in 1981. Jim was always very well connected with other District Courts throughout the country. He had a really good network with other Clerks of Courts. He also had more of a management background and I think he could see that a lot of his time was spent working with five or six different supervisors in fairly small offices. This was not the best use of his time. So I think he looked around and found out that some courts had started organizing what they would consider the non-operations, administrative aspects of the court into a single area. This was also the time that technology was being introduced in the courts. As an aside, our courthouse housed all of what they called the mainframe computers that supported the entire courthouse system of the country. We leased space in our court to the Administrative Office and they managed the mainframe computer system. On a daily basis, each court would input data about the numbers of cases they had filed, the types of cases and party information.
The courts would use the telephone systems to transmit the data to these mainframe computers located in our court. Jim could see that the IT world was going to start growing down the road and that it would be another fairly significant draw on his time. So the decision was made to reorganize the Clerk’s Office and put together a plan to incorporate all of those administrative, non-operational offices under the control of a newly created position, Supervisor of Administrative Services.

Ms. Woodbury: Was this just Jim Davey or were there others involved?

Ms. Mayer-Whittington: Jim was the mastermind but he had the assistance of his chief deputy, Herb Haller. So they worked together and I think they talked to the Administrative Office about it too. Jim was always very well prepared when he was going to pitch his case. He would do his research and he knew how the courts in New York and Los Angeles managed their workload. He would say "We don’t have the volume of cases they have but certainly we have a bigger variety of complex cases and different types of administrative activities."

Ms. Woodbury: Nancy, just to go back a bit. When you were the head of the Jury Office, did you have any contact with the other district courts in the United States about how they ran parallel offices?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: And what was the source of your contacts? How did you have those contacts?

Ms. Mayer-Whittington: The Federal Judicial Center would hold annual or bi-annual meetings of clerks’ office staff who held similar positions. As a result, they had a jury
conference once a year. Going to those conferences was where I met other jury administrators from across the country. It was interesting because you ended up gravitating to the ones who were trying to resolve issues that our jury office faced on a regular basis, those courts who were dealing with similar challenges. After a few years of attending these meetings, I was selected to serve on the Jury Committee, the national Jury Committee that was sponsored by the Federal Judicial Center. One of the goals of the Committee was to write a jury manual that could be used by all courts because at that point each court was developing their own procedures.

Ms. Woodbury: Procedures for the jury offices?
Ms. Mayer-Whittington: Yes. And also tips for handling certain situations because we found when we got together at the annual meetings, there were some problems in South Carolina that were similar to problems that the court in Chicago was experiencing. Those particular issues centered about the postal system. The post office had certain requirements that affected the delivery of jury summonses but there was not a uniform means of communicating that information to the courts. By working with jury staff from other courts, the Committee could figure out ways to reduce postage costs or streamline the delivery of jury mail for all the courts. The annual meetings afforded us the opportunity to share ideas and effective management procedures and the Jury Committee would document these ideas so that all courts could benefit from the information. I remember at one meeting a jury administrator told me that their local post office would send them, on a monthly basis, all the magazines that had been returned to them because of
bad addresses and thing such as that. The court did not have a budget for magazines for jurors so having the post office donate to the court new magazines that would normally have been discarded was a big benefit for the jurors. When we had called our local post office, they said "No we don’t do that. It does not belong to you and were not giving them to you." We were able to get the post office branch that was making the donations to the other court to call our local post office branch and work out the same arrangement for our jurors. That was just one of the many benefits of the annual meetings.

Ms. Woodbury: Things that you wouldn’t find out about unless somebody else had the experience?

Ms. Mayer-Whittington: Right. The Federal Judicial Center was responsible for facilitating the meetings as part of their focus on training and education. The Administrative Office had more of narrow focus. They were primarily concerned with making sure each court followed the jury statutes. I loved my jury job. That was my favorite job at the courthouse because you dealt with the public every day and they were so appreciative of everything you did. I would bring in treats sometimes or release them a little early for lunch so they could get ahead of the crowd in the cafeteria and they couldn’t thank me enough. Even just providing information, something so basic, made them feel like we cared about them and their service. The jurors would be sitting in the assembly room for a while, and then I would go out and say: "I don’t have any updates on this particular case, but I do want you to know that this judge usually breaks early for lunch so I will probably release you around 11:30." The jurors would let me know that they
appreciated being updated with any information available. They didn’t want to
sit for long periods of time with no contact. It made them feel as if we had
forgotten they were there. Of course we didn’t forget about them; but we
couldn’t tell them about the case. But we could tell them that we still knew they
were there and that we really appreciated what they’re doing. Or I would say: "I
just talked to the courtroom deputy and they’re saying it is going to be another
hour before they need you, so if anybody would like to leave and go outside it’s a
beautiful day, as long as you’re back here in 45 minutes, that’s fine". And they
would say "really?" It didn’t take much to make them feel included, just little
things like that.

Ms. Woodbury: Did you ever get any suggestions from people serving in the jury pool on
things you could do to make the experience better for them?

Ms. Mayer-Whittington: Yes. We had an exit questionnaire that we gave to all the jurors at the end
of their service and, on average about 30% would fill it out. Most jurors were
very complimentary, they would write in that we did a great job. One juror made
a specific suggestion that helped fill the time spent waiting and accomplished a
good deed as well. She wrote "Wouldn’t it be nice if for during all the down time
we could work on something. I would be willing to donate scraps of material,
stuffing and patterns that jurors could sew together to make some soft dolls for
Children’s Hospital or some little stuffed animals." We followed up with her and
she did as she suggested and donated all the materials. When we did our
orientation, we would hold up some examples of the work of previous jurors –
showing an elephant or small cloth doll – and tell the jurors that if anyone was
interested in helping out, they could work on this project. We never failed to get a few people interested and Children’s Hospital appreciated the gifts. The jurors asked if we could have a telephone for them, because they weren’t allowed to use our phones. They asked for an outside line so they could make calls as needed. We did this after making sure to have a line installed that wouldn’t allow long distance calls. This was before cell phones and jurors needed to keep in touch with their families or jobs. The phone line was a big hit. It was always nice to implement an idea that a juror suggested. After all, they were the ones who knew best what would make their jury service more manageable.

Ms. Woodbury: Little things that improved their experience?

Ms. Mayer-Whittington: Yes. They were the ones who were having the experience, so they were in a position to tell you what was needed. I got the first distinguished service award from the Director of the Administrative Office for the work I did improving the experience and morale of grand jurors.

Ms. Woodbury: Oh really?

Ms. Mayer-Whittington: I was just thinking about this now. With the petit jurors, I was in more of a position to help improve their term of service. But with the grand jurors, it was different. They would report for service and we would do an orientation. Then we would send them to the courtroom of the Chief Judge who would meet with them in go into more depth about the nature of the role they would fill as grand jurors. Then they would be sworn in and the Chief Judge would appoint a foreperson and deputy foreperson. After this, the jurors would be turned over to the United States Attorney’s Office where an assistant U.S. Attorney would take
charge of their service. Grand jurors usually met once to twice a week for several months. Shortly after I became the jury supervisor, our office started receiving complaints from grand jurors because they were spending a lot of time at the courthouse waiting for testimony to be presented to them. Too often they would report in the morning for service and then, they would sit in the grand jury room and wait and wait. Eventually, somebody would come in and say "Okay you can go to lunch." Sometimes they would spend the whole day waiting without anything being presented to them. In the exit questionnaires we received from the grand jurors, the number one complaint was that they spent far too much time doing nothing. As a result the majority said they really disliked having to serve on a grand jury and that they would never want to serve again. I thought that was such a black mark on the court because it was completely out of our hands and in the hands of the U.S. Attorneys' Office. So I talked to Jim Davey, and then Jim and I talked to the Chief about it. I told him: "I think that if we had better communication with the U.S. Attorneys' Office, it would make the experience so much better for the jurors. Chief Judge Robinson said "Absolutely. Look into it." So I came up with some ideas for improving the grand jurors' experiences. We started tracking their utilization rates. We would track not only the hours they were at the courthouse but also the hours that were spent actually listening to testimony. It was incredibly eye opening. Out of the six hours they were at the courthouse, they only spent, on average, one hour engaged in their responsibilities as grand jurors. When I started meeting with some of the attorneys who were in charge of the various grand jury investigations, their first
reactions were, "This is none of your business… the grand jury proceeding is secret. There are all these reasons why you shouldn’t be talking to the grand jurors." I wasn’t discussing anything about the nature of the investigations, I was just tracking hours of service and collecting comments that grand jurors made relative to the way they felt they were being treated. I tried to explain this to the attorneys but they were not interested in my data. I knew the three people in the U.S. Attorney’s Office who were the liaisons to the three major divisions in the grand jury section. The three divisions were major crimes, fraud and the street crimes section. From them I learned that several of the attorneys who handled grand jury investigations were very arrogant and treated not only the jurors poorly but they treated everyone poorly. One attorney in particular regularly requested that the grand jurors report for service at 9:00 a.m. while he regularly arrived for work at 11:00 a.m. With the help of the three liaisons and the reports I had compiled on the actual utilization of the jurors and the comments on the exit questionnaires, I went back to Chief Judge Robinson. He was visibly angry at how poorly the grand jurors were being treated and he said he would set up a meeting with me and Stan Harris who was, at that time, the United States Attorney. It was a little intimidating meeting with the U.S. Attorney, but I met with him, gave him the background on how this report came about and then gave him a summary of our findings. We had kept records for the last year and on average the grand jurors were being used less than 20% of the time. In some cases the poor utilization could be attributed to the bad habits of a specific assistant U.S. attorney; in other cases it was just across the board in that section.
I shared the jury comments that reflected how much they hated their time serving on the grand jury and how they said they weren’t treated very well and that they were spoken down to. Stan Harris was very quiet for a few minutes and then he said: "What the hell’s going on here these days?" I told him that I wasn’t sure but that I thought we could do some things to improve the experience of the jurors. He promised that he would speak with all the assistants in charge of grand juries and let them know they had better make changes or they wouldn’t be working with grand jurors anymore. He called Chief Judge Robinson while I was there and apologized for the situation and said there were going to be some major changes. Stan Harris did exactly what he said he would do and the utilization of the grand jurors improved. Stan Harris eventually became a judge on our court and we ended up being good friends. He was the son of Bucky Harris a well-known and long-time manager of the Washington Senators baseball team. I love baseball so we had some good talks where he shared some great stories about his dad. We had a little rocky beginning but I was glad he was the U.S. Attorney when we had the problems with the utilization of the grand jurors. I might not have been as successful with another U.S. Attorney.

Ms. Woodbury: Was this all under the office or control of the U.S. Attorneys?
Ms. Mayer-Whittington: Yes.
Ms. Woodbury: Nancy, do you know if that was true in the other district courts as well?
Ms. Mayer-Whittington: It varied. In every court the U.S. Attorney’s Office oversees the grand juries. In some courts, there is some overlap between the U.S. Attorney’s Office and the court, especially, as is the case in our Court, where the grand jury
sessions are held at the courthouse. In other courts, the grand jury sessions are held at the U.S. Attorney’s Office and thus the court’s jury office has no contact with the jurors once they are impaneled. If our grand jury sessions had not been held at the courthouse, we would not have received the verbal complaints of the grand jurors relative to their service. That got the ball rolling and we followed up on the complaints. Ultimately, our work on improving the utilization of grand jurors resulted in the judiciary saving a lot of money and even better, it improved the experience of our grand jurors who felt they were valued when they were utilized better and treated better. Our system for tracking grand juror utilization was adopted by the Administrative Office and sent out to all the courts. Chief Judge Robinson and I did workshops for other courts. It was interesting working with the Chief who was known as a "no nonsense" Chief and someone who wasn’t shy about expressing his views. At the workshops, sometimes a Chief Judge from another court would say "If I told my U.S. Attorney that he couldn’t have a grand jury if he didn’t use them properly, he’d indict me." To which Chief Judge Robinson would reply, "Well then you’ve got bigger problems than this." It was important that he was there to talk to the Chief Judges who came to our sessions because they would listen to him – he was great at getting his point across. But by far the biggest reaction from the courts who attended the workshops was the fact that they had never even looked at the grand jury system and the utilization of the jurors. It was a very interesting project. I learned a lot and I ended up getting an award for my work.

Ms. Woodbury: For your work on this?

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Ms. Mayer-Whittington: Yes, for my work on improving grand jury utilization. Many courts made modifications to their grand jury systems. Up to this point the grand jury was just off to the side and nobody paid any attention to them. But when they started looking into them, courts realized they could do some things differently. We were constantly trying to improve the utilization of petit jurors. But grand jurors had never really been studied. Speaking of petit jury utilization, our statistics would be good until we got a high profile or notoriety case. We would be doing a good job making sure that we were utilizing our trial jurors efficiently and then we would get a John Hinckley case…. actually that’s not a good example because Judge Parker did a really good job of jury utilization in that selection. We would get an Abscam case or a Marion Barry case and our statistics would go through the roof. You bring all these potential jurors in for selection and they sit for hours and hours and only half of the jurors would be needed to select the panel. But, because you brought in a large number and you have to pay them for their service it impacts your court’s utilization statistics.

Ms. Woodbury: When you said you get charged with those statistics, you mean jurors who are called for those big pools go into your general jury utilization statistics?

Ms. Mayer-Whittington: Yes. We had a monthly figure that we had to report to the Administrative Office that showed our jury utilization index. The goal was to keep it around 33%. We were always a little over 50%.

Ms. Woodbury: Explain what that statistic was. What numbers were used to determine the jury utilization statistic?

Ms. Mayer-Whittington: Every time we brought in a panel of jurors for selection in a civil or
criminal case, we had to fill out a form that showed what happened to each juror. The form was divided into three main categories. These categories were jurors selected on a panel, jurors who were not selected because of a peremptory challenge or challenge for cause and jurors who were not used either because they were a part of a panel that went into a courtroom for selection but the jury was selected before their name was reached or because the entire panel was not used due to a last minute plea or settlement. The jury utilization index was focused on this last group. The percentage of jurors who reported for service but were not actually used. The lower this number was the better the utilization rate. Actually, the stat should have been called the jury non-utilization index.

Ms. Woodbury: Okay.

Ms. Mayer-Whittington: To keep this number to a minimum required good communication between the jury staff and the courtroom deputies. It also meant we had to pool our jurors. We couldn’t bring in all the jurors the judges requested. I could talk about jury utilization for hours. We had to develop a formula that allowed us to bring in enough jurors to select a jury for each case that was scheduled but contemplated staggering the selections throughout the morning. For example, if we had four criminal cases scheduled on one day and each case required a panel of 30 from which to select a 14 member jury, we would not bring in 120 jurors. Instead, we would bring in 80 jurors and this would allow two panels to be selected at a time. We would send 30 jurors to Judge A and another 30 jurors to Judge B. After both judges make their selections they would each return 16 jurors to us for a total of 32 returned jurors. Since we had 80 jurors in our
original pool and we sent 60 to courtrooms for selection, this meant we had 20 jurors available who were waiting in the jury assembly room for an overall total of 56 jurors. We would then send 30 to Judge C and after selection was completed, 16 jurors would be returned to us. Judge D would get their panel of jurors from these 16 and the 26 who were still available in the jury assembly room. We had to tinker with the formula from time to time especially if all the cases scheduled for selection were criminal cases because sometimes a juror would be excused from a criminal case and the judge would tell us not to send them in for selection in any subsequent criminal case due to the nature of their circumstances. Since the success of the formula depended on our ability to "recycle" jurors, we had to allow for the possibility that a percentage of jurors might not be able to be "recycled" and plan accordingly.

Ms. Woodbury: Kind of a rule of thumb you developed for using the people who are called to be on juries?

Ms. Mayer-Whittington: Right. Our utilization statistics were usually better on days where there were multiple selections. If you had a day where only one jury was scheduled for selection and for some reason the case did not go forward, then the not used statistic was 100%. That number really impacts your monthly utilization rate which as I mentioned earlier is really the non-utilization rate. We did everything we could to prevent jurors from reporting unnecessarily but it had to be a joint effort. The courtroom deputy needed to stay in close contact with the attorneys on the case to make sure that if a plea or settlement was being discussed the court would get timely notification in order to call off a jury panel. We had a local rule
for civil cases that required attorneys to notify the court 24 hours before jury selection if the case had settled. If they failed to notify us, they could be assessed the cost of bringing in the jury panel. Once I left the Jury Office and went to my new position, it was still under my jurisdiction so I still stayed involved.

Ms. Woodbury: You still were responsible?

Ms. Mayer-Whittington: Right. Last minute cancellations of jury panel selections were a contributing factor to poor utilization of jurors but another major factor was the number of notorious or high profile cases we had in our court. The two main problems with these cases were the large number of jurors that judges wanted to be available for the pool and the fact that most high profile cases took multiple days to select. We kept detailed statistics on our high profile cases because we had so many of them. Most of the judges, when we reviewed the stats with them, reduced the number of jurors they wanted for jury selection. We also were successful in getting judges to reduce the number of jurors they would bring in on a daily basis. If a judge felt they needed 250 jurors to be in the jury pool for selection, we would recommend that they bring in 50 a day until they had enough of a panel to begin seating the jury. In most cases, they would arrive at the number they needed to impanel the jury after two or three days and thus we would have only needed 100 to 150 jurors at 50 jurors per day instead of the 250 they had originally requested. This saved jury costs and prevented jurors from reporting unnecessarily. Where we would often run into problems was when we had a new judge or a judge that was experiencing their first really big trial. So often, they were so concerned about all the details of the case and the magnitude
of the proceedings that they didn’t want to worry about jury utilization.

Ms. Woodbury: So a little bit of this is educating new judges?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: To what it takes to meet their needs?

Ms. Mayer-Whittington: Yes and to recognize that the court as a whole had made a decision to commit to better utilization of jurors, so each judge needed to do their part. Fortunately, our court had an established Jury Committee that I could go to when I needed some help persuading a judge to follow the formula or the practices of the court. Sometimes, it takes a judge to tell another judge that they are out of line.

Ms. Woodbury: What was this Jury Committee that you just referred to?

Ms. Mayer-Whittington: Our court had several standing committees that worked to help the Chief Judge manage some of the policy areas of court management. We had a Local Rules Committee, a Criminal Justice Act Committee and a Calendar Committee, to name a few. When I first came to the courts, every district court had to have a Jury Committee. This was due to the fact that the GAO did a study in the mid 70’s about the jury system and found several areas that needed improvement. So they had already kind of…

Ms. Woodbury: Laid the ground work…

Ms. Mayer-Whittington: Right, laid the ground work. Our Jury Committee helped to develop the formula we used for the number of juror we would bring in for multiple selection days and would help educate the judges as to the reasoning behind the formula. The Committee would review the summaries of the exit questionnaires and look
to specific suggestions that jurors made as to how to streamline jury selections and how to make service on a jury more meaningful for jurors. The Committee would look at the practices of individual judges and ask them to share effective strategies for good utilization of jurors. We would propose things to the Committee based on our experience and we would discuss the possible implementation. For example, if a judge had a civil or criminal selection scheduled but was aware that there was a good possibility that the case would settle or enter a plea, we wanted to put the potential jurors on standby for selection. This meant that we would notify the jurors that they might be needed the following day for selection and that they should call the recorded message the following morning and, if they were needed, they should be available to report within an hour of calling the recording. We wanted to take advantage of the fact that most of our jurors lived or worked within an hour of the courthouse. If a plea or settlement occurred late at night or early in the morning, we could notify the panel in the morning not to come in thus saving them the unnecessary travel to the court and save the Court the expense of bring the jurors in. On the occasion where we had such a case and the judge involved was not willing to be a team player I would go to the Committee.

Ms. Woodbury: Like going to the principal office? Who was on the Jury Committee; was that judges or…

Ms. Mayer-Whittington: Yes, three judges and me.

Ms. Woodbury: And this was when you were the head of the Jury Office or…

Ms. Mayer-Whittington: Yes.
Ms. Woodbury: Okay.

Ms. Mayer-Whittington: To this day there’s a Jury Committee at the court, even though we are no longer required to have one. When the committees were first formed, a circuit judge was required to serve on the committee and report back to the circuit on the activities of the committee. Our circuit representative was Judge Ken Starr. He was very nice and very attentive but he would always say that he didn’t have any idea about juries and did not think we needed a circuit representative on a committee that was so clearly focused on matters relating to the district court. The requirement to have a jury committee was lifted at some point but our court has chosen to continue to have the committee but without any circuit involvement.

Ms. Woodbury: Nancy, you said that at some point you went from being the head of the Jury Office to head of the Administrative Services

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Was that your title?

Ms. Mayer-Whittington: My title was Administrative Services Supervisor.

Ms. Woodbury: What year was that?

Ms. Mayer-Whittington: ‘82

Ms. Woodbury: And so you went directly from being the head of the Jury Office to that position.

Ms. Mayer-Whittington: Right.

Ms. Woodbury: In that position which of departments or operations were you responsible for?
Ms. Mayer-Whittington: I was responsible for the Records Office, the Finance Office, the Property and Procurement Office, the Court Reporters and Court Interpreters, and I was the GSA liaison for facility maintenance. I’m trying to think…

Ms. Woodbury: And the jury office was part of that?

Ms. Mayer-Whittington: The Jury Office also, right.

Ms. Woodbury: At the time you took over this position, had you any experience with these other divisions or departments that you were now responsible for?

Ms. Mayer-Whittington: No, other than interacting with the Finance Office because they processed our jury vouchers, I did not have any other experience. When Jim Davey advertised the position, he made it a requirement that the person who was the successful candidate would have had expertise in one of the areas. Hopefully more than one, but at least one area.

Ms. Woodbury: Were you aware of other people who also applied for that position?

Ms. Mayer-Whittington: Oh yes. The woman who was the head of our Finance Office who was a pretty good friend of mine, she was also applying for the position.

Ms. Woodbury: Were there any people outside the court who were applying for the positions?

Ms. Mayer-Whittington: No. They made it an internal applicant pool only.

Ms. Woodbury: Internal?

Ms. Mayer-Whittington: Yes, the reasoning behind keeping the position internal was because we did not have a new position available. Because the applicants needed to have expertise in at least one of the areas that made up the new division, it was contemplated that the selection would be internal. Once a selection was made,
then a decision would be made as to converting the vacated position to the new position or requesting a new position from the Administrative Office.

Ms. Woodbury: Nancy, at the time you took over this new role, were you still going to school to get your graduate degree?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Did you continue with school when you took your new position or did you take a break?

Ms. Mayer-Whittington: I ended up taking a break. It was going to take me a bit of time to learn all my new responsibilities. One of the ways I was learning about the new job was by visiting other courts around the country so I could see what they were doing and hopefully take some "best practices" back to our court. So I was traveling a lot and that made it difficult to continue to take classes.

Ms. Woodbury: Had other courts around the country consolidated responsibility in a position similar to the one you were then assuming?

Ms. Mayer-Whittington: Yes a few courts had done this. But, I was also visiting courts to see how their records office was handled because we did not have a very good records section. This part of the office had consistently performed poorly for a variety of reasons. The main reason had to do with some of the personnel in the office. When I took over, there were so many stories, so many skeletons hidden in closet. I will tell you a little bit about what it was like. When I was selected for the position, I went down to the office to be officially introduced to the staff in the records section. Prior to this, I had very little interaction with the office but I remembered some of the people from my days at the Washington Law Reporter.
When I worked for the *Law Reporter*, I would occasionally go to the records section to get case information. I usually dealt with the supervisor, Annabelle Dickens, an elderly woman who was so kind and sweet, but she had a crew of people who worked for her that were unbelievable. So there I am several years later in the records section being introduced to the staff. Jim Davey introduced me and said "This is Nancy. She is going to be the new supervisor of Administrative Services. She won’t be moving down from the jury office for a few weeks while we get her new office ready. If you need to get in touch with her call her on her jury office line." At that point one of the staff members named Fred Juggins said, "What the hell do I want her number for? She doesn’t know anything about what we do. Why would I need to ask her anything?" It was not a great start to my new job. Fred did this in front of everyone and the whole room got so quiet. Fred had a long history of being a malcontent. He didn’t like Jim Davey and he was not shy about letting everyone know that. He was mad because when Jim first started working for the court he had the job of assessing the various offices and making suggestions for improvement. In addition, Jim was asked to assess the way staff was being used to see if there were any practices that should be modified or eliminated. At that time, Fred and several of his friends used to play pinochle for a couple of hours every afternoon down in the basement of the court. This tradition had been going on for several years. When Jim found out about it, he recommended that the card playing stop. When Jim told them they couldn’t do that anymore, Fred never forgave him. He basically blamed Jim for ruining his times with his friends. He never got over it.
and he was a thorn in Jim’s side the whole time. The records section had another character, Noah Sheppardson, who like Fred, had been working there for some time and so I knew of him from my time at The Law Reporter. I would watch the same thing happen, over and over, when someone would ask for a file. You see Noah did not like to look for things, so routinely he’d come back and say "It’s not here." The person who asked for the file would say: "I know that the judge just said that he brought it down here" and Noah would say: "I’m telling you it’s not here." The person asking for the file would say: "I don’t think you understand but I really need it." And then Noah would often say: "Do you want to settle this outside in the hallway?" I remember the first time I heard him say this, I was thinking, I better get out of here, this situation is getting out of hand. But then Annabelle would come around the corner and tell Noah to get back to work and then she would find the file. It was like a reality TV show only it wasn’t TV. They had a collection of characters in the records section. They inherited some of the staff from a few judges’ chambers. When a judge died and they had a bailiff on their staff, generally the judge who replaced them did not want to keep the former judge’s bailiff on their new staff. So the records section was where people who used to be bailiffs to judges, wound up.

Ms. Woodbury: Sounds like it would be a challenge to figure out how to move that department forward.

Ms. Mayer-Whittington: Right. In addition to the personnel issues, there were a lot of procedural issues as well. At that time, the file room would file pleadings by turning the file jacket over and putting the newest pleadings in the back of the file. This way,
when you opened up the case file it started with the complaint right on top and
the most recent pleadings in the back. When I traveled to another court, they said
that they had reversed this procedure and took the front cover off of the file jacket
and placed the most current pleading in the front. They had found that most
people who were requesting to look at files were most interested in the most
recent pleadings in the case. In addition, when staff from the records section
were filing pleadings in a case jacket, under the system we used, you were more
likely to file the pleading in the wrong jacket as you were not looking at the front
of the other pleadings in the case where the case number is easily available. This
was a way to prevent papers being misfiled. There were many things about the
files room that were antiquated because things had been done a certain way for a
long time and they didn’t want to change.

Ms. Woodbury: And at that time, had there been any movement toward introducing
technology in the records department?

Ms. Mayer-Whittington: No. There had been no movement in that direction at all. It was a little
early for that.

Ms. Woodbury: Right.

Ms. Mayer-Whittington: There were a few good people in the records office such as Annabelle,
Stanley Johnson and George Williams. George was a character but in a very
good way. He was one of my favorite people in the records office. He was a
former bailiff who ran his own dry cleaning business on the side. He took care of
all of the judge's dry cleaning. He was a very nice man. He would come to me
regularly at the end of the day and say you "Now don’t you worry about Fred.
He’s mad at the world and you just happen to be in his world." My move to administrative services was quite an eye opening experience. We were beginning to look outside of our own world at what other courts were doing. Everywhere I looked there was some room for improvement. Other than the Finance Office, there was a lot of work to be done.

Ms. Woodbury: And over how many years did you stay as Supervisor of Administrative Services?

Ms. Mayer-Whittington: Ultimately I was there from ’82 to ’84 and then the Chief Deputy, who was not real effective, left and Jim decided to create a position of Executive Assistant. He had two Executive Assistants, and I became one of those.

Ms. Woodbury: When you look back on it where there changes that you were successful in making in all of these departments?

Ms. Mayer-Whittington: Yes. You would learn that you would get a good idea from another court, and then you sit down and discuss it with your staff. Some people would always say that a new idea would never work in our court. But there was always a person or two who would be willing to try and that made everything worthwhile.
Ms. Woodbury: Good morning Nancy. Today is Thursday, March 3, 2011. This is the continued interview of Nancy Mayer-Whittington. When we concluded our last interview session, we were talking about the work Nancy did once she was appointed Supervisor of Administrative Services to the District Court in 1982. She mentioned that in that position she was responsible for the Records Office, court reporters, finance and administrative services as well as for the Jury Office. At the end of the interview Nancy was discussing her experiences with the Records Office and some of the challenges of making changes in that office and the way the office had been run historically. This morning I would like Nancy to pick up and talk about the other divisions that she was responsible for in 1982 and what changes were made in the operations of those divisions while she was Supervisor of Administrative Services and maybe we can begin with court reporters.

Ms. Mayer-Whittington: At this time court reporters, in addition to me having oversight over them, had a court reporter supervisor who was someone who was a court reporter herself and also had some management responsibilities for making sure that the court reporters filed their transcripts timely and that they were charging accurately for their transcripts and other things like that.

Ms. Woodbury: Nancy, was the court reporter supervisor appointed by the Clerk of the Court or by someone else?

Ms. Mayer-Whittington: At that time, it was more likely by the Chief Judge. Court reporters were, and still are, kind of a hybrid type of employee in that they make money outside
of their pay check by selling their transcripts so that they have some type of contractual relationship with attorneys and litigants. At the same time they are paid a federal salary and get federal benefits, but they need to procure their own equipment. They were responsible for all their own training. This was the beginning of efforts to make the court reporters more a part of the courthouse where they had some unity and some governing structure. This was happening nationwide. This was not something that happened only in our courthouse. The courts were encouraged to put together a court reporter management plan that was supposed to address all of the issues from following the statutory regulations for transcript fees to pooling court reporters so that there would not be a one-on-one relationship between a court reporter and a judge. Court reporters are “a different breed of cat” is what one of our judges was quoted as saying because of the hybrid nature and because it takes an unusual person to be able to sit in a courtroom hour after hour and take a verbatim record. We were also at this point going through other changes in how court reporters operated. We had court reporters that did reporting through the spoken word in that they repeated everything that was said to them in the courtroom and they went back in the evening and transcribed the record they had made. We also had steno reporters who took the record using steno machines and then used those steno records to reproduce the transcripts. It was getting to the point where the voice technology was outdated and in fact some judges were starting to complain about the distraction of having a court reporter speaking while they were on the bench as opposed to having the record taken through the steno machine. The court
reporting world was changing at the time that I became involved in it, but it was being managed by very old school court reporters that had a very unusual relationship with judges. Some of the judges considered them personal staff and other judges treated them more as just an employee as opposed to a personal staff member.

Ms. Woodbury: Nancy, at that time, who was responsible for hiring court reporters for the court? Who decided who could be a court reporter?

Ms. Mayer-Whittington: Well we had a court reporter supervisor. Her name was Dawn Copeland. And she had the responsibility of hiring new court reporters. She reported to the Chief Judge. In fact, at that time she was the Chief Judge’s court reporter. The Chief Judge at that time was Aubrey Robinson. And so she primarily had that responsibility. She usually had a committee of other court reporters to work with her because you had to go through a series of tests in order to determine your eligibility to be a court reporter in addition to filing a certificate that you were a certified court reporter. They would set up a simulated courtroom experience and have you transcribe; and they would compare the mistakes that you’d made and the time it took you to do it, in order to determine whether you were qualified to be a court reporter. But again, it was considered kind of a long arm of the court, but most judges didn’t understand how they did their steno and they really only were concerned about the finished product, so they didn’t really get too involved in court reporters. We had over the years a lot of issues with court reporters that somewhat came from the nature of their job and others from the types of people that we ended up hiring as court reporters.
Ms. Woodbury: What kind of issues arose?

Ms. Mayer-Whittington: Well, we were supposed to be pooling court reporters so that a court reporter should be able to move from one judge to another in the event that we had a need for that. And we had court reporters who didn’t like to do that and so they would talk their judges into saying that they were busy when they were called to help out another judge. And some of our older judges, because they were very attached to their court reporters, complied with those requests. As a result, when we got newer judges on board they ended up having to use the newer court reporters who didn’t have as much experience as some of our senior reporters. And the newer judges could have benefited from sometimes having a senior court reporter come in and either train or help out. It didn’t really work out that way. It was much more competitive among court reporters than it was collegial. As a result, it was determined after judges took senior status they couldn’t keep their court reporter with them anymore, which was huge. Judges kept court reporters until they died unfortunately. And so there was a lot of resistance on the part of judges about certain changes with the court reporters. This was at a time when they were looking at the budget and court reporting was pretty expensive. To keep a full-time court reporter with a senior judge was not beneficial to anybody, when the judges had reduced their case load and reduced their time in court. So we were looking at changes in things that had been considered sacred for years because the budget had never been scrutinized. All of a sudden these practices were being scrutinized and court reporters were blaming the scrutinizers -- me and other clerks and the management types, rather than the
fact the Judicial Conference had dictated these changes. Our Court Reporter
Management Plan required that we pool our court reporters, but we did not pool
our court reporters. There was the belief among some of our court reporters that
they were doing fine with reporters working one-on-one with a judge and you had
to really go beg a judge to let their court reporter be freed up to help out another
judge. So it was the beginning of changes in administration for court reporters.

We were also just starting to hear about real time court reporting and that
was a specialized skill that all of our court reporters were telling judges they
would never have any need for, and they didn’t have to worry about something
like that. At the same time the courts were also experimenting with electronic
sound recorder operator positions where the record for the court was being taken
by tapes and then transcribed by a qualified transcriber. The idea that the judge
would be able to have that tape in place of a court reporter was something that
some courts were experimenting with and court reporters were up in arms about
that, about how awful that would be. They would say to the judge: “Judge what
you are going to do when someone asks for the question to be reread? Are the
machines are going to bake you brownies, or tell you what’s going on in the
hallways?” That sort of thing. We had a judge from who came in and talked to
our judges about the advent of electronic court reporting. When of our judges
said to him: “Alright this sounds good, but it also sounds like it’s not as good as
a human person transcribing the proceedings. You don’t have this, you don’t
have that. So what was the bottom line? Why did you really decide to go this
way?” The Judge said: “Because the machine doesn’t drink.” And so the judges
were all like “Wow”. And I know that when the Judge said that, his choice for
the court reporter for him was a choice between an alcoholic and a liar. That was
his choice. I think he said he went with an alcoholic because he at least knew
why he was lying.

Ms. Woodbury: Who made the decision and when was it made to start using real-time
court reporting or electronic sound reporting in the D.C. District Court?

Ms. Mayer-Whittington: It was kind of a confluence of things that brought that about. One was
that Judge Hogan, who was always very forward thinking, volunteered to pilot
the first electronic courtroom in federal court. And part of that was having the
ability to take the record electronically. Then as we were getting newer judges,
younger judges and judges who had not only an interest in technology but had
had some experience with it and found that it had been beneficial. They were
open to it as well. However, the first generation of electronic record taking was
not very good and ultimately most of courts concluded that there were things that
lend themselves to electronic sound recording and certain things that did not.
And in many cases, trials do, but not but the work of the magistrate judges. They
all use electronic sound operators and that was the first place that they were used
on a regular basis because they used more machines in the courtroom anyway,
and I thought it was a step up when they got better electronic sound recording
capability.

Ms. Woodbury: Nancy, when did Judge Hogan volunteer to pilot the first electronic
courtroom? Do you remember?

Ms. Mayer-Whittington: Yes. It was like in the mid-80s.
Ms. Woodbury: So it started fairly early?

Ms. Mayer-Whittington: Yes. Very early. He liked machines and he was curious about personal computers and their capabilities. To this day, he likes the iPhone and piloted the Blackberries because he always saw them as a challenge to learn and that it could help him. Or he could at least decide that they couldn’t help him and it was not worth pursuing. But he always had that kind of interest. Judge Robinson was also interested in technology. He was the one that piloted the electronic case filing system in our courthouse. When you go back to the court reporters they saw this as a something that was going to change their livelihood. At that time we had a lot of old school court reporters. I want to say that when we got the new judges in 1994 -- we got five new judges in one year -- a couple of those judges had had some experience in committees that they worked on and other situations where real-time reporting had been beneficial, and it had helped them. So they had asked if we could start advertising for new court reporter that had real-time certifications and that’s what ended up finally making a change, because the judges were asking for it. When we were having changes imposed by the Judicial Conference, a body external to the court, the changes weren’t that successful.

Ms. Woodbury: Do you know if any of the new judges who were interested in having real-time in the court had used it as lawyers?

Ms. Mayer-Whittington: That’s not clear to me because at that point Judge Sullivan came in from the Superior Court, Judge Kessler came in from the Superior Court and Judge Urbina came in from the Superior Court. They were not doing that there. Judge Friedman had had some experience with it in committee work and so had Judge
Sullivan. Another judge had had some experience with it teaching. They had familiarity with it and they could see the application in the court system. So that’s why they were interested. The older judges ultimately got interested in it when they developed hearing problems. With real time, when a person was speaking the judges were getting a transcription rolling across the computers in front of them at the same time. Very useful for them at the time. It was in the mid to late 80s that it was all of a sudden coming into the court system, and it was not being well received by the people who were convinced they were going to be displaced by it. You know, ultimately some of our court reporters got on board and went to find out how to do real-time and get certified in it. They were the ones that ended up surviving and the others ended up holding on and then retiring or finding a court in the Midwest that didn’t embrace technology either. But really they didn’t have to go very far; they could go to the Eastern District of Virginia which didn’t embrace technology at all.

Ms. Woodbury: To this day or at that time?

Ms. Mayer-Whittington: At that time. They were the last of the courts to adopt an electronic case filing system. They had the Rocket Docket. So they were kind of “We don’t need technology”. Our systems manager moved his family down to Richmond because of the cost of living and decided that he could commute for a little bit back to the courthouse here, but then decided to take a job in the Eastern District of Virginia. He returned two years later to our court because it was so clear that IT (Information Technology) was not embraced there. And that was still in the late 90s and into the 2000s. I think that they embraced technology more in the
past decade or so. They were one of the last holdouts.

Ms. Woodbury: Any other changes in the court reporting division during your time as Supervisor of Administrative Services?

Ms. Mayer-Whittington: Not much. Trying to get them to work within the Court Reporter Management Plan and to recognize the benefits of technology were the biggest issues that we grappled with at that time.

Ms. Woodbury: Nancy, you mentioned that another division that you were responsible for was the finance division and that you had had some contacts with that division in your role as head of the Jury Office. Who was in charge of the finance division when you were the Supervisor of Administrative Services and were there any problems or changes in that division?

Ms. Mayer-Whittington: Denise Curtis was in charge of that division. Denise went on to become Clerk of Court for our Bankruptcy Court down the road. She had a strong financial background as well as being very organized and very innovative. So she was really there at a good time, when computers were starting to take the place of data processors which was really how we had been doing all of our record keeping and finance. In fact we made multiple copies of everything for people because we had no way of distributing information. She was able to work with some of the first generation technology for the finance office and volunteered to pilot things for our Administrative Office so that we could start to bring that office into the age of technology too.

Ms. Woodbury: Was that process already underway in 1982 or was that something that came later?
Ms. Mayer-Whittington: It was something that varied across individual courts. In fact, what Denise ended up doing was she visited other courts to find out what they were doing. She found that the system in the Los Angeles court, which she thought was a really good system, had been in existence probably for five years and so it had a track record. It was capable of being audited which was something you really needed to be able to do. The Administrative Office had been trying to put together a financial system for all the courts. But the problem is that many times the 94 districts courts do things 94 different ways and they kind of resist being made to do something a certain way when it not beneficial them just because it is an effective system. And so, there were tons of efforts devoted to bringing the courts together just to develop a financial system, and there had been very limited success. When Denise saw the product that Los Angeles had produced in-house on their own, and that they were going to let us use their system and would help us develop it, we went and adopted their system. It streamlined a lot of what we were doing. It had an audit trail. It allowed checks to be cut by machine as opposed to handwriting everything and that sort of thing. The Administrative Office gave us some assistance to see if we could take that system and transport it to our court and make it successful. We were able to do that, but ultimately the Administrative Office didn’t want to replicate that system for all the courts, so they told people it wasn’t successful and continued with their own efforts.

Denise did a really good job of modernizing the whole office.

Ms. Woodbury: What was the Administrative Office’s view of why they didn’t want to use the LA system as a model for all courts? Do you remember?
Ms. Mayer-Whittington: Yes. There was a problem with the fact that they didn’t own the system. They hadn’t developed it and they didn’t want to learn or support it. They felt like they were supposed to be the ones that were dreaming these things up and implementing them in the courts, and so it was really just a matter of power and ego that kept that from happening. It was a while before something came into existence that we finally thought was good enough that we would abandon what we were doing with the LA system. By that time, we had used the LA system for at least ten years, before the system that is now used in pretty much all of the courts was adopted.

Ms. Woodbury: Did Denise adopt the LA system for use in the District Court here in the 1982-84 timeframe?

Ms. Mayer-Whittington: Yes. That was when she was going out and looking at it. That’s when it started. It took us a little time to implement here because clearly LA was much larger than we were. So there were parts of it that weren’t helpful to us because we didn’t have that kind of volume. But LA had the luxury of having on board the people who wrote the software for their system. Because they were so large, they had enough positions and could actually have a software engineer on board. That was unheard of in those days. This guy… his name was Pat… I can’t remember his last name… he would fly into our courthouse at least once a month for a while to help us get our system up and running, and we were very fortunate that Judge Robinson, who was Chief at the time, was willing to let us do that type of thing -- to go a little past what the Administrative Office was recommending. It was taking too long for the Administrative Office to develop an alternative
system. This was an area that was important to our court because we had a big volume of jurors. We had a lot of large notorious cases and a lot of jurors and a lot of vouchers. It was incredibly time consuming to do all of those checks by hand.

Ms. Woodbury: Any other changes or problems with the finance department that you recall from that time period?

Ms. Mayer-Whittington: An area where we always had an internal problem was in trying to get judges to sign orders that disbursed funds by working with the finance office first. That was an ongoing battle and it wasn’t until we had Denise, who was very incredible and had a background in finance, that we solved that. I think our previous financial administrative personnel just came up through the courts and weren't really trained in finance.

Ms. Woodbury: Had no training in finance?

Ms. Mayer-Whittington: Education or training. Denise was the first person that we hired who had a degree, a financial degree from college and had had hands on financial experience.

Ms. Woodbury: Do you remember when Denise took over as head of the finance division?

Ms. Mayer-Whittington: I think in ‘82 or ‘83.

Ms. Woodbury: So about the same time you took over as head of Administrative Services.

Ms. Mayer-Whittington: It would have been earlier than that because she competed for that job with me as head of Administrative Services. Maybe 80 or 81. I think maybe she had been on board for at least a year as head of the finance division by the time I became head of Administrative Services.
Ms. Woodbury: Nancy, you mentioned that one of the problems the finance division had or was having was getting cooperation from judges drafting orders that disbursed funds…. could you just give an example. What kind of circumstance necessitated those orders?

Ms. Mayer-Whittington: Every time you have money that’s in dispute, they asked the parties to deposit the money in the Registry of the Court and then the court has the obligation to keep track of that money. At that point we were told that if the money was above a certain amount it had to be invested in an interest bearing account. Lots of time these cases dragged on for a while so that when it came time to start the disbursing the funds, the judge would send an order down saying disburse to this party this amount of money and they would include the interest that had accrued. And what they needed to do was call down to the Finance Office and say this is what I want to do and the finance office then would have to tally the amount of interest that account would have accrued by that day because you couldn’t just say that the registry should disburse any interest accrued thereon. It had to be exact. It was really difficult for judges apparently to remember to do that. So we were having to say that we couldn’t execute the judge's order and judges would get mad and ultimately it took Jim Davey, who was the Clerk of the Court at that time, and Denise to resolve this problem. The other thing that happened was that judges would send down something saying we want this money invested in a particular bank. We couldn’t do that either. We either had to invest it in the Registry of the Court or the parties had to have some special statutory language that would allow them to invest in a particular financial
institution. Ultimately the court's registry was actually banks that the court worked with and that we invested money in. There were just some intricacies to the financial end of it, and the judges had to understand that they couldn’t send an order down and say "Forthwith disburse this money" because we had to work with the bank to do that. In some cases it was millions of dollars. The bank had to have some notification, plus we had to have the exact name of the person to whom it was being sent, and in many cases an address. Just things like that that were administrative in nature, but would end up stalling things and the judge would have to vacate their order, and do it again and that sort of thing. Denise was comfortable enough with her ability so that she could explain what was going on to the judge. Her predecessor did not have a financial background, and if the judge probed a little as to why this or that was required, she couldn’t explain. At that time we were getting more involved in multi-district litigation, where cases had been sent to our court from all over the United States… for example, the flying suit cases, the airlift cases out of Viet Nam, with all the people that were killed when the plane crashed after takeoff. In those cases we had to disburse money nationally. So it was really important to get it right. And we also started at that point to be involved in law clerk orientation. That had not ever been done before. So Denise then had an opportunity to educate law clerks, who in many cases were drafting these orders. She was very integral to cleaning up that office up and making it more professional.

Ms. Woodbury: Nancy, when you mentioned training of law clerks, are these the recent graduates of law schools that the judges hired for a one or two year term?
Ms. Mayer-Whittington: Yes.

Ms. Woodbury: So they were assisting the judges on numerous fronts during their tenure?

Ms. Mayer-Whittington: Yes. From doing legal research to, in many cases, drafting orders and clearly helping write opinions, that sort of thing, for the judge.

Ms. Woodbury: The other area you were responsible for during this time was administrative services?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: What did that division do and were there any problems or changes during the period when you were Supervisor of Administrative Services?

Ms. Mayer-Whittington: We had an area called Property and Procurement which was responsible for inventory of all of the property and equipment that was in the courthouse. We were also responsible for procuring all of the property and all of what was considered to be consumable supplies for the court. At that time we would have to send a request to the Administrative Office to ask if we could get new pens and similar supplies, and there were guidelines on what kind of pens you could get and what kind of legal pads you could get and whether you could make an open market purchase. These were all of the things that the Administrative Office took care of and they had all of these purchase agreements with companies nationwide in an effort to benefit the courts. Well, over time our court was concerned because in some cases, we felt that things were overpriced and the quality wasn’t good, and we were noticing that different localities in the country had different levels of quality control and so forth. So the courts were pushing to having funds decentralized to them in an effort to take advantage of local businesses and local
prices so that you could get the best products for your bucks. When I first started in Administrative Services we were still sending up requests to the AO to buy all of our supplies, all of our furniture and furnishings. But they were starting to experiment with decentralizing authority to the courts for purchasing, so we were just on the cusp of that change when I first took over Administrative Services.

We started to get little things decentralized to us over a period of time. I started to be in charge of Administrative Services in 1984 and then it stayed under my authority for the next two changes in my positions. We went from having what we always call a "Mother may I" system because you had to justify to the Administrative Office why you needed to do something and then to a more of a decentralized budget so that you had a lump sum of money to get your property and procure your equipment.

Ms. Woodbury: Nancy, did the change to a more decentralized procurement system, did the impetus for that come the individual courts?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: How did that change come about?

Ms. Mayer-Whittington: Well, it came about from two angles. One was that the courts were increasingly hiring I think more professionals in the position of Clerk of Court, people who had training in running organizations or in other aspects of management that heretofore had not been as prevalent in that position. And at the same time the Administrative Office got a new director, I believe he came in 1985, Ralph Mecham, who had been in the management end of Chevron Oil. When he came in and saw that it was such a complex bureaucratic process...
working both from their end and from our end, he was more willing to listen to 
the courts' pleas for change and to do something that was more manageable and 
more efficient and less costly than the system that was in place. His predecessor, 
who had been in that position a long time, wasn’t really open to that kind of 
change.

Ms. Woodbury: Where these administrative changes that were taking place done largely 
without the involvement of the judges on the court?

Ms. Mayer-Whittington: Well, yes and no. The judges who were part of the Judicial Conference 
committee structure that were impacted by this, like the Budget Committee for 
example, or the Administration Management Committee, those judges had some 
knowledge of the issues involved in trying to centrally manage a very wide 
spread, geographically divided entity. They knew what was going on and we 
were fortunate that we had some judges in those positions who were forward 
thinking. Did the rank and file judges on our courts have much knowledge about 
this? No. But we were lucky that Judge Robinson did. He was always on the 
Executive Board of the Judicial Conference. It’s my recollection that Judge 
Robinson was on it we he first became Chief. He was chair of the Executive 
Committee as well as a member of the Executive Committee and that group of 
five or six judges tended to have a really good idea of a lot of the issues that were 
facing the courts -- Not the legal end of it, but the administrative side. But if I 
grew to talk to one of our judges about a problem that we were having, for 
example the reason I couldn’t get him that type of stationary he wanted, they 
would listen to me talk about the fact that I had little control over it and then they
would say "well just do it." They didn't have the background information on this.

Ms. Woodbury: Were there other judges over the course of your time on the court, in addition to Judge Robinson, who were influential and knowledgeable about court administrative matters?

Ms. Mayer-Whittington: Yes and no. Because we were in the D.C. Circuit and there was sort of a requirement that there be representation on the Judicial Conference Committee by every circuit, far more of our judges were on Judicial Conference committees than the district courts in other Circuits. Most district courts, I learned when I was interacting with their clerks, had one judge out of their five or six or fifteen judges who was on a Judicial Conference committee. That was about the norm because there were usually five or six or ten district courts in the other circuits and they had to spread out committee memberships amongst the district court judges as well as among the appellate judges. But we would generally have five or six or sometimes seven of our district court judges on Judicial Conference committees. Because of that some of them were more knowledgeable about court administration issues and other sorts of things than the district judges from other circuits. But the Judicial Conference itself at that point was very much driven by the Administrative Office in that the AO staffed the committees and they prepared all of the information packets for the judges attending the meetings. The constant complaint by the judges was that… "We have two meetings a year [and] about three days before the meeting I get a notebook that is six inches thick and I’m supposed to read all of this and be prepared to respond to the decision-making things we have to do." Each notebook would contain the background on
an issue and the recommended action to take. Most judges just read the executive
summary. So, we were lucky in that some of our judges, like Judge Hogan, who
was on the Court Administration and Case Management Committee, I believe and
on another committee as well, took a real interest in court administration and had
a willingness to figure out what was going on. Judge Lamberth was another
judge who was really good on court administration issues and Judge Robinson
also. Most judges didn’t come to the federal court to be administrators.

Ms. Woodbury: And perhaps by training or experience could not understand those
problems.

Ms. Mayer-Whittington: Absolutely not. We had a balance of judges who came from the private
sector and we had a lot of judges from the public sector. Sometimes when I
would talk to them about the issues that we were facing in the Clerk’s Office,
especially personnel issues, their frame of reference was a law firm. Possibly
they had had a secretary that was a direct hire, but everybody else was managed
more centrally by the law firm. So they didn’t have a lot of experience with
personnel issues and clearly not much interest in them. They didn’t balance the
budget, they didn’t have to worry about those things and nor should they. I don’t
think judges should be experts in that, but when you needed someone to
champion a cause for you, you were really trying to give them information that
they really didn’t have to have by nature or by their experience.

Ms. Woodbury: Nancy, I know you need to leave today about now and so we’ll close this
session here and I look forward to talking to you again, probably in April.

Ms. Mayer-Whittington: Great.
Ms. Woodbury: Thank you.
Ms. Woodbury: Good morning. Today is Tuesday, September 13, 2011. This is the continued interview of Nancy Mayer-Whittington, formerly Clerk of the Court for the United States District Court of the District of Columbia. Nancy, when we finished our last interview we were talking about the changes that took place in court administration when you were the Supervisor of Administrative Services and the role that the judges on the court played in helping along some of those changes. Today, would I like to begin by asking you how long you stayed in the position of Supervisor of Administrative Services and what was the next position you held.

Ms. Mayer-Whittington: Okay, I became the Supervisor of Administrative Services in 1982 and I held that position until 1985. So, it was three years in that position. At the same time what was going in the court was that --- I think I might have mention this earlier --- that the Clerk, Jim Davey, was trying to figure out the right administrative structure for the Clerk's Office so that it would operate effectively and efficiently. For many years, the major part of the Clerk's Office had been our operations section, which included what we called at that time our docketing section, the civil and criminal sections and then our courtroom deputies. And then there were these fringe offices that Jim cobbled together as Administrative Services. They were much smaller in the number of employees involved in that section, but they had a lot of interaction with everybody else and were very instrumental in making the administrative side of the court run. And it was clear that the court had two major divisions: the administrative side of the court and the
operations side of the court; and Jim Davey was trying to figure out the best way to run the Clerk's Office smoothly. After he had three years of experience with having the administrative section of the court under one supervisor…

Ms. Woodbury: That was you?

Ms. Mayer-Whittington: That was me. Then he thought that rather than have a head of the docketing and the courtroom side of it and the head of the administrative services side of it, he would create two Executive Assistants to the Clerk and he would fold those two positions in an Executive Assistant, so that he would have a three part management structure. He was Clerk and he would have two Executive Assistants.

Prior to this, he did have a Chief Deputy. His name was Herb Howler, who had come up through the operations side of the business, but Herb was getting close to retirement age and so his decision at that point to retire prompted Jim to say… "Well maybe this would be the time, rather than to continue with the Chief Deputy, to have two Executive Assistants." It was sort of unheard of in the court administration world, and he had to go through some hoops with the Administrative Office to explain to them what he wanted to do and the way he could do it. He couldn't grade either of those positions at the level of a Chief Deputy because the Court didn't have the money to pay for two people at that level and at that salary. Jim had always been good at talking to the Administrative Office and asking if he could pilot things, and that's what he and I had done on several occasions with different new programs in either jury or records. We would just consider it a pilot and see whether it was okay before we...
kind of made it official. And the Administrative Office bought into that by saying… "Okay as long as this is a pilot…” I think the Administrative Office was a little bit intrigued as to whether there were other ways to organize the Clerk's Office or not. So Jim made us both Executive Assistants to the Clerk. The other person was Marge Whitacre who had been at the court many years. She had come up through the ranks on the operations side. She had been a courtroom deputy, a courtroom supervisor and head of operations.

Ms. Woodbury: Nancy, when you talk about the operations side, what was included in that?

Ms. Mayer-Whittington: At that time, operations included our intake area where we took in all the pleadings. It included our docketing section where all the pleadings were put in the case dockets and it also included our courtroom deputies who were the assistants to the judges in the courtroom and handled all of the administrative functions within the courtroom.

Ms. Woodbury: Okay.

Ms. Mayer-Whittington: And it was our largest population because each judge had a courtroom deputy. At that time we had fifteen active judges and we would range anywhere from five to nine generally senior judges on top of that and then we had three magistrate judges. So we would have between 24 to sometimes 28 judicial officers at any given time. So you had people who worked for those judges in that capacity. Then you had 5 people who took care of docketing. Each had 2-digits cases ending in 0 or 1. They had those cases and they would docket everything to those cases. Then we also had criminal cases that were separate
from our civil cases.

Ms. Woodbury: Also on the operations side?

Ms. Mayer-Whittington: Also on the operations side. And then we had some multi-district litigation. We had some people who worked on those types of cases. They were all on the operations side. You're probably talking at that point about forty-five to sometimes sixty people.

Ms. Woodbury: Total in operations?

Ms. Mayer-Whittington: Yes. On the administrative side, there were probably around twenty people. So, there was a clear majority on the operations side with a small number on the administrative side. But the administrative side handled the budget and handled a lot of other major programs for the court and had equal weight ultimately in the influence it had on running the court.

Ms. Woodbury: At the time the pilot program was approved for this new structure for the organization, who was the head of the Administrative Office?

Ms. Mayer-Whittington: At that point it would have been Ralph Mecham who, I believe, came in 1985. So it would have been right around the same time. That may have contributed to its ability to be implemented or piloted because Mecham did come in with some ideas about not doing everything the way it had always been done for ages and ages and ages. Previously the head of the Administrative Office had stayed in place usually for ten or fifteen or twenty years. "If it's not broke don't fix it" was clearly the management style of the Administrative Office until they got new leadership.

Ms. Woodbury: Did the reorganization of the Clerk's Office correspond with your taking
on a new role?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: That was when you became Executive Assistant?

Ms. Mayer-Whittington: Yes. Even though I had been reporting directly to the Clerk and been responsible for the different offices as Supervisor of Administrative Services, I was clearly much more of an advocate for the various offices and not necessarily for the organization as a whole. I saw my job as going to the Clerk and saying… "When you're dividing up resources, I need this here and…" and it was me kind of competing with operations for money and resources and equipment and that sort of thing. When we put the new structure in place, Jim Davey made it clear that all three of us had oversight for the organization and that it wasn't just looking after what you were responsible for on a day to day basis, but being responsible for the whole organization. For me that was a new way of looking at things. I had thought that I always was doing what was in the best interest of the organization as I was moving up the structure by working on committees and in volunteering to learn and do extra things. But ultimately when it came down to it, given the way we were situated, I really didn't know much about what operations was doing, and as a result had no idea what their priorities and needs were because we only met as a supervisory structure, sporadically, maybe once a month and there wasn't much overlap between the offices about what they were doing. After this new management structure was introduced, it became incumbent upon me and Marge Whitacre to start meeting more often and share information. My recollection is that Marge had some problems with that. Her
whole career had been on the operations side, and it didn’t come naturally for her to work as a team in the best interest in the Clerk's Office as a whole and not in the best interest of the operations side of the court.

Ms. Woodbury: Were the two of you left to sort of work this out between yourselves, or did Jim Davey get involved in how the new management structure -- how people would collaborate?

Ms. Mayer-Whittington: I think that Jim was good about kind of sharing his vision of the organization and putting some expectations out there of how he would like to see this new management structure evolve, but he wasn't a micro-manager. So every time I met with him he didn't say "So, have you done this and this…?" He would listen to what I was working on and what I was doing and make comments, but he didn't see it as his role to actually set up the day to day communications between Marge and me. Also, Jim was at a point in his career -- he had become Clerk in 1970, maybe '71 or '72, and this was 1986, and he was very well known nationally as an innovator and very articulate and very knowledgeable about court administration and court management so that he was in demand to go to other courts and work with them. From his perspective, he was ready to turn some of the day to day stuff of the court over to Marge and me so that he could focus more on the bigger picture of administration, which he thought would ultimately benefit our court, by working on policy level changes. As a result, Marge and I were left to our own devices, and we had really different management styles and we had had really different management experiences. Marge was much more of a by-the-book person, and in many ways rightfully so, in that her work in
operations demonstrated to her that if the training wasn't adequate and the rules were not followed somebody could be let out of jail inadvertently or a trial wouldn't go forward because we hadn't issued an arrest warrant or search warrant. She saw that as critical to the nature of her job and being something where there was no gray area. It was very much if you have historically done things a certain way and it's been successful then we're going to continue to do it this way. I don't think that the type of work that she did necessarily lent itself to a lot of creativity or innovation because she felt that she was guided by statutes and local rules and things of that nature. I on the other hand had not come up through operations. I clearly came up through Administration and I was seeing all the ways things could change and I could make changes. The judges wouldn't know about it because they didn't get involved in Administration. So I wasn't under the same kind of constraints as Marge, I think, believed she was under. So, it really ended up creating a hugely different management style. I also had fewer people to manage, so I could really get to know everybody who was under my supervision and I could know a little about their families and I could talk to them about what their ambitions were. Marge came up under the old school where you didn't get involved in people's private lives. And then she just had numbers against her because there were so many people in operations. Ultimately, what happened was that I created some programs that helped my employees get more training, helped them with individual development plans. I also had an "employee of the month" program, and once a week I would do coffee and donuts to start off the work week and kind of keep everybody talking to each other and communicating.
Ms. Woodbury: Coffee and donuts? Everybody would be together?

Ms. Mayer-Whittington: Yes, and just stop by and have some. Then after a while the judges found out and they would stop by too and it then started drawing comparisons between our two sections from employees who would say like… "How come they get to do this and how come we don't…?" I had gone to talk to Marge about collaborating on doing some things together, but it wasn't her style so she really didn't have a lot of interest in that. And so problems were starting to crop up with communications. One of the things that started happening was that people from her office would come and talk to me about their concerns. I would say… "Have you talked to your supervisor about this…", " because I didn't want to step in, but after a while they would say "… yes, I've been to my supervisor and I've been to Marge too and she said she would do this and she didn't and it's not going to change and I'm thinking about leaving as a result." So I went to talk to Marge about these things and she felt like I was clearly overstepping my authority, that I had no right to have any discussions with anyone on her side of things.

Ultimately, we actually sat down and talked to Jim about these concerns. So he did a couple of things as far as talking to both of us and seeing what he could do to resolve it. He ultimately concluded that it might be a good idea to bring in somebody from the outside to have some focus groups in both our sections on how people were viewing their jobs, how they were viewing their roles in the organization and that sort of thing. I remember one of the judges talking to me a little bit about it and he was kind of like… "Just tell them to do their jobs -- why are you going to ask them how they view their roles?” I said: "If
they have some interest and some ability to have input, they end up implementing the new program more easily because they feel involved." The judge said: "Oh they don't need that sort of stuff…"

But fortunately, our Chief Judge, Judge Aubrey Robinson, who was an amazing teacher, I know I said this before, but there was no warm and fuzzy bone in his body and we ended up having a conversation with him. When he called me up he would say… "What's going on? What's all this stuff, why do we have to have focus groups? We don't have to be best friends. We all have to get the job done." I would say: "You know you can do it two different ways; you can do it the hard way or you can try to include people. You know I'm reading in the classes that I'm taking at GW that the workforce is changing and people are more interested in having some input in what they do. They do have some ideas that may work and they are the ones who are doing the work." I always had to be very well prepared when I talked to him. I remember him sitting there saying: "Wow. Well, I guess I can't stop you."

Ms. Woodbury: At this time Nancy, had you gone back to GW after taking time off?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: To finish your graduate degree?

Ms. Mayer-Whittington: Yes. When I became Executive Assistant, Jim said this is really the way I had envisioned the role and this is what I hope will happen. I thought, I need more education because I have some ideas and I have some thoughts about what can happen, but I need a little more structure underneath that. I need something that I can draw from. Not just some of the reading I'm doing. One of the things I
loved about graduate school was the interactions with other students. I loved when I had classes where the people in the class had had some work experience.

Ms. Woodbury: It must have been valuable to hear about other people's experience.

Ms. Mayer-Whittington: Yes. I didn't go to graduate school right after college because I didn't know what I wanted to be and I didn't think that was going to help me at that point. I think I needed some work experience and you know listening and sitting in the classes and having people say: "Well I've been supervisor for 10 years" and hear from another person who had been in that capacity for twenty years. We still had people in the class who were right out of college and they had some book experience, but they really didn't have any hands on experience. That was very eye opening for me to hear from people who recognized that they didn't know everything and would learn from their employees and continually develop themselves and approach things with an open mind. You didn't have the old school of information and power and hording it to get the highest jobs and that sort of thing. I was finding more and more support for what I felt was my natural instinct which was to delegate and to share responsibility and not be a top down manager. I think some of that goes back to being in a family of 10 sisters. I couldn't tell them to do anything. When we wanted to do something, we all had to work together and we had to figure out the best way of doing it. Everybody had ideas. Everybody had to feel like they had something of value to contribute. That was a really good experience for me to translate into my workplace.

We had this situation where we were getting an outside consultant to come in and they're going to talk to all of the employees in the different groups
and they're going to report back to Jim as to what they end up finding. Those sessions went on for probably two months because it was hard to get employees together and it was hard in an organization that wasn't use to having people asked their opinions of things to actually be forthright about things. They had to do some warm up sessions and the employees had to recognize that there wasn't going to be attribution of the things they raised.

Ms. Woodbury: To create some trust, to be open?

Ms. Mayer-Whittington: Yes. I always appreciated that and thought that Jim did that very well. That he wasn't looking for a quick fix. He was looking to establish some lines of communication that would be valuable to him as Clerk of the Court to get feedback about how the organization was running. Now, at that time, Jim was not the most enlightened person either and I say that because both he and I were very ignorant because I just thought everything would work out; you know. He was still a little bit of a top down administrator, but he could see things changing. He could see from going out to other courts that they worked in different ways in different places and that there was room for "what if." So it wasn't like I could just go to him and say: "Hey, shouldn't we try this?" He would be like "Here she comes again…" And I would say, "Oh I'm sorry, I just had this idea." You know that sort of thing. But I didn’t want to come across like I was this brilliant person. You know, I just had ideas. Some of them were stupid, ultimately.

Ms. Woodbury: But you were willing to bounce them off of him?

Ms. Mayer-Whittington: Yes, and I think I learned early on, as a result of that experience, not to have an ego. What was the point of that? Working with judges, men had egos
more so sometimes than the female judges. There was a part of Jim that didn't want to find out that there was too much wrong with the organization because it was his organization too.

Ms. Woodbury: He might think it would reflect badly on his leadership?

Ms. Mayer-Whittington: Yes. So after you know, two or three months working with these consultants, the outcome of it was they had some recommendations. I can still remember flip charts back in that time because we didn't have any technology to do anything else and they had people kind of drawing the way they saw the organization. It was people from operations drawing how they saw Operations and Administrative Services. And people from Administrative Services drawing how they saw Operations and Administrative Services. It wasn't just how you saw your own section; it was how you saw the Clerk's Office operating. One of the pictures I still remember was a group that had drawn a picture of Marge with a black cloud over her head and someone had drawn a picture of me as little Miss Sunshine. And I tell you, it didn't necessarily mean as much that I was positive all the time as that I was like "Oh!"… So it was humbling to get that feedback. There was a huge problem with trust in operations. They were a tough crew at that time. They had courtroom deputies who had been there a long time and kind of knew their way around the system and if you had to take any personnel action against them you would get on their bad side. They really had some problems with Marge. But a lot of the issues revolved around confidentiality and favorites and those kinds of things. The consultants said to Jim Davey that the structure he put in place wasn't working, not necessarily because the structure was bad, but
because the two people in place were not able to make it work. Marge had a lot of issues. People were very forthcoming about their concerns that she couldn't really lead the organization. So Jim really thought about that for a while and concluded that he would re-create the Chief Deputy position.

Ms. Woodbury: The Chief Deputy position that had been in place previously?

Ms. Mayer-Whittington: Yes. And I think Jim had wanted a new organization because he was not on the same page with his Chief Deputy. Jim inherited his Chief Deputy. He had been in the organization a long time and my recollection is that he was the nephew of one of our judges. They were never quite on the same page, but it didn't seem to impact things much because the organization was still kind of fragmented with a lot of little offices, and the big offices and administration was done a lot by our Administration Office. The judges were happy with their courtroom deputies and that sort of thing. It wasn't as glaring that maybe the people in place weren't best for the organization because the organization was moving along and it was not having huge problems. But as the court system was decentralized, and as we were getting a more diverse population, it was clear that Marge's idea of how to run things was not the same as how Jim thought they should be run. It had kind of been like benign neglect. Jim hadn't really scratched beneath the surface because our docketing seemed to be current and none of the judges were complaining, and that was our standard for whether you were doing a good job or not.

Ms. Woodbury: On the operations side?

Ms. Mayer-Whittington: On the operations side. One of the things that was starting to become an
issue, and this is one of things that I got educated about, was how much personnel turnover costs an organization. You bring in somebody new and train them and then you tell them… "Okay, you're probably not going to move out of this position for ten years because that's the waiting time around here for advancement". And people started leaving and which was unheard of in the courts because historically everybody stayed. You came and you stayed because it was a good job. Well now you have younger kids who we were hiring, people with college degrees, and they weren't satisfied with just sitting still for that long. They were willing to put in their time, but they weren't willing to do it the way everybody was doing it just because that's the way it had always done it. And at that time, too, we were going from the old retirement system to the Federal Employees Retirement System (FERS) which made people more portable. You no longer had to stay with an organization for thirty years in order to get your retirement benefits; that system didn't exist anymore. Under the new system, what you needed to do was put part of your salary into an interest bearing savings plan and this new system matched up to five percent (5%) and people saw that "Well now I can go any place in the government and I can take my retirement plan with me."

Ms. Woodbury: Nancy, do you remember approximately when that change happened where the federal government went from the old Civil Service Retirement System to the new Federal Employees Retirement System?

Ms. Mayer-Whittington: Yes, I think that that happened in the late 80s. I know for sure we were getting educated about it then. You had the opportunity if you were in the Civil
Service Retirement System plan, which all of us were, to convert to the new system if you wanted it. The benefit being that you would get higher matching input into your savings plan.

Ms. Woodbury: Matching dollars from the government?

Ms. Mayer-Whittington: From the government. Yes, the government was putting in 1% for everybody. Matching 1%. The Federal Employees Retirement System would match up to 5% of what you were putting in, so there was an incentive clearly to put more money in the plan. If you were really a good saver, the new plan might be beneficial to you, but the downside was that you would not get the annuity that you had been entitled to under the Civil Service Retirement System. You would get a much smaller annuity because you technically are going to get a larger bump from the savings plan. But we were going through a lot of education about the new plan and the impact it was going to have on our workforce. Again, making the workforce more mobile. So that if organizations had historically relied on the fact that once someone came into the government, they were just going to stay because of the lucrative retirement system, that wasn't going to be the case anymore. And therefore if you based your management style on that assumption, you would likely to end up with some problems. And we were seeing a little bit of this manifested even before the full conversion to FERS with some people not staying in our operation side. So ultimately the consultants recommended to Jim that he make some changes, and then Jim sat down with Marge and I independently and kind of went over the results of their interviews. Marge did not think that the results were accurate; that they didn’t accurately
reflect her work and that people were just out to get her. Things like that, which was unfortunate. Shortly after that Jim concluded that he was going back to having a Chief Deputy, and he opened up the position to competition. Both Marge and I applied for the position and when I was selected, that was clearly a difficult outcome for Marge to accept. Then she -- I think I talked a little bit about this earlier -- filed a discrimination complaint under our EEOC policy for age discrimination and ultimately that was reviewed by our Chief Judge at the time, Judge Robinson, and he concluded that there was no discrimination against her based on age. Her complaint was then denied. Then she decided to get outside counsel and she filed a case against Jim using, what they call a "Bivens" claim. I would have to really frankly go back into my records for the details… but it was basically still an age discrimination claim. And she sued; not only Jim, but she sued our EEO coordinator. She sued them personally and privately as well as professionally. That was sort of unheard of at that time because Jim, as Clerk of the Court, was supposed to be allowed immunity for administrative decisions. And the same with our EEO coordinator. So clearly that got a lot of people involved.

Ms. Woodbury: Was that suit filed in the federal court here in D.C.?

Ms. Mayer-Whittington: Yes. Filed in our Clerk's Office. And what happened was that the suit was filed in our docketing section and of course quickly reproduced by everybody who wanted to read a copy of it. But Marge didn't serve either Jim or LeeAnn Hall [Flynn], who was our EEO coordinator, immediately so they didn't have a chance to respond very timely. Marge wanted the full amount of time
before serving them. So you had her allegations sitting out there with no response to them, which was clearly not a good outcome. It's interesting how sometimes in an organization people just root for the underdog even if they just spent the last three months talking about how they weren't getting along with the underdog. That person at that time was the supervisor, but once they became the underdog they…. it was different.

Ms. Woodbury: And in this case Marge was perceived as the underdog?

Ms. Mayer-Whittington: When she did not get the position as Chief Deputy. Yes. It was really…

Ms. Woodbury: Hard?

Ms. Mayer-Whittington: It was really hard on everybody. I wasn't named as a defendant, but I was clearly named as a person involved. And also there were some allegations in the complaint that there was a personal relationship between Jim and me that impacted his decision. And that his decision wasn't done on the merits, it was done for other reasons.

Ms. Woodbury: Was Marge still employed at the court at that time and that made it especially volatile?

Ms. Mayer-Whittington: Yes, and she was still the head of our Operations Division which was still our largest division.

Ms. Woodbury: Do you remember what the ultimate outcome was and how long it took?

Ms. Mayer-Whittington: Yes. The ultimate outcome was that the case was dismissed. All of our judges recused themselves.

Ms. Woodbury: I was going to ask whether there was a neutral judge.

Ms. Mayer-Whittington: All of them recused themselves. Judge David Sentelle had recently come
on the appellate court bench and since he was formerly a district judge and had
been on the appellate court bench less than a year, he figured he had not forgotten
too much about being a district judge so he got the case. He ultimately ruled that
there was no basis for the claim and the case was dismissed.

One of the tough things was that instead of responding to the allegations,
of which there were many in the complaint by Marge's attorney, Jim's attorney's
office just came back with an immunity claim and didn't respond to any of those
factual allegations.

Ms. Woodbury: So the allegations just sat there?

Ms. Mayer-Whittington: Yes, just sat there. Everybody was terribly interested in it… the drama. It
took over a year to resolve because of the time frames for doing things in a court
proceeding, and there were requests for information by Marge's side that they
didn't have access to, so they had to have motion hearings and that sort of thing.

So it dragged out for a good time.

Ms. Woodbury: During that time had the new structure or really the old structure that Jim
had revived of having a Chief Deputy… had that been put in place?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: And you had assumed that role?

Ms. Mayer-Whittington: I assumed the role of Chief Deputy. Yes.

Ms. Woodbury: And Marge was reporting to you?

Ms. Mayer-Whittington: Actually no. He left her title as Executive Assistant and she reported to
him.

Ms. Woodbury: Okay.
Ms. Mayer-Whittington: She still had the responsibility for Operations. And it wasn't until her lawsuit was decided that she came under my supervision.

Ms. Woodbury: And how long did that last? How long was there a situation where she was reporting to you?

Ms. Mayer-Whittington: Until she retired in... I became Chief Deputy in 1985 or 1986 and she didn't retire until 1994.

Ms. Woodbury: That's a long time.

Ms. Mayer-Whittington: And a completely odd set of circumstances. She retired at the same time as three other employees did because in 1994 the courts were given the authority to do buy-outs for the first time in order to move some of our senior people off the rolls and also to shrink the workforce a little bit. So she took advantage of the buyout to retire along with three other colleagues. And I was speaking at the retirement ceremony for all of them. That is something you do when you're the Clerk of the Court. And we had it offsite at the Phillips Restaurant on the waterfront. On that day I found out that my daughter had Trisomy 8. My doctor called to confirm the embryo test results. I just wanted to go home, but I couldn't because of the ceremony. I felt quite an obligation go to this retirement ceremony.

Ms. Woodbury: Because of the background?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: And also because of your position then?

Ms. Mayer-Whittington: Yes, because of the position. And, you know, the other employees were hard working and good employees and all of that stuff, but I felt also, another
compelling reason was not to…. I couldn't share the information about my
daughter with anybody so I could not have explained why I wasn't going to come.
It was just one of the ironies ultimately of my position. In my heart of hearts,
when I sat down and thought about these other employees, all of them deserved a
going out ceremony for their long-term service. Frankly you know, when Jim
retired and I became Clerk, that's when I supervised Marge actually, because he
continued in some capacity supervising her until he retired. Ultimately after the
suit was dismissed he sat down with her and talked about some of the issues that
had come up about her supervision and they both concluded she could stay on as
his Executive Assistant being the person who knew everything about the rules
and everything like that, but didn't necessarily supervise people anymore. So I
inherited her when he retired in 1991 and she and I then worked together for the
next three years and you know we made it work because we had to.

Ms. Woodbury:                  Because you had to?
Ms. Mayer-Whittington:          And also because you are supposed to do.
Ms. Woodbury:                  Nancy, you mentioned your daughter Angela when you said you got the
                               report of the embryo test results on the day of the retirement ceremony. I don't
                               think to this point we covered when you got married and when you had children.
                               Was that during the time you were Deputy Chief?
Ms. Mayer-Whittington:         Yes. I got married in 1987, a year or so after I became Chief Deputy.
Ms. Woodbury:                    Sorry. Chief Deputy, not Deputy Chief?
Ms. Mayer-Whittington:       That's okay, it's funny. The U.S. Marshals Office has a Deputy Chief, and
                               the U.S. Attorney's office.
Ms. Woodbury: Is that position still there in the Clerk's Office? Chief Deputy?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Is there only one Deputy? Chief Deputy?

Ms. Mayer-Whittington: No, there are two now. When I became Clerk, I'd decide to have two Chief Deputies because I recognized that every time I had a big issue, I would have to go familiarize myself more with the operational impact and it was a waste of time. The Executive Assistant position should have worked. It just turned out that the people in that position didn't work out, but the concept worked. Now there are at least fifteen courts that have two Chief Deputies.

Ms. Woodbury: Nancy, was your husband associated with the court?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: And did he meet you - did you meet him through work?


Ms. Woodbury: Oh. What was his background?

Ms. Mayer-Whittington: He had just finished high school and he was married and his father-in-law worked at the Administrative Office. So when we as an organization sent a request to the Administrative Office for a temporary summer position, we got the approval back with his resume. I frankly was determined not to hire him because it really made me mad that there would be kind of a hint of…

Ms. Woodbury: Nepotism?

Ms. Mayer-Whittington: Yes, but they said you could have this position and here's a perfect person for your position. Well, ultimately, when you are trying to hire temporary staff for your file room, sometimes you are lucky if they can put two words together in
the interview. One person, I remember saying to them… "Why do you want this job?" and he said: "Because I like to work with wood." I said "What?" And he said, "Aren't your files on shelves made of wood"? I was like, "Actually no they are mostly metal and then we have these electronic files." And I'm thinking "You're not even close to what we need here." So we advertised the position. It wasn't well paid, and it was temporary. We got five applicants and the guy who liked wood would have been my second choice. So we ended up hiring my husband. His name is Bryan. We ended up hiring Bryan.

Ms. Woodbury: What year was this Nancy?

Ms. Mayer-Whittington: I think it was… because I was in charge of the records section when I was the Administrative Services Supervisor, I think it was 1984.

Ms. Woodbury: Did he come back to work at the court after that summer?

Ms. Mayer-Whittington: He did such a good job that when a permanent position opened up in the file room before his term was over, he applied for it and we selected him. He had a really good way with people and our file room was populated with some really unusual characters and he managed to get them all to pull together. And he had some good ideas about how things should work and he came to work every day. So he had a lot of things going for him in that capacity. In fact, as I got to know him, I set him up with one of my sisters because he is twelve years younger than I am. It wasn't until he left our courthouse and went to work for the U.S. Tax Court that we started dating. That was in 1986.

Ms. Woodbury: How much after that did you all get married?

Ms. Mayer-Whittington: 1987. He worked for the Tax Court for just a brief period of time because
the Court of Appeals -- which had worked with him when he was working in the District Court records, we were always sending records back and forth all of the time -- they ended up having an opening and they called him and up and said: "Would you come over here for more money?" and that sort of thing. So he did that… went to work for the Court of Appeals. So he was actually working for the Court of Appeals when we got married.

Ms. Woodbury: Did he remain with the Court of Appeals throughout the time you were Clerk of the Court?

Ms. Mayer-Whittington: No, he decided after we had been married a year or so -- I guess after I got my graduate degree -- he said he needed to go to college. So he worked for the Court of Appeals from probably the beginning of 1987 through almost the end of 1989. And what happened was that we had our first daughter, my daughter Molly, in August of 1989. We were married in December of 1987. So we had Molly in 1989 and when it came time for me to go back to work, after my three months maternity leave, he said: "Why don't I just stay home with her and go to school and I will take some classes at night and stay with her during the day and then we won't have to worry about putting her in daycare." Because we both kind of didn't want to do that. At the time I had a sister who was running a daycare, but she didn't take kids until they were two. Also, I had another sister who was expecting her second child in December 1989 and so she said to Bryan… "If you stay home you can watch my child too." So he got a daycare license.

Ms. Woodbury: Oh really?

Ms. Mayer-Whittington: Yes. And he ended up just watching the two of them, which he really
didn't need a day care license to do because they were considered family, but he decided he wanted to do that anyway. So he did and he stayed at home during the day and went to school at night until Molly was two. Then she went to my sister's, and then Bryan started working part-time because he wanted to be an accountant. He was taking classes in accounting to get his accounting degree at Montgomery College. Well, ultimately… I already introduced Angela… after Angela…

Ms. Woodbury: Was Angela your second child?
Ms. Mayer-Whittington: Yes. I had had a miscarriage before Molly and I had three more miscarriages after Molly and before Angela so that's the gap between Molly coming in 1989 and Angela coming in 1994.

Ms. Woodbury: Nancy, you mentioned that on the day of the retirement ceremony in 1994 for some of your staff you got a call from the doctor's office with the test results and they reported that there were a… how would you describe it?

Ms. Mayer-Whittington: Yes that I was at risk. I had had a screening test and the doctor told me that I was risk for the baby having Trisomy 18.

Ms. Woodbury: What is that? I don't know if people reading this will be familiar with that condition.

Ms. Mayer-Whittington: It is a chromosomal abnormality where there's a third copy of chromosome 18. You are only supposed to have two copies of every chromosome. That's what the test confirms; that the genetic makeup of the child is normal. So, in her case, it showed that she had a third copy of the number 18 chromosome. It is a large chromosome, so as a result it has a large impact on the
body and development. And when they told me that I was possibly at risk for this they told me that eighty percent of babies who have this die before birth and if the baby survives to a live birth they usually have to be institutionalized. And if they do survive to live birth that ninety-nine percent of them die within the first month of life so the odds of her surviving after birth for any time after that were pretty minimal. At that time they told me that the screening test that showed that I was at risk was fairly new and had some false positives so I should have a further test to rule out a false positive. So I went and had the amniocentesis. And then of course, instead of ruling it out, it confirmed it. Amniocentesis is a diagnostic test, as opposed to a screening test. Screening tests can be inaccurate. Diagnostic tests like amniocentesis are 99.9% accurate so at that point there wasn't much hope that they were wrong.

Ms. Woodbury: Did you have those tests because they were standard at that time or had there been another person in your family who had Trisomy 18?

Ms. Mayer-Whittington: No, we had not had any history in our family chromosomal abnormalities nor had we had any history of any other kind of prenatal problem.

Ms. Woodbury: It was just part of the prenatal screening?

Ms. Mayer-Whittington: Yes. The screening was a new test, but it was being done routinely.

Ms. Woodbury: For everybody?

Ms. Mayer-Whittington: Yes, for everybody. It was routine. It was just part of the testing.

Ms. Woodbury: How far along was your pregnancy when you had that test done?

Ms. Mayer-Whittington: The screening test was done in about the fourteenth week of my pregnancy and the diagnostic test in the nineteenth week. It's done by the
nineteenth week because, if you do want to have an abortion, it has to be done by the twenty-first week or it can't be performed by the hospitals.

Ms. Woodbury: But you chose to carry your baby to term?

Ms. Mayer-Whittington: Yes. I chose to carry it to term.

Ms. Woodbury: And Angela was born alive?

Ms. Mayer-Whittington: Yes, born alive and she lived about ten minutes. She had one of the manifestations for Trisomy 18, she had a hernia that caused all of her stomach organs to be on top of her lungs and as a result her lungs couldn't develop. So she wasn't able to breathe on her own after she was born. The hernia in and of itself can be corrected surgically.

Ms. Woodbury: Surgically?

Ms. Mayer-Whittington: Not in the uterus. The baby would be born and then put on a respirator to breathe so that she could breathe the way she was breathing through me, and then they would wait until her condition was stabilized and that was her only problem. They could perform the surgery but Angela only had… there are supposed to be four chambers in your heart; she only had two. So her heart wouldn't have been able to function on its own either. The way they described it in lay terms was that her brain stem didn't send the correct messages to the body so if we performed any kind of surgery the anesthesia would cause her death, so she wasn't a candidate for surgery. At one point in the consultation, when they were telling us all of these things about her I said "Couldn't she be an organ donor"? But all of her organs had problems so she couldn't do that either. So she just had a host of issues. She was born alive on December 17th and she lived for about ten minutes
which is as long she had before she had no oxygen. She was four pounds and
nine ounces. She was nineteen inches long. So she was small but she was
beautiful. She was just not meant for this world.

Ms. Woodbury: Yes. As a result of your experience with Angela, you've been involved in
helping other mothers, right?

Ms. Mayer-Whittington: Yes. I went to a support group after Angela for people who had had a
miscarriage or stillbirth and I met woman who was the group leader… a peer
support, it's not like a therapist or anything like that, it's just moms who've gone
through other experiences and everybody in the group's experience was different.
All of them had something that they didn't know about until the baby was born.
One of the group leaders had had a similar experience in that in her third month
she found out that her son had a kidney disease which essentially meant that his
kidneys didn't function and he was not a candidate for a kidney transplant so he
died a couple of hours after he was born. And so we both decided that it had
been a fairly lonely experience during the pregnancy and that maybe if we offered
support to people who decided to continue to term that that might be a way we
could help out. So a year or so after Angela died, we formed this group called
"Isaiah's Promise" and we named it after a quote in the Old Testament. We were
hoping that we would be able to help people of the Jewish and Christian faiths
and anybody else. The name is based on the quote in Isaiah that said… "See I
will not forget you; I've carved you in the palm of my hands." So that's where the
name "Isaiah's Promise" comes from.

Ms. Woodbury: And you've continue to work with them?
Ms. Mayer-Whittington: Yes. I do still to this day.

Ms. Woodbury: Was there a point at which people at court became aware that Angela had had this diagnosis or was it not until after Angela was born?

Ms. Mayer-Whittington: I think it was probably a month after the diagnostic test. At that point I would have been around six months pregnant and people wanted to have a shower and I had had a child already there, and we had had a shower. And clearly it was a different pregnancy. It was hard to come in everyday and not say something. I also was going to the doctor because I was at high risk. Of course, this was also the time when we were bringing on five new judges to the Court. So there was a lot of activity and a lot of visibility and I was a little bit distracted sometimes.

Ms. Woodbury: Right. So you thought you should tell somebody else?

Ms. Mayer-Whittington: Yes, and what I did initially was I told my two Chief Deputies. Something I know that caused me to finally talk to the office about it was that I was trying to get the two Chief Deputies' positions reclassified. The reclassification came through, and my normal posture in the organization was to say to the organization I am going to try to get these positions reclassified, these are the reasons we're doing it, this is where the money would come from and that sort of thing. And if it's successful then at one of our monthly meetings I would say: "By the way, the positions were reclassified." Because frankly the salary of a government employee is public information so, although we don't run around telling everybody exactly this sort of thing, we do have to say what positions are graded as, so they would know if they want to aspire to that position or not.
Well, as luck or not luck would have it, the paperwork for the reclassification came through a day or so after the diagnostic test and it got filed away. And to this day, I don't remember if I saw it or not and ultimately…

Ms. Woodbury: So you mean you didn't really notice it or you weren't sure?
Ms. Mayer-Whittington: I don't remember ….
Ms. Woodbury: You don't remember seeing it?
Ms. Mayer-Whittington: No, I don't remember seeing it. It got filed away into the personnel jackets. I didn't tell them because I didn't recognize it and then somehow or another, it came through some other channel about this time and so I said "Oh my gosh." So at a Clerk's Office meeting someone raised their hand and said basically…."Gosh you're always very open about this, but I just heard from somebody that they were reclassified and nobody told them anything about this and I thought if that happened you were going to let us know." At that point I did know. I think a week earlier I found out about the reclassification and actually told the two people involved because I think they had already seen it in their paychecks. So I thought…

Ms. Woodbury: Thought you had to explain?
Ms. Mayer-Whittington: Yes, and I said I have to tell you something… I said I've a little bit distracted. So I told them. Everybody was great about it, but I remember thinking as I was talking, here you go again you should have said "You know, give me a minute and I'll get back to you on that and I'll send something out." But I didn't, I just kind of said… "This is what happened." And so, that's how everybody found out about it. And I had told my two Chief Deputies, but hadn't
really told anybody else yet because I had a hard time talking about it. But the
office was great in one sense. They certainly appreciated the reason why it
happened and they certainly stopped asking about showers and that sort of thing,
but they were afraid to talk about it.

Ms. Woodbury: Yes, I'm sure that they were feeling awkward and not knowing what to say.

Ms. Mayer-Whittington: Yes, avoiding contact.

Ms. Woodbury: At that time did the court or the federal government have policies in place for new mothers; whether with babies who had special needs or not? Were they sort of enlightened or was there no support?

Ms. Mayer-Whittington: They had finally changed the sick leave policies so that you could use the sick leave you had earned to take care of a sick child.

Ms. Woodbury: How long would you get for maternity leave at the point?

Ms. Mayer-Whittington: You would only get how much time you had saved.

Ms. Woodbury: Oh really? There was not separate maternity leave?

Ms. Mayer-Whittington: No.

Ms. Woodbury: And then you could add your sick leave or sick leave was all you had?

Ms. Mayer-Whittington: You could add annual leave if you wanted to extend your maternity leave.

Usually if somebody in our situation had a pregnancy, generally the doctors did not release you back to the workforce until six weeks after birth, at that time. I'm not sure that is still the standard because there are certainly post-partum issues that come about and clearly you're taking care of an infant that needs individualized care and that sort of thing. If an employee didn't have that amount
of time, we would forward them leave that they had to make up. As they started to earn those leave days.

Ms. Woodbury: They'd pay it back in the future?

Ms. Mayer-Whittington: Yes. For sick leave, you only earned four hours a pay period. And that's what you earned annually for the first six years, but then after six to ten years, I think you started earning six hours a pay period.

Ms. Woodbury: A pay period was what, a two-week period?

Ms. Mayer-Whittington: Yes. So I remember when we would hire people, and also at various times I would address the Clerk's Office, I would remind people about holding onto their sick leave and not calling in sick; especially if they might have a family because there is no maternity leave. You can be off on maternity leave, using your sick leave, but there's nothing that the government grants to you for that time.

Ms. Woodbury: No recognized maternity leave?

Ms. Mayer-Whittington: No. You could be on leave without pay.

Ms. Woodbury: At the time you retired, was that different? Was there a maternity leave?

Ms. Mayer-Whittington: No. And in fact, we had started using sick leave for the care of our children before it was actually authorized because I just thought it was the right thing to do and I knew that was what was in the works. It just hadn't been finalized by the federal government. And people needed to have that flexibility because we were hiring working moms and they were good employees, but they were losing all of their annual leave and not getting the break that they needed…
Ms. Woodbury: To handle ordinary illnesses?

Ms. Mayer-Whittington: As an aside to this: when I went back this past June for one of our employees who was retiring, she was a Courtroom Deputy at the time she retired to Judge Hogan, but she'd been in various capacities in our organization. When she was speaking she said "Nancy, I don't know if you remember this, but when you hired me you talked about how important it was that you have balance in your life and that we were really looking for an organization to have all kinds of people work for us and so we encouraged people with families and moms - that we were hoping that they would find it fulfilling to work here and that we were family friendly to the extent we could be, but we can't do anything we can't do." And she said "I was excited because I'd just gone to another interview at a bank and they asked me if I had any children and I told them I had two-year old twins and they told me that they weren't going to hire me." And they didn't hire her. And she said "There I was in this interview where you were saying that you welcomed that," and she said "Then of course, a month after I started here my kids came down with chicken pox, one at a time … I was out for almost three weeks and you still said that was okay, you know, and I paid it all back and now I'm retiring after thirty years."

Ms. Woodbury: That's interesting. So really the private sector, as least parts of the private sector, have been more family friendly on maternity leave, than the federal government?

Ms. Mayer-Whittington: Yes, that's true.
Ms. Woodbury: Nancy, we've been going now for a little over an hour and a half and maybe now is a good time to break. I know you have somebody coming to work on something. And we're scheduled to pick up two weeks from today.

Ms. Mayer-Whittington: Right.

Ms. Woodbury: I look forward to talking to you then.

Ms. Mayer-Whittington: Me too.
Ms. Woodbury: Nancy, I would like to start the interview today by asking you to talk about the point at which you actually took over from Jim Davey as Clerk of the Court, and maybe just as background, could you tell us if you remember talking to Jim about his decision to retire and then of course what led to your eventual appointment as Clerk of the Court.

Ms. Mayer-Whittington: I was selected by the judges in June 1990. I was sworn in on February 1, 1991 so that was when I actually took over from Jim. Jim had talked to me at one point, as he had talked to Marge, about his plans to retire when he turned 55. That was a well-known fact at the courthouse. He wanted to do some other things with his life and he had been in the workforce since he had gotten out of law school. Jim made it pretty clear that's when he wanted to go -- when he turned 55 in September of 1990. Jim had also decided that he wanted to pick up health care coverage to use when he retired. (He had been enrolled in his wife’s health care plan up until this point but wanted to make the change when he retired.) In order to have coverage for retirement from the government’s plan, Jim needed to enroll 5 years prior to retirement. Ultimately it turned out he hadn't signed up for health insurance timely enough so that he had to stay until February of the next year. Anyway everybody knew that was the general time frame when he was going to go. A couple of times in the years prior to Jim’s retirement, he had talked generally to Marge and I and anybody else that he thought might be interested, that it would be important for candidates for the position of Clerk of the Court to have a graduate degree as well as an undergraduate degree when
applying for the position. Jim thought that the court would probably, in some
cases, consider relevant court experience to offset the graduate degree. But he
also thought attaining a graduate degree had a lot of merit in and of itself.

Ms. Woodbury: And by this time had you finished your graduate degree at George
Washington?

Ms. Mayer-Whittington: Yes. I had started the program, put it on hold, and then started it again.
But yes I had gotten my degree in 1988 so I had finished that part of what he had
thought was probably a pre-requisite for the position. The position though
would be selected by the judges so it wouldn't be up to Jim to make the selection.
He was clearly going to be a part of the process of interviews and going through
resumes and making recommendations, but the actual selection of the Clerk of
the Court rested with the judges. The court sent out an announcement that they
were looking for a Clerk of Court, I believe in March of 1990, and their plan was
to do interviews in May of 1990 and then discuss the top candidates at their last
Executive Session before the summer. The judges generally did not meet in
Execution Sessions during the summer back in those days. So their last session
would be in June and they wanted to have two or three candidates to discuss at
that point and then make a selection. In that way the new person could make
plans to become Clerk, but have time either to give notice at their current job or,
if it was an in-house candidate, have the benefit of working directly with Jim.

Ms. Woodbury: Nancy, just a point of background, when you talk about Executive Session
of the judges what does that mean?

Ms. Mayer-Whittington: Each month on the first Tuesday of the month the judges hold what they
call an Executive Session. Back in the 80’s and prior to this, an Executive Session was a meeting of all the judges on the District Court. (Today’s Executive Session involves all the judicial officers on the court so that means that magistrate judges and the bankruptcy judge are also included.) The purpose of the monthly meetings was to share information with the judges and have discussions about issues that are generally considered to be administrative in nature. It's not intended to be a time to discuss different cases or legal matters. It's mostly a time to talk about putting together a committee to plan the next Judicial Conference or putting together a committee to deal with aspects of court administration that they thought might need to be addressed. It was a time for the Chief Judge to brief all the other judges on judicial conference policy changes that may be on the way, the GSA’s management of the building and various issues such as these. Before Judge Robinson was Chief Judge, the only people who attended the Executive Sessions were the judges and the Administrative Assistant to the Chief Judge who took the minutes of the sessions. During Judge Robinson’s tenure as Chief Judge, he invited Jim Davey as Clerk of Court to the sessions since they were primarily administrative in nature and Jim was very knowledgeable about administrative matters. These sessions gave the judges an opportunity to candidly discuss administrative matters. It also gave them the opportunity to develop collegiality and better lines of communication.

Ms. Woodbury: When Jim gave notice of his retirement, the judges had planned to take up consideration of the applicants for that position at their June 1990 Executive Session?
Ms. Mayer-Whittington: Yes. I think that Jim had talked to the Chief Judge, who was Aubrey Robinson at the time, and said that he thought the position was a very significant position and if they were going to end up hiring somebody from the outside they would want somebody with a lot of really good experience. Such a candidate would want to give six-month’s notice to their employer of their decision to take another position. If it was an in-house candidate, it would give the person an opportunity to spend time working one on one with Jim for at least six months. So Judge Robinson approached the Executive Session in probably January or February of that year and discussed that with them and they all agreed it was their goal to make a selection at the June Executive Session. Thus, the recruitment process began and I submitted my application. I got letters of recommendation from two other long time Clerks of Court, one from a senior member of the Administrative Office and one from a senior member of the Federal Judicial Center. The court put together an interview panel and they conducted the interviews in May. The interview panel was Chief Judge Aubrey Robinson, Judge George Revercomb, and Judge John Penn. Judge Penn was in line to be the next Chief Judge so it was logical that he should be on the panel. Judge Revercomb was one of our newer judges so he gave the panel the perspective of the less senior judges. The time after the position had been posted and before the interviews had taken place was a bit stressful for me. I felt like every decision I made as Chief Deputy and every action I took was being examined under a microscope by the judges to determine if I would be a good Clerk of Court. I remember one incident in particular that highlighted my stress level and the
impact it was having on my ability to think rationally. About a week before my interview, Judge Penn, who I knew pretty well since he had been with the court almost as long as I had, called me up to his chambers. He told me that his son had come home with a stray dog and that they already had a dog and did I have any interest in a dog because he knew I was fond of dogs. I told Judge Penn that I would think about it and let him know. I left his chambers and as I walked back to my office I was wondering if this was some kind of a test. Would my decision about taking the dog impact my chance of being selected as Clerk of Court? I went home that night and I told my husband that I thought we needed to adopt the dog because it might be important to my career. My husband said: "You have got to be kidding. They will not hold it against you if you don't take his stray dog." I wasn’t entirely convinced, but I did let Judge Penn know that we couldn’t add another dog to our household at this time. So, we didn’t get the dog and I still got the job. Two years later, Judge Penn became Chief Judge and I got the opportunity to work with him on a regular basis. He was a wonderful Chief Judge and I shared that story with him at one point and he had such a good laugh about of it. He said: "It never occurred to me that asking you about a stray dog would put that kind of pressure on you. So sorry." But he also had a great sense of humor. For the next few months after I told him the story, every time he would call me he would begin by asking me if I was in the market for a stray cat, bird, hamster and every other kind of animal and that my answer would probably impact my ability to remain as Clerk. He was so great to work with - he was such a wonderful, wonderful man. About the interview, I'm not sure if I've already
talked about the interview…

Ms. Woodbury: No.

Ms. Mayer-Whittington: Well, I spent a lot of time preparing for the interview. I read everything I could about matters that were before the Judicial Conference. I read all I could find on innovative practices at other metropolitan District Courts. I knew a lot about court administration. I went back over all of my notes from my classes at GW about personnel management, the benefits of team building and the advantages of team-based management. We were piloting this type of structure in our Operation Section so the topic might be a relevant question at my interview. I thought I had a pretty good feel for the pulse of the office and what was going on. I really thought I had a good idea about the future-- we were getting more involved in electronic filing and electronic remote access and video presentation equipment. These were programs that I thought were really exciting and could streamline different practices and procedures at the court.

Then I went for my interview and Judge Revercomb opened it up and said: "Nancy Mayer-Whittington, Nancy Mayer-Whittington, and Nancy Mayer-Whittington. (Changing the emphasis on my name each time he said it.) Do you use that on your driver's license?" And I said, "Yes." Judge Revercomb continued, "And on your bank accounts"? Again, I said "Yes. It's on my bank account." He paused then asked "Is it even on your credit cards?" Before I could answer, Chief Judge Robinson said, "For God's sake George, I think we've established that that is her name. Now do you have anything substantive to ask or should we go on?" Judge Revercomb just could not understand the hyphenated
That was new to him.

Well my name wasn’t new to him as I had that name since my marriage three years earlier. I think the concept of a hyphenated name was puzzling to him and he wanted to know why I chose to hyphenate. He didn’t know how to ask me, so he just kept saying my name. I guess he was hoping I would explain it to him. That was the beginning of a rather disappointing interview. I was really disappointed because of the nature of most of the questions. Judge Penn was primarily interested in the morale of the courtroom deputies and how I thought things might change under my leadership. Did I think some of these problems were really deep-seated? We did have problems with what we called the Courtroom Division which was where all the courtroom deputies were located. A lot of them took their influence and power from the judges they worked for and held that up as their kind of armor so that they believed they were untouchable. As a result, there were issues in our Courtroom Division. I tried to address these issues at the interview without divulging confidential information. I acknowledged that we did have some long-standing challenges that would benefit from some open discussions, and that we needed to be more open about sharing information. I said that I believed the more information we share the better we could communicate and solve problems. I was really into sharing information. For too long we had a management culture that operated on the theory that employees only needed to know job specific information. Other types of information such as long-term objectives for the judiciary as a whole and
procedures that were being discussed and developed for future use were not thought to be things that employees would be interested in learning. As a result, when judges shared this type of information with their courtroom deputy the courtroom deputy would then share bits and pieces of that information with other courtroom deputies, but put their own spin on the information. This, of course, led to a lot of misinformation. I felt that the more accurate information we made available to our staff – as long as it wasn’t confidential – the better informed our staff would be. Then we wouldn’t be dealing with so many rumors and questions about what was really going on in the organization. I had discussed this in depth with Jim and convinced him that we needed to do a better job of changing the management culture. I told Judge Penn that we would continue to share information as we had been doing for the last six months. We had set up a system for sharing all memos from the AO that were not of a confidential nature. We made copies of these memos and put them in an area that was accessible to all employees so that they could retrieve the memos and read them and thus have the same information that the management staff was receiving. The staff had reacted positively to having access to these memos. This was just one way we were working to improve the flow of information. We had also worked to improve the monthly Clerk’s Office meetings by inviting employees to submit questions for open discussion at the meetings. So I talked a little about that and Judge Robinson talked a little bit more about the global areas of the court administration, but I think my interview lasted 15 minutes. I'm not sure if Judge Revercomb asked me anything other than about my name.
Ms. Woodbury: He was still mulling the hyphenated name.

Ms. Mayer-Whittington: At the end of the interview, he asked, "Does your husband hyphenate his name"? Judge Robinson just rolled his eyes at him and then concluded the interview by saying, "Well Nancy we know you pretty well and we shouldn't be wasting anymore of your time. Why don't you just go back and do that great job you're doing." I left the room thinking, "What happened?"

Ms. Woodbury: You were over prepared?

Ms. Mayer-Whittington: Yes, I was over prepared. I was ready to talk about so many important issues facing the judiciary presently and in the future. I kept thinking I don't know if they see me as a serious candidate. I wondered whether they just saw me as the person that came up through the ranks and that they were going to look for somebody who had a more stellar background or more star appeal or something along those lines. It was really disconcerting. The judges met in an Executive Session about two weeks after my interview. I waited in my office to hear the decision. Jim was there and my friend LeeAnn who was the Administrative Assistant to the Chief Judge also waited with me. Normally both Jim and LeeAnn would attend Executive sessions but the judges decided on a closed session so they could all talk about what they were thinking and it would be ...

Ms. Woodbury: Confidential.

Ms. Mayer-Whittington: Yes, confidential. I think the meeting started, they usually started about 4:30. And at 5:15 Judge Robinson appeared at the end of the hallway… we could see him coming down the long hallway towards my office – where it used to be – and I felt like he was moving in slow motion. He must have been a good poker
player because there was no obvious sign about what he was going to say. Then he walked into the room and by then a couple other people who were friends and also worked at the Court had joined us. Chief Judge Robinson paused and he looked around and he said: "I want to shake the hand of the next Clerk of Court for the United States District Court for the District of Columbia."

Ms. Woodbury: Oh wow!

Ms. Mayer-Whittington: He smiled and said, "It was a very fair discussion of all the candidates, but it was clear who the favorite was and so you have the support of all the judges."

That of course was very thrilling and exciting to hear. I was so relieved and so happy! Over the course of the next week I made an appointment and visited with each judge wanting to thank them for their support and also to say "I am interested in what you want to see happen and I'm interested in having ongoing communication." I wanted to let them know that I valued their input and that I was going to be more available to them as Clerk than I had been as Chief Deputy. I just wanted to get off on the right foot….

Ms. Woodbury: Yes.

Ms. Mayer-Whittington: But when I visited Judge Hogan I got a bit of a surprise. I always had a lot of interactions with Judge Hogan. He made it a point to stop by my office on a regular basis to find out what I was up to and to get better informed as to what projects the office was working on. He always liked to be in the know because he had some influence. All the judges respected him because he was privy to a lot of information and he was very discrete as to how he shared that information. He was not in any way a gossip. There were a couple of our judges who were.
That's all they were interested in, but Judge Hogan liked to be able to say to the judges at the lunch table when they were discussing something about the Clerk’s Office and it was clear to him that they did not have accurate information: "Well I think this is happening because of "x" project in the Clerk's Office. They are working out the bugs in a new electronic system." He liked to correct any misinformation that was circulating among the judges. Anyway, when I went to visit Judge Hogan in his office to thank him for his support, he said congratulations and then he said: "What did you do to tick Royce off? He's the only one who raised some concerns about you." I was shocked! I told Judge Hogan that I didn’t know why Judge Lamberth had any concerns. I said "I've got a really good relationship with him and I'm surprised." Judge Hogan said that Judge Lamberth was not too fond of Jim Davey for a variety of reasons but that a lot of the reasons were not Jim's fault. As background on this, when Judge Lamberth first came on the bench in 1985 the courts were going through a really tough budget freeze and we were told that we could not spend any money on a new judge for furniture and furnishings. We had to outfit the chambers with excess furniture and extra supplies. But Judge Lamberth had a friend on our Court of Appeals who came on the bench at the same time as he did and this appellate judge was able to get new furniture and furnishings despite the budget freeze. When we at the District Court level found out that the Court of Appeals was getting money for new judges, but that we were not getting the funding, we called the AO. The answer, after several phone calls and several memos, was that we hadn’t used the correct justification on our original requisition. The budget
freeze had generated new guidelines that had not been widely shared at the
District Court level. It took us about six months to figure all that out and in the
meantime Judge Lamberth felt like he had not been treated fairly when he came
to the Court. In addition, he had waited an extremely long time for his
confirmation hearing after being nominated by the President. Senator Ted
Kennedy, who was on the Judiciary Committee, had held up Judge Lamberth’s
hearing because he felt that the Committee shouldn’t put "another white male on
the bench." Senator Kennedy wanted the President’s nominations to reflect more
accurately the diversity of the country. Senator Kennedy had nothing against
Judge Lamberth – he was just trying to make a point – but the result was that
Judge Lamberth waited far longer for his hearing than he should have. And so he
came to our Court feeling like he had already been treated unfairly.

So anyway, what Judge Hogan shared with me about Judge Lamberth was
kind of interesting. I remember leaving Judge Hogan and going wow!

Judge Hogan and Judge Lamberth were very good friends at the time and
still are. Judge Hogan offered to intervene on my behalf. He said to me: "If it
will help I'll talk to him. I'll let him know that you are your own person." Judge
Hogan said that Judge Lamberth told the other judges that he was worried that as
Clerk I was going "to be a clone of Jim Davey and nothing was going to change
and everything was going to be awful". I guess Judge Lamberth felt like he
needed to say his piece. When Judge Lamberth was finished, all the judges
looked around and said "Let's vote." And they voted for me.

Ms. Woodbury: Did you know who else had applied for the job?
Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Did anybody from outside of the court apply?

Ms. Mayer-Whittington: Yes. Off the top of my head I don't remember the names. I believe that the person who was at the local court, Superior Court, not the Clerk of the Court at the time, but somebody in his office had applied and I believe a couple other people, some people from the Administrative Office applied for sure. A couple attorneys from the Administrative Office, but no other clerks from any other court applied. The judges I think had thought that someone in a small court might be interested in coming to D.C. And quite frankly I think that Jim, who was well known-- he traveled a lot to all the courts because he was a really strong in court administration; he went to help new courts out-- I think he kept telling them that they shouldn't apply. I think the word kind of went around that there was a strong in-house candidate so I think people who may have been interested in applying, just didn't apply.

I went to see Judge Lamberth to thank him for his support after Judge Hogan had told me about Judge Lamberth’s concerns. I thought well I'm going to proceed like I don’t know what happened. And when I went in he shook my hand and he said: "You should be very proud of yourself it was unanimous." He and I never talked about that afterwards. We talked about a lot of other things but not about my selection. But it wasn’t hard to tell that he had his doubts about me. My first year as Clerk-- I was selected in June, but I didn't actually get sworn in until February and Jim traveled a lot in his last six months so I felt as if I was already doing the job – was rather interesting. During the course of that first
year, from June until at least the following June, maybe a little bit longer Judge Lamberth made it a habit to send me some really awful memos. They would start like this: "Well, the Clerk’s Office has screwed up again" or "Does anyone in your office have a brain?" I would pick up the phone and call him and while I was waiting for his secretary to put him on the line I would take a deep breath and when he answered I would say, "Hi Judge, I got your memo."

Ms. Woodbury: "Good idea, Your Honor."

Ms. Mayer-Whittington: Yes. I would say "Tell me exactly what happened." I would listen and try not to get defensive. If one of my staff had indeed done something off the wall, I would agree with him that we had made a mistake and we would correct it. In some cases, Judge Lamberth did not have accurate information and so I would give him the facts as I knew them and he would calm down and say he was glad I cleared things up. He always ended the conversation by saying he appreciated that I got back to him so quickly. But the memos blasting our office continued.

Then, I guess it was in December and I had officially been Clerk for about 11 months, I got yet another memo from Judge Lamberth. It was the end of the day and I hesitated to open it. I was packing up to go home for the day and I was not up for another "blasting memo". But then I decided it was better to end my day with the memo rather than start the next day on such a negative note. Imagine my surprise when I read something to the tune of: "My Courtroom Deputy did not like the whole idea of a team-based management system when your predecessor introduced the idea – she thought it was a terrible idea – and so did I. Today she came to me and told me she wants to apply to be one of the team
leaders. So, if you got her to come around, you must be able to make this whole thing work. Congratulations and have a great Christmas" or something like that. From that time forward he was my best friend and strongest supporter. I don't know if he remembers how we started out, but after that December memo, Judge Lamberth would, on a regular basis, stop by my office to see me and to ask how things were going. And, he would always say: "What can I do to help you?" More often than not, he would ask, "Is there anybody you want me to beat up on because I'm good at that." He was the last Chief Judge I worked for before I retired and we had a great relationship.

As I mentioned before, when I started in the position as Clerk I went around and talked with all the judges, and for the most part they would say "Things are going very well". Some judges mentioned their concern that the criminal docket was always behind and they didn't know why that was happening. I told them we had a really complicated docketing system and it was difficult to keep it current and that was part of the problem. They had little issues, but they didn't have major issues. But all of them appreciated the opportunity to tell me what was on their minds. So many of their concerns were cleared up just by giving the judges more information. It was amazing to me how simple it was to listen to the judges and appreciate their perspectives. Jim Davey, I think, had gotten frustrated with the fact that he had to explain his actions to them when he made a decision. Jim thought that the judges should just know that he had an administrative and management background and they should just let him do his job and not ask questions. I think Jim, sometimes, let his ego get in
the way. As a result, at the end of his career he got more satisfaction out of his
global work for judiciary-- going out and working with other courts and being a
spokesperson for conference policies and being called upon to do that sort of
thing-- than he got out of his work at our courthouse. So when I went to the
judges and talked to all of them they said, "It's so nice to talk with you. So nice
to have you come up here. So nice to see you. So nice for you to answer my
questions."

Ms. Woodbury: You made personal contact?

Ms. Mayer-Whittington: Yes and it wasn't rocket science. I mean I wasn't coming in and doing
anything other than saying: "What's up and what would you like the Clerk’s
Office to do?" And sometimes I had to come back to them and say we can't do
what you want us to do. Either Judicial Conference policy didn’t allow it or we
didn’t have the funding available in the budget. For the most part, the judges
where happy I had looked into what they were asking for and satisfied that the
concern had been addressed. It was very basic. I learned early on that most
judges have strong personalities and strong egos. If I kept my ego out of the
interactions and just focused on what they were trying to accomplish we could
work really well together. A lot of the judges had good ideas to share. And they
had some legitimate issues they wanted to resolve and they liked being a part of
the solution - they did want to help. They did want to work with you. They were
interested in things. Judge Robinson was the Chief Judge for my first year, and
that was nice because he was in his tenth year of being a Chief Judge and he
knew the court quite well and he knew how to communicate with the judges. He
was not grandfatherly – that would come much later. But he was smart and
stayed on top of things so he helped run interference. He was a strong personality
and strong leader and had no problem reminding a judge who was out of control
that there was only one Chief Judge. It was really nice to have that first year with
him as Chief Judge and to have had the benefit of watching him run the Court
when I was Chief Deputy. I got to learn from him and that was really helpful to
me in the beginning.
Ms. Woodbury: Good morning Nancy. Today is Tuesday, October 4, 2011. This is the continued interview of Nancy Mayer-Whittington. When we broke last time we had just started talking about your first official year as Clerk of the Court which coincided with Judge Robinson's last year as Chief Judge. Nancy would you just pick up there.

Ms. Mayer-Whittington: Of course. I was really fortunate to have had the time from at least 1985 to 1991 with Judge Robinson as the Chief Judge and I as Chief Deputy, but I did find that when I became Clerk of Court it became an even closer relationship and I got to see, firsthand, his way of running the court. Also, as you mentioned, my first year as Clerk was Judge Robinson’s last year as Chief Judge. I think this impacted him as far as being a little bit more philosophical and a little bit more open to reflection about his tenure as Chief Judge. He had a very strong, as I’ve said before, personality and a very, very strong leadership role in the court and he operated from a position of strength for the most part as Chief Judge.

When he worked with Jim, I think that they knew their roles and in Jim's case he was a strong personality as well. So they spent their time just briefing each other on what was going on and not as much discussing where the court was going, because I think they felt that the court had its own cycle that it operated under. I recall that in one of my first conversations with Chief Judge Robinson after I became Clerk of the Court I said to him "What are you looking for from me? What is your vision of where the Court is going?" And he just looked at me like, "Oh no are you going to be one of those people who talk about visions and
all these other things …?" He was more of a practical day-to-day person. But the next time I met with him, and I was meeting with him on a weekly basis, he said to me, "You know I was thinking about your question about my vision for the Court." At that time he was chair of the Executive Committee of the Judicial Conference effectively the leader of the whole Conference which was huge and he said they talked a lot about the role of individual courts in the long-range planning process and maybe that was one thing we should be talking about at the same time.

I said I would like to know where he saw the resources coming from and going to in the judiciary. At that point I had gotten a better look at the budget shortfall that was going to impact the judiciary in the near future. Congress was trying to reduce the size of the budget deficit so the entire government was going through some tightening of resources. Unfortunately, the Judicial Branch was an easy target for Congress to reduce resources partly because the judiciary did not have a real strong lobbying effort to put pressure on Congress. There was nobody that was really good about representing to Congress the needs of the judiciary other than the judiciary. So at that point Chief Judge Robinson was telling me that the Judiciary was working with the Federal Bar Association and other local Bar Associations to help them understand nationwide the concerns of the courts and get that information to Congress. In addition to not understanding the concerns of the courts, Congress also did not appreciate that the courts could do very little to regulate the matters that are filed in their respective courts. Unlike executive branch agencies that can cut or delay action on the programs
under their jurisdiction, the cases filed in the courts had statutory timetables under which action must be taken. The courts can’t say: "You can't file this here and/or we can only take a certain number of cases this year and we are over our limit." Other agencies were able to structure their budgets around the programs that they felt they could support and the ones where they could cutback. They could expand in areas depending on the budget and upon their resources; the judiciary had very little ability to do that.

It was one of my best conversations with Chief Judge Robinson. I asked him if we could spend some time talking about national issues during our meetings and not just deal with the day-to-day concerns. He was actually quite happy to do that because I think at some point he felt that he was contributing even more to our conversations than just telling me where he thinks the judges were having some issues and that sort of thing. I think I really benefited from the fact that he was looking at the end of his tenure and what more he could do to help the court and then making sure he got it done. That was very helpful to me and ultimately it really created a dialogue between Chief Judge Robinson and me and it helped clarify the information I had been reading about on the actions of the Judicial Conference. In turn, I conversed with the Clerks of other courts so that when Judge Robinson would talk about an issue I could tell him how it would impact not only our court but how it would impact Nebraska and how it would impact the border courts who were having tough immigration related issues at the time.

Ms. Woodbury: Nancy were you, in addition to reading, getting on the phone with the
other Clerks too?

Ms. Mayer-Whittington: Yes. And frankly at that time we had our first national email system where you could contact other Clerks electronically which was huge because you didn't have to worry about different time zones or whether they were available or not when you sent your email. You didn't have to waste your and their time playing telephone tag and you got the information you needed. Plus you could get the Clerk to expound on things and you would have a hard copy of their thoughts. You weren't taking notes on what people were saying and trying to see if you heard it right or wrote it down correctly. So that was huge too.

Ms. Woodbury: And sometimes when people write something down they are more careful about making sure it's clear.

Ms. Mayer-Whittington: Absolutely. I think they may read it to themselves and say if I were reading this I would think the emphasis is on this and that is not what I meant. And many times you followed up the email with a conversation about it. That wasn't the only way of getting information, but it was something that I think made me more of a professional in Judge Robinson's eyes. Whereas I think he thought I was probably smart and that I was educated and I knew the court, but I'm not sure if he thought I knew about the big picture. As I said earlier about the interview for the Clerk's position, the big picture of the court wasn't what the interview was about. I felt that he needed to know I had another side and that I could contribute. I think that was really good for both of us, those conversations. That was the biggest benefit of having his last year and my first year coincide.

Ms. Woodbury: Nancy, you said that you had a regular time every week where the two of
you would get together.

Ms. Mayer-Whittington: Yes. We would get together on Wednesdays at 10:00 a.m. What was great about him was that when he couldn't make the meeting because he was going to be in court or something like that, we rescheduled. He didn't just say "I can't make it this week" and leave it at that. So I never had to worry that I would have an issue sitting for too long. In between meetings, I would send him emails, but he didn't really like emails particularly. He liked conversations. So as long as I had a weekly meeting with him I could just make a list of things to talk to him about. But if there was an emergency or something very time sensitive came up, I would pick up the phone and call him. Calling Chief Judge Robinson was not a problem since he told his secretary that I needed to be put through when I called and if I said it was an emergency and he was not available, his secretary needed to find him so he would know about the emergency.

Ms. Woodbury: So you didn't have to fight with anybody's staff?

Ms. Mayer-Whittington: No. I did not have to. They were very responsive. Gloria Robinson was his secretary at the time and she was very good about putting me through to the judge. In fact sometimes I'd just say "It's Nancy" and she would say "Just a minute." She wouldn't even wait for me to say anything else. Sometimes I wanted to say to her "How are you doing?" But she'd put me right through to him because that was what he told her to do which was nice. Early on, one of the things Chief Judge Robinson said to me was "Nancy, the more you can give me information about what's going on in the Court, the more prepared I will be when I go to the Judges’ dining room for lunch. Because, if one of the judges says ‘I
found out something happened and you know what that means,’ I can say to
them, 'No that isn’t what happened', and I can explain the facts.’ He continued,
"If I can stop inaccurate information from leaving that lunch table, that's a huge
benefit because that's where all their misinformation gets started. That's where
you get these misperceptions that can change into reality and then we are trying
to undo something that was never real. So if you can keep me posted on things
that will be a big help to me. Just pick up the phone and say ‘By the way Judge
so and so really had a hard time in court today because one of the defendants
wasn't brought up and he blamed it on the Clerk’s Office but actually the
Marshals Office didn't process the paper work.’ "With accurate information, he
could be the voice of reason.

Ms. Woodbury: So he's prepared.

Ms. Mayer-Whittington: Yes. He could deal with the problem if he had the information. He said
the judges will respond to information and they did. There were judges who did
like gossip, that's human nature, but for the most part if he could say: "That's not
what happened today. The Marshals did this and this" then most of the judges
would respond positively.

Ms. Woodbury: Nancy, what were the issues in terms of the structure of the court and the
management of the court that you dealt with during your first years as Clerk of
the Court?

Ms. Mayer-Whittington: On the management structure of the Clerk's Office, we were trying to
decide whether to have one Chief Deputy or to have two Chief Deputies. Some
of the large, metropolitan courts were adding a second chief deputy to their
management team. When I was Chief Deputy, we had organized the office into Operations, Administration and Technology and that had worked well. We had gotten all the fringe offices that were hanging out there on their own tucked into one of these three divisions. Although Technology could fit into Operations or Administration, it was a relatively new field and we thought it needed to be independent. So we were organized around these three main areas. When I became Clerk, I was thinking that as Chief Deputy both the operations and the administrative side had reported to me and now as Clerk did I want another layer between me and them and what did I want to do? So I decided not to do anything at first and to try managing without a Chief Deputy. So we announced this to the office. I wasn't going to make any new selections, but at the same time I also told the staff that if anybody is interested in applying in the future for a chief deputy position then they had to start preparing for the job. It’s not just going to be based on who has been here the longest. The selection will be based on who has the required experience and has spent time attending training, taking additional courses and getting more experience. Preparation for the position and not longevity will count. At the same time the budget that Judge Robinson and I had been discussing was starting to play a role in the Clerk’s Office through the staffing we would be allotted based on a work measurement formula.

Ms. Woodbury: What is that?

Ms. Mayer-Whittington: The work measurement formula tries to measure the amount of work involved in doing the main functions of the Clerk’s Office and then determine how many staff members you need to perform those functions. For example, if
you have X number of civil cases, then you get X number of people to support the processing of those cases. You have X amount of checks that you process, you get X number of people to support you. You have X amount of jurors that you process in the course of the year, you get X amount of staff members to do the work. The Judicial Conference had revised and implemented a nationwide formula for the whole court system in the early 90s. One of the problems with the formula was that it was relatively new and most people didn't understand how it worked. It was all based on statistics and under the initial implementation of the formula you would have a hundred cases and get X amount of credit for those cases. But the formula didn’t take into consideration the complexity of a civil case. In criminal cases, the formula was case driven and not defendant driven, which was difficult for us.

Ms. Woodbury: Which means cases with multiple defendants…

Ms. Mayer-Whittington: Are counted the same as a case with a single defendant. A case that’s going to entail a lot of pre-trial publicity, security and logistical concerns requiring a lot of additional work on the part of the Clerk's Office would be weighted the same as a case that was pretty much going to come in with the defendant taking a plea. The revised work measurement formula was a brand new way of looking at our workload and it had a lot of problems, but we had to implement the formula because it was approved by the Judicial Conference. It turned out that as a result of the new work measurement formula we were going to lose five positions in the first year that I was taking over as Clerk.

Ms. Woodbury: Did they tell you what positions or did they leave that to you?
Ms. Mayer-Whittington: They left that to us. The formula would show we were entitled to eighty positions and you could put them anywhere you wanted, but you couldn't get any more positions. In addition to the problems I just mentioned, the formula didn't take into consideration any local rules or customs. For example, some courts do a lot to work with the local Bar to put together educational sessions, conduct tours and do other presentations. There was no real way to accommodate any differences. There were some differences for small, large and medium courts, but not enough to accommodate courts in metropolitan areas. We had some additional issues because of being in the Washington, D.C. area in that we had a lot more press interested in things going on in the Court than you did in Arkansas. Congress was telling the Judicial Conference that they had to cut their budget and the only way that the Judiciary had historically cut the budget in the past was to reduce funding for non-judicial staff. By statute, judges’ salaries cannot be "diminished" and traditionally their staffs and their furnishings and supplies were never reduced. So the support staff was the target for reductions. This was a big deal because in the past, rather than actually reduce staff, a hiring freeze was implemented and non-salary budget items were reduced. I had been at the court for fifteen years and we had never had to go through any real downsizing. Now with the new formula as "proof" courts were overstaffed we were being told we need to give notice to five employees that they would be let go; something that was unheard of in the court culture. To add insult to injury, some of our staff thought I had arbitrarily decided to let people go because the timing of the budget cuts happened to coincide with me taking over as Clerk.
There was just a lot of uncertainty and we were in an institution that had rewarded seniority, both from the judges’ side and the support staff side. So we were talking now all of a sudden about maybe making a major change in that institutional thinking. Now jobs weren't guaranteed, and it really didn't matter if you were doing a good job if we couldn't to keep you anymore, you couldn't stay. The Judiciary as a whole had a reputation for not getting rid of poor performers. But our Clerk’s Office had somewhat of a history of trying to address poor performance by implementing work improvement plans. If that was not successful, we did let poor performers go. We felt like we were being punished for the Judiciary wide problem of retaining poor performers as that was part of the reason for the need to reduce the budget. While the issues of the budget were impacting us there was some other internal issues that came to a head at the same time. If you recall I mentioned that when I talked about the time just before I was selected as Chief Deputy, Jim had hired a consultant to help identify issues in the Clerk's Office. One of the issues raised by the staff was that the two Executive Assistant positions were not working out. So in response to issues raised by the consultant, Jim made the decision to recreate the Chief Deputy position and then ultimately I was chosen for the position. But the other issues that were raised at sessions with the consultant were never really dealt with. Jim thought that the problems would take care of themselves by taking Marge out of a top management position.

Ms. Woodbury: When you say the issues that were raised; are you talking about the issues that were raised as part of the consultant's review in talking to court employees?
Ms. Mayer-Whittington: Yes. Because in addition to people believing there were inequities in the way I managed and the way Marge managed, they also brought up some global issues such as the need for better communications from management to employees, better training, both on the job and more general training, more opportunities for people to be considered for management positions. I think Jim thought he was going to address all of them by making me the Chief Deputy and that would take care of it. So what happened was he made a selection and a lawsuit followed which occupied a lot of time and attention and other things kind of drifted back under the surface and weren’t necessarily addressed.

Ms. Woodbury: Nancy, just remind me, what was the chronology at the point where Jim changed the structure to create just a single Chief Deputy and then you were chosen for that position and then there was a lawsuit by Marge; what period of time was that?

Ms. Mayer-Whittington: Well we had the consultant in around 1984 and then in 1985 Jim recreated the Chief Deputy position and then I was ultimately selected for that position, and then in 1986 Marge filed the lawsuit. Actually, she first filed a complaint under the Equal Employment Opportunity Plan based on age discrimination. I think that took a year before a final decision was released. The process takes about a year to come to a final conclusion. There is X amount of time to file something, X amount of time to respond to it, and then X amount of time for the EEO Officer to review and make a decision. And Marge took all the time that was available to her to put her case forward for the initial review. The EEO officer found no basis for the discrimination claim. Then Marge appealed the decision to the Chief
Judge. The Chief Judge took time to review everything and he found no basis for the discrimination claim and he dismissed the discrimination complaint with no further ability to appeal. Marge decided to hire a lawyer and pursue her complaint as a formal civil lawsuit at the district court level. And then that took time to move along. We had to have a Court of Appeals judge come in to help out because all of our judges recused themselves since Marge had been working at the court for a long time. Judge Sentelle was a new judge on our appellate court and he had been elevated from a district judge position in North Carolina so it was decided that he had the most experience with Clerk's Offices and he had no experience with any of the parties in the suit. Then that compliant had its own time frame to be processed. So now we are into 1987–1988.

Ms. Woodbury: So really from the mid-80s to the late 80s, the issues you're talking about were first raised in maybe 84, 85?

Ms. Mayer-Whittington: Right. They just kind of bubbled under the surface while everybody sat back and watched the drama of Marge’s lawsuit. No one knew for sure how it was going to end up. I believe that the final judgment came down maybe in 1989 dismissing the complaint. After that, there was a time during which Marge was thinking about asking for certiorari from the Supreme Court. This meant another waiting period. My recollection is that in about 1990 that lawsuit and all the drama associated with it was finally over. It didn't have any more life to it, couldn't resurrect itself anymore so it was done. By then Jim already had made his decision to retire in 1991, so we're left with just a year or so of not having this drama.
Ms. Woodbury: Diverting people's attention?
Ms. Mayer-Whittington: Right.
Ms. Woodbury: So by the time you became Clerk of the Court, what you characterized as those more global issues are still there waiting to be addressed. The people are waiting for those to be addressed?
Ms. Mayer-Whittington: Right. Then I took over as Clerk and I'm met with a budget shortfall. I have a Chief Judge who is now ready to work on some vision and plans and willing to incorporate Judicial Conference information that he's privy to into our weekly meetings. He is ready to look at the future and we also are really still going forward full strength with technology and dealing with the ramifications of that. Plus we had changed to more of a team-based approach to support our judges.
Ms. Woodbury: How did that work?
Ms. Mayer-Whittington: How did that work? It didn't work well to begin with. This was definitely a situation where timing was everything. Jim had an idea about team-based management. He had done some research on it and he was hoping to figure out a way to not have a one-on-one relationship between the Courtroom Deputy and Judge. He wanted to broaden the relationship to include a docket clerk. This would help to remove the current stove pipe method of supporting the court. He wanted something more fluid that went back and forth, blended across the line. So that was something he had been working on, but with Marge's lawsuit he put that off to the side. If you recall, Judge Lamberth was appointed to the court in 1985 and again that’s when we were starting to have some of our budget issues
and that's when he felt we didn't support him for new furniture and such. So there were a lot of things in the background as well as things going on the front burner. This team-based approach looked really, really good on paper, but it hadn't been done very much in the court system. I strongly felt it was worthwhile and that it was something we really should do. Ultimately, again because of some of the other demands that were on Jim at the time, he unveiled his plan for the team-based approach about a month before I went on maternity leave for Molly's birth. He didn't want to wait until I came back. I thought it would be better to wait but Jim felt otherwise. I felt that I communicated a little better with the staff than he did just because I saw them more than he did as he was still traveling a lot. Ultimately, the timing of the announcement was not good; it was the wrong time to introduce the idea of a team-based structure in Operations. So we basically shot ourselves in the foot…. because by the time I came back from maternity leave, there were some very vocal Courtroom Deputies who had lined up against it.

Ms. Woodbury: People were negative without having seen what it could be with full support?

Ms. Mayer-Whittington: Yes. We'd hoped that this would give some of the people who were currently Courtroom Deputies an opportunity to go to the next grade level by managing a team and this would give them a clear opportunity and it did, but they didn't see that way. They saw it as breaking up the Courtroom Deputy Division. They saw it as giving them less control over all. So probably everything that could go wrong went wrong in that most of the staff in Operations did not want to
move to a team-based system. Also, we did not get any qualified applicants to be
team leaders. People did not understand the new system, they didn’t want to
change the way they were doing their jobs and they were not interested in
learning more about the possibilities that could be provided by being organized in
teams. The Courtroom Deputies put together a petition to Judge Robinson, asking
him to abolish the initiative. And one of the Courtroom Deputies sent the petition
to The Washington Post. So we had reporters calling to ask about this terrible
thing that we were doing to the employees who were long suffering, good
employees. We had one of the most dramatic moments in the court when Judge
Robinson called the entire Clerk's Office up to his courtroom.

Ms. Woodbury: And what did the team approach mean?

Ms. Mayer-Whittington: What it meant was we were going to make teams of judges and teams of
people to support them. It did not mean deputies were going to lose their
relationship with their judge. They were still going to be that judge's clerk. But
there would be two case processors, who would be supporting the judicial
officers and their cases. Prior to that, our docketing section in Operations had
been organized by digits. One person was responsible for all civil cases that
ended in a 1 or 2. A second person was responsible for all civil cases that ended
in 3 or 4 and so on. Our theory was that if people had more responsibility for a
case and recognized that a case belonged to a judge as opposed to a digit they
might be more invested in the quality and timeliness of their work. We also
hoped by organizing around judges instead of cases that it would give the docket
clerks more buy-in and more satisfaction and they would see themselves at the
part of the whole court and not just as part of the Clerk's Office.

Ms. Woodbury: Nancy, when Judge Robinson convened this meeting, did you say he called the whole Clerk's Office?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Did that mean really everybody went into his chambers?

Ms. Mayer-Whittington: Yes, they went into his courtroom. He basically took the bench and said that he was aware of the plans that Jim had for the Clerk's Office. That he supported those plans 100%. That the efforts so far that some people had been making to speak to him about their concerns were out of line, that there was a proper place for them to address their concerns through the management structure and that that was the only way he was going to get involved. That he was the last person, not the first person who should be called and that any effort that anybody continued to make to involve the press or anyone else in this internal discussion in the Clerk's Office was going to be dealt with severely and if you do not like working here, don't let the door hit you on the way out. And then he just dismissed everyone. I mean, it was so classic Judge Robinson. Jim was like "Yes! Thank you, I thank you for the support, thank you for this." I remember walking out and going "What just happened?" Then in the next Metro section of The Washington Post, two days later, there was something that said that the employees of the Clerk's Office at the U.S. District Court had made their feelings known about a new management structure and they're not happy. That their efforts to try to bring these issues to the surface had been…

Ms. Woodbury: Rebuffed?
Ms. Mayer-Whittington: Rebuffed, yes in no uncertain terms by the Chief Judge, who made quite clear his views on interpersonal squabbles that are going on in the office… that sort of thing. It almost said clearly his way or the highway… and that's how it got characterized. And quite frankly, I thought that it was pretty unusual for The Post to publish anything of an internal nature about the Clerk’s Office when there were so many other newsworthy stories at the Court. It was an internal tiff.

Ms. Woodbury: An internal tiff?

Ms. Mayer-Whittington: Yes, it was. So everybody tipped toed out of the courtroom and wondered what just happened? Well, that didn't end anything it just meant that more was going on below the surface and people continued to talk. You would walk around the corner and people would be talking in little groups that sort of thing. Then as I said, I go out on maternity leave and then I come back and there were no quality applicants for the team leader positions. So Jim said "I don't know what we're going to do now because we can't insert teams into Operations without the support of any of the staff there." And so we went back to the drawing board and said well let's talk more in smaller groups to people who are going to be impacted by this and listen to what they have to say and answer their questions.

Ms. Woodbury: And make sure they understand what we had in mind?

Ms. Mayer-Whittington: Right. So we started these…. what I considered informal discussions … I called them Open Forums… where I would say "Okay, I'm going to be in the lunchroom or I'm going to be in the conference room from this time to this time and I’m going to talk about the new structure and I'll answer any questions you have." So we started these Open Forums and I think I sat by myself for a couple
of sessions and then finally some staff members came to the Forums. We had a lot of really good employees. We had a subset of employees who had been there a long time who didn't want things to change and who were pretty influential. If you didn't agree with them, they could be pretty tough to be around. At the first Forum where five or six staff members attended they told me: "I know I'm going to get shunned for coming but I'm kind of interested in knowing what's going on because I don't understand. I hear this from management and I hear something else from other employees." So we started talking and tried to outline the reasons behind the team concept and people responded positively to that. I said "It's our only way to do some career development. Right now if you don't want to be a manager in the full sense of the word or a supervisor, you could only go to a Grade 11. But if we introduce teams and team leaders you could use the knowledge and experience you have already acquired to get a higher grade without having to commit to supervising a whole new set of staff, or a large number of people. This system would create a career ladder and more opportunities to have input into the direction of the organization." When they saw it from that perspective, they were more open. Again I go back to the fact that this new concept of team-based organization wasn't well delivered and I was a part of that.

Ms. Woodbury: When it was first announced?

Ms. Mayer-Whittington: When it was first introduced and that led to the lack of support for the concept. And the lack of support wasn't just coming from our malcontented employees. We had some really good employees who didn't support it either so…
you know… if that was the gauge then we didn’t do a very good job of outlining it when we introduced it. As we made more information available to the staff and answered their questions, our staff reacted in a more positive manner. So we then started getting some people to say… "Oh I might be interested in that, I might be interested in doing this." And we went back to the drawing board and said okay, we have some internal courses that we could provide for staff, or we could make books about team leaders and team management available for anyone who was interested. And then we would also have some courses that the FJC sponsored

Ms. Woodbury: Federal Judicial Center?

Ms. Mayer-Whittington: Federal Judicial Center, which is the training branch of the judiciary. And then we had some commercial courses like Fred Pryor courses and others things like that that talked about the elements of supervision. So we started really getting people involved and thinking about teams and supervision and providing some training so that they could see whether that was what they wanted to do. And ultimately we did get a couple of people who expressed interest in the new system. Instead of converting the whole court, we picked a group of five judges and their courtroom deputies and a docket clerk to be the first team and that worked because…

Ms. Woodbury: It was like a pilot program?

Ms. Mayer-Whittington: A pilot program. We put together our first team. I went to a few judges and asked if they were willing to pilot this concept. A few judges declined but a few other judges agreed to be on the pilot team. I told them I wanted their honest feedback good or bad so we could make changes before we expanded the system
to all the judges. In total, we did get five judges who said they would be a part of our first team. And then Jim retired and I took over as Clerk fulltime and we're still implementing this structure. Plus, we are moving further into the world of electronic courtrooms and getting more into electronic docketing. The Clerk’s Office is changing at a rapid pace with all the new technology that is being introduced. This is around 1993 and we had almost fully implemented the team process. But we have some people in the office who haven't let go of some of the issues that were raised almost six or seven years ago and I still see some issues under the surface.

Ms. Woodbury: What issues were they still interested in?

Ms. Mayer-Whittington: They were still interested in better communication; they were still interested in being more knowledgeable about what the plans were for the organization and where we were headed. And then they were interested in smaller things – such as that it took too long sometimes to get things done, that we would start a process and it never quite got finished before we started another process; issues such as these. The frustration with these issues surfaced at a routine Clerk’s Office meeting. We always had a monthly Clerk's Office meeting. At this meeting in particular, I was asking in general how a new local rule was impacting the office when of out of the blue somebody just stood up and said… "Would you mind if we talk about some things that I think are more important than that"… and I said okay. And that's when this staff member said… "Well you know I still feel like sometimes I don't know what's going on and I feel like some teams know more than other teams. Some people get more information
than I do and they seem to be aware of what's going to happen and that sort of
ting." And so, I said "Okay, do other people feel that way?" And there was a
general nodding of heads. And I said, "Let me think about this and let me think
what we should do because I think this is an important issue and I think we
should figure this out." After the meeting, I met with my senior staff and I have
to admit some of their concerns were…. "Oh this is just general complaining by
the employees" but the majority were saying … "I think we really need to do
something about this." We talked about it for a while and there were a lot of
good ideas about how we should go forward. Ultimately, I said "What if we form
an employee management committee that only has a couple of people from
management on it and a group of employees who are not managers will make up
the rest of the committee?" We discussed this and decided that we would open
up the process and let people apply to be on the committee. If we received more
applicants than we needed we would let the applicants decide how large the
committee should be and make the decisions as to who should be on the
committee. We would then ask the committee to work as a group to put together
a list of the issues that concerned them on behalf of the Clerk’s Office. So we all
agreed on this course of action. At the next Clerk's Office meeting I said: "You
know we're going to form an Employee Management Committee and it’s not
going to be balanced between employees and management, it’s going to have
more employees than management on it. If you are interested in being on the
committee you can apply and we will try to make sure there is representation
from all parts of the staff on the committee. Then we're going to ask you to
commit to not only raising the issues and talking about what issues you think need to be addressed, but also coming up with some possible solutions and ways to address the issues. So you can't just sit there and say..."This is not working and I don't know how you're going to fix it." If we're going to fix this as an organization, we have to come up with solutions to the issues raised and not just identify the problems." Everybody was very positive about the committee. Ultimately, I think probably about ten people applied to be on it and so we ended up with two supervisor/managers and eight employees on it. The Committee had meetings with the staff and anyone who was not a supervisor or manager was welcome to attend the meetings. I asked the Committee to give me interim reports about the content of the meetings and the direction it was going but not attribute comments to specific people so they could come and talk candidly...

Ms. Woodbury: So there was confidentiality at the meetings?

Ms. Mayer-Whittington: Yes, and so it turned out to be a really, really good process and one of the reasons it turned out so well is because of two of the people we had on committee from the management team. One was Angela Caesar, who succeeded me as Clerk of the Court. But, at that time she was a unit leader and the other was Edward Cole, who was the Supervisor in Property and Procurement. They just did in my opinion, a really, really good job. They were smart and hardworking and very interested in the organization and both happened to be African Americans, so that... they were visible leaders and good examples for anyone who still wasn't sure if there were as many opportunities for them as there were for other people.
Ms. Woodbury: When we broke you were talking about the two management representatives on the Employee Management Committee.

Ms. Mayer-Whittington: Yes, they were very good and we were fortunate that all of the employees who agreed to participate as part of the Committee were really good too. We didn't have to tell people they couldn't be on the Committee because we didn't get more volunteers than the number that we thought we should have on the Committee. Of the employees who volunteered, there were at least two who were very outspoken in their criticism in general of the office. Then, there were others who were on the fence and then there were some employees on the Committee who were thoughtful in their approach to situations and who knew there were problems, but were willing to find ways of addressing them. The Committee started its work by holding open sessions and inviting any employees who were interested to come and talk to them. They held several sessions so that all employees could have the opportunity to attend. After the first two meetings, I remember Angela and Edward came to talk to me. They said that things were going pretty well but they said "Honestly, if we hear one more time that 'twenty years ago, when I was here I had a bad experience’…” There were people who came to the beginning meetings that had complaints that were so old and involved procedures that didn’t exist anymore or poor treatment by employees who didn't work here anymore.

Ms. Woodbury: People were kind of using it as an outlet for their grievances?

Ms. Mayer-Whittington: Yes and it was frustrating to Angela and Edward and the Committee members who wanted to focus on the present day problems. But ultimately,
although this was an unintended consequence, it had the benefit of giving employees the opportunity to vent. They had never had an opportunity to stand up in a group of their peers and say… "When I first started in the Clerk’s Office twenty five years ago, I had a really bad experience. It was so unfair; I stayed here really late one night and took care of a big problem and no one ever acknowledged it; no one ever told me what a good job I had done." Then Angela and Edward would say "How's it going now?" And the employee would say; "Well my new supervisor is okay." They had to validate their issues and say to them, "I'm so sorry. I hope that never happens to you again. I hope that we're building a structure now that's going to prevent that from happening, but I can understand how you must have felt going through that." In many cases those employees didn’t attend more meetings because they had finally had the opportunity to vent.

Ms. Woodbury: Right, they said what they needed to say.
Ms. Mayer-Whittington: Exactly. It didn't mean that they still didn't carry that chip around for a while and in some cases forever but at least the issue had been aired.

Ms. Woodbury: Somebody heard them.
Ms. Mayer-Whittington: Somebody heard them and somebody said to them "I'm sorry. I'm sorry on behalf of the organization that you had that experience." Then the Committee was able to move to the next level which was identifying current issues and also suggesting ways to address those issues. I remember one of the concerns that they raised, a very practical concern, was that it took too long to fill vacancies. Specifically, from the time a vacancy was announced to the time a person was
selected to fill the vacancy took almost a year. Employees wanted to know why it took so long and why we didn’t communicate better about why it was taking so long. This involved a procedural issue and a communications issue. The procedural issue needed to be addressed by studying different vacancies and seeing where the back logs occurred. As to the communications issue, it turned out that it depended on who the supervisor was and their view as to how much information to share. So that needed to be addressed across the board, the same amount of information needed to go to everybody and it shouldn't have been dependent on who your supervisor was.

Ms. Woodbury: How did you deal with that?

Ms. Mayer-Whittington: We found a central way to communicate information about vacancies – we did an update on the status of all vacant positions at our monthly Clerk’s Office meetings and thus took it out of individual supervisor’s discretion and made it an office wide information item. As to ways to address the fact that vacancies took too long to fill, their proposal was for us to develop a timetable that set forth a timeframe for announcing the vacancy, screening applications, interviewing applicants and making selections.

Ms. Woodbury: That's very organized.

Ms. Mayer-Whittington: Yes, it was. Another issue they raised was that there were no African Americans employees in the IT office. Well, that was true. The reasons behind it were varied and in some cases discussing them would have violated an internal applicant’s privacy. So when they went to discuss what we should do about it -- in that case they said hire an African American. They didn’t really have any
ideas about how to go about doing this because it was really beyond the scope of
the Committee, but they just wanted us to know we needed more diversity in our
IT office.

The Committee presented 26 issues to the management staff with all the
supervisors and managers at a meeting. From the Committee’s first meeting with
employees to the presentment of the 26 issues to the management/supervisory
staff took about nine or ten months. Angela and Edward had been briefing me
after each meeting. But the briefings were just to let me know they were making
progress and to let me know if they needed any information or resources to
continue the work of the Committee. We did not discuss issues that were being
raised nor did we discuss what any employee had told the Committee. After the
Committee did an oral presentation on the report to the management/supervisory
staff and distributed copies of the report, they left so we could discuss it. I have
to admit, my first reaction was that the Committee had done a great job. I said
"We asked them to come together as a group and raise the issues they think we
need to address and also give us suggestions for how to resolve the issues. They
did this and were very thoughtful in the way they approached their work and I
think we have a clear picture of what we need to work on." I told them I had
some reservations about a few of the recommendations but in general I thought
they did a really good job. I have to admit that some of the management team
members looked at me like: "Are you crazy? They just basically said we're
doing a terrible job and this is a terrible place to work and we don't know what
we're talking about…” I realized I needed to hear them out try to keep them from
taking the report personally. So I listened to all of their concerns about the report which ranged from "The employees shouldn’t be telling us what to do", "Do they seriously think we should thank them for this?" "In their view are we doing anything right?" to a more thoughtful reaction of "I think the report is very accurate." So, I said "I appreciate all of your candid reactions. I think that we need to look at this as the whole Clerk's Office that has embraced this process, raised the issues and suggested solutions. We need to step back and take the time to reflect on the report and then come back and discuss it with less emotion."

Someone said "I have thirty-issues about them such as some employees are chronically late, others have bad attitudes… I said "We just need a little bit of time to digest this; but this is the deal: nobody goes back to an employee or any employees and gives their candid reaction; nobody separates themselves from this group at this point and says… 'Well I'm going to tell you what I'm going to do.' We are going to act as a group, as a unit. But we need time to let this sink in. I know there are hurt feelings right now but we can’t ignore all their hard work or the opportunity to make some positive changes." I said "Quite frankly, I'm looking at this and saying twenty-six issues? I was hoping for maybe ten or twelve. But you know what, they had to courage to do this and they …" [Tape stopped.]

Ms. Woodbury: When the tape stopped right then, you were talking about …

Ms. Mayer-Whittington: The reaction of my staff.

Ms. Woodbury: The reaction of the management staff of the Clerk's Office to the twenty-six issues that had been raised by the committee, the Employee Management
Committee and how did you eventually respond or deal with their report?

Ms. Mayer-Whittington: Well, I asked the management staff to think about the report and that we would regroup in a few days and everybody could then give a more thoughtful reaction to what should be the next step. We got together probably a few days after that and it was good to have had that little...

Ms. Woodbury: … cooling off period?

Ms. Mayer-Whittington: Yes, absolutely because I was very impressed with our management team. When we got back together all of them could see some basis for all 26 issues. They did not agree with all of the recommended solutions and in some cases thought some of the issues were a perception issue and not a factual issue. But all of them pretty much saw where the employees were coming from with the issues. So we agreed that at the next Clerk's Office meeting, we would have the Employee Management Committee present the report to the whole Clerk's Office and we would outline a process for addressing the issues. We decided we were going to take each issue and discuss it and look at the recommended solution and see whether we needed more information about the issue because we really didn't understand it or if it was so clear cut that you could just start to work on it immediately. Because there were a couple of things that were raised, for example the reference I made earlier to the lack of African American employees in the IT office, that needed more discussion. Were people concerned that African Americans had applied and not been selected? Were they concerned that African Americans weren't getting the training that would be necessary to go into IT? A lot of the issues were pretty straight forward. We could put up a timetable for
addressing those issues. We agreed that there were some issues on there that were probably always going to be issues in one sense or another. For example, communication. You can always improve on communication. You can work on it and think you have it solved but you have to be evaluating it on an ongoing basis. You always have to keep going back to it… and ask "How's it going now? Are there other ways that we can do this?" Because sometimes you implement a way to open up communications and then it doesn't work after a while. It needs to be tweaked and looked at in a different way. But at this point the issues had been presented to the management team but they hadn't been presented to the Clerk's Office as a whole. Now clearly, because the Committee was made up of representatives from the Clerk's Office, even though employee representatives had been asked not share specific issues that were raised at the meeting they were free to share impressions about the meetings in general. The request not to share specific information wasn't supposed to be a gag order or anything like that. In fact, the meetings were open so anybody could come in and if you just wanted to listen and to hear what people were saying you could do that. There was not this whole sense that the report would be this huge revelation…

Ms. Woodbury: A mystery as to what they were going to say?

Ms. Mayer-Whittington: Right. It was more a matter of what management’s reaction would be to the report and the recommendations – would we agree with the majority of recommendations or not. When something exists for nine, ten months and employees can come and go and be a part of it, you know, word gets out and in fact, part of the benefit of that type of situation was that it didn't hold as much
power as it would have if it had been a tightly held secret and people had no idea of what was going on. Most employees had attended at least one meeting and in many cases more than one meeting so they had a general idea of what was being discussed. I remember talking to one employee just casually over coffee one morning who said: "Yes I went to the first couple of meetings but gosh they were complaining so much I didn't go back to some of the later meetings."

Ms. Woodbury: Let me ask you, Edward and Angela were part of management, right?

Ms. Mayer-Whittington: Right.

Ms. Woodbury: And so were they also participating with you once the report had been presented by the committee in deciding how to respond?

Ms. Mayer-Whittington: Yes. But to their credit they didn’t direct the process. They just shared their perspective on how the meetings had proceeded and how their thinking had evolved. For example, Angela said that the first time she heard some of the issues she wanted to challenge their validity. Instead she practiced patience and decided she would just bite her tongue and listen. She said once she got past that first reaction, she tried to focus her efforts on things the office could do to improve operations. At the Clerk's Office meeting, the Committee presented the report. They shared the list of the 26 issues with the recommendations to address the issues with everybody in the office. We decided that we would from that point forward have a report from the Employee Management Committee at every Clerk's Office meeting outlining our progress in addressing the issues. And that we would come up with timeframes and interim and milestone goals in order to address those issues. One of the issues was that our employees felt that they
didn't see enough of me because I was so busy with the judges and taking care of other things. They wished I was around more because they wanted to know if I really knew what was going on. Was I interested in making sure that things did go well? I had gone from being Chief Deputy, where I was much more visible, to being Clerk where I wasn't as visible. So I knew I had to find a way to be more visible and interact on a regular basis with the staff. They also said that they wanted to hear more from me. The year before, we had revamped our monthly Clerk's Office meeting in response to employees' requests that the individual supervisors give an update on their sections. As a result I did not have as much opportunity to speak at our monthly meetings and I didn't realize that for some people that might be the only time they had to hear my view on issues or ask me questions. Rather than go back to me doing the reports on each section, we decided that we would have all of the supervisors or whoever was doing reports put them in writing and circulate them in advance of the meeting. Thus rather than just do an update on their sections, the supervisor would be available to answer questions and participate in a discussion.

Ms. Woodbury: Give people a little bit of time to think about it and form the questions.

Ms. Mayer-Whittington: Right. And then I could do more of the global issues about what's going on and recognize employees who were doing a good job and things like that. I also shared conversations I had with judges -- clearly not confidential ones -- but anecdotes and complements I had received about the office. Our staff also wanted to know more about judges - their backgrounds, their personalities - so we instituted a "Meet the Judge" program. When a new judge was appointed, we
would invite them to a luncheon and they would tell us about themselves and answer questions. The program was such a success that we decided to include all the judges. We worked backward from the judges who had been on the bench for a few years to the most senior judges and the judges appreciated the opportunity to get to know our staff a little better and vice versa. The issue about African American representation in the IT office was a bit more complicated. What we decided to do was to review our qualifications for the various positions and see if there was anything in the skills and abilities we were looking for that was causing a lack of diversity. We decided to review where we were sending vacancy announcements to make sure there were no issues there and to look at our training policies for any gaps there.

Ms. Woodbury: Were there any African Americans already on the staff who wanted the opportunity to work in IT?

Ms. Mayer-Whittington: Yes. And so we talked about having some cross training in IT. Let employees who were doing a different job, but who wanted to spend maybe a couple hours a week, that's all we could really afford at the time, in the IT office to see whether they had the ability and were interested in learning more about IT. And ultimately we added that cross-training. We did select an employee, an African American employee, a year or so later for an IT position. So, we just decided that we were going to take each of those issues and address them one at a time.

Ms. Woodbury: On a schedule?

Ms. Mayer-Whittington: Yes, on a schedule and at every meeting, I'd say "Okay, perhaps the
Employee Management Committee can speak about this" and then I would talk to them about where we were on certain things. And as we took care of issues, we would let the staff know that we checked it off the list - it's completed. That was probably at least a two year process.

Ms. Woodbury: Of going through all of their issues and possible solutions?
Ms. Mayer-Whittington: Right. We addressed them in a systematic way and we had an actual institutional answer as to how we're going to improve communications.

Ms. Woodbury: Nancy, was the original committee disbanded after it issued its report?
Ms. Mayer-Whittington: No, we institutionalized the committee for probably the next… I think that committee operated over the next five years or so until we got to the point where employees didn't think we needed it anymore. There were other ways of addressing issues and we didn't have to have a specific Employee Management Committee to do that. And I remember thinking at that point, wow, that's cool.

Ms. Woodbury: That they were comfortable bringing these issues up in other ways?
Ms. Mayer-Whittington: Yes, and the way we figured out that the committee was obsolete was when I said at a Clerk’s Office meeting, "Okay, it's time for these committee members to rotate off the Committee and we need new members for the Committee." The committee members served two year terms. Several people said that they didn’t think we needed a Committee anymore and that was the reason no one was applying. So we talked about that at the Clerk's Office meeting and after some discussion one employee summed it up by saying, "We have other ways of getting this information out to you and we've finished the original list and the solutions we put in place are working." The general feeling
was the Committee was needed at the time it was constructed but it was no longer
needed. If the need arose again, it could always be resurrected. So the Committee
which had served a major purpose in addressing organizational issues was
disbanded. But there were several areas that I wanted to make sure we kept on
top of. One of these areas was communication. I decided I wanted to try an idea
that I had been considering for some time. The idea was to start having "Open
Forums." Open Forums would be open meetings in the Clerk's Office lunchroom
twice a month where there wasn't an agenda but everyone who wanted to could
attend, bring their lunch and ask me about anything they wanted to know or tell
me anything they thought I should know. As long as it's not a personnel issue, I
would talk about anything else related to the organization or the judiciary. As it
turned out, the Open Forums worked out very well. Because, as it turned out,
there were some employees who still had some things on their minds, who
wanted to make sure I had heard about how they had been treated twenty years
ago. So in the beginning, the Open Forums were a mix of old issues and new
ones and a lot of roundtable discussions. But then, we got to the point where our
employees wanted new information about the future and how it was going to
impact them but they didn't know what to focus on. I would usually start off the
Open Forums by saying "What would you like me to discuss today... what do you
want to talk about?" Increasingly, they would respond "Nothing, we don't have
any issues." They just wanted to know what I was thinking about as to future
projects and such. I started to bring a little agenda with me of all the issues I had
been involved with since the last Open Forum and other topics I thought might be
of interest. I enjoyed these Open Forums for so many reasons. I got to get information out to them in an informal atmosphere and receive timely feedback and have some one-on-one time with employees that I would not usually have had the opportunity to meet with and that was good. I continued the Open Forums through the rest of my time as Clerk because it was an effective way…

Ms. Woodbury: To stay in touch?

Ms. Mayer-Whittington: Yes. Yes, for people to talk to me one-on-one and for me to hear firsthand and to do things very timely because every two weeks we would have one. Another outcome of the Employee Management Committee that I really enjoyed came in the area of education and training. I had wanted for some time to put together a group of employees to discuss Stephen Covey’s book *The Seven Habits of Highly Effective People*. I wanted the group to be a mixture of supervisors and line employees – staff that I didn’t interact with on a regular basis. The original Committee had done such a great job that it was the perfect group to work with in exploring the seven habits in depth. The Committee members had demonstrated all of the really good habits of effective people so it was a natural fit. We had one session a month for 8 months and I learned more from them than they did from me. That was probably in early 2000 that we did this training.

Ms. Woodbury: Nancy, I had a question just to follow up on the team organization that you talked about earlier today. You said when you started, or I guess once you became Clerk of the Court, you decided to setup a pilot program, and there were five judges who used the team organization for their courts and then you said
after two years it became generally accepted; is that right?

Ms. Mayer-Whittington: Yes and it really was… Jim had actually introduced the concept when I went out in 1989, and then we kind of had to step back and reintroduce it. It actually got implemented before I became Clerk.

Ms. Woodbury: The pilot program?

Ms. Mayer-Whittington: Yes, before I became Clerk.

Ms. Woodbury: And then what was the process by which it became generally accepted and utilized by other judges in the court? Did the five judges talk about their experience?

Ms. Mayer-Whittington: Yes, and I tried to get Judge Robinson to put something on the agenda or in his general comments about how successfully the pilot program was proceeding. You know, asking him to talk in advance of the meetings to one of the judges participating in the pilot and see if they would say something about some of the positive aspects of the program. Feedback from judges to judges makes a stronger impression than hearing it anywhere else. One of the things that we learned from the judges in the program was they felt like they did have more support because now when it was a docketing issue or case processing issue, it didn't disappear in this black hole of operations. The judges could pick up the phone and call down to one of the team members and ask them "What happened to this pleading? I don't see it on my docket and the attorney presented it to me in court today." That helped us learn that some of our attorneys file first with us and then go up to chambers or the courtroom and give a copy of the pleading directly to the judge. Our procedures mandated that all pleadings be put on the docket no
more than 24 hours after they were filed. Since the 24 hour time frame had not elapsed, the clerk was not at fault. In this case the judge then called the attorney and told him not to deliver a copy to his chambers in the future. In another case, the same thing happened and when the judge called down to check on the pleading, it had been more than 24 hours and the pleading had not been docketed. It wasn’t docketed because the clerk was a little back logged. The judge reminded the docket clerk of the importance of timely docket entries and it really made an impression on the clerk. She realized that her backlog impacted the judge’s ability to do his job and she made an extra effort to reduce her backlog and stay current. That communication with the judge did more to reduce the backlog than her team leader’s pleas to her to stay current. But the best part of having judges’ communicate directly with our support staff and not just through their courtroom deputy was that most of our communications with the judges were very positive and complimentary.

Ms. Woodbury: And hearing it from the judge.

Ms. Mayer-Whittington: Hearing it from the judge was amazing. Plus, we used to joke that the only time the judges came through the Clerk's Office was when they got off the judges’ elevator on the wrong floor. If they accidently pushed the first floor button, the elevator would open up right in the middle of the Clerk’s Office Operations Section and their usual reaction was "Oh… this isn't where I'm supposed to be. I don't know these people." But now because they had more than just courtroom deputies supporting them, they knew us. So the judges would find themselves on the first floor and they would look around and say
"Hey, Mary Jo, how's it going?" In the past, many of our judges enjoyed coming down to visit their courtroom deputy. With the team based approach to supporting them, they came and visited the docket clerk too, often just to say hello. So, it ended up being a really good experience and a good way to get ultimately better support for the judges and more realization by the employees about the importance of the work they do.

Ms. Woodbury: That the judges were their clients? They felt a tie.

Ms. Mayer-Whittington: Yes. And around the same time, which was a little bit after this when I first became Clerk, we started talking about a vision statement.

Ms. Woodbury: A vision statement?

Ms. Mayer-Whittington: A vision statement for the Clerk's Office. We went through several drafts and we came up with something that we ended up putting on a little laminated card that everybody had a copy of because it was a result of input from everyone in the Clerk's Office. Our vision statement highlighted how we would continue to use technology to improve our goals of giving timely and accurate information to our customers. Our mission statement said our primary role was to assist in the administration of justice and uphold the highest standards of customer service.

Drafting the two statements was an interesting process to go through because we wanted to develop statements that everyone felt they had a stake in implementing. We went through many drafts and discussions and the final product was something we were proud of and that we felt represented the office well. A recurring comment from some of our employees had to do with our use of the phrase "assist in the administration of justice." One clerk said, "I never thought
that the work I was doing was assisting in the administration of justice. I thought I was making a docket entry or filing a pleading. The thought that the accuracy and timeliness of my work was assisting in the administration of justice made me sit up and take notice. It kind of brought the whole thing together."

Ms. Woodbury: What the court was doing?
Ms. Mayer-Whittington: Right, what the court does. What the big picture was and not just in their little part.

Ms. Woodbury: How it matters to do a good job?
Ms. Mayer-Whittington: Yes. At this time in the early 90s was the time when we were really developing IT. And, for the first time a judge had a need to know someone other than their courtroom deputy and/or their operations team because they depended on IT so much. All of a sudden, judges were telling me, "Nancy, I visited your IT shop. They're very knowledgeable. In fact, they even helped me with my home computer." The Clerk’s Office had never had that type of relationship with judges before. We always were just thought of as clerical staff. Now, we had people on our staff who knew more than the judges did about an area that was critical to their case management. That was really eye opening for the judges about being truly a team and having a partnership with the Clerk's Office. Judges were at various levels of interest and experience with technology. Our newer judges came on understanding benefits of technology and having the experience to operate a computer. Our older judges knew they didn't understand the technology and didn't need to, but they had someone down in our IT office who would walk them through…
Ms. Woodbury: Who could help?

Ms. Mayer-Whittington: And show them or someone in their chambers how to do a spreadsheet if that is what they needed to do. That you couldn't just pick up the phone and bark out the orders. You had to pick up the phone and say "Hey, Nick, I'm having a little trouble with this and I really need this and perhaps you could come up and help me?" IT was leveling the playing field somewhat and this was from my perspective a big turning point in the relationship between the Clerk's Office and the judges.

Ms. Woodbury: Nancy, was there a procedure in place at any time where when a new judge was appointed to the bench, there was some way of introducing that judge to what the court staff did? How did they get to know the procedure of the court and get to know the people who worked there?

Ms. Mayer-Whittington: In 1985 Judge Lamberth came on board and the procedure at that point was to send him a lot of information about how his caseload was determined, how new cases are assigned and the local rules and that sort of thing. Judge Lamberth was the last judge appointed until 1994 when we got five new judges. So we decided that we really needed to do a formal orientation program because supporting one judge and doing it informally and answering questions as they came up was one thing, but five new judges was a much bigger proposition. So we sat down and put together an orientation program for them and we had four of the judges come over in advance of their swearing in to go through a general orientation. (The fifth judge was confirmed several months later and we had a separate orientation for that judge.) The orientation for the four judges took a full
day in the judges' conference room and we introduced them to the different areas of operations in the Clerk's Office so that we could support them the best way we could. That was a first for us so we put together notebooks for all the judges with contact information and background information. We had at that time Judge Friedman, Judge Kessler, Judge Urbina and Judge Sullivan, all attending that orientation. Judge Robertson, who was sworn in on New Year's Eve, was part of the five that came on board that year. His confirmation was later than the other four so that is why we did a separate orientation for him. That was also a very successful experience for us because they saw from the beginning that we were organized and that we had information for them and that we could assist them. It wasn't feeling your way through it the way we had done it in the past. Instead we designed a professional program it and it was very well received. We got a lot good feedback about what was helpful, what they needed to know more about and what we could expand on. I just remember sitting in that meeting with them and feeling like… it's so nice to have these one-on-one exchanges with them and it was also nice to have the four of them together because one would ask a question and another one would go… "Oh, that's true, I hadn't thought about that." And again, it was just a good group of judges to bring on board.

Ms. Woodbury: Did the Federal Judicial Center play any role in the orientation of new judges?

Ms. Mayer-Whittington: Yes, they do a program we call the "Baby Judge School," where our judges are invited once they've been… I believe it's once they've been nominated… I think it's even before they're confirmed. They are invited to go to
a session. The FJC scheduled it so that there would be a group of other judges, about fifteen judges or so at the same session.

Ms. Woodbury: From other districts?

Ms. Mayer-Whittington: Yes. And they did it in conjunction with the Administrative Office because part of the presentation was the personnel side, such as the judges' retirement program, health benefits and things they should sign up for and things they needed know about. And it would also cover the Judicial Conference and the committee structure and how judges get on Judicial Conference Committees. They had the chairs of the different committees come to talk to them about that information too. They were much more global and they had done that for a while. That had been done before we started our own orientation program but they certainly didn't get into the day to day details…

Ms. Mayer-Whittington: Of how the particular courts work?

Ms. Woodbury: Right.

Ms. Mayer-Whittington: Your court?

Ms. Mayer-Whittington: Right, exactly.

Ms. Woodbury: Okay, Nancy this seems to me like a good time to stop for today.

Ms. Mayer-Whittington: Okay.

Ms. Woodbury: And I will follow up with you to schedule our next interview.

Ms. Mayer-Whittington: Okay.
Ms. Woodbury: Good morning. Today is Monday, March 12, 2012. This the continued interview of Nancy Mayer-Whittington, formerly Clerk of the Court for the District of Columbia and also for the Bankruptcy Court. During our last interview Nancy, you were talking about the formation of the Employee Management Committee pretty early in your tenure as Clerk and its initial report. I wanted to ask you whether the Employee Management Committee continued to function through all the years you were Clerk of the Court and, well, we'll just start there.

Ms. Mayer-Whittington: Yes, the Employee Management Committee continued to function from shortly after I became Clerk to at least the next five or six years and in a fairly active capacity. They met regularly and employees could come anonymously and talk to the committee. Clearly they weren't anonymous to the committee, but their issues would be brought back to me and the management staff without attribution to anybody on any particular issue. The committee was very active for the first five or six years working on a list of short term issues that could be resolved rather quickly and also working on some issues that were more involved.

Ms. Woodbury: Nancy, when you talk about these issues, are you talking about the twenty-six issues identified in the initial report?

Ms. Mayer-Whittington: Yes, and I don't remember when last we spoke if I talked about specific issues…

Ms. Woodbury: You did mention a couple of them, yes.
Ms. Mayer-Whittington: Okay. So the committee stayed on top of those. As I said, some of the issues were short term. For example, staff wanted to have more information given out on a regular basis and they had some suggestions on how we could do that. We were able to implement those recommendations fairly quickly. They had some longer term issues that were related to hiring and knowledge about positions being vacant and positions being available for people to apply for. Those issues took a little longer because we had to come up with a better system for advertising vacancies and doing interviews and making selections. We were trying to put together a process for those recommendations that would offer a long term solution and not just say "Yes we're going to do that" and it was done. So there was a report given at our monthly clerk's office meetings by the Employee Management Committee for the first few years. Then we had quarterly reports or "as needed" reports after that. The Employee Management Committee would report on the status of the things they had been working on and any new issues that had come up that they were going to add to the original list. So we would be adding and subtracting issues as we would go along. Then, after about five or six years, it was determined that we had put in place a lot of procedures for better communications, for more information being shared, for vacancies being filled and for more training opportunities, therefore it wasn't necessary to continue to have the committee meet on a regular basis. They were going to start meeting on an "as-needed" basis. Staff could still feel free to go to the committee members with any issues. The composition of the committee ended up changing over a period of time. The original group stuck together for the first two years.
Then we changed the composition and the new Committee members would serve for two years.

Ms. Woodbury: What issues were added to the Employment Management Committee's agenda over the first ten years after you were appointed Clerk of the Court in addition to the issues that the committee had identified initially, the twenty-six issues that part of its original report and recommendations?

Ms. Mayer-Whittington: My recollection is that initially there was more clarification of issues than there were issues added. Sometimes when we tried to address the issues originally identified I think that some people went back to the committee and said: "No I don't think you really understood what I was trying to say, although that might be a problem, I think this is more of the problem." I can't recall off the top of my head the specifics as much as I remember that we had a few things over the course of the first, maybe year or two while we kind of got comfortable with the process…

Ms. Woodbury: Clarifying?

Ms. Mayer-Whittington: Yes. Sometimes three or four people would have the same issue and they would discuss it with the committee and then the committee would come up with a possible solution for that problem. Then, as we were working toward implementing the solution we would find out that one of the four people who had raised the same issue saw it from a different angle. Therefore, we needed to add a new twist to the recommendations dealing with that issue. One of the issues was to have a better flow of communications and also to have better access to me as Clerk and not have to always go through the chain of command if there was
something that an employee really wanted to talk to me about. And as I
mentioned earlier, one of the things I started doing was holding a monthly "Open
Forum." I would go into the staff area where people would have their lunches
and I would bring my lunch and I would let staff know that I was there to hear
whatever they wanted to tell me and for them to ask me any questions. Some
issues came up that way. As people were feeling more comfortable about
speaking up, they would bring their issues to the Open Forum. Over time the
Open Forum’s format changed somewhat. Initially we would have ten or twelve
employees sometimes a few more or less – the numbers varied as did the
individuals who attended - and they would talk about questions and concerns they
had. After a while though, they would come and they didn’t have any particular
issues, they wanted to know how the office was operating overall. They wanted
me to update them on what I thought they should know. They wanted
information. I would start having to prepare an agenda. I asked them: "Is this
because you no longer feel like you have to bring things to our attention because
they are getting taken care of other ways; through your manager or through your
supervisor or through your co-workers?" And that was pretty much the case:
"Yes, there's a lot more open communication, we're hearing a lot more; we're
sharing information better" and that sort of thing. The Employee Management
Committee focused mainly on the twenty-six issues they had come up with and
after that, again, fine tuning and monitoring some of the solutions. The
committee served its purpose – addressing the original 26 issues - for the first five
or six years and then it continued for a few more years. The later years were
spent working to establish good lines of communication between employees and their supervisors so that staff felt more comfortable talking and raising issues on their own. And, of course, there were lots of other changes occurring in the Clerk’s Office at the same time. For example, we had better technology and we could share information more easily by sending things out through email. Staff became more comfortable relying on information coming that way. That wasn’t the case at first. When we first had computers, we couldn't get employees to use email because they only believed in face to face communications or communicating by phone.

Ms. Woodbury: Nancy, at the time you became Clerk of the Court, what was the status on the introduction of technology? What had the court implemented and then what changes were made during your tenure as Clerk?

Ms. Mayer-Whittington: We were one of the first courts back in the 70s to start doing some type of criminal case management system.

Ms. Woodbury: Electronic?

Ms. Mayer-Whittington: Yes, it was the first overture into electronic technology for the courts. In fact, there were machines called DEC 10s which were massive mainframe computers that were located inside our courthouse that managed this technology for the whole court system nationwide. We gave up space in our building to the Administrative Office and converted several of our offices on the first floor to outfit a computer room. The area had twenty-four hour heating, air conditioning and ventilation. It had its own sprinkler system and security system. The cameras in the computer room were monitored 24/7 to make sure the DEC 10s
were secure. At that time the DEC 10s housed what was considered to be a case management system. But, in fact they were really just automated docketing systems for criminal cases and then they later included some civil cases as well.

Ms. Woodbury: Now was this just for the D.C. Court?

Ms. Mayer-Whittington: No. The D.C. Court was one of the original pilots for the criminal case system. After the pilot, it was implemented nationwide. Later, we were one of the pilots for the civil case system and then that also became a nationwide application. This was before the introduction of personal computers. We had what they called "dumb terminals" on our desks because they just hooked into this centralized mainframe computer and that's where all the information was housed. So the terminal on your desk was not a computer, it was a terminal. And then over time when personal computer (PCs) started to be introduced …

Ms. Woodbury: When was that?

Ms. Mayer-Whittington: Humm…. I'm thinking it was the mid-80s when we started getting personal computers to replace the terminals. Email was beginning to gain in popularity as a method of communication and the terminals were not capable of this type of technology. With the terminals, you just logged into your civil program, you logged into your criminal program and that was pretty much what you did. The administrative side of court operations, our financial records, naturalization records and jury records also lent themselves to technology so we were starting to look at these areas as well. But we had no real processing capabilities on the terminals using mainframe technology until we started looking into personal computers or PCs. The advent of this is more in the mid-80s.
Ms. Woodbury: And at the time that the PCs were introduced, were the PCs given only to the Clerk's staff or were the judges also…?

Ms. Mayer-Whittington: Yes. The judges got them about the same time I believe as we started getting PCs in the Clerk's Office. But it was initially only one PC per chamber. And the funny thing was the PC was supposed to be for the judge, but at that time none of our judges knew how to use a PC. So the judges' secretaries received some training and started using the PCs in chambers. The first generation of PCs was clearly nothing like what it is currently. You actually had to learn a little bit of programming in order to use them. You had to know how to create documents, save them and then retrieve them as needed and that required some training by our IT staff. It was really like pulling teeth to get our staff and the staff in chambers to want to use the new system because it was more complicated than just logging on, putting in a case number and seeing reproduced on the screen what you were used to seeing on a docket or opinion. It was a hard sell to convince people that there was more usage for the PCs than the way they had used the mainframe technology and word processing capabilities. For example, in addition to having better reports for case management purposes, the PCs also had email technology. Email was just getting started and at first I think we weren't even allowed to use email because it was considered to be frivolous communication. In a court like ours, the thinking by our judges was…. "Why in the world would a clerk sitting next to another one have to send them an email? They're sitting right next to each other." Email was considered necessary in the districts that had more than one place of holding court – divisional offices. But
since our entire court staff was located centrally in one building, email was a harder sell and was met with some resistance. We had a fairly senior staff, at the time, when considering our judges and staff. What really started selling the PCs to the judges was the fact that their law clerks turned over every two years and as PCs were being used in colleges and law schools, the law clerks had experience with them and relied on them to do their work. They came to the court expecting to have a PC and we were only allocated one PC per chambers and the judges’ secretary was using that one….

Ms. Woodbury: The law clerks were looking forward to using computers as research tools or…?

Ms. Mayer-Whittington: Yes and to be able to write draft after draft after draft of the opinions constantly making revisions after conferring with their judge. There were two dynamics at play. One was the tug-of-war as to who should have primary rights to the one computer in chambers. The other was that secretaries all of sudden were wondering what their roles were going to be. Before PCs, judges’ secretaries were responsible for typing opinions from the drafts created by the judge and law clerks. The secretaries did all the formatting, made sure the footnotes were properly cited and made sure everything was spelled correctly and had the correct punctuation. With PCs, law clerks were capable of doing what the secretary had done and they wanted to handle those responsibilities. The secretaries needed to reinvent their positions and there were a lot of growing pains that accompanied that transition. Meanwhile, in the Clerk's Office you had some of our senior employees who didn't like computers and didn’t trust them.
There was some basis for the lack of trust. As in any new technology, there were
 glitches and system crashes where we did lose information and we didn't have
good backup systems. So there were some real legitimate concerns about the
stability of the computers. But some of the resistance was because the new
technology was changing the way we did our jobs and that was unsettling to some
of our staff who didn’t want to change.

Ms. Woodbury: Were organizations like either the Federal Judicial Center or the
Administrative Office trying to help courts adopt new technology or was the
impetus coming from the people within the court?

Ms. Mayer-Whittington: There was some impetus coming from the Administrative Office and the
Federal Judicial Center. But they were taking their directions from the Judicial
Conference run primarily by more senior judges who weren't as knowledgeable
about the advantages of personal computers. It wasn't until a few outspoken
judges who were computer savvy and also members of the Judicial Conference
actually pulled computers out from under the control of the Administrative Office
and created their own Judicial Conference Committee on Automation that we
started to see the judiciary embrace the benefits of computers. Judge Bilby, from
the District Court in Arizona, chaired the Committee and he was very forward
thinking. He had a really engaging personality, kind of a larger than life person
and he took to computers like a kid takes to a toy. His enthusiasm and his ability
to generate interest in the use of computers amongst the judges was a big factor in
the judiciary as a whole embracing the technology. Also, the new judges coming
into the judiciary, who came from law firms, were already aware of and had
benefitted from the use of computers. So the acceptance of information
technology as a necessary tool in the administration of justice was gaining
traction nationwide. But, as in all new technologies, there was a phase-in process.
One of the advantages of a good computer system is the ability to network the
computers. Our PCs were helpful, but they all were independent of each other so
you had to take a disk out of one computer to put it into another computer in
order to transfer a document. For example, a law clerk would have to take a disk
containing an opinion out of his or her computer and give it to the other law clerk
for their review instead of just sending it to them electronically. There were other
problems in working with computers that were not networked, so that was the
next frontier for the judiciary. Then we moved from hard wiring the networks, to
using a wireless system to connect all the judiciary’s PCs nationwide. This took
the visionaries in the information technology world to tell judges that there were
databases that they could be accessing around the world remotely from their
chambers’ PC. For some judges the impetus to promote remote technology came
from their weekend trips to the courthouse to check on a Supreme Court decision
or some other matter that they could have accessed from their home computer.
So change was coming about slowly. It took some leadership from some savvy
and knowledgeable judges to get the other judges to move in that direction.
Then, IT took off. It went from being a small part of our budget to this big, black
hole that was eating up almost the majority of our budget. So, the use of
technology had to be reviewed and systematically regulated so that the tail wasn’t
wagging the dog. The practical ramifications were that once the judiciary
embraced technology they were always looking for the next new toy, the next
new application; they wanted it yesterday and IT was changing so rapidly that
two years out some PCs were obsolete; some programs were obsolete.

Ms. Woodbury: When you say everybody wanted the next new toy, you're talking about
the judges or parts of the…

Ms. Mayer-Whittington: Both, the judges and parts of the court, in particular my IT staff. And we
were also starting to have judges use the first generation cell phones and
recognize their benefits. The judges who were technologically savvy themselves
really embraced the technology; they always liked portable phones especially
when they first came out; the phones were like little gadgets that helped them
with communication….

Ms. Woodbury: This is very useful.

Ms. Mayer-Whittington: This is very useful. Sometimes, though, we bought electronic equipment
for judges before they had a real use for them; but the equipment had some
potential uses for them. So to prevent the Court from doing this too often we
would pilot new technology – allocating it to just a few judges when we knew we
couldn't give it every judge. We did this when we first experimented with an
electronic courtroom, we knew we couldn't afford to outfit every courtroom with
the new technology so we started with one judge; the same thing happened when
they first came out with Blackberry phones. Piloting new technologies helped us
work out the bugs before implementing the new technology court wide. So we
always were looking to pilot. Around this time our court created its own internal
IT committee and the judges who were on the committee would often end up
being participants in the pilot program because they were the ones who were most interested in technology and eager to demonstrate the benefits with their colleagues

Ms. Woodbury: Now was your internal IT committee made up of judges as well as staff?
Ms. Mayer-Whittington: Yes the Committee consisted of five judges, me as Clerk of Court, our Director of IT and several other members of our staff. Judge Lamberth was our first IT Committee Chair. He chaired that committee, I know, from its beginning for at least the first seven to ten years of its existence. He was very much into using technology to help manage cases. So that helped a lot with gaining acceptance among the judges. But in the Clerk's Office, we were still dealing with some senior staff who didn't see the benefits of technology. Some of these staff members had been with the court for 30 and 40 plus years. They remembered when we first got electronic typewriters and thought that was the last great invention.

Ms. Woodbury: And they weren't willing or they didn't feel that they were capable of learning a new system or they just didn't see the use for it?
Ms. Mayer-Whittington: I think they didn't see the use for it. They thought that the old way with their paper files and their paper case management techniques were better and that it was more work to input the information into the computer than it was to type it on a paper docket. Initially, it was more work because of all the information you had to collect in order to get the best reports and the fact that you couldn't manually highlight information the way they use to do it to manage their cases. There were some reasons why they weren't enthusiastic about the new system,
but the problem was that they didn't embrace it at all. Some of them literally said, "The day a computer lands on my desk is the day I walk out of here"; and they had the ear of some of the older judges who felt the same way, so we had that little tension for a while.

**Ms. Woodbury:** How long did it take before the majority of the judges and the staff on the court were comfortable with computer technology and liked to use it?

**Ms. Mayer-Whittington:** Well, it didn't happen all at once, it just kind of evolved, but I would say it happened over a ten year period because that's how long it took for some of our oldest judges to move out of leadership positions and take senior status.

**Ms. Woodbury:** So it's really a matter of personnel changing?

**Ms. Mayer-Whittington:** Yes, it was. For example, Judge Aubrey Robinson never had a computer on his desk and he stepped down as Chief Judge in '92. He was Chief Judge for ten years. As an aside, it was during his tenure that the Judicial Conference changed the rules about how long a judge was eligible to serve as Chief Judge. The old rule was that when a Judge became Chief Judge he or she had to step down when they turned 70. The result of that rule was some Chief Judges were able to be Chief for 20 or 30 years because they had started their tenure when they were in their 40’s or 50’s. The new rule was that the Chief judge had to step down when they turned 70 or when they concluded their seventh year of service as Chief. The rule change was enacted after Judge Robinson became Chief Judge so that he and all other judges who were Chief Judge when the rule changed were "grandfathered in" and allowed to serve until they turned 70. So, although the majority of our judges during Chief Judge Robinson’s tenure opted to have a PC
on their desk, he never had a computer on his desk and he never really saw the need for him to have one.

Ms. Woodbury: Did he take senior status in '92?

Ms. Mayer-Whittington: Yes, he took senior status. But he would come into the court every day. He passed away at home on a Sunday watching Tiger Woods play golf. He had a heart attack and died.

Ms. Woodbury: And he was succeeded by Judge Penn. And what did Judge Penn think about technology.

Ms. Mayer-Whittington: He loved computers. The capability for research, for communication really intrigued him. He had a learning curve like all of our judges where he was trying to understand how to use the technology but he was a quick study and he was very willing to learn from his law clerks. Judge Penn also had a son who was working in the IT field - he worked for a big computer company. So Judge Penn had someone who was available to him at nights and on weekends to teach him some helpful computer programs. I think he was probably one of our first judges who purchased his own computer to use at home. He was ten years younger than Judge Robinson and much more technology savvy at that point because of his willingness to learn. He really embraced computers.

Ms. Woodbury: At what point did the court develop the electronic filing system for civil cases?

Ms. Mayer-Whittington: Probably in the mid-80s.

Ms. Woodbury: Really?

Ms. Mayer-Whittington: Yes. Criminal was back in the late 70s.
Ms. Woodbury: So you're asking the users of the court, the lawyers to …..

Ms. Mayer-Whittington: The lawyers didn't have anything to do with it at this point.

Ms. Woodbury: Okay. They didn't.

Ms. Mayer-Whittington: No, I'm sorry I thought you were asking about our electronic civil case management system. It was introduced in the mid 80’s. That was when we first automated from a manual civil case system to an electronic case management system. Attorneys still filed their papers the same; we still kept paper jackets. The electronic filing system didn't come about until the late 90s and into 2000. It was phased in over a period of time as well. At first we didn't require attorneys to file electronically; we piloted that too. We had a certain group of attorneys who worked with us. We had a bar committee that would…. their role on the committee was to help us develop local rules to address electronic filings and how to implement the technology in our courts. So that started off…

Ms. Woodbury: And give you feedback?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Was the D.C. court also a pilot for other district courts in the country in terms of the use of this electronic filing system?

Ms. Mayer-Whittington: Yes. Now you have to understand though that the Bankruptcy Courts implemented electronic filing ahead of the District Courts because, again, they have a very small population of attorneys who practice bankruptcy as compared to the population of attorneys who practice in the District Courts. A bankruptcy filing consists for the most part in filling out forms; it is very form driven, so it lends itself to electronic filing and it was easier to train attorneys to do that. The
Bankruptcy Courts actually set up computers in the public areas of their offices for people who were filling a bankruptcy petition to come in and file it electronically. The Courts could see the advantage in transferring the workload to their petitioners and not having to do the data input themselves. There were some experiences from the bankruptcy courts clearly that we learned from in addressing electronic filings in the District Court.

Ms. Woodbury: Nancy, I know at some point the Clerk's Office for the Bankruptcy Court for the District of Columbia merged with your office. When did that take place?

Ms. Mayer-Whittington: The consolidation of the two Clerk’s Offices took place about 2005. We worked on that for a couple of years before we actually merged the two offices. The main reason we consolidated the offices was that our Bankruptcy Court was so small and it seemed a waste of resources to duplicate administrative support for both offices. The Clerk of the Bankruptcy Court who was our former Chief Deputy, Denise Curtis, and I often spoke about this situation when we met to talk about issues. It just seemed silly that we both had a personnel office, we both had an IT shop, we both had procurement positions when their Clerk’s Office had twelve employees and we had ninety-two. We didn’t think it made sense but it wasn’t really our decision to make. Then we had the events of 9/11 take place and she decided that she really didn't want to live in the D.C. area anymore.

Ms. Woodbury: Who was this?

Ms. Mayer-Whittington: Denise Curtis

Ms. Woodbury: The Clerk of the Bankruptcy Court?

Ms. Mayer-Whittington: Yes. She wanted to raise her family down in Bethany Beach where they
had property. She and her husband, who was a building contractor wanted to make that move.

Ms. Woodbury: Was she planning to retire as a result of 9/11?

Ms. Mayer-Whittington: Yes, in that she wanted to take what's called an "early out." Once you're fifty you can apply for an early out and if it's granted then you can retire and receive your retirement annuity right away. But the government deducts 2% from your annuity for every year you're under 55. So that would mean Denise would have a 10% reduction. She would still get something from Social Security when she was eligible because she had worked in the private sector prior to coming to the Court. She had her children a little bit later in life. She had a seven year old, a six year old and I think a three year old when she approached me about the possibility. Ironically at the same time, I had been really, really thinking that maybe job sharing with her would be the way to go for me because we had recently adopted our two youngest daughters and all of a sudden my world got a lot busier at home. I thought maybe we could consolidate our offices and job share the position of Clerk. That would be perfect because we had been colleagues for a long time. So we were going to take a walk to talk one day and I was going to ask her…

Ms. Woodbury: You were going to talk to her about job sharing?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: And she was going to talk to you about an "early out"?

Ms. Mayer-Whittington: Yes. Before I even started, she said "I have this crazy plan; I just want to run it by you. I really just want get out of here and sooner rather than later. I
want to raise my kids where it's less stressful and I'm thinking about taking an early out and I think that they should not replace me in the Bankruptcy Court." I knew that she had been exploring some options but I didn’t expect it to happen this soon. I thought that maybe if she was able to work part time and job share that might address her strong interest in being around more for her children. It wasn't until later, that I said to her… "Did you know what I was going to talk to you about?" She said, "Oh, thanks my friend. I appreciate the thought you have put into this but I don't want to job share, I want to go."

Ms. Woodbury: Had there been a merger of the District Court and Bankruptcy staff in any other districts?

Ms. Mayer-Whittington: Yes. But it was not a popular arrangement from the perspective of the Bankruptcy Courts. It's considered the big "C" word in the bankruptcy world, which is "Consolidation." Initially there were five courts that had consolidated. I think at the point when Denise and I were discussing this as an option, two of the courts had deconsolidated, and then a couple more had consolidated. But the most recent consolidation was in the Western District of West Virginia. They had consolidated and they hadn't done it the right way and the bankruptcy judges got up in arms and they went to Congress.

Ms. Woodbury: The bankruptcy judges?

Ms. Mayer-Whittington: Yes, the bankruptcy judges told Congress that the district courts were pulling the wool over the bankruptcy judges' eyes by forcing them to consolidate. They put together a recommendation that Congress should approve any future consolidations of clerk’s offices. Congress agreed. So when we started our work
on potentially consolidating it was in the aftermath of that uproar. Denise and I and the judges worked together to see if consolidation of our offices would be feasible. We did not discuss our plans outside the two Courts. We didn't share our ideas with the Bar or the general public because consolidation was such a sore subject. The Bankruptcy Courts felt like consolidation was one more example of how they were still being treated as second class citizens.

Ms. Woodbury: Did the judges in the D.C. Bankruptcy Court support of the idea of consolidation or were they resisting it too?

Ms. Mayer-Whittington: Well, there's only one bankruptcy judge in our District. At that time it was Judge Martin Teel and he is still the judge who is there today. Judge Teel’s first reaction was sort of a neutral reaction. He basically said "Not sure how I feel about this, but please go ahead and explore it because I would like to know more about what you think and how it would work." He's a very reasonable man. He's also very well thought of by our district judges because he is an expert in bankruptcy law and an outstanding judge. The way the process works is that if a bankruptcy petitioner disagrees with the judgment of a bankruptcy judge they can appeal it to a district judge. Our judges received very few appeals. Judge Teel was really, really good at what he did. So the position of our district judges about consolidating the Clerk’s Offices was if Judge Teel was on board with this, then it was fine with them. But, if he was not on board, they didn’t want to disturb him because they appreciated his work and the fact that he was a good colleague. Since we had the approval of Judge Teel to look into consolidating and Chief Judge Hogan was also on board, Denise and I started drawing up plans. At a
minimum consolidation would eliminate her position and save the government her salary which was $140,000. And it would also save other money where we were duplicating efforts and it would give her clerks, the bankruptcy court clerks more job opportunities…

Ms. Woodbury: Because they would be eligible for a promotion within the District Court Clerk's Office?

Ms. Mayer-Whittington: Right. For example, the Bankruptcy Court had one person who handled financial responsibilities. There was not a back-up for the position – several people were trained in the various responsibilities – but there was not one person who could perform all the duties in the absence of the financial deputy. By merging the offices, the financial deputy would become a part of the District Court's finance office. They would be a part of a four person finance office, which gives you the opportunity to learn other duties and a career path to the top position. Same with procurement personnel and IT personnel. The IT staff from the Bankruptcy Court consisted of two people and they were the ones who saw the biggest benefit because, as a large District Court, we had additional responsibilities such as jury trials, criminal trials and interactions with the U.S. Marshals Office and Probation Office that were not a part of the Bankruptcy world. So this consolidation gave them some opportunities. Watching a proceeding in the District Court is very different from watching a proceeding in the Bankruptcy Court. The bankruptcy court doesn't use court reporters. They use machines to take the record. This is similar to the way the record is compiled in our magistrate judges’ courtrooms. When you see the opportunity for evidence
presentation equipment and the support that you could provide a district court judge in the world of IT, it is much more complex and interesting than in the bankruptcy court. The Bankruptcy IT staff saw this as an advantage to them. Judge Teel was worried that as a one-judge court he was king of the hill. If he had a problem, somebody in the bankruptcy Clerk’s Office would address the issue right away. He was on top of the totem pole and there was a concern that he would be on the bottom of the totem pole if the offices consolidated.

Ms. Woodbury: People might be less responsive to his concerns?

Ms. Mayer-Whittington: Yes. But you know, ultimately when we would talk about that, I'd say… "Yes judge, you're right in that if you need an IT person to come, they respond right away, unless they're on vacation." We would help backup their office sometimes when they had people out. So, in his own mind he thought that he got support 24/7. But in fact, that was not the case. He had a two-person IT office and both of them, from time to time, called in sick, or attended conferences together and so there were some times when he had no support. Sometimes it was just a matter of looking at the support he received realistically and realizing having a bigger IT office was an advantage for Judge Teel. After Denise and I worked out some plans, she went back and talked to Judge Teel and I went to talk to Chief Judge Hogan. I told him, "We're actively looking into consolidation and I just want to see if you have any concerns before we go any further." Judge Hogan, who was a part of the Executive Committee of the Judicial Conference, said, "No, I think this is right way to go, this is a way of the future; we really should be consolidating. I can’t understand why Congress keeps telling the
courts that we have too many support staff doing the same work but then puts so many roadblocks in our way when we decide to consolidate." So he was on board with it. Judge Teel just said, "Show me why…"

Ms. Woodbury: … I'm not going to be losing something here…?

Ms. Mayer-Whittington: Right. He didn't want his support to be diminished but he also trusted that the Clerk’s Office and the District Judges would look out for him. The trust came from the fact that the District Court judges treated him so well and Judge Hogan had always been very inclusive by regularly sharing information with Judge Teel and including him in the Executive Sessions. When Judge Hogan became Chief Judge I said to him, "We might think of asking Judge Teel to come to the Executive Sessions, now that we've invited the magistrate judges to come."

And he said, "Yes that's probably a good idea. Let me think about it and run it by the Executive Committee." The Executive Committee agreed that Judge Teel should be invited to attend the sessions. But, when I went to talk to Judge Teel about attending the Executive Sessions and his reaction was very practical. He said, "Isn't that nice of them? I don't think they'll talk about anything that has to do with bankruptcy, the one thing I'm really interested in."

Ms. Woodbury: They'll just take my time?

Ms. Mayer-Whittington: Yes… they'll just take my time. But thank you. He said I've been getting the minutes for years, and that was true; there are minutes produced of every meeting. He said that's kept me enough in the loop. He said if there's a particular issue that I need to know about I'll come, but otherwise I would just have to add another meeting to my schedule. The bottom line was the trust was there. He
didn't feel like because he wasn't there something was going to happen to
bankruptcy. He also knew that they all liked him and supported him and knew
that he was an expert in bankruptcy and that was very beneficial to them.

Ms. Woodbury: So it made consolidation here easier than it perhaps had been in other
jurisdictions just because there was a good relationship?

Ms. Mayer-Whittington: Yes and because the Bankruptcy Court here is so small and the district
court is so big. That's not the case in all districts. Generally if you have a large
district court, you have a large bankruptcy court. And ultimately the thing that he
had the most problem with, Judge Teel, was his colleagues in the other
bankruptcy courts, who when they got wind that the bankruptcy clerk's office
here was going to consolidate with the district court clerk's office, they wrote him
a letter saying "Don't."

Ms. Woodbury: Oh his bankruptcy colleagues in other jurisdictions?

Ms. Mayer-Whittington: Yes, Yes.

Ms. Woodbury: They saw him as selling out their cause?

Ms. Mayer-Whittington: Yes they did, absolutely. To his credit, he listened to their arguments. He
and I talked about it several times and he just said: "I just can't get past the
bottom line that the duplication of support staff is just a waste of government
money."

Ms. Woodbury: To have duplicative clerk’s offices?

Ms. Mayer-Whittington: Yes. So when we consolidated, I would meet with him once a week just
as Denise had and just as I met with Chief Judge Hogan. Even though ultimately
it wasn't necessary to meet with him once a week because we didn't have that
many issues to discuss because it was such a small court and because I didn't deal
with the legal aspect of court business, just with the administrative end of things.
But I wanted him to feel like he was getting the same treatment.

Ms. Woodbury: Attention and access?

Ms. Mayer-Whittington: Yes. And ultimately that probably only lasted for a year or so, and then
he said "Oh, let's do this every two weeks." And sometimes we only met once a
month. But for that first year at least, I really wanted to do the hand holding and I
also told the IT shop "If he needs something, please make sure he gets it. Don't
stop what you are working on if it is important but make sure you meet his
requests timely." He had a couple of occasions where he thought he wasn't
getting his issues addressed as quickly as they should have been. But what I
always appreciated about Judge Teel was, I didn't hear about that until a couple of
months later and he'd say… "Yes it was a little frustrating," he said, "but I didn't
mention it to you at the time because I never really waited that long" or
something like that. He was good to work with in that capacity.

Ms. Woodbury: Nancy, when you were talking about the proposed consolidation of the
Bankruptcy Court Clerk's Office with the District Court's Clerk's Office, one of
the things you said was that the bankruptcy judge saw as a potential benefit that
there were things available in the district court that the bankruptcy court didn't
have yet in terms of how cases were conducted. Were you referring to the
development of support for an electronic courtroom?

Ms. Mayer-Whittington: Yes, but I was talking more about the fact that that consolidation gave the
Bankruptcy Court's IT staff other avenues or ways to learn so that they could
market themselves better both internally and externally if they wanted to. The work of the bankruptcy court as you know is just different from the district court and so there weren’t a whole lot of other things we could do to make the world inside the bankruptcy courtroom better. Judge Teel was very comfortable in his paper driven courtroom procedures and so was his courtroom deputy who had worked for him for over 20 years. She produced hard copies of every pleading and didn’t rely on technology much in the courtroom. That seemed to be both her and Judge Teel’s preference. Because of their strong reliance on paper instead of the computer, the Bankruptcy IT staff did not have much input and therefore little opportunity to use their skills to streamline procedures in the courtroom.

Ms. Woodbury: [Okay Nancy, I'm reaching the end of the tape.]

Ms. Woodbury: Nancy, would you talk a little about the technological changes that were incorporated into the electronic courtrooms and how it developed here in D.C.?

Ms. Mayer-Whittington: Okay. Initially the Judicial Conference was looking for judges to volunteer to pilot the use of electronic courtrooms. The Conference wanted to get data on how effective these courtrooms could be in the administration of trials and hearings. In these early stages, courts were allowed to use what is known as "non-appropriated funds" to pay for the purchase and installation of equipment and wiring for electronic courtrooms. Non-appropriated funds which were also called Library Funds are accrued from additional fees courts are allowed to impose when an attorney is admitted to the Bar of the court. Most courts, ours included, had large sums of money in their Non-appropriated funds account. Since the money, by local rule, can be used to "assist in the administration of
justice," funding an electronic courtroom was deemed a good use of the funds. Judge Hogan, who at that time was not Chief Judge, offered to pilot an electronic courtroom in our district. Basically, the electronic courtroom encompasses state of the art technology to assist the judge, courtroom staff, the attorneys, the witnesses, the jurors and the general public in conducting and participating in hearings and trials. For example, most court reporters at that time took the verbatim record of the proceedings using steno machines or steno masks. In the electronic courtroom, the court reporter had to be certified in real time reporting. This means that their steno machine technology had to feed into a computer so that as the reporter took the record it would appear simultaneously on a screen for the judge to view. Eventually the technology evolved so that the record could be viewed by the attorneys, plaintiffs and defendants and in some cases, depending on the nature of the trial, to the public and to the jurors. Another type of technology available was assisted listening devices. These devices were for parties who spoke a language other than English as their primary language or if there was a witness who was testifying in a language other than English and the testimony had to be interpreted. This meant that instead of having the traditional consecutive interpreting which occurs when a person speaks four or five sentences and then an interpreter translates these sentences and they go back and forth - instead you would have simultaneous interpreting using headsets that were wireless. This simultaneous interpreting allowed the trial or hearing to move forward more quickly and the actual interpreting itself was not as distracting since the interpreter could be discreetly seated out of public view. The
quality of the interpreting was better with the wireless technology and there weren’t any wires to trip over. Electronic courtrooms also meant that you could submit your evidence on CDs and there would be document presentation equipment available in the courtroom. What they would call, back then, a John Madden pen…

Ms. Woodbury: What is that?

Ms. Mayer-Whittington: John Madden was an analyst on Monday Night Football and often when he would describe a play he would have a pen that he could use to circle where the running back was going to go, where the block was going to occur. He could do it right on a screen that could be seen by the viewers watching at home. The same thing was happening in the courtroom. You could put your CD containing your evidence into the presentation computer and then it would display on a large public screen and the individual screens in the courtroom and then you could circle a person in a picture or highlight something and it would be visible to everyone. Each juror would have a screen and in some cases there was a shared screen between two jurors depending on the courtroom and how it was outfitted, and then there was a screen for the judge and a screen for the public. And that made it much easier, clearly for the public to participate in a trial because…

Ms. Woodbury: They could see the evidence?

Ms. Mayer-Whittington: Right. Because in the past the document would be handed to the witness to verify their signature and then it would be handed to the jurors for them to look at but that was the extent of the ability to view the exhibits. Later, the jurors would look at those documents extensively during deliberations. The jurors
would have exclusive access to the exhibits. With the new technology, the whole evidence presentation system came into a new arena and it was very cutting edge. Initially it was something that you couldn't require the parties to use, but you could see the time saved from passing something to the jurors or having to go in depth to explain a document when you could put it on the screen. It was just amazing. The "real time" reporting devices and the document evidence presentation equipment that came into the courtroom at that time were the real guts of the electronic courtroom. And, Judge Hogan, as I said, piloted it in our court. Over time other judges wanted to have it available in their courtrooms, either parts of the technology or the whole package. This then became a funding issue because it was expensive to outfit an electronic courtroom. So the thought was that each court would have one fully equipped electronic courtroom and judges would rotate using it. But the rotation did not work. So we bought some portable equipment that you could take from courtroom to courtroom, but having the screens in place for jurors, built in and everything like that was really what ....

Ms. Woodbury: What you need to…

Ms. Mayer-Whittington: What you needed to do. Exactly. A side benefit of the new electronic courtrooms was that in order to get the most benefit from the technology, we needed to improve the sound systems in the courtrooms. Our courthouse was built in the 1950’s and each courtroom had very high ceilings. This was a nice aesthetic feature but in a practical sense it was often hard to hear parts of the proceedings in the courtroom. Despite having acoustic tiles in the ceilings where
the speakers were located, the sound just disappeared in space. When we were purchasing the new equipment for the electronic courtrooms, we were able to purchase speakers and locate them strategically halfway up the side walls which greatly enhanced the sound system. That was a major breakthrough.

Ms. Woodbury: When did the pilot program start? Do you remember?

Ms. Mayer-Whittington: Overtures were being made in the early 90s and I think that is when we probably had our first electronic courtroom. We had to work with an architect to put together a design, and then we had to hire a contractor to oversee the construction so it was probably 1995 when we were actually operational with this… with the electronic courtroom…

Ms. Woodbury: For the pilot program?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: When you retired from your position as Clerk of the Court, what was the status of the electronic courtroom; was it still just one courtroom that was totally outfitted or…

Ms. Mayer-Whittington: All the courtrooms have extensive electronic capabilities. After the original electronic courtroom was outfitted and all the judges recognized the benefits of the technology, we made plans to expand the technology to all the courtrooms. Initially, we were able to outfit a courtroom on each floor of the main courthouse with the hope that we could work out a plan to share the courtrooms. The courtrooms were selected based on their locations. We had to select courtrooms that were located directly above and below each other so we could share the wiring and reduce some of the costs. Rather than have to run
wires across the floors, we ran them up and down…

Ms. Woodbury: Up through the floors?

Ms. Mayer-Whittington: Right. Again, we were working with a Courthouse that was over 40 years old and did not account in the original design for all the wiring necessary for electronic courtrooms, so we had to make adjustments. Then, when it came to running the wires inside the courtroom itself we had to build a floor on top of the existing floor in the well of the courtroom. This gave us the space we needed to run all the wires and keep them out of sight. So we had to put another floor into the courtrooms and then we had to install a ramp from the gallery to the well of the courtroom because the new floor was higher and you couldn't have a step because of problems with people tripping and wheelchair accessibility. There were a lot of hidden costs in the reconfiguring of the courtrooms for the electronic technology. Then of course, when we built the Annex, all the courtrooms were electronic.

Ms. Woodbury: When was the Annex built?

Ms. Mayer-Whittington: We broke ground in April of 2002 and it was under construction for probably for two years.

Ms. Woodbury: And part of the planning for the new Annex was to include this technology?

Ms. Mayer-Whittington: Yes. It was to make sure that we designed the courtrooms with the capability of utilizing the current technology and also accommodate newer technologies that would come down the road. For example, the Annex courtrooms have the capability of allowing cameras in the courtroom for certain
procedures. The courtrooms have that capability even though we currently do not use cameras in the courtroom. In designing the courtrooms back in the late 90s we had to have a vision of what types of technology might be necessary in the future.

Ms. Woodbury: Nancy, did you have role in the discussions about the design and outfitting of that new Annex?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: What was your role?

Ms. Mayer-Whittington: Our Court had a standing committee called the Space and Facilities Committee which was made up of judges and staff members. I was a part of that committee. When it was time to plan the Annex, this committee was charged with overseeing the design and construction of the Annex. The Chief Judge was a part of this committee.

Ms. Woodbury: And this was for just the District Court here?

Ms. Mayer-Whittington: Right. The Chief Probation Officer was also on the Committee and we added the United States Marshal to our Committee to address security issues. I was a member of the Space and Facilities Committee so I became a member of the Annex Design Committee. The Court of Appeals also had its own committee to address space and facility issues. We combined both Courts’ committees to form a circuit-wide Annex Committee so that all the various offices were represented.

Ms. Woodbury: On the new space committee?

Ms. Mayer-Whittington: Right, the new committee that was going to oversee design and
construction of the Annex. Also, we were working with a contractor hired for the design phase.

Ms. Woodbury: Who was that? Do you remember?

Ms. Mayer-Whittington: Yes. Well, there were two of them, but the person who designed a variety of buildings and lives near Yale and sells things in Target...

Ms. Woodbury: Graves?

Ms. Mayer-Whittington: Yes, Michael Graves. The Michael Graves' team was the architect or the designer, I guess; and then we had another set of architects that we worked with too. They were hired by the Administrative Office to help build our courthouse based on their experience with working on building projects in the public sector.

Ms. Woodbury: Had they had any experience, do you know, with building courthouses?

Ms. Mayer-Whittington: I don't think so. I don't remember, but I don't think so.

Ms. Woodbury: Did the committee work with them in terms of what additional facilities the court needed?

Ms. Mayer-Whittington: Yes, and we also tried to figure out what was wrong with our current building that we could remedy in the new building.

Ms. Woodbury: What kinds of things did people point to as being defects in the existing building?

Ms. Mayer-Whittington: Well, we didn't have a very good press room in the main courthouse. It was too close to judges' chambers and it was located off a corridor that was supposed to be secured for judges and court staff only. Not the best place to house members of the press. Also, we didn't have the technological capabilities we needed to allow for broadcasting a trial from one courtroom into an additional
courtroom when we had a big case and we needed more room for the public and the press. We didn't have that capability in the current courthouse. We also had problems with our grand jury facilities.

Ms. Woodbury: What kind of grand jury facilities did you have in the old courthouse?

Ms. Mayer-Whittington: We had four grand jury rooms which were each like a little amphitheater that had three or four rows. It was like a classroom setting but if you had jurors who were using walkers or wheelchairs, the rooms did not work. And frankly a lot our grand jurors were older because they needed to be available for service for 18 months and it was hard to be away two days a week from your job for that long a period of time. So those were some of the problems with the courthouse, the Prettyman Building. We called the original courthouse, the Prettyman Building. Now it's a....

Ms. Woodbury: That was the original courthouse?

Ms. Mayer-Whittington: The original courthouse.

Ms. Woodbury: And the Annex was called the Bryant Annex?

Ms. Mayer-Whittington: Yes. The William B. Bryant Annex. Though it's generally just referred to as the Annex because it's easier. But, going back to the grand jury rooms, they had the same problems as the courtrooms in that it was difficult to hear because they had higher ceilings and the sound would disappear in the space. Also, there wasn't any room for grand jurors to take notes. They had these little slip down desks, but they were very small. The desks were like the ones you have in college and they were not designed for older adults who often had larger frames than those of college students. When we were designing the new grand jury rooms in
the Annex, we decide that it would be more practical to have tables and chairs. There would be three rows of tables and they'd all be the same height and jurors could move their chairs closer to or farther away from the table depending on their preference. We also incorporated video screens to allow documents to be viewed by all the grand jurors at the same time. The grand jury rooms were moved from the Prettyman Building to the Annex. With the vacated space, we were able to make room for the Foreign Intelligence Surveillance Act (FISA) Court to move into the Prettyman Building.

Ms. Woodbury: The Foreign Intelligence Surveillance Act. That court met in the old grand jury room space?

Ms. Mayer-Whittington: Yes, after it was reconfigured into office and courtroom space to accommodate their needs. FISA originally met in the Justice Department.

Ms. Woodbury: The Justice Department, okay.

Ms. Mayer-Whittington: For years it met there and our judges always thought FISA’s location in the Justice Department gave the appearance of the Court as not being an independent entity. So when we had this opportunity to build the Annex, we were able to look at the space in the main building that was being vacated and reconfigure it and make the space useful.

Ms. Woodbury: In terms of the physical design, the outside structure, did the judges and others on the court express views on that or was that something that was left to the architect?

Ms. Mayer-Whittington: Oh no, the architect had to bring in pictures, designs and then that had to be approved preliminarily by the Committee and then they would bring those
pictures back to the Executive Session for all our judges to see. So that everybody got to weigh in.

Ms. Woodbury: Everybody got to weigh in?

Ms. Mayer-Whittington: Right, everybody got to weigh in. It was cumbersome but it was good.

By giving all the judges the opportunity to comment on different phases of the design, it prevented the judges who had very extreme views from dominating the process. So, one judge was not able to be overly influential. But it also made all the judges feel included. We had regular briefings with both courts together.

There were also presentations to all the staff of both courts so they could see what was being planned. There were some interesting aspects to the exterior design of the Annex. For example, the architects had this prominent rotunda at the very front of the building. They had it situated so that it had this "lip shaped" structure going around the outside of the rotunda and in the design depiction they showed people sitting there having their coffee in the mornings and they could also share a sandwich or bottle of water in the afternoon and make it more people friendly.

Ms. Woodbury: Sociable?

Ms. Mayer-Whittington: Yes. But our judges didn’t see it that way. They saw it as a place for people to leave their trash and newspapers and the Marshals Office saw the potential for someone sleeping there at night and eventually taking up residence. They told the architects to get rid of that lip. The architects were responsive to that input. They were not as well acquainted with the population of people who frequented the neighborhood around the courthouse.

Ms. Woodbury: They understood there were practical things they hadn't envisioned?
Ms. Mayer-Whittington: Exactly. And then the way that the two buildings were going to be connected by having a large atrium fostered a lot of discussions. There were concerns that in a couple of courthouses where they had atriums, they were either always cold or always hot because they hadn't been built efficiently and that atriums created a lot of dead space. All of us were interested in knowing how the architects envisioned the space being utilized. Their design showed the atrium running the length of the building from front to back with an oval teak staircase dividing the space. The front space had ample room to house the many evening functions held at our courthouse while the space behind the staircase could be used to house temporary exhibits and smaller functions when necessary. The atrium space has proved to be very functional and well used. Another area of the design that was changed due to judges and staff input was the layout of the cafeteria. The cafeteria is located in the first floor in the rotunda space at the front of the building and it has a beautiful view of the Capitol. The original design proposed by the architect had the front of the space along Pennsylvania Avenue with the view of the Capital reserved for the judges’ private dining room and some smaller dining rooms for groups to use. To their credit, the judges asked to flip the space and put the main cafeteria in the better space along Pennsylvania Avenue and moved the private dining rooms to the 3rd Street corridor with a less attractive view of the Labor Department.

Ms. Woodbury: Is that a public cafeteria?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Really?
Ms. Mayer-Whittington: Yes.

Ms. Woodbury: That's probably a little known special space in D.C.

Ms. Mayer-Whittington: Yes. It actually is really scenic space for a government cafeteria. We had a concern about the potential use of the space when we were finishing up the design phase of the Annex in light of the terrorist attacks of 9/11. The aftermath of the attacks brought on new security measures and more elaborate scrutiny of visitors coming to the courthouse. We had this great fear that the new cafeteria would be a ghost place for the most part because we would not attract any visitors from the outside.

Ms. Woodbury: Right.

Ms. Mayer-Whittington: In fact, the architect wanted to put a little sign out on Pennsylvania Avenue advertising the new "luxury" eating establishment, but the judges nixed that idea. But it's worked out fine. By word of mouth people found out.

Ms. Woodbury: Found out.

Ms. Mayer-Whittington: Right. And the success of the cafeteria really depends on who the caterer is and who's doing your food service so that people come back for the good food. The view and the ambiance also add to the attractiveness. Also we have enough high volume trials and grand juries meeting regularly and that adds to the internal population who use the cafeteria as well.

Ms. Woodbury: Made good use of that space?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Nancy, when the new construction was finished, and people began using it, living there, how did that work out? Were there any things that you hadn't
anticipated that arose as problems or you wished had been done differently?

Ms. Mayer-Whittington: There were some problems in that the most coveted and sought after court chambers and courtrooms were the ones in the Annex. Judge Johnson was Chief Judge during most of the design and construction of the Annex. Rumor has it that unbeknownst to the rest of the judges, Judge Johnson let Harry Edwards, who was Chief Judge of the Court of Appeals at the time, talk her into putting the District Court Chief Judge's chambers on the second floor of the Annex. The second floor really does not have much of a view. The judges on the Committee would have chosen the 4th floor for the Chief Judge’s chambers or the 6th floor had they been consulted.

Ms. Woodbury: There are a total of six floors?

Ms. Mayer-Whittington: Yes and the District Court is located on the even floors. The Court of Appeals is on the odd floors, on 3 and 5. We're on 2, 4 and 6. Then the cafeteria is in the first floor in the rotunda. The first floor of the Annex houses a variety of offices mostly dealing with the District Court’s functions. The Federal Public Defender and the U.S. Attorney have satellite offices there and the District Court has their Information Technology Office there as well. The Chief Judge at the time wasn't necessarily prone to sharing things with her colleagues on a regular basis. The next two Chief Judges, Judge Hogan and Judge Lamberth, both were like…

Ms. Woodbury: "Why are we here"?

Ms. Mayer-Whittington: Right. At the point where the judges were selecting their chambers in the Annex, the active judges with the most seniority selected first. Judge Hogan who
was one of our most senior active judges and in line to be the next Chief Judge, picked one of the chambers located in the rotunda on the 4th floor to be his chambers. He moved into those chambers and when it came time for him to be Chief Judge, he stayed in those chambers and did not move to the second floor chambers that were designed and designated for the Chief Judge. He did this primarily because when his tenure as Chief was over, he would not have to move since his 4th floor space was not the designated chambers for the Chief Judge. But the problem with Judge Hogan staying on the 4th floor as Chief Judge was that the Administrative Assistant to the Chief Judge had his office on the second floor in the office space designated for the Chief Judge and staff. So Judge Hogan didn't have his AA across the hall from him. He had to go down two flights of stairs to get to him and vice versa.

Ms. Woodbury: That was a decision that couldn't be undone?
Ms. Mayer-Whittington: Right. The second floor Chief Judge’s chambers had an extra conference room and there were two offices for the AA and his deputy.

Ms. Woodbury: They were designed for the Chief Judge?
Ms. Mayer-Whittington: Right.

Ms. Woodbury: So Judge Johnson was the Chief Judge during the time of the design?
Ms. Mayer-Whittington: Yes. And then Judge Hogan took over in 2001. So he was there for the move and the opening of the Annex.

Ms. Woodbury: Anything else that people in retrospect said: "Gee we should have done X or Y"?
Ms. Mayer-Whittington: The Annex had more space for Judges’ chambers than it had for
courtrooms. There were two judge’s chambers that did not have a corresponding courtroom in the Annex. We knew this was the case when we were designing the Annex and the thought was that those chambers could be for visiting judges to use while in Washington, D.C. on business. It wouldn’t matter that there was not a courtroom assigned to the chambers in those cases. But it didn’t work out that way. Two of our judges selected those chambers with the understanding that their courtrooms would still be located in the main building. Thus, they traveled on a daily basis from the Annex to the main building to get to their courtrooms and then back again to get to their chambers. It wasn’t so much the once or twice a day that they made the trip as it was the inconvenient of going back and forth multiple times for breaks in between hearings or if you forgot to take something with you and needed to retrieve it. Both judges after a few months of the back and forth felt that if they were to make the decision all over again, they would have just kept their chambers in the main building and avoided all the traveling.

Ms. Woodbury: Right.

Ms. Mayer-Whittington: A related problem to this involved our jurors. Each courtroom has a jury room located in the secure hallway behind the courtroom. When jurors arrive for court in the morning or when they return from lunch or a scheduled break in the trial, they go to a designated area outside the secure hallway and use an intercom system to buzz the chambers of the judge who is conducting the trial the juror is assigned to. This only works if the judge’s chambers’ is located on the same floor as their courtroom. When your courtroom is located in a separate building, then the system does not work. We had to ask staff from the chambers of a judge
whose trial the jurors were not assigned to let the jurors into the secured hallway so they could get to the jury room. This involved giving the staff the names and other information on the jurors so they could securely let them have access to the jury room. This would not have been a problem if we had only used the two extra chambers in the Annex for visiting judges as was the original plan.

Ms. Woodbury: It's down to such details that it's not something that occurred to anybody in the planning stages?

Ms. Mayer-Whittington: Right. Another issue involved the design of some of the judges’ chambers. The ones that were located along the 3rd Street side of the building were called the "shotgun" chambers. They got the nickname because all the offices in the chambers were stretched out in a straight line and not at all like the chambers in the main courthouse which had all the offices clustered around the reception area and secretaries quarters. In the "shotgun" chambers, the judge’s office was at one end of the line of offices and the law clerks were at the other end. So you would have the judge’s office, then the secretary’s office, then a kitchen area and supply area, then a reception area and finally the two offices for the law clerks were at the end of the line. The judges in the shotgun chambers complained that if they wanted to discuss something with one of their law clerks, they would have to walk the length of the chambers to have the conversation.

There was a state of the art intercom system in all the chambers that judges could use to call their law clerks and ask them to come to the judge’s office but the judges didn’t really want to use that system. The judges wanted to keep it more informal like they had in the chambers in the main courthouse. Some things were
just different and the judges needed some time to adjust to the changes. Another area in which we had some issues had to do with the new grand jury space. The only available space in the Annex for the grand juries was on the 3rd floor in space that was allocated to the Court of Appeals. They determined that they did not need the space and allowed our Court to build the hearing rooms for the grand jurors. But because the space was wired for access by staff from the Court of Appeals, we had to redo the security access for the grand jurors and Assistant U.S. Attorneys’ to enter but restrict them to just the grand jury space so they had no access to secure Court of Appeals space.

Ms. Woodbury: Nancy, you mentioned a couple of times both in discussing the new courthouse and also the consolidation of the Clerk's Office, September 11th and the impact that it had on the court and some of the people. I know security, in general, has been a big area for all government institutions since September 11th. I just wondered if you would talk about September 11th and the Court and how security was seen and dealt with both before and after that?

Ms. Mayer-Whittington: Well I think like most government offices, security started increasing in the 90s after the Oklahoma City bombing. The federal building which took the hit was very close to where the federal courthouse building was located. In fact, some of the children of courthouse employees were attending the daycare in the building that was bombed. So the whole idea that there were domestic terrorism capabilities was something that was brought home to us after the bombing in Oklahoma City. In addition, back in the early 90s, our Court was given statutory authority over any international terrorism case that did not have a natural home in
another federal court. For example, if a terrorist attack occurred in Europe involving an American citizen, company or military venue and there was not a connection to another federal court for jurisdiction purposes, then the case would be handled by our Court. Once we were given this statutory authority, we were also given funding to increase security measures throughout the Court. One of the areas that received enhanced security was access to our outdoor parking lot and garage entrance. Before this new authority, we had a guard booth and a wooden arm barrier that was raised and lowered to allow cars to enter and exit. The barrier was similar to one you would see in a public parking lot around the city. It served a purpose but was not going to prevent a car from ramming the structure and gaining access to our parking lot and garage which allowed access to our building. The enhanced security called for a large metal barrier that was raised from the ground and lowered into the ground as needed. The barrier was kept in a raised position at all times unless a car was accessing or leaving the lot and was designed to stop a tank from entering our property. In addition, stand-alone metal detectors were installed at every entrance to the building and all visitors were subject to enhanced screening.

Ms. Woodbury: When did the courts start checking people when they entered the courthouse? Has that been around since the 80s or was that more recent?

Ms. Mayer-Whittington: Yes, it has been around for some time. The Court has always had some system for checking people when they enter the courthouse for as long as I have been there and I started in 1977. Security stations were located at the three public entrances to the courthouse back then. Courthouse employees would show their
ID card and were allowed to enter without any additional screening. This also applied to anyone with a federal government ID such as Assistant U.S. Attorneys and their staff, and the Federal Public Defender and staff from that office as well as staff from the FBI, CIA and other agencies. For other visitors to our Courthouse such as members of the public, potential jurors and people arriving to become U.S. citizens, they were required to allow a security guard to go through their purses, bags, briefcases and such before being allowed to enter the building. Once the metal detectors were installed, the screening for non-federal employees was performed by the machines rather than the security guards. Courthouse employees and all other federal employees were allowed to bypass the metal detectors.

Ms. Woodbury: Walk around it?

Ms. Mayer-Whittington: Yes. But, from the time I started working there, the security guards would screen the non-government people who would come to the building. The guards did look through their bags and belongings and ask the visitor where they were going in the building. They had more of a "How can I help you? Where would you like to go?" approach so that it was more friendly and welcoming than it was threatening. We have had court security officers for a long time but it wasn't until we got this terrorism authority that we started having the metal detectors and other equipment they could use to screen people. But even with the new terrorism authority, you could still walk around the metal detectors if you had government ID. Then after 9/11 everybody who came in the building had to have an ID. It didn't matter what business you had at the courthouse you had to be
screened. Unless you were part of an organized student field trip to the
courthouse and you were going to be met by courthouse staff, then you could skip
the screening. Other than that, if you wanted to come in for whatever purpose
you had to have an ID.

Ms. Woodbury: And you had to go through a metal detector?

Ms. Mayer-Whittington: A metal detector; right. That became standard for everybody. At first,
even after 9/11, courthouse employees were still allowed to bypass the screening
system but eventually it was determined that only judges and the heads of the
court units (Clerks of Court for both Courts, Chief Probation Officer, Circuit
Executive) were allowed into the building unscreened. In addition, the two courts
formed a Security Committee and we began meeting with our U.S. Marshal on a
monthly basis to exchange information and get more familiar with security
protocols. We learned a lot from these meetings and ultimately realized that
notwithstanding what had happened on 9/11 there were far more threats to our
courthouse from domestic terrorists than there were from international terrorists.
But the best prevention was enhancing our perimeter security.

Ms. Woodbury: What does that mean, for the building or…?

Ms. Mayer-Whittington: Yes. And that was when we learned something that was interesting. The
Marshals Office did not have authority over the area immediately located around
the building’s perimeter. The Federal Protective Service had some authority, the
Metropolitan Police had some authority and the Park Police had some authority.
As a result, we started including a representative from each of these offices at our
Security Committee meetings because otherwise, if we had some security issue
that dealt with an area outside the building’s perimeter that we needed to resolve, invariably there would be a lot of finger pointing by the various agencies as to who had responsibility for the issue.

Ms. Woodbury: Who should be responsible? And how was that resolved?

Ms. Mayer-Whittington: By having a strong Security Committee and having the two Chief Judges in charge of the committee helped resolve a lot of issues. We were able to address a lot of security issues at the monthly meetings. Working with the Marshals Office, we would come up with a list of security concerns and then we would discuss ways to address these concerns. The issues would range from the need to have panic buttons within reach of the judge’s bench that would alert the Marshals Office to a problem in the courtroom and then expanding the protection by installing panic buttons under the desk top where the courtroom deputy sat to placing card key access points in various locations around the courthouse. We have an ADT security system in the courthouse so that we have an interior security system for chambers. So once you have gotten into the courthouse, you still have to be buzzed back into the chambers area and that's all monitored by ADT equipment that the Marshals have responsibility for maintaining.

Ms. Woodbury: Are there cameras installed too so that somebody can see, for example, what's going on in chambers if somebody breaks in?

Ms. Mayer-Whittington: No, there are no cameras in chambers. There are cameras at the doors leading to the secured hallway where the judges’ chambers are located. The doors to the secured area are locked and only card key accessible. So there are cameras there and there's somebody in the Marshals Office whose job is to watch
the monitors showing the feed from the cameras. The monitors are located in the
Command Center in the Marshals Office. The monitors have views of the
entrance to the courthouse garage, the entrance to the cellblock and each of the
floors where judges’ chambers are located in both the main courthouse and the
Annex and all entrances to both buildings. So there are about sixteen monitors
that deputy U.S. Marshals are responsible for watching on a 24/7 basis.
Theoretically the goal is to prevent someone who doesn’t belong there from
entering the courthouse by screening them at the perimeter entrances. If the
person succeeds in entering the courthouse, the security system is designed to
have another opportunity to prevent them from getting to a judge by not allowing
access to secured areas of the courthouse.

Ms. Woodbury: What did you hear on 9/11?
Ms. Mayer-Whittington: That the attacks in New York were deliberate and then the next thing we
heard was that the Pentagon had been hit. The Marshals Office was trying to
brief us with whatever information they had.
Ms. Woodbury: I was going to ask where you were getting information from….
Ms. Mayer-Whittington: We were getting information both from the Marshals Office and from
some televisions that are located in various public spaces in the courthouse and
are tuned into CNN.
Ms. Woodbury: National news?
Ms. Mayer-Whittington: Yes. Looking at the national news and then of course, everyone was
getting information by word of mouth from family and friends who were calling
court staff. I was working at my desk when one of my senior staff members came
to my office and told me a plane had just crashed into one of the towers at the World Trade Center. I thought, like everyone else, that it was a tragic accident and that it must have been a small plane that went off course. A few minutes later, I heard that a second plane had crashed into the second tower and that it appeared to be a planned terrorist attack. I went to one of the televisions in our break room and watched the news for a few minutes and then went back to my office to confer with the Chief Judge. Chief Judge Hogan was out of the building attending a meeting at the Supreme Court (ironically, the Judicial Conference was meeting in Washington that day) so I called Judge Jackson, who was Acting Chief. Whenever the Chief Judge is going to be unavailable even if he is staying in the city, an Acting Chief Judge is usually appointed. I called Judge Jackson's chambers and I talked to his secretary. I told her "I have something I need to discuss with Judge Jackson." She said "He's on the bench." And I said…”I think you need to interrupt him and let him know I need to speak with him."

Ms. Woodbury: He didn't know?
Ms. Mayer-Whittington: No. He was in trial and had taken the bench before the first plant hit the World Trade Center. He didn't know and she didn't want to interrupt him.
Ms. Woodbury: She didn't know either or just didn't think it was important enough?
Ms. Mayer-Whittington: I think she had strict orders about not interrupting him and she was following those orders. She told me she would ask him to call me at his first break. When he called me, he had just found out about the attacks so we talked about that very briefly. Then I said, "Since you are the acting Chief Judge, I am giving you the update I would have shared with Chief Judge Hogan. The
Marshal is having a meeting in fifteen minutes and he is going to brief the Unit Executives on the information he has relative to the terrorist attacks." I said "I told the employees that the District Court Clerk’s Office is still open as of right now, but if anybody feels like they need to leave for any reason, they could use their annual leave and they could go home. We're not going to hold anybody here. Because obviously this is a different day than anybody anticipated when it started." And he was listening to me carefully and said "Okay you're going to go to the meeting with the Marshal?" And I said "Yes Judge, and you're welcome to attend the meeting as well". He said "No, I think I'll stay here." He said "Will you just call me afterwards?" And I said "Yes, I will call you afterwards." I went to the meeting and joined the Marshal, the Clerk of the Court of Appeals, our Chief Probation Officer and our Circuit Executive – everyone was grim faced and very quiet. The Marshal told us that it had been determined that there was a terrorist attack in New York and in addition, the Pentagon had just been hit by a plane that had taken off from National Airport. All air travel had just been cancelled and all planes in-flight had been ordered to land immediately. The Marshal went on to say that there was one plane that was unaccounted for and from intelligence reports they thought the plane was headed to Washington D.C. with plans to crash into the White House or Congress. That was all the information they had at the time and that the…

Ms. Woodbury: These were the Marshals briefing people?

Ms. Mayer-Whittington: Yes. This was the U.S. Marshal. He was just saying that he thought maybe if we hadn't already done so we should just go down to a skeleton crew
which we had actually done at that point…

Ms. Woodbury: Say that again…

Ms. Mayer-Whittington: We probably could go down to a skeleton crew.

Ms. Woodbury: Release people?

Ms. Mayer-Whittington: Yes. We had been letting people leave since early that morning and we just kept a few senior staff in place to keep the Court open. Our position at that point was that we're not going to let the terrorists close us down, but we're probably not going to get a lot of customers coming down to the courthouse on a day when everyone’s focus was on the terrorist attacks. All you could hear from inside the courthouse was the sound of horns beeping as intersections were being blocked and there was gridlock around the courthouse. People were trying to leave and this city is not built to have that many people try to leave at one time.

As we left that meeting, I walked down the hall and I remember thinking to myself, "Suppose the plane that is heading for the Capitol misses the target and hits our building instead… I really love the people I work with… they are like family to me but I never thought I’d die with them." I never thought that a terrorist attack could be part of my job responsibilities. Then I had another thought… I wanted to ask… "Could we go up on the roof and say this is not Congress? Not the White House or Congress."

Ms. Woodbury: An arrow pointing in another direction?

Ms. Mayer-Whittington: Right. To keep our building from being a target. Not a very altruistic thought… When I returned to my office, I called together the staff that was still working and told them about the briefing I had just received. I said, "This is the
situation: it is a terrorist attack, as you know. Those of you who have stayed so that we could keep the Clerk’s Office open are free to leave. We don’t need to remain open any longer. I also told them about the single plane that was still in the air and the possibility that it was heading to Washington. I concluded by saying that I would be staying for a few more hours and that I would relay to all those who were still here any additional information as I received it. About twenty minutes later, the Marshals Office called and said there was a suspicious package in the John Marshall Park directly adjacent to our building. The Marshal was ordering that the building be evacuated. This was standard procedure when a package has been deemed a potential threat. But it just added to the drama and tension of an already surreal day. It was standard procedure…

Ms. Woodbury: A form of security.

Ms. Mayer-Whittington: A form of security at that point that had been in place prior to 9/11.

Ms. Woodbury: About what time was this? Do you remember?

Ms. Mayer-Whittington: I heard about the planes at nine and it was a few hours later maybe a little after noon? On a side note, as we were waiting outside the building for the Marshal’s deputies to determine the contents of the suspicious package, Chief Judge Hogan crosses the street in front of the Department of Labor and joins us. He had walked back to the courthouse from the Supreme Court. He told us that the Judicial Conference members were in the middle of a briefing by the Chief Justice when the head of their security force came into the room and said, "There has been a terrorist attack. A plane just crashed into the Pentagon. This meeting is concluded. Everybody is free to go." They just released all the judges out on
the street and most of them weren't from around here and you couldn't get a taxi

Ms. Woodbury: Right.

Ms. Mayer-Whittington: They had to walk to their hotels. If the attacks had been domestic in nature it would have been a perfect time to take some shots at the judges because they were all being released at the same time and there was no security to assist them.

Ms. Woodbury: Security for the people who were let go?

Ms. Mayer-Whittington: Yes, the judges coming out of the building. Plus most of the cell phones weren’t working. Judge Hogan had been trying to call his chambers and my office. We had tried to reach him too, but the calls did not go through.

Ms. Woodbury: Why was that?

Ms. Mayer-Whittington: Why were the cell phones not working?

Ms. Woodbury: Right.

Ms. Mayer-Whittington: They said that the circuits were overloaded.

Ms. Woodbury: That's right… just everybody trying to call everybody they knew.

Ms. Mayer-Whittington: Right. So, there we all were outside our building waiting until they determine what is in the suspicious package that's out in the park so we can go back into the courthouse. It was such a beautiful day and it was unbelievably quiet because there were no commercial planes in the air, no military or police helicopters and the horns on the cars that were still sitting in the gridlock were silent – as if they had given up and were reconciled to waiting out the traffic.

While we were waiting, one of our judges drove out of the garage and tried to
He finally merged into the traffic but after sitting for 20 minutes, he pulled back into the Courthouse parking lot and gave up.

Ms. Woodbury: I think a lot of people ended up walking… trying to walk home.

Ms. Mayer-Whittington: Yes. So there we are, outside the courthouse building and everybody was going "Wow…. this is something huge; what do we do"? Never had anything of this magnitude happened before and we didn’t have any answers. A little later we were allowed back into the building because the package was deemed to be okay. When I got back to my office, the phone was ringing. It was one of my daughters and she wanted to know why I hadn’t answered the phone because she had gotten home from school an hour ago and had been trying to reach me. I told her we had been evacuated for an hour or so but we were back and I was going to head home after the traffic cleared up. She was scared and wanted me to come home as soon as possible. Shortly after we were allowed back into the building, the Marshal called me and said the missing plane had crashed in a field in Pennsylvania. There was so much to think about and it was hard to take in all the events of the day. I ended up leaving the courthouse around 2:30 or so when the traffic around the courthouse was moving again. There were armed police and military personnel at every corner helping to keep traffic moving. I remember going past a man at one intersection armed with a large automatic weapon. It looked like a machine gun. He was wearing a uniform jacket and on the back in big letters it read "IRS SECURITY." It appeared that any federal agent who was licensed to carry a gun had been pulled into duty and I couldn’t help but wonder if the IRS agent knew how to fire that weapon. So many images of that day I will
never forget, so many emotions. I kept thinking about the last plane that went down

Ms. Woodbury: In Pennsylvania.

Ms. Mayer-Whittington: Yes. That was the one that was unaccounted for. So now it was accounted for and there wasn't any likelihood that another plane was going to crash in the district because all of the other commercial planes were on the ground.
Ms. Woodbury: Good morning, today is April 12, 2012 and this is the continued interview of Nancy Mayer-Whittington. Today, we're going to talk about some of the big cases that were heard in the United States District Court for the District of Columbia during the time that you worked there, including the time when you worked in the Jury Office. Nancy, what is your first recollection of being involved in a big case where there was a lot of public attention?

Ms. Mayer-Whittington: The first big case that I was involved in was when I was still in the Jury Office. I was the Supervisor in the Jury Office. It was the case involving John Hinckley, who was being tried on the attempted assassination of President Reagan, as well as the shooting of his press officer and a local D.C. police officer, who was participating in his security detail that day. We had to get a jury pool for the case. The case generated a lot of attention primarily because it involved the President. There were concerns that we would have a difficult time finding impartial jurors because the shooting had been recorded by members of the press who were covering the President’s speech at a local hotel and shown over and over again on the evening news shows. There wasn't any doubt as to whether or not Hinckley was the shooter. The jury would have to decide if Hinckley was insane at the time of the shooting. The case was randomly assigned to Judge Barrington Parker, who was very much a no nonsense judge and who, although very considerate of jurors' needs, was not very sympathetic to jurors who either made a request to be excused or just felt it was inconvenient. Initially, we were told when we trying to put together a jury pool
that we would probably need about 500 jurors to be available for selection and a huge amount of resources would have to be concentrated in a short period of time in order to qualify that many jurors. And with big cases, especially criminal cases, there tend to be delays at the last minute for a variety of reasons, most of which are very legitimate.

Ms. Woodbury: Nancy, when you talk about last minute delays, do you mean delays in the trial going forward?

Ms. Mayer-Whittington: Yes. One of the challenges when you're trying to put together a jury pool for a big case is figuring out when to summon the jurors and how long their duration of service will be. When you summon the jurors, you have to give them at least six to eight weeks’ notice before they will be required to report. Then you have to allow 2 to 3 weeks to process the requests for excuse. Also you have to allow the systems’ person who manages the qualified jury wheel a week to ten days to produce the jury summons. Ultimately this means that you need to know the number of jurors you plan to summon about three months in advance of the start of the trial. Then, as you get closer to the trial there are a variety of events that can delay the start of the trial from disputes over evidence to be admitted to conflicts in the scheduling of status hearings. We've even had changes in attorneys at the last minute because of an inability to work with the defendant. That tends to happen in cases being defended by our public defenders or CJA (Criminal Justice Act) attorneys because there are issues that arise that are different from when you have paid counsel. So, there are a variety of things that can delay the start of the trial so you have this
moving target of when the trial might actually begin. And then there are last minute plea negotiations that cause a delay in the start of the trial. So those are just some of the problems that can delay criminal trials.

Ms. Woodbury: Nancy, when you pick a jury for the trial of a criminal case, do you tell them: "We believe this trial will start June 1. Are you available June 1?" as opposed to asking them if they can show up the next day for the start of the trial.

Ms. Mayer-Whittington: Well, we would summon them in probably April or late March for a June 1 trial date start. Actually it would be a June 1 jury selection date. And when you have a trial that will last more than a few weeks and you need a larger than normal panel, we have a special summons and questionnaire that we mail to prospective jurors because we need to pre-screen them due to the long-term nature of the trial. Typically, our cases are going to begin and end in a two week time frame so that is why the typical term of service for jury duty is two weeks. But when we have a case that is going to last much longer than two weeks, we have what we call a hardship questionnaire that would be mailed to prospective jurors basically informing them that this trial is expected to last a month or this trial is expected to last six weeks. We would ask potential jurors if they have any compelling reason that they cannot serve. We would give them categories that they could check. Travel plans, child care or elderly care problems and medical issues were generally the three things that we would ask about.

Ms. Woodbury: So Nancy, for the Hinckley trial, it was anticipated that you would need
a big pool?

Ms. Mayer-Whittington: Yes. It was also anticipated that the trial would last more than two weeks.

Ms. Woodbury: Yes.

Ms. Mayer-Whittington: And because of the large pool that we needed, we would summon a separate group of potential jurors to work with rather than use the regular jury pool to draw from. That doubles or triples the workload of the office during that time frame because you're dealing with this large jury pool and the regular jury pool at the same time. The pool of jurors for large cases often involves more scrutiny and it can be a little more sensitive. It is more high profile and you are trying to make sure that nothing goes wrong especially with processing these jurors' request for excuse. The Jury Office has certain authority to excuse jurors during the regular service, but in the case of a high profile trial, we would send all the excuses to the judge to whom the case was assigned. That judge would review the excuse requests and make the determination as to whether a juror should be excused. And then, the judge would make the excuses available for the attorneys to review so that they would not have any challenges at the last minute as to why certain jurors were excused. That seemed to work pretty well. We had procedures that we would follow so that we had enough jurors for the start of jury selection. Then sometimes on the eve of the trial, we would get a call from the judge's chambers saying "We don't need the jurors to come in tomorrow after all. We need them to be on hold for a day or two because they're discussing a plea." So we would record a message to be put on the
automated call-in system for the jurors letting them know not to report the following day and to call the message system that next day after 5:00 pm for further instructions. In the case of the Hinckley trial, the jury selection started right on schedule and the trial went forward as planned. It was an awful lot of paper work and constant communications with the judge. That was the nature of that case. And then, over the years, there were other large cases. I mostly got involved in criminal cases when I was in the Jury Office because most criminal cases were tried by a jury not a judge. Jury panels for criminal cases are larger than for civil cases so it took extra effort to get the jurors in and get them oriented; get them through the selection process and then make sure they reported each day as directed so the trial would go smoothly. And then, when I was Chief Deputy, we had some of the larger civil trials that were not jury trials, like the AT&T case and the Microsoft antitrust case. There were no juries involved in any of those cases, but there were certainly large numbers of the public and press that were interested in the hearings that were being held so that our focus was not on jurors but more on the press and spectators and attorneys being accommodated.

Ms. Woodbury: How was the press accommodated? Did that change over the time that you worked at the court in cases where members of the press wanted to be able to sit in and wanted to be able to talk to attorneys or whoever concerning the case?

Ms. Mayer-Whittington: Yes, it did change over the years. From the very beginning, for cases like the Hinckley case, they issued press passes to members of the press and
you had to present press credentials in order to be admitted. You had to do this in advance and there was a limit to the number of the members of the press that we could accommodate in the courtroom. Usually we would have two rows set aside for press and that would include a sketch artist because cameras are not allowed in the courtroom. We would ask the press to select one representative who we would meet with on a regular basis before and during the trial. This would usually be someone from AP or *The Washington Post* or one of the networks who would be a liaison between the court and the press so that the court would not be inundated with requests or getting sixteen different questions about the same issue. Everything would be funneled through the liaison who would meet with the Administrative Assistant to the Chief Judge, who handled a lot of the publicity for most of our trials. We would work very closely with that AA and I would be present in meetings as well so that we all were on the same page.

Ms. Woodbury: This was in your role as Chief Deputy?

Ms. Mayer-Whittington: Yes, as the Chief Deputy. Again, because our courtrooms would only seat about 100 people and we needed to accommodate the families of the defendants, the staff for both the defense counsel and the U.S. Attorney’s Office, the press and members of the public who were interested in watching the trial, we had to put limits on the press and the spectators. Our judges felt very strongly that if members of the public wanted to attend the trial that they had a right to do so and they shouldn’t be denied that right because we had too many requests for press passes. But it was interesting to see over the years the
changes in the press once we became more electronic, more technologically savvy and the change in our role in distributing information once it was available electronically. As it became easier to transmit timely reports overseas from the courthouse, we got more and more requests for press passes from press correspondents from overseas. They also visited the courthouse to get information and they were not acquainted with our local rules. Because they had no local ties and no real need to develop working relationships with our staff, some of them took to trying to get information about the trial any way they could. They started paying people to go into the Clerk’s Office to ask questions, hoping that some Clerk’s Office employee would inadvertently disclose something…

Ms. Woodbury: Spill the beans?

Ms. Mayer-Whittington: Yes. The first time this happened, it was a totally new experience for us because we always had a good relationship with the press because they needed us and we wanted to help them do their job. Before our cases were filed electronically, every time a case was filed in the courthouse we would make a copy of the complaint and we would put it in a press box so that every day the members of the press who wanted to read about the case could do so by going through the press box. Well, these people that were hired by the foreign press members started taking the copies with them and not leaving them there to be used by everyone. The non-local press members had a commitment to the story, but not to the community.

Ms. Woodbury: They didn't have any long-term ties?
Ms. Mayer-Whittington: Right. So, we had to start changing our strategy of how we worked with members of the press who didn't follow the same rules. And, we had to train our employees on how to deal in a more professional less folksy manner with the press and the public in general. We got someone to come in and talk to our employees about information and sharing of information and what's public and what isn't and how you could accommodate the press and be public service oriented, but not do something that would adversely impact the administration of justice. The training worked out quite well. A second change involved the way we distributed high profile opinions and rulings to the press and public. Our procedures went from managing the crowd that wanted to get copies of the opinions to managing the distribution of the information itself because we now had a website that we could use to electronically post opinions as soon as they were filed. When we published the decision in the Microsoft case, we ended up asking the Administrative Office to host a site and the Department of Justice to host a site because we knew that we would get too many hits on our courthouse site and it would crash.

Ms. Woodbury: Crash.

Ms. Mayer-Whittington: Yes. In the Microsoft case, between the three web sites, I think that we got something like a million hits in the first thirty minutes after that opinion came out. Under our old system, when we had filed a really big opinion and we were ready to distribute it, we would post a notice on the doors of the courthouse saying what time the opinion would be ready for distribution. Members of the press and public and staff from various agencies and
Congressional offices would line up in the main hallway and wait for copies. We were supposed to charge them by the page for the copies but it would have slowed down the process so much and given people in the front of the line a decided advantage in getting the information to their news station or newspapers headquarters. We decided that in the interest of fairness and openness, we would give out the copies for free. This policy we adopted came up later in an audit and we told the auditors that we had to distribute the opinions without getting payment because it would take too long and we were trying to get the information out as quickly as we could. We would have literally a hundred people standing in line for distribution of those big opinions. Like the Gramm-Rudman decision involving the budget. People were lined up down the hall and out the building to get a copy of the opinion. The auditors concluded that it was better to be efficient in the distribution even if it meant forgoing the money we would have collected. Contrast this with the way we were able to give a million people a look at the Microsoft opinion in thirty minutes at no real cost to anyone. It was a major, very positive change.

In the Scooter Libby case, we were able to accommodate additional members of the press in a separate press room where we had audio and video feeds from the courtroom so that they could pretty much see what was going on in court and hear everything, but we didn't have to accommodate them space-wise.

Ms. Woodbury: In the courtroom?

Ms. Mayer-Whittington: Yes.
Ms. Woodbury: Nancy, as a regular practice, do you have the ability to provide at least audio coverage outside the courtroom of trials or was that a special accommodation for the Libby trial and maybe some other big cases?

Ms. Mayer-Whittington: The Libby case was the first time where we provided a video plus audio feed. We had had overflow courtrooms where the audio had been piped in for other cases, but the Libby case was the first time we were able to also have video transmission. We had four stationary cameras in the courtroom. One was focused on the witness stand, one on the defense counsel and one on the U.S. attorneys, and one was strictly for evidence presentations. But they were still cameras that didn't pan the courtroom. They didn't do anything like that. But it was such a novel experience for us and it was so successful because the press loved the fact that we put in tables and chairs for them in this additional room so they could write on a flat surface or use their computer without having to hold everything on their laps all the time. We asked them to keep a dignified demeanor in the overflow room for the benefit of everybody else in there, but they were able to get up and go out during certain parts of testimony where they wouldn’t have been allowed to do that during the proceeding while they were in the courtroom. So as a result, the press had all the access they wanted, the convenience of being able to come and go, they could drink their coffee…

Ms. Woodbury: And read the paper?

Ms. Mayer-Whittington: Yes. So they were so appreciative of that.

Ms. Woodbury: The best of all possible worlds?

Ms. Mayer-Whittington: Yes. And all I could think of was look how far we've come from one or
two pool reporters, who had to do everything for everybody. And now they could prepare their reports as the trial was proceeding having the advantage of audio and video feed in a less formal atmosphere and file the report as soon as the proceeding was over and not have to cobble a report together from handmade notes. They could not send a live feed from the courtroom or the Annex room because they weren't allowed to broadcast from the court room. And they had to leave and go outside the building if they wanted to go live on the air. But, it was a win-win situation for everyone involved. Gone were the days when at every break in the proceedings you would see all the members of the press scrambling - literally like what you'd see on TV. Everybody running out of the courtroom and going to the few pay telephones in the hallway because they did not have cell phones.

Ms. Woodbury: Right.

Ms. Mayer-Whittington: Trying to get the story and people just literally running out of the building and running to the closest pay phones located around John Marshal Park. Now they were able to quickly record the information and it was done in a way that didn't upset the proceedings.

Ms. Woodbury: Nancy, was the press able to communicate to their home offices via email or was that not something they could do from inside the court?

Ms. Mayer-Whittington: They could do that. Once we put wireless access in the courtrooms, they could use their computers to communicate. The only limitation was in broadcasting.

Ms. Woodbury: But still the home office was aware of what was going and could make
decisions about broadcasting the news?

Ms. Mayer-Whittington: Yes. As long as the broadcast did not originate in the courtroom, you know, with a live reporter. The person located at the courthouse could send information to whomever they were associated with and they, in turn, could go on the air and read what they had been sent.

Ms. Woodbury: And, given the success of that experiment in the Libby case, was it used in any other trials?

Ms. Mayer-Whittington: Yes, it was used in quite a few other high profile cases. It was set to be used in the Rogers Clemens case before the judge declared a mistrial. That was after my retirement. They had a big setback in that case. But we had outfitted that room specifically for the trials that attracted a lot of press coverage. Anytime we had situations where we would not be able to accommodate all the interested members of the press in the courtroom we could use the overflow press room.

Ms. Woodbury: I was going to ask how you decided when that room would be used.

Ms. Mayer-Whittington: Before any big case, there's always a meeting with the Judge and their staff and the Clerk's Office. The use of the overflow press room is usually covered in the pre-trial order and also items such as what type of press requests will be accommodated. What's the best way to address their needs? We don't charge the press a fee to use the room because we feel it is in the best interest of "the administration of justice" for us to accommodate as many members of the press as are interested in covering the hearing or trial. So once the room was in place, then it was only a matter of deciding who would use the room if there
were multiple cases being tried at the same time.

Ms. Woodbury: That's the only time there's a problem?

Ms. Mayer-Whittington: That would be the only time that there would be a problem. And we've always been so fortunate in having a very collegial bench. Our judges regularly eat lunch together and that is when they talk about their schedules and upcoming trials. These conversations help to alert all the judges to the timing of high profile cases and with some advance notice there is often an ability to move a trial back or forward to accommodate another judge’s schedule.

Ms. Woodbury: They could coordinate just informally?

Ms. Mayer-Whittington: Yes. Exactly. And, getting back to your question about the changes over the years, the major change in the big cases was going from a paper driven system that didn’t accommodate the public and press, to being able to distribute information electronically and to accommodate more people so that everybody who wants to be a part of the gallery has that opportunity.

Ms. Woodbury: Nancy, at the end of trials where video was used for the news media is the court the one that has custody of the video? That doesn't get out for general distribution; right?

Ms. Mayer-Whittington: No it doesn't because we don't record it. It's just a feed. There isn't a recording. And at any time the judge has the ability to hit the kill switch.

Ms. Woodbury: So if he decides that something is inappropriate or whatever he can cut it?

Ms. Mayer-Whittington: Yes. On occasion it has happened. In the Roger Clemens perjury case -- that was Judge Walton’s case, he told the prosecutors: "I think you put
something in evidence that we agreed was not admissible."

Ms. Woodbury: I remember that.

Ms. Mayer-Whittington: So the judge could use the kill switch on the equipment he has at the bench to make sure that something that's not supposed to go into the record doesn't. That the jury doesn't see something it is not supposed to see.

Ms. Woodbury: It gives the judge a little more power to enforce his orders?

Ms. Mayer-Whittington: Yes, and that was a big issue when we were talking to judges about the new technology in the courtroom. They were worried about information getting out inadvertently. Some judges didn't have as much of an interest in the public having the right to see or to know as they did in protecting the rights of the people being tried. Something that always impressed me about our judges was the thoughtfulness of their discussions on topics such as this. You would have a percentage of judges who thought everything should be made public, to the extent that it's allowed, and then you would have another group of judges who thought or would say: "I think we need to have some guidelines and some potential ways that we can limit a document from inadvertently being made public when a decision has been made to keep it out of the public arena." The discussions that ensued were always very enlightening and productive. Another area that caused some concern was the fact that electronic databases made it easier to quickly research information. That only became a concern when it involved the capability of jurors who had been selected for a particular case to research that case in our electronic files. Some judges were concerned that jurors were going to go to the Clerk’s Office and use the public terminals to
look up information about the case in which they were serving as jurors. This could lead to the jurors finding out information about the case that was not admitted into the trial. One of the judges raised this issue at a meeting.

Fortunately, the first judge to respond started the discussion by saying, "Well before this new electronic capability, what was our policy under our paper file system? What was the intent of what we did? Because the practices and procedures shouldn’t change just because we have new technology." The discussion that followed was very balanced and productive. They concluded by basically agreeing that the information the jurors could retrieve more quickly under the electronic system had always been available to them even when we had paper files. All the juror had to do was walk into the clerk's office and ask to check out a file. The fact that is more readily available in the electronic system didn’t mean that it’s different from the access that was previously available. Thus the judges concluded that the new technology didn’t need to have different rules. They decided that each judge should continue to caution the jurors, as they did before the new technology, that they can't independently search for information that they did not receive as a part of the trial. If someone tried to do this, it would be a violation of their oath as a juror. The responsibility had to be on the juror not to do that. The same was true for a case that had a lot of notoriety and the press was covering every day of the trial and the trial judge would instruct the jurors not to read about the case in the newspaper.

Ms. Woodbury: Right. It's just easier now for jurors to research things, for example,
about witnesses by Googling them. Something they could never do before. I’m sure to some jurors it doesn't seem like there's anything wrong with that; they're just trying to get additional information and need to be reminded that that's not the way system works.

Ms. Mayer-Whittington: Right. And we had slip ups from time to time where a juror would mention to another juror that they had done some research about one aspect of the trial. And then that second juror would say something to either the Deputy Marshal or the court security officer who was working with the jury and they in turn would tell the judge. At some point it became a part of most judges’ standard instructions to the jurors not to use the internet or any other resource to do research. Some judges handled it differently by regularly reminding jurors throughout the course of the trial that they were not allowed to get information from outside of the courtroom. The judges would tell them that anything they needed to know about the case would be presented to them in the courtroom. I remember one time a juror researched what the weather conditions were on a particular date two years earlier and found out the day was overcast with scattered showers. A witness in the case had told the court that it was a sunny day. Fortunately, the juror who had done the research asked to speak to the judge about his findings and he did not discuss it with other jurors. The judge had to remind the juror that he wasn’t an investigator, he was a juror. After conferring with counsel in the case, the juror was dismissed and replaced with an alternate juror and a mistrial was avoided. The judge let his colleagues know about the incident and as a result the judges uniformly changed the way
that they instructed jurors. It became a part of their general instructions and they did not take it for granted that jurors wouldn't do certain things.

Ms. Woodbury: Nancy, on big cases, were there any changes over the time you served on the court in the way the parties' lawyers used the courtroom facilities? Did they ever want to setup war rooms in the courthouse?

Ms. Mayer-Whittington: We had some cases where the U.S. Attorney’s office needed to store documents and we did that for them, and we also had some very long-term cases where the lawyers wanted to setup a place in the courthouse where they could go during breaks and we would do that for both defense and the plaintiffs' attorneys and give them separate rooms. That was one of the benefits when we got the Annex of having the extra space to accommodate the attorneys.

Ms. Woodbury: So that they didn't have to go back to their offices during breaks?

Ms. Mayer-Whittington: Yes. Sometimes in cases where information was highly classified and could only be seen by counsel who had obtained security clearances from the Department of Justice, we had to make special arrangements. In those cases, we would setup rooms where the attorneys could come and review documents that the judge had determined they could see, but they were not allowed to make copies of the documents or remove them from the classified room. When the Annex was built, we included office space on the first floor for the Federal Public Defender’s staff and space for the U.S. Attorney’s office as well. This cut down on the requests from those two offices for additional space when they were involved in long term trials. It helped us in the long run to move cases along more quickly and that was the benefit of having additional space to
accommodate these kinds of situations.

Ms. Woodbury: Accommodate special needs when they arose?

Ms. Mayer-Whittington: Yes

Ms. Woodbury: Jim Davey, your predecessor as Clerk of the Court, said during his oral history that he often made a point of going to watch closing arguments on some of the big cases that took place during his tenure. Did you personally ever watch or observe any parts of these proceedings in cases you found interesting?

Ms. Mayer-Whittington: Not as much, I think, as Jim did. I went occasionally to watch closings arguments, especially if there was a really, really good attorney like Edward Bennett Williams delivering the closing argument. That was always a bonus to see somebody who was a persuasive speaker and could really appeal to a jury about the case. With my jury background, I went more often to hear the jury’s verdict in a high profile case. Some of that was just to make sure everything went smoothly because in many big cases after a guilty verdict the defense counsel asks the judge to poll the jury. Since judges don’t advise the jurors in advance that they might be polled, they are sometimes …

Ms. Woodbury: Surprises them?

Ms. Mayer-Whittington: Right.

Ms. Woodbury: In those cases where the jurors were polled and they hadn't been ready for that did a juror occasionally say… "I don't understand what's going on"?

Ms. Mayer-Whittington: Yes. And that's why some of our judges give the jurors a brief explanation of what it means to poll a jury. I remember talking to a judge once and he said "If you can just get the first juror to answer correctly, the rest will
fall into place." But invariably, the first juror has no one to follow so when the judge asks the first juror to state their verdict the response sometimes was: "Me? Huh… what am I supposed to say?" Then the defense says. "Judge, you can't instruct them as to what they are supposed to say."

Ms. Woodbury: Right.

Ms. Mayer-Whittington: The judge would say…. "I can to the extent that I am explaining that we're asking each juror if they returned a verdict of guilty or not guilty. The court has the right to make sure that each person on the jury understands the question." Then the juror would say… "Oh yes, I voted guilty." Some of the judges who anticipated that the jurors might not understand what it meant to be polled would be more specific in their instructions to the jurors after the defense asked to poll the jurors. Those judges would say to the jurors: "The defense has the right to poll you. I am going to ask each of you to tell me if you believe the defendant is guilty or not guilty."

Ms. Woodbury: At what point in the proceeding did judges try to give a jury a heads up that they might be polled?

Ms. Mayer-Whittington: Really not until after the verdict was read. Sometimes the defense didn't waste time in having the jury polled. I think some of them did it just hoping that a juror would say something that would create a ground for challenging the verdict.

Ms. Woodbury: Something would go wrong?

Ms. Mayer-Whittington: Right. I have heard of cases in other courts where a juror has said something to the effect that they had told the foreperson that they thought the
defendant was guilty but in their "heart of hearts" they didn’t really believe it. Fortunately, I didn't have any of those experiences.

Ms. Woodbury: Any other recollections about big cases during your tenure on the court and their impact court proceedings?

Ms. Mayer-Whittington: No, not right now, but I think I might take some time to review some things and maybe I might have something to add later on.

Ms. Woodbury: Nancy, I know that you assisted the Federal Judicial Center with some of their programs for the district courts and you got to observe at least some of the other U.S. District Courts during the time you served as Clerk of the Court for the District Court for the District of Columbia. Were there any differences that you observed between the way that the U.S. District Court here was run and the way district courts in other jurisdictions were run?

Ms. Mayer-Whittington: Yes. And it largely came down to the fact that we were much more similar to large courts and we were much more similar to metropolitan courts. The Clerks who only had two active judges on their court and who ate lunch with their judges on a regular basis and their kids went to school with the judges' kids had a totally different experience managing their courts. We all had the same statutes to observe, we had the same guidelines from the Administrative Office, but it was very different to talk to a clerk from a court who once every two or three years had a major case than it was to talk to a clerk from a court who dealt with these cases on a regular basis and had guidelines in place for handling high profile cases.

Ms. Woodbury: Were the courts that D.C. was most similar to, for example, the courts in
Ms. Mayer-Whittington: 

Well, it would mostly be the Southern and Eastern Districts of New York because Northern and Western New York were smaller. Besides those two courts, we were also comparable to Illinois Northern which is Chicago, Texas Northern which is Dallas and California Central which is Los Angeles. But in reality LA was in a world of its own. They had fifty judicial officers.

Ms. Woodbury: 

They had what?

Ms. Mayer-Whittington: 

Fifty judicial officers with their magistrates and active and senior judges and a huge three hundred member Clerk's Office much larger than our court and Clerk’s Office. They were in their own little world. We were more akin to San Francisco which is the District Court for the Northern District of California.

We actually formed a group of metropolitan courts back in the 1980s so that we could share practices and information among courts that had more similarities and we had some meetings to bring the metropolitan courts together to facilitate that information sharing.

Ms. Woodbury: 

Who were the representatives of the various courts? Were these the Clerks of the Court or. . . ?

Ms. Mayer-Whittington: 

Yes. The Clerks of the Court or, in their absence, the Chief Deputy Clerks. And sometimes if we were going to talk about a particular area, we might bring our jury administrator or the financial administrator to the meeting.

For a few years, the metropolitan courts met once a year but eventually it was once every 18 months. But as the budget got tighter, we were just able to add a half day to the general meeting that was held yearly for all Clerks of Court. I
always got more helpful information and had more meaningful discussions at the meeting of the metro clerks. For example, once at a general meeting of all the Clerks of Court, I sat next to the person who was the Clerk for the Northern Marianna Islands. He owned a big working plantation on one of the islands. He worked on the plantation for half a day every day and worked in Clerk’s Office the other half of the day. His uncle was one of the judges.

Ms. Woodbury: A very different experience?

Ms. Mayer-Whittington: And so sitting in a small group discussion with people from those jurisdictions was very colorful. . . .

Ms. Woodbury: But didn't bear on your experience?

Ms. Mayer-Whittington: Right. So, when we would meet as a big group with all the Clerks of Court, we would try to divide up by size of court so that the discussions would be more relevant to the issues we were facing. But dividing up like that did not sit well with some of the smaller courts. They would be upset because they thought all of the resources were going to the larger courts. The clerks from courts with two or fewer judges formed a group called the Dinky Dozen to promote the needs of the smaller courts. Clerks from smaller courts were much more hands on and in many respects, they knew more about the statutes and guidelines than I did because that was their job. My job was to hire and train my management staff to be my representative on the front line. Clerks from smaller courts might have ten or fewer employees in the whole Clerk’s Office. Some days they were filling in at the intake area and reviewing pleadings and opening new cases and in general doing things with which I had no experience.
because I had staff to do that. Those were the major differences. The geographical differences and the size of the courts.

Ms. Woodbury: What were some of the issues that the Clerks from large metropolitan areas dealt with during the time you were involved?

Ms. Mayer-Whittington: In the area of staffing it was the amount turnover that occurred naturally because of people leaving for other positions. We had a more global population because they were in the metropolitan areas and there were more opportunities for jobs. So we were constantly in the position of recruiting and training new people. Where the smaller courts had a much more stable population and they were more likely to have problems with employees staying for thirty years. When most of your employees have been with the court for more than 25 years, you would hear the Clerks from smaller courts voicing the problem … "What do we do now because most of our staff is at the top of the salary scale and are topped out?" Those were some of the issues in the human resource area.

Metropolitan courts generally had a higher criminal caseload than the smaller or geographically dispersed districts due to the nature of cities and the size and diversity of the population. Gangs and organized crime tend to be more prevalent in the metropolitans areas. Going back to different issues between the staffs of larger and smaller courts, the fact that we didn't have daily contact with most of our employees meant we had to rely on managers and supervisors. In smaller courts, you could communicate almost daily with all of your staff – speak directly to them and see first-hand their reaction to new ideas and also observe how they were performing their jobs. Clerks from larger courts had to
work with more judges and navigate more personalities than some of the smaller courts. When you only have two judges to work with, you can pick up the phone or visit them and resolve issues fairly quickly. When you have fifteen active judges, there is no way you can keep in touch with every judge, every day, on every issue. Communication was always a challenge.

Ms. Woodbury: For big courts?

Ms. Mayer-Whittington: For big courts. Another issue that impacts most big courts is the need for divisional offices. Our court is not spread out geographically – we are all located in one courthouse building. For courts with large geographic jurisdictions, there were additional problems in communicating directly with staff that you didn't even see because they were a hundred miles away from you.

Ms. Woodbury: Were relations with the press one of the big issues that courts in metropolitan areas had to deal with more often than the courts in the smaller districts?

Ms. Mayer-Whittington: Yes, and we were very fortunate to have the Federal Judicial Center assist us. When we would identify an issue that was having a big impact on how we managed the courts such as relationships with members of the press, the FJC would convene a group of Clerks to map out the problem and brainstorm solutions and share effective practices already in use in some of the courts. The FJC would then put together guidelines based on the input from the Clerks. That was really very helpful. A lot of things we were seeing were the result of changes in the nature of the press, technology and the lack of stability
with the local press because newspapers were failing.

Ms. Woodbury: Let me go back and ask you about your relationship with the D.C. Superior Court. Nancy, what contacts did you have with the local court, the D.C. Superior Court, while you were working at the U.S. District Court?

Ms. Mayer-Whittington: For many years our two courts shared the same pool of jurors. This arrangement was in existence when I first started working at the court in 1977 and continued into the mid 1990’s when both courts developed their own jury management systems. As an aside, we clearly still share the same jury population because both courts can only summons jurors from the District of Columbia. But for many years, our court had a Jury Commission and the Commissioners authorized the mailing of juror questionnaires to prospective jurors and then reviewed the completed questionnaires to determine if a potential juror was qualified to serve. Because of this shared jury pool, this necessitated ongoing communication between both courts. Our Court qualified the jurors, but the Superior Court had the data processing capabilities in their court, so they sent out the questionnaires based on instructions from our Jury Commission to develop what is called a "Qualified Wheel of Jurors." Our Jury Office determined the number of jurors we would need for our regular bi-monthly draw and the number we would need for large panels for high profile cases. We would have a standing order for the number of jury summons we would need Superior Court to mail for our bi-weekly panel of jurors and then we would send additional orders to Superior Court when we needed summonses sent out for large panels. We worked with them to make sure that they sent the
jury summonses out on a timely basis and we met regularly to make adjustments to the standing order if we needed to add more summonses in order to have more jurors available for jury selections. So we had that in common for many years. From the time I first started until… it wasn't until the late 90s that we went our separate ways with each court managing their own jury systems. But for many years we did that and also after we went to separate jury management systems, we would still contact each other about different issues because…

Ms. Woodbury: On jury selection?
Ms. Mayer-Whittington: Well, one of the issues was jury pool?
Ms. Woodbury: Jury pool?
Ms. Mayer-Whittington: Yes. When each court began managing their own jury system, it didn’t change the fact that both courts were still drawing from the same population of citizens in the District of Columbia. This put us at risk of both courts summoning the same individual at the same time. Who had preference? Which court had preference? We were always able to work those issues out through the lines of communication that had been established over the years. But it was still confusing for a juror to be getting two summonses at the same time. The other thing that the Superior Court performed, and still does perform, is they handle all the overnight arrests on the weekends and holidays for our courts as well as the Superior Court.

Ms. Woodbury: I didn't know that.
Ms. Mayer-Whittington: If you're arrested over the weekend on a federal charge -- or on a
holiday -- it is handled in the Superior Court. Our volume of overnight arrests on the weekend and federal holidays is pretty low. The Superior Court has, for as long as I've been there, and currently, handled that because they have a large volume of overnight arrests that requires them to have a magistrate on duty all the time. So they will do the initial arraignment or presentment of the federal cases for us and then we pick those cases up when we come back on Monday or the day after the holiday. This arrangement has symbolized the very collegial relationship that exists between the two courts. Also there are cases that are transferred back and forth between the courts. This can occur when a case is remanded or removed from one court to another generally due to diversity jurisdiction or some reason such as that. We have long standing procedures between the courts for getting case files back and forth in a timely manner. This involves ongoing communication between both courts. Also, our courts are unique in that we share one U.S. Attorney for both courts. There are separate staffs of Assistant U.S. Attorneys, one for each court, but just one U.S. Attorney. As far as our judges were concerned, the Chief Judges for both courts communicated regularly and had a collegial relationship. Chief Judge Robinson made it a priority to work with Superior Court. We worked on community initiatives, for example, we had this Jury Service Appreciation Week that both courts sponsored for many years working with counsel from the local bar associations and a non-profit organization called the Council for Court Excellence. Some of the collegiality at that time grew out of the relationship between Chief Judge Robinson and Chief Judge Hamilton, who was Chief
Judge of the Superior Court at the time, and a good friend of Chief Judge Robinson. The collegiality continued under Chief Judge Penn because Judge Ugast, who was then Chief Judge of the Superior Court, and Judge Penn had been co-workers - they shared an office actually at the Tax Division at the Justice Department. Because of that relationship and their social as well as work relationship, we participated sometimes in other programs with the Superior Court. On a monthly basis, we would go over to Superior Court and have lunch with Chief Judge Ugast and his Clerk of the Court and I would go with Chief Judge Penn and we would discuss issues and changes and the dynamics of the courts. I would always come away from these visits to Superior Court thinking, "Thank God, I don't work at the Superior Court!" The atmosphere at their court was so different. It always reminded of the TV show *Night Court*.

**Ms. Woodbury:** What were the differences that you were most attuned to? When you say it was "night court," was it just that it was so hectic because of the number of things going on?

**Ms. Mayer-Whittington:** Yes, the volume of people that came to their court every day was overwhelming. When you walked down the halls, there would be people sitting on the floors in the hallways and right outside of the courtrooms. There was a loud speaker system that would call out the case numbers and locations of hearings and page attorneys to come to the various courtrooms. To be fair, it was not as chaotic as it appeared because they had systems in place and it was actually very organized. But the contrast was in coming back to our court and
walking down the very stately halls. There was a demeanor of calmness with people keeping their voices down and no one rushing from place to place. That was one difference. Another difference between our courts was the way we each obtained our budgets. Our budget was based on a formula and members of the Judicial Conference would appear before Congress to request funding. There were not a lot of variables from year to year. Superior Court, because they were the local court, had to go before the City Council to get their money and lots of times weren't given the resources that they needed for the large volume of cases they had in that court. I always felt sorry for Duane Delaney, who was the Clerk of the Court for the D.C. Superior Court at the time. They had to go and present all their requests to the City Council such as aging computer systems that needed to be replaced and they would have to start from scratch each time since the makeup of the Council changed so frequently. They also didn’t have any sister courts who routinely shared resources with them.

Because we were in the federal system, we could take advantage of all the innovations being developed at other federal courts and the new technologies. When Superior Court tried to develop an electronic case filing system, in order to fund the project they ended up working with a vendor who had a commercial interest in making the information available to other people. We really never had to work with somebody who had interests other than the administration of justice so…

Ms. Woodbury: So that created the potential for conflicts of interest for them?

Ms. Mayer-Whittington: Yes. And, ultimately, politics and political interference was much more
a part of Superior Court’s world than it ever was a part of my world. Duane and I would often compare our situations at our monthly meetings and he would lament not only the politics but the challenges of working with so many judicial officers. I remember Duane saying, "I have a vision for where I want the court to be, but unless I can get all the judges" -- and he had fifty-seven judges -- "moving mostly in the same direction it won't happen."

Ms. Woodbury: At that same time how many judges were there on the U.S. District Court in D.C., by contrast?

Ms. Mayer-Whittington: Fifteen active judges, three magistrate judges. So we always had eighteen judicial positions and then there were senior judges. Judges would take senior status but still remain active, so we could have anywhere from… I think we had a high of nine senior judges at one time and low of maybe three senior judges

Ms. Woodbury: And the Superior Court in the same time frame had fifty-seven judges?

Ms. Mayer-Whittington: Yes. Their courts included family courts with child custody cases, the Register of Wills, the Marriage Bureau to name a few. These were areas of law that were germane to local courts, not federal courts.

Ms. Woodbury: Did they have a much higher proportion of criminal cases?

Ms. Mayer-Whittington: Yes. Because they had all the local jurisdictions. They had all the handgun violations, assaults, street crimes, drug violations. We did more of the Uniform Narcotics Act cases. Superior had more of the cases for possession of drugs as opposed to our drug cases which more often involved dealers selling and distributing drugs. These cases were more long-term and maybe more
complex than the possession of drugs cases but they certainly had the complexities of child custody cases. But in the criminal area, they had more of the street crimes and the robberies, stolen vehicles and that sort of thing.

Ms. Woodbury: The kinds of cases that usually state courts would have, the D.C. local courts were handling here?

Ms. Mayer-Whittington: Yes.
Ms. Woodbury: Good morning. Today is Thursday, May 17, 2012. This is the continued interview of Nancy Mayer-Whittington, who was the Clerk of the Court for the United States District Court in the District of Columbia and retired now almost two years ago, I guess… Is that right?

Ms. Mayer-Whittington: A little over two years.

Ms. Woodbury: And when we spoke about a month ago, you were discussing some of the big cases that had been heard in the United States District Court here in Washington, D.C. and the ways in which those cases impacted the court and your involvement. One of the cases you mentioned was the Hinckley case involving the attempted assassination of President Reagan. I think you had some discussions with the judge in that case, Nancy. Will you tell us about that?

Ms. Mayer-Whittington: Yes, at that time, I was working in the Jury Office. I was the Supervisor and we were getting the jurors ready to go into the courtroom. We had divided them into panels and we were sending them to the courtroom for voir dire. I was calling the jurors by number for the second or third panel to be sent to the courtroom and I called the number of one of the prospective jurors and they said "Oh Lordy, they aren't going to want me, I'm going to hang him." I was stunned. In the jury assembly room, which was fairly quiet at the time because all the jurors were listening for their number to be called, there was this collective gasp.

Ms. Woodbury: Everybody heard him?
Ms. Mayer-Whittington: Yes and it was actually a woman.

Ms. Woodbury: Oh, a woman?

Ms. Mayer-Whittington: Yes. I wasn’t sure what to do, so I just continued calling the rest of the numbers, and got the group of jurors together and sent them to the courtroom. Then, I got on the phone and called Judge Parker’s courtroom deputy and I told him what had happened. As it turned out the courtroom deputy I spoke to was the Supervisor of the Courtroom Deputies. He was filling in for Judge Parker's courtroom deputy who was out ill that day. I explained to him what had happened in the jury assembly room. I told him that I wanted to pass the information along because I didn't know what impact it might have on the proceedings, but I just wanted to report it. I subsequently learned that the Courtroom Deputy Supervisor did not pass my message along to the Judge and Judge Parker had to …

Ms. Woodbury: You found that out later?

Ms. Mayer-Whittington: Yes, I found out later. Judge Parker had this really famous reputation for being very tough, and not keeping thoughts to himself especially if he wasn't happy about something, so people always walked a fine line about conveying information to him.

Ms. Woodbury: They didn't like to give him bad news?

Ms. Mayer-Whittington: No they did not like to and so sometimes they didn't. I'm not sure what the thinking was behind the Courtroom Deputy Supervisor not passing the information along other than Judge Parker’s reputation for "killing the messenger." When I found out that he had not passed the information along, I
didn't know what to do. I tried to call my boss, who was the Clerk of the Court, Jim Davey, but he was in a meeting out of the building at the time. So I really couldn’t discuss it with Jim. I took it upon myself to call Judge Parker's secretary and told her what had happened and asked her if she would pass the information along to the Judge. Probably about a half hour later I got a call from her saying that the Judge wanted to see me, and could I come up right away. So I did and when I went into the office I said to her, because I knew her pretty well, "What did he say when you told him?" She said "I didn't tell him. You can go in and tell him. I just told him you needed to speak with him." So I was a new supervisor and I was young and I remember thinking I don't know if I'm going to be able to walk because my legs were shaking so much. But, I walked in and the Judge basically said "You needed to see me?" He was kind of looking over papers and not even looking at me, just clearly conveying that I was bothering him and wasting his time. I said to him: "Yes I just needed you to know about an incident that happened in the jury assembly room this morning." So I went on to tell him and he literally took off his glasses and threw them across the desk, and threw down the paper he was reading and he said: "What? What are you telling me? You know what could happen?" And he went on to say that I was not training jurors properly and asked how I could allow a juror to say such a thing. I said, "I don't know why she said it. I'm just trying to pass the information along to you and I did write it down, so I would make sure that I would remember it accurately. I know which juror it is who made the remark." Thank goodness Judge Bryant, who was Chief Judge at the
time, was in the chambers as well. After Judge Parker had gone on and on about how stupid the Jury Office was and how stupid a jury clerk I was and how ridiculous this was and did I know the impact this would have on jury selection, Judge Bryant interrupted him and said "Barrington, she's given you information that you needed to know. Now it seems to me that she has done a good job of writing it down and conveying it to you and so that you have the correct information. Why you were not told about this earlier today by the Courtroom Deputy is something we will have to look into. But, Nancy has done her job, now you need to do yours." And then, he turned to me and said, "Nancy, how are you doing? How is the family?"

Ms. Woodbury: This is Judge Bryant?

Ms. Mayer-Whittington: Yes. I said "Everyone is fine. Thank you." And then he said: "I think you've spent enough time up here. Come on let's go. Did you have any lunch yet?" and we walked out the door. If I could have given him a big hug I would have. He said "Don't you worry about this. He'll take care of it." He said "You did your job, you did the right thing. You just go on and take care of the rest of those jurors for us." And that was huge, really huge for me because I had heard a lot about Judge Parker. I had not had any incidents with him, but we had a little plaque, a little framed certificate that we would give to our employees after they had survived a "trial by fire" with Judge Parker. He was known for going off on people and really, truly killing the messenger. Hence the reason people didn't want to bring him information. Then you contrast that with Judge Bryant. At no point did he yell at Judge Parker, he just said to him
"you've got your job to do, she's done her job and you need to do your job Barrington." The he escorted me out of the chambers. I was so impressed with his demeanor and his kindness. I had worked with Judge Bryant as Chief Judge because he handled certain jury excuses so I had developed a little bit of a relationship with him. But that moment in Judge Parker’s chambers made me a lifelong fan of Chief Judge Bryant. Over the years, I got to know him on a personal as well as professional level and it was one of the highlights of my life. He was an amazing man, and when push came to shove he stood up for me. That was so important to me and, as I learned, so typical of Chief Judge Bryant’s character.

Ms. Woodbury: He handled that really well, all around?

Ms. Mayer-Whittington: Yes he did, and for me I saw the consequences of a juror making a statement like that. I felt like I had done the right thing by writing it down because I wanted to be sure exactly what was said. Ultimately Judge Parker questioned the juror about what she had said and soon thereafter she was dismissed from the panel. The judge also, in the presence of the attorneys, talked to the jurors who were in the room when she made the statement and asked if anyone was influenced in any way by what she had said. All the jurors told the judge they had not been impacted by her remark and ultimately it didn't cause a major problem.

Ms. Woodbury: This particular person in the juror pool who made the statement, she hadn't been selected to be on the jury, right?

Ms. Mayer-Whittington: No she was just in the pool about to go into the courtroom for voir dire.
Ms. Woodbury: Right and I guess one of the things that was of concern to you and to the judges was whether or not her statement had had any impact on the other people?

Ms. Mayer-Whittington: Yes and whether the information she conveyed would end up coming out during voir dire and whether she would be selected. And, did she have a bias against Hinckley that she wouldn't reveal under questioning during voir dire but had revealed in front of everyone else. So yes those were all the thoughts that were going through my mind when she was saying it.

Ms. Woodbury: How long between the times this incident happened, in which she made that statement, and the time you felt you needed to go explain to Judge Parker what had happened? Was it that day or...?

Ms. Mayer-Whittington: Yes, the incident happened in the morning and I went to see him on his lunch break. So it was very soon after the incident. Ultimately, the Courtroom Deputy Supervisor could have handled it and then I could have gone to see the judge to give him the details. But since the Supervisor did not handle it, I felt that I needed to let the judge know about the incident. I was the Jury Supervisor who overheard the remark and I wanted to make sure the judge was aware of what happened. I didn’t know what the judge was going to do because I didn’t have a lot of experience with high profile trials. I didn’t know if the juror’s remark was something that the judge would think was a common reaction to the stress of jury duty. I just knew I needed to make someone in the judge’s chambers aware of what happened so that it didn’t come up down the road and I would be held responsible for not bringing it to the judge’s attention. When I
told the secretary what happened, I assumed she would tell the judge. Even though she didn’t convey the information to him, she did make arrangements for me to talk to the judge in person.

Ms. Woodbury: But it probably, from her point of view, it was better that he hear it from the person with personal knowledge?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: But she might have given him a heads up?

Ms. Mayer-Whittington: Yes. It would have been nice if she had told him that it was a juror's statement that I was concerned about and wanted to share it with him. Instead of just telling him, the Jury Clerk wants to see you. Because it was clear when I walked into his chambers that he was thinking, "Why in the world does the Jury Clerk need to see me?" You know this took place back in the days before we met with the judges ahead of time to discuss jury selection in high profile cases. Our Jury Clerk now meets with the judge in advance of jury selection and they go over the case.

Ms. Woodbury: Beforehand?

Ms. Mayer-Whittington: Yes, but in those days the judges were not inclined to meet with a Grade 8 jury clerk about anything.

Ms. Woodbury: Nancy, when did it become part of the usual procedure for people from the Jury Office to meet with judges in advance of jury selection for a big trial?

Ms. Mayer-Whittington: It became more of the norm when our office established recommended procedures based on our experiences with jury selection that were designed to assist judges with jury selection in big cases. The judges who utilized the
information and found it helpful told other judges about their experiences and more judges became interested in using the information we were providing. It also took a change in the makeup of our court. In the early 90s when a group of four judges came on board at the same time, the Clerk’s Office got the chance to provide an orientation for all of them. Prior to this, orientations for new judges were very informal – no real structure or agenda – just a few judges sitting around a table with the new judge and answering questions. But once the Clerk’s Office had the opportunity to conduct an orientation and introduce ourselves to the new judges, they saw first-hand that we had a lot of information that was very helpful to them. So, getting back to your question about meeting with judges prior to big trials, that came about after we had established that we had information and experiences we could share with them. We let them know that we kept statistics from high profile trials. That we could tell them the average time it takes to select a jury and why jury pooling works well in some situations and doesn’t work in other circumstances. Once we started compiling data that we could share with the judges, the newer judges on the bench who didn't have a lot of experience in selecting juries found the information very helpful. That's when it started becoming more the norm for the Jury Office to consult with the judge about jury selection for a big case. Another factor that helped develop a partnership with the Clerk’s Office was Chief Judge Robinson’s decision to invite Jim Davey as Clerk of Court to the monthly judges' meetings. This occurred in the last few years of Jim's tenure as Clerk. A lot of the judges at first were asking, "What is he doing here, why
does the Clerk of the Court need to attend our meetings?" Jim had a few rough moments at those meetings until the judges got used to having him there. That paved the way for me to attend when I took over as Clerk. Towards the end of my career, I used to have a regular place on the agenda where I would report on the status of various projects and activities of the Clerk’s Office. Because the primary purpose of the meetings was to discuss administrative issues not legal issues.

Ms. Woodbury: And the Clerk's Office was really the best source of information on that?

Ms. Mayer-Whittington: Yes, and as I said before, due to technology the judges increasingly relied on our office more and more to produce reports, analyze data and write programs to extract the information they needed to manage their cases. This reliance was difficult at first for our more experienced judges who were used to working very independently and change can be a hard adjustment. But as more and more new judges came on board, they were interested in working in partnership with the Clerk’s Office and taking advantage of the changes.

Ms. Woodbury: The fact that the Clerk's Office started participating in orientation of the new judges meant you had a relationship with them from the outset?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: And they knew you and they knew they could go to you for help and information?

Ms. Mayer-Whittington: Right and it put us in the position of sharing information that they needed to do their jobs and not just as the staff whose primary job was to receive and file papers. Instead of viewing us as clerical staff, they saw us more
as professional staff, people who could help them manage their cases, helps them conduct research and connect them with their counterparts throughout the country. They were open to that help even if it came from people who didn't have a law degree.

Ms. Woodbury: Right but from people who brought professional expertise of a different kind to the process?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Nancy, I know you can't speak for all the district courts, but through your work you have been in touch with several other courts, is it your impression that in most of or many of the other courts there has been that same change in relationships between the judges and the Clerk's Office?

Ms. Mayer-Whittington: Yes, I think generally that's been the case. I think in the smaller courts you have always had a closer relationship between the judges and Clerk’s Office staff because there were fewer people involved so the contact was limited to a smaller group. But I think that relationship has changed a bit from being primarily a friendly one to a more professional one for the same reasons as it changed in our court. But the smaller courts will always have a different culture because of their size.

Ms. Woodbury: People know each other?

Ms. Mayer-Whittington: Yes. I think that the medium sized and larger courts saw the same transition when automation and technology started to be something that the judges could benefit from, but they didn't quite understand or quite know how to manage that and the Clerk's Office could help them do that. I think that our
Court was unique and somewhat similar to the District Court for the Southern District of New York. Because our courts are entirely located in one building there are more opportunities for contact and the more opportunities you have to see judges one-on-one the better chance you have of establishing that kind of relationship.

**Ms. Woodbury:** Nancy, I would like to ask you some broad questions about the changes at the Court over your tenure, not just as Clerk of the Court but the whole time you worked there. Looking back what were the biggest changes at the court between the time you started working there and the time you retired, either in staff or operations or the judiciary itself?

**Ms. Mayer-Whittington:** Well, broadly speaking one major change has been in the diversity of the staff and of the judges. When I started out in the Clerk’s Office, our staff was majority Caucasian and predominantly female. Our judges were predominantly Caucasian and predominantly male. The same was true for our law clerks. When I retired, we were much more diverse in our racial makeup both on the bench and in the Clerk's Office. We are still I think over 60% female in the Clerk's Office but the numbers used to be over 85% female at one point. With the ability to attract a broader base of people because of going from clerical to professional positions, we are getting more male applicants. A lot of the diversity in the ranks of the judges came about because of Jimmy Carter's appointments. I think we started getting a lot more diversity on the bench, and continued to…

**Ms. Woodbury:** Both racial diversity and women?
Ms. Mayer-Whittington: Yes, but women still lag behind because there are remnants of the good old boy network still in place. I do believe that there has been a lot of progress in the past thirty years. There are more female judges than ever before but our bench is still more male than female, even though law schools have been graduating more females than males for some time now. Another change has been in the Clerk's Office. We were coming from a culture where we were pretty much told what to do and took our directions from the judges without any real input into the direction of the court or input into the direction of the judiciary. That changed, and now there is really more of a partnership between the judges and the Clerk's Office. In addition to advances in technology the change came about because we had some really good Chief Judges, who recognized that as the leaders of the Court it was better to include the Clerk’s Office when establishing a vision for the future and utilize the talents available there. And not just limit yourself to your own chambers staff or your law clerks for all the resources you need in order to run the court. Another big change is in the area of security. This change has been very dramatic. When I first started working for the court, we walked through the doors of the courthouse and didn’t have to be screened and didn't have to show any kind of ID. You were just eye-balled by the court security officer who was at the entrance to the building. Then, in the late 90s but prior to September 11, 2001, we had a shooting in our parking lot where one of the Assistant U.S. Attorneys was shot by a friend of a defendant in a drug case and that made everyone aware of our vulnerability. The shooting did not take place in the courthouse, rather it
happened in the parking lot adjacent to the courthouse but it was in broad
daylight with lots of people coming and going. That made the Federal
Protective Service limit access to our parking lot to Courthouse employees and
not available to the public to walk through. Another change over the years is in
the nature of the types of criminal cases we handle. There was a time when we
didn’t have organized crime cases per se in the District of Columbia. Now we
have much more gang related criminal cases and cases involving criminal
enterprises than when I first started out.

Ms. Woodbury: When did that start, the gang related criminal cases?

Ms. Mayer-Whittington: Probably in the mid-80s. Now whether they actually started then or
they just started being prosecuted, I do not know. We were known as a
stopping point between New York and Miami for drug traffickers so sometimes
people would get arrested at Union Station because they were on an Amtrak
train carrying drugs. And then in the 80s, I'm not sure of the reason, there
started to be more organized gang activity associated with the drug activity.

Ms. Woodbury: Here in D.C.?

Ms. Mayer-Whittington: Here in D.C. Yes, so the U.S. Attorney’s Office in addition to having a
Drug Task Force also had a Gang Activity Task Force. The gangs would block
off their turf that they operated on and protected and for a while it seemed as
long as they stayed confined to these areas, the criminal activity could be
contained as well. But then, when they ventured out of their areas, the public
got a lot more concerned about it. But ultimately, I think they just really
recognized that it was pervasive in certain parts of the city and they needed to
do something about it.

Ms. Woodbury: When you say it wasn't viewed as a big deal? Do you mean by police or…

Ms. Mayer-Whittington: That's the sense you got, that they kind of looked the other way because the gangs weren't heavily involved in murders, they were big on selling and distributing. It wasn't really as violent. Then everyone started recognizing the impact it was having on school children and on the community as the gang activity began to escalate.

Ms. Woodbury: Did those kinds of cases continue through the time that you were Clerk of the Court?

Ms. Mayer-Whittington: Yes. I think that different Police Chiefs had differing abilities to control things, but I think that once the gangs established a foothold in D.C. it became a matter of trying to manage them, rather than ever really getting rid of them. And I think that's still the case today. Then we had different cases of notoriety. That didn't change much, but the way we handled them changed just because with more information and more technology everything was faster and more accessible. Technology created huge changes and it was very different from having everything paper driven. Going to electronic filing was huge. Another area in which there were major changes was in Human Resources with the advent of family friendly personnel policies and in staff development - encouraging employees to take the initiative to think and make decisions on their own to be more proactive and not wait for the supervisor to tell them what to do. Before this change, we were very much a top down, hierarchical system
of management. Also, when I first started working for the court, there was an attitude that employees were supposed to come to work, do your job, and go home and you weren't supposed to bring any of your family problems to the office. You weren't supposed to acknowledge you even had a family because if you had children that might create problems and you might have to take off from work when they were sick or if they were involved in school events. Gradually, there was a change to being much more family friendly and supportive of people as whole people instead of just as employees. There was a time in the late 70s and early 80s that if you arrived late to work that you would never dare say to your supervisor that you were late because your child was sick; you would always say you were late because you had a flat tire or traffic was very heavy.

Ms. Woodbury: Nancy, do you think those changes came about because of changes in the law? Why do you think those changes happened…the more family friendly policies?

Ms. Mayer-Whittington: I think that a variety of things contributed to that change. One, the laws were beginning to change in response to the needs of a growing population of women in the workforce. Formalizing maternity leave policies and extending the ability for women to use sick leave not only for their own illnesses but also for their child’s illness as well were examples of the changes. There was a growing recognition that women had rights and we shouldn't be discouraging their interest in having a family just because we felt we needed them to be available 24/7. I think also we had a workforce that was changing. I remember
sitting in the Clerk’s Office lunch room one day a couple of years after I started at the court and listening to the women talking about the lack of opportunities to advance to higher positions in the office. They were very, very frustrated with the fact that they wanted to do a good job, they wanted to get ahead, but every time they went to an interview the supervisor or manager who was conducting the interview would pose these impossible questions: “What happens if your child gets sick or your mother dies? Are you going to come to work the next day?” If you responded that you would not go into the office under those circumstances, you wouldn’t be selected for the position. The women who were discussing this at the lunch table just wanted some recognition for the responsibilities that they had at home, they just wanted some flexibility. But the culture in the Court at that time was such that your work at the Court had to be your number one priority and everything else was a distant second. Fortunately, society was changing and that helped. I was coming from a large family where family was first. I was really disappointed when I got to the court house and found people so reluctant to talk about their families or share any information about them. I started seeking out work-family seminars and tried to collect as much information as I could on the subject. I remember the subtitle of one of the seminars on balancing work and family went something like this: "If you think that your employees are leaving their personal problems at home, think again." The implication being that all employees from time to time had to deal with family issues, health issues, and home issues and that they were going to have to use some of the time that they
were at work to take care of these issues. By recognizing this and giving employees the opportunities to address personal issues on the job, it would relieve some of the burden and stress of the situation and they would be better able to focus on the job. I came back from that seminar and talked to Jim Davey about changing some of our personnel policies to accommodate employees’ personal lives. For example, we had a policy at that time that said employees could only use their office phone to make and receive business calls. This was before cell phones. I proposed that we change the policy to allow some limited personal calls each day. Employees would be allowed to make and receive personal calls not to exceed twenty minutes total time per day. This allowed someone to make a call from work to schedule a plumber or other maintenance worker for a home repair. Also to check in with their children to make sure they arrived home from school safely since there was no one at home to greet them.

It was amazing how appreciative the staff was from this one change in the personnel policies. In addition to attending seminars on work and family issues, I was reading as much of the literature as I could on the subject. The early data showed that the employees who had outside interests, including families, were better employees, overall and that they scored better on productivity and they were more reliable than people who had no life outside the office. So, there was a cultural shift that was going on and a variety of things that were coming together at the same time that led to more family friendly policies. Also, having a Clerk at the time, Jim Davey, who was very receptive to new ideas who basically said: "Let's look into some things and try
some things to see if we can make life in the Clerk’s Office better for our staff.” That helped a lot. Again, it was a variety of things, from the employees being fed up, to society changing, to an interest on my part and a willingness on the part of management to explore our options. That is what caused things to change. Today employees talk openly about their families and we encourage people to make choices that are in the best interest of the family at certain times and then make choices that are best for the workplace and so that you have a balance. That has worked out for everybody.

Ms. Woodbury: Nancy was most of the impetus coming from the work force, was it coming from the women employees who were mothers or was there ever a time when the men employees also seemed interested in making sure that they had time and the ability to attend to their families?

Ms. Mayer-Whittington: When I first started at the Clerk’s Office, most of the interest initially came from the younger female employees. For a while there I thought that no one who was a Courtroom Deputy was married. That wasn't the case, but I would say that about 75% of them were not married. They were single, divorced or whatever, and so they were able to dedicate their whole lives to their judge. And it was just kind of an interesting demographic. Then, as courtroom deputies retired and people who were younger applied for those jobs it became apparent that the questions used in the interviews that effectively weeded out anyone who was married and had children were discriminatory. Those questions were based on the perspective that, if you are going to get married in the next few years, or if you are going to have a baby you really can't
take this job. But it was hard to change the culture until one clerk who had been in training to be a courtroom deputy and then interviewed for the next opening for a courtroom deputy job took matters into her own hands. After the official job interview, she had the audacity to go and talk to the judge who had the opening and told him, "I'm a mom right now and I've got two young kids and I would like to work for you. But, I would also like to get out of here about 4:30 p.m. and if that's okay with you, I will make sure I get in early the next morning and to do what I have to do." And the Judge said "Okay let's try that."

Ms. Woodbury: So some flexibility from the judges too?

Ms. Mayer-Whittington: Yes. And it was interesting too, because in talking to some of the older judges who had had courtroom deputies that weren't married, they were like "Man they were awful, they had no life." The judges had nothing to really talk about with those courtroom deputies. The judges said they enjoyed it so much better when they got a new person who came in, who had something to talk about, somebody who had interests outside the courthouse. But it was the kind of a culture that was there when I started. I don't think that was a culture they even cultivated as much as that was a reflection of the people who were attracted to those positions, which were pretty much highly clerical.

Ms. Woodbury: And possibly the kinds of jobs that could take up all your time, because the judge might not even know the extent to which his or her demands were foreclosing a lot of other options?

Ms. Mayer-Whittington: Yes that’s true, and then we had courtroom deputies who, because they didn't have anything to go home to, would stretch the work day and be here
until 9 o'clock at night, and not because they had that much work.

Ms. Woodbury: It's their home?

Ms. Mayer-Whittington: Yes. Then they had a hard time when they were trying to train someone. The bad habits of manufacturing work didn’t sit well with the trainees. They, in essence, were being taught to fill up the day and into the evening when working more efficiently and getting out of the courthouse at a decent hour were what they wanted to do. But yes that was another big change.

Ms. Woodbury: Do you have any impression whether the other district courts in the United States have gone through a similar metamorphosis in terms of, historically courtroom deputies who devoted their lives to their jobs and then moving towards something that's a little more balanced?

Ms. Mayer-Whittington: Yes. I think that a lot of the courts went through the same issues. The courts which didn't, in my opinion, benefit from some of the changes were some district courts whose Courtroom Deputies were located in chambers and are just not clearly…

Ms. Woodbury: Say that again?

Ms. Mayer-Whittington: The Courtroom Deputy for each judge in some courts is actually located in the Judge’s chambers. So that they work totally for the judge and they do a variety of things including backing up when the judge's secretary is not there.

Our District Court has never done that and we have been able to use Courtroom Deputies who are available to support another judge whose Courtroom Deputy is unavailable. And that gave the Courtroom Deputies a wider range of experiences and kept them from being beholden to the judge 24/7. So I think
some of the courts where Courtroom Deputies still are located in chambers have not necessarily seen that kind of shift from people who devote themselves entirely to a single judge.

Ms. Woodbury: In terms of your tenure as Clerk of the Court, what achievements you are most proud of?

Ms. Mayer-Whittington: Well, one of them is developing staff, developing employees to reach their potential -- five or six of my deputies have gone on to be Clerks of their own courts -- and watching them grow. Seeing them develop and take on different responsibilities. And, for those who didn't go on to be Clerks in other courts, but just developed to their full potential in the office, well, there is nothing more satisfying than helping them reach their full potential. I am really proud of them and that has been one of the most satisfying parts of the job. Just giving people the resources and the support and the opportunities to go do what they want to do and do what they want to do well. There is nothing to compare to that feeling of accomplishment, it’s huge. Another thing I am proud of is helping develop a partnership with the judges and having the ability to actually work with them and help make their job better and truly assist in the administration of justice. To recognize and get your staff to recognize what the true mission of the court is and not think about the job in terms of what your particular piece of it is, but instead looking at the Clerk’s Office as a whole. Seeing how everything we do is inter-related and thinking of yourself as having a role in the administration of justice. For all of our employees, everything they do impacts somebody's life either down the road or potentially somebody's
immediate freedom, if they don't process information correctly, and that's a big responsibility. Doing your job well and owning the importance of doing it correctly the first time can be very gratifying. Also, seeing our true job too, in addition to the administration of justice, as conveying information and recognizing that there are lots of audiences out there for the work that we do. So that being accurate and being timely in getting the information processed is critical in the age instant messaging and real time technology. Without a doubt seeing all the different efforts that people engage in within the office, the different projects they take on where they demonstrate their talents and capabilities and the creative ways we have been able to use people's talents to fulfill our mission - that's very satisfying.

Ms. Woodbury: What were the opportunities for development that you have talked about? What did it involve? Supporting people going back to school, internal training…?

Ms. Mayer-Whittington: Exposing people to lots of different training and helping people see that if they have a talent that they can use in the office, then we will explore ways to utilize that talent. For example, we had some staff members who we discovered were really good with computer graphics but their job did not involve that skill set. When we asked them to help develop the logos and templates for our annual reports and other publications, they jumped at the chance to contribute at that level. If we hadn’t made efforts to discover these hidden talents, we would not have benefitted from their creativity and they would not have had the opportunity to showcase their talents. We provided
training in public speaking and found that we had several employees who were wonderful at it. These staff members began making presentations at our monthly meetings and volunteered to lead tours of our office for student groups. The positions they held in the office did not call for them to do any public speaking but because we uncovered these talents we were able to take advantage of this skillset and the employees were able to add a new and satisfying dimension to their job. Exploring through training and staff development all the talents and capabilities of our staff was definitely a win-win for everyone. It is interesting to note that sometimes this process resulted in an employee concluding that they really needed to take their talents and find a different position in a different organization. They realized that they had a good job and they were making good money, but they really wanted to utilize their talents full time and they couldn’t do that in their position at the court. For example, one of our employees realized she wanted to teach so she left us and went back to school to get a teaching degree. We had let her do some training for us and she discovered that training/teaching was where her heart was, where she was happiest. We encouraged people to find out what they were passionate about – what skills they had that when they used them they felt fulfilled and fully engaged. If you can figure out a way to move that passion into your daily tasks, it makes everything so much better, and it makes for much better employees. Other ways to help employees have a more positive approach to their jobs involved telecommuting. Some staff members just needed to work at home a day a week so they could cut back on their commute. Getting that
opportunity to spend one day a week working from home and not fighting traffic for two hours on the way to work and two hours on the way home improved their whole outlook on their job and their overall well-being - again a win-win for everyone. We tried to be creative and innovative in our approach to developing our staff. We tried to tap into as many areas of staff development as we could. We wanted to think outside the box and use flexibility, creativity, the utilization of hidden talents and innovative ideas to make our workplace and workforce the best it could be and thus attract and retain productive and satisfied employees.

We had a project one time involving our files room. Our files room was a mess. The files room staff would do their best to keep the files organized but since most of our staff and staff from our judges’ chambers had access to the room and pulled and refiled case files on a regular basis, there were too many opportunities for misfiled case jackets and files left in random stacks throughout the room. We decided to start a program called "Adopt a File Shelf." It was based on the popular "Adopt a Road" program that most of our employees were familiar with where an organization volunteers to clean up and maintain a section of a major road. We asked our staff who were not assigned to work in the files room to sign up to adopt a shelf or adopt up to three shelves. They would then be responsible for going through the case files on that shelf or shelves and make sure they belonged on that shelf and that they were filed in the correct order. Then it became their job in their free time to manage those shelves. It had to be during their lunch hour or before or after their work hours.
I was so pleased with the enthusiasm and all the efforts that our staff put into the shelves they adopted. It was amazing. It was a program that was such a little thing and it went over so well. It was effective in stopping all the displaced files and everyone benefited because when they went to locate a file, it was actually in the correct place on the shelf. It made everyone more efficient and our staff more productive. And it was fun. After getting the files they were responsible for in proper order, people decorated their shelves, and it was a chance to utilize their creativity. It was people showing off a little bit. It was people getting competitive but collegial and in the long run it benefited everybody and it was a lot of fun.

Ms. Woodbury: That's very interesting, and it gives everybody who is participating a project that's doable. It is not quite so overwhelming as taking on the organization of the entire file room.

Ms. Mayer-Whittington: Right and it made the staff in the files room feel like people appreciated them for what they did. Because when people went in to manage their shelf, it was hard – it was harder than they thought. It was eye-opening for everybody and it actually caused some changes in the file room.

We also had a poetry contest one time for Valentine's Day. People submitted poems anonymously and then a group of employees reviewed all the poems and picked one winner. The woman whose poem was selected published her poems about three years later. She said "I finally got the courage to send my poems in for publication and that was because I won the contest." You know she was in our finance office. Her work had nothing to do with
poetry, or even writing. But the contest gave her the opportunity to show off her talent.

Mostly I felt like I was the cheerleader and the resource provider. I wasn't the originator of the ideas for the most part. I would have Open Forums where we would talk about ways that would solve problems, and invariably people had great ideas. It was giving them the opportunity to use that creativity to solve problems. It showed that people could be motivated by incentives other than money. Sometimes, because of the way an employee solved a problem using their creativity, they received a cash award. But, it wasn't just about financial incentives. It was more about "Hey if you could have ownership of this problem how would you solve it?" And letting the people who actually did the work tell the people who didn't do the work how it should be done and how it could be done better. Over time you saw some of our courtroom deputies, who didn't have great partnerships with chambers staff, build on those ideas. We didn't have this we versus them mentality that we sometimes had in chamber's staff. It was just tons of those opportunities over the years that were very fulfilling and satisfying, but it was the people, working with the different people.

Ms. Woodbury: You gave people surprising ways to develop, kind of nonstandard outlets for their talents?

Ms. Mayer-Whittington: Right.

Ms. Woodbury: Nancy, you were giving an overview of the changes that happened while you worked for the court and especially during the time you were Clerk
of the Court. I wanted to ask you if there were any disappointments or things that you might do differently in retrospect.

Ms. Mayer-Whittington: I don't know that I have any disappointments. I'm sure that there are things that I could have done better. Actually, I know there are. I'm not necessarily a detail person, I'm more of a big picture person and I am sure that sometimes, because that's not my constitution, we could have done a better job on some reports maybe or focusing in on some issue that was an underlying problem but we didn't necessarily address it. I guess maybe because I'm two years out, the disappointments have faded a little bit. One disappointment I had was that I really never felt that the Administrative Office, which is the central office that has oversight for the administration of the judiciary, ever really appreciated the significance of the role of the Clerk of Court. I think that they enjoyed dealing with judges and they set the tone for the Judicial Conference meetings because the AO does all the planning and supplies all the materials for the judges for their work at the conference meetings. But I don't think that there was ever really a good healthy relationship between the administrative staff of the courts and the Administrative Office.

Ms. Woodbury: You've mention from time to time over these interviews some of the changes that occurred in the Administrative Office, were there other changes in the Administrative Office during the time you were with the Court?

Ms. Mayer-Whittington: Yes, we went from what they called a "Mother may I" approach, where every time you wanted do anything you had to send them a letter or pick up the phone and ask them if you could buy more paper than you bought last year, and
that sort of thing. Certainly decentralizing the budget to the courts and letting
the courts make day to day decisions, was huge. That was a huge change. But
the problem was that the AO started growing at a very fast pace and outgrew its
ability to manage itself. It grew from a fairly small entity into a major agency.
In my opinion, the AO staff often forgets that the courts could exist without
them but they could not exist without us. If there are no courts, there is no need
for an AO. But the courts can exist on our own, without them. I'm making a
broad generalization. But because of the size of the Administrative Office and
because of the difficulty of managing the Administrative Office and its growth,
you've got a stove pipe organization where each division within the
Administrative Office had its own marching orders. The divisions did not work
well together and the business of the courts suffered as a result. The AO was
not a well-oiled machine. I think that in recent years they have made some
efforts to change. Ralph Mecham, who was the head of the AO for a long
time, tried to modernize the relationship between the courts and the
Administrative Office. But it was a big cultural shift for the AO and it was hard
to get people to change. Mecham was a strong leader but he needed a really
strong second-in-command who actually managed the internal operations of the
office. And for years and years he did not have one. As a side note, at the
present time the AO has a judge who is the head of the agency. Judge Hogan
from our court is now the head of the AO. The Supreme Court Chief Justice is
the one who selects the AO Director and traditionally this person has been a
non-judge who has extensive leadership and management experience. The man
who was hired to replace Mecham -- James Duff -- stayed for about 7 years and then moved back to the private sector. Before he came to the AO he worked as a lobbyist on Capitol Hill. He was hired primarily to persuade Congress that the judges deserved a pay raise and he worked very hard but ultimately unsuccessfully to accomplish that goal. But all of his efforts went toward that goal and none to reforming the internal culture of the AO. Jim Duff went back to private practice because it didn't appear that there was going to be a raise in the next few years, and he was tired of hitting his head against the wall. The search for a successor was not going well so, as I understand it, Chief Justice Roberts asked Judge Hogan if he would take over as Director of the AO on an interim basis. I guess until they could really decide what they wanted to do in the long term. Judge Hogan has been in that position almost a year and I think he's either going to be asked to stay on a little longer or they will ask another judge to come and do the same thing. I think that this is unfortunate because it misunderstands the whole nature of the Administrative Office. You need a trained experienced administrator to lead that effort, not a judge. I know in talking to other Clerks of Court with whom I still have contact that their relationship with the AO is still an issue. You still have to ask the question the right way in order to get resources. You know I met recently with one of our judges and the Deputy Director of the Administrative Office who is sort of new to the position. Our judge was recounting his concerns and they were very similar to the ones we had about how can you wrest back control from each individual AO office now that they have all created their own internal
automation staff, they've created their own little (for lack of a better word) HR staff, even though there is a central HR staff. But they have all worked on their own so much that it’s hard to take that back from people when it’s been the culture for so long. There is a lot of...still a lot of misdirected energy there.

Ms. Woodbury: When you say each office, are you talking each court?

Ms. Mayer-Whittington: No, I'm talking about the offices or divisions within the Administrative Office like the Court Administration Division, the Probation Division, the Office of Defender Services, and the Judges’ Division. All of those groups over time, because there wasn't a lot of direction from the top, improvised and created their own internal systems and now the upper level management is seeing the duplication of functions in so many offices. And the courts bear the brunt of that misdirection. The lack of coordination sometimes meant never getting things done because there was so much in-fighting among the divisions. The tension between the Administrative Office and the courts was there when I started and it was there when I left. Clearly what's really frustrating about it is that there are some very, very good people in the Administrative Office, really good staff, and they were equally frustrated.

Ms. Woodbury: And maybe it was just a hard thing to figure out what the relationship should be across all these different divisions, and what AO's role should be?

Ms. Mayer-Whittington: Yes and I go back to the fact that they had just had unprecedented growth, and with growth you need management of the growth and systematic review of it.

Ms. Woodbury: Why do you think that the AO had that growth? What caused that?
Ms. Mayer-Whittington: I think part of it stemmed from the fact that there were some GAO reports of poor practices in the courts. One in particular was a report about jury management and how much money was spent on jurors who reported for jury service but were not actually needed. The GAO decided and recommended to Congress that the courts needed more oversight. So the courts' reaction was to form a Judicial Conference committee on jury improvements which is like taking a hammer to get a gnat. In order to support that committee the AO had to hire more staff. So some of the growth was just a reaction. Another example is the Civil Justice Reform Act. When it was enacted, the AO saw it as an opportunity to again hire more staff under the guise that they were doing it solely to support the judges. In turn, the judges’ reaction was that they were happy to have the additional support.

Ms. Woodbury: So piece by piece people justify the growth, but then overall it gets out of hand?

Ms. Mayer-Whittington: Overall you sit back and say "What can all those people be doing?"

Ms. Woodbury: And maybe the pieces stay on after their useful life?

Ms. Mayer-Whittington: Absolutely. Also, the AO got creative in their growth at one point. This happened when several judges who were on Judicial Conference Committees got concerned when the number of employees at the AO was getting close to 1,000 people. The AO decided to use funding that was designated for the courts to hire contract workers. The rationale was that the contract workers were supporting the mission of the courts and thus the AO was justified in doing this. The AO got some judges on the Judicial Conference to sign off on
this practice and it went on for more than a few years. By hiring contract workers the AO could stay below the 1,000 employee limit because contract workers did not receive benefits and so did not count as employees in the traditional sense of the word. There was never a sense of transparency in what the AO was doing. The courts found out about this practice through some insiders at the AO who would leak information to the courts. Some of the Clerks of Court brought this practice to the attention of their Chief Judges and the AO had to discontinue using court funding for what are technically AO employees. In the present situation at the AO the Deputy Director Jill Sayenga, who was formerly the Circuit Executive for the D.C. Circuit, together with Judge Hogan have done a good job of going division by division and reviewing the mission of the office and reducing resources where there is duplication of efforts. There have been some good changes but there is still a lot of frustration because it has taken so long to make the adjustments.

Ms. Woodbury: What prompted you to retire when you did?

Ms. Mayer-Whittington: I was actually going to retire when I turned 50. That would have meant taking what is termed an early out. That was my plan. Ultimately, it was a pipe dream, but that was my original plan. I think that dream is what helped me get through some of the tough days when being a full time mom and being a full time Clerk seemed impossible to accomplish. I wanted to go while I liked what I was doing a lot and was still young enough to do something else. So my decision to retire definitely wasn't because I didn't like my job, and it definitely wasn't because it got overwhelming or because of the people, or because I got
bored, or anything like that. I really loved what I was doing. Going back to my original plan, I didn't retire at 50 for a variety of reasons. The number one reason was I hadn't thought through the financial implications of taking a 10% reduction in the annuity I would receive for leaving 5 years earlier than age 55 which is the earliest you can retire and receive a full annuity. Ultimately, it wasn’t in the best interest of our family's financial situation in the long term. Another reason was the Court was in the midst of implementing online filing and it just wasn’t a great time to go. Also when I turned 50 that was the point when my counterpart in the Bankruptcy Court decided that she wanted to retire, and take an early out. So, I decided to retire when I turned 55 and oversee the full implementation of electronic filing, consolidate the District and Bankruptcy Clerk’s Offices and receive my full annuity. I would have been at the court for just over 30 years and that seemed good enough. There are great people in the office, and I knew the office was in really good shape, they would do fine, and in fact they would do wonderful new things. So that was my new plan and that would have been right before Judge Hogan stepped down as Chief Judge.

What influenced me to stay after I turned 55 quite frankly was Judge Lamberth saying: "I’m going to be the new Chief Judge and you are trying to desert me here?"

Ms. Woodbury: Judge Lamberth was saying: "I have to have a transition here"?

Ms. Mayer-Whittington: I understood. I would have felt the same way. Once I let go of the pipe dream of 50 then 55 became the target. Adding two more years and going at 57 didn't seem so bad. So I told Judge Lamberth I would stay on for two more
years and then I really wanted to retire. He was wonderful to work with and when I turned 57 he was very supportive of my decision to go. I had wonderful relationships with the Judge Hogan and Judge Lamberth, and all my Chief Judges and good relationships with the other judges. That wasn’t why I decided to retire. It was just the right time for me and my family.

Ms. Woodbury: Did you participate in any way in the choice of your successor?

Ms. Mayer-Whittington: Yes, I was involved in drafting the vacancy announcement, reviewing applications and being a part of the interviews. My successor is Angela Caesar.

Ms. Woodbury: Did you have any advice for her when she assumed your job as Clerk of the Court?

Ms. Mayer-Whittington: Well, yes. Let me give you some background so you can understand my relationship with Angela before she became Clerk of Court. While Chief Judge Hogan was still Chief Judge, he asked me if I had any idea of any candidates in the office interested in succeeding me as Clerk when I decided to retire. I told him there were a few people in the organization that would do a good job. One person was Greg Hughes, who was at that time and is still the Chief Deputy for Operations, and the other was Angela who at that time was the Assistant Chief Deputy for Operations. There were a couple of other people who I think had and still have potential to move up to a Chief Deputy and potentially a Clerk of the Court position. So I talked to Greg about his plans for the future and he said he might be interested in being Clerk of the Court, but he wanted to think about it. Ultimately, he concluded that he preferred being a Chief Deputy. This was like again, 2 or 3 years out. I talked to Angela and she was interested, but
she wasn't sure she wanted to do that and she was very humble and she said "Oh, I'm not sure I can take on all that responsibility." I told her "I think it’s important for you to look at where you are now and decide if you are satisfied with your position. If not and you might want to become Clerk someday, you need to learn the other half of the court" which is the administrative part.

Angela was mostly in the operations end of the Court. So she did, on her own, take on some projects and work with the Chief Deputy for Administration to become more acquainted with her responsibilities. Ultimately, when that position became vacant, because my Chief Deputy for Administration became Clerk of Court for the District of Connecticut, Angela applied for the position. I did not participate on that interview team. They had a screening process and I selected the person from the 3 candidates and we had Angela and two external candidates that applied. One from another court and one from the private sector. Ultimately, Angela's experience and knowledge and her work ethic and her working knowledge led to her appointment as Chief Deputy for Administration. And once that happened I knew she would then be able to pick up the budget piece and the finance piece and that would be a good thing for her if she decided to become the Clerk.

Ms. Woodbury: Is she happy, do you know, in her new role?
Ms. Mayer-Whittington: Yes, yes.
Ms. Woodbury: She's glad she did that?
Ms. Mayer-Whittington: She's glad she did it. And for the first 6 months to a year, she and I talked on a regular basis. This was mostly to help her take care of some issues
that she had not dealt with in the past. Some processes come up once every 3 years, for example, renewal of the Magistrate Judges, and some only occur once every ten year such as the reappointment of our Federal Public Defender, things like that that she would not necessarily have experienced firsthand. Also, I had worked a lot with the judges on the Judicial Conference committees and although I shared that information with her, and Greg, once she became Chief Deputy some issues had long histories, you know and there was some institutional knowledge where I could help her, give her more background. She was very good at calling to get more information when she needed it. She was sweet. She told me, "Every time I have a difficult problem that I need to solve, I ask myself ‘What would Nancy do?’" She was great at asking me for background information but she didn't ask me to solve any of her problems. She was very capable of doing that herself.

Ms. Woodbury: She was using you as a resource?
Ms. Mayer-Whittington: Yes, and that's exactly what I should be used for at that time, and it was very nice. She just showed really good judgment.

Ms. Woodbury: Have you enjoyed your retirement?
Ms. Mayer-Whittington: I've liked it a lot. I can honestly say that there is not one day that I have woken up and said "Gosh I wish I was back at the Courthouse."

Ms. Woodbury: "Oh I can't wait to get to the office this morning?"
Ms. Mayer-Whittington: Yes, and it has nothing to do with the people or the work. Most of it has to do with not having to commute every morning, and evening. Some of it is not feeling the pressure every day from being in a fairly high profile, highly
intense work environment. Not having that pressure has been really, really good.

Ms. Woodbury: Being able to decide what you want to do with your day?

Ms. Mayer-Whittington: Yes. And that actually was harder than I thought. I've been very busy, but some of it hasn't been as fulfilling as the work I was doing so I've learned over the last two years to pick and choose what I get involved in. I want to help out on efforts that are important to me but I don’t want to run the whole thing – at least not right now – I just want to help out.

Ms. Woodbury: Right, you're not going to take on the whole organization or project?

Ms. Mayer-Whittington: Exactly. But I have been able to spend more time supporting the group that my friend and I founded, 16 years ago.

Ms. Woodbury: This is Isaiah's Promise?

Ms. Mayer-Whittington: Yes. I've been able to do a lot more with Isaiah’s Promise. I'm able to speak regularly to groups or help with starting support groups, and talk about the importance of this type of support. I was actually just down at the Rayburn Building in February talking to some Congressional staffers about my work with Isaiah's Promise. I don't see my role or work with Isaiah's Promise as advocacy. I'm not convincing anybody to carry their child to term. I'm letting people know about the resources out there for people who decide to carry to term. We don't get involved in the politics of pro-life or pro-choice, or anything like that as much as we try to offer support to people who make that decision.

Ms. Woodbury: Let them know about things they might not have known about?
Ms. Mayer-Whittington: Right, and make the path a little easier for them. We used to work with maybe 4-5 families a year, when I was working full time. Right now we are supporting 6 families at once and we expect that number to increase as the year progresses. Last year we supported more than 20 families. So that's been a great benefit of retiring and having the time to expand our efforts with Isaiah’s Promise. I've had the freedom to be able to do that. I'm writing a little bit, working on my second book, and I'm Vice President of the Rockville High School PTA, a member of a subcommittee of the Board of Trustees at the Academy of the Holy Cross High School and I'm chair of our Pastoral Council at my parish, the Shrine of St. Jude’s.

Ms. Woodbury: Nancy, one of the things that we touched on in one of the interviews was how you and your husband had juggled the family with the demands of your jobs. I'm just wondering as you stayed in the position of Clerk of the Court, and I'm sure a lot of women wonder, how you were able to handle such a high profile job and raise your children at the same time? I know in addition to Molly, you and your husband also adopted children. Were there any changes in the court that made juggling those responsibilities easier or was it again your family being close and able to help?

Ms. Mayer-Whittington: It was probably a combination of both. I think that I benefited from the shift that occurred in the late 80s early 90s of accepting the idea that women with children were in the workforce to stay. That it was okay to say that your family and your job were important to you. I educated myself so that I had a better understanding of how you could develop policies that that helped
employees balance work and family responsibilities. Often times it was through trial and error that effective policies and practices developed but it was a learning experience and it helped me when I married and had children to be a good employee, employer and parent. Also, I had judges who had children and recognized the stress imposed on working parents and who encouraged me to be flexible and keep my priorities straight. I didn't get married until I was 34 so I was also an older mom, and I was more established in my career. I had already proven to the court my commitment to the office and I wasn't trying to impress people -- those are not the right words -- I didn't feel as though I had to go overboard to stay endless hours at the courthouse in order to get the job done. I needed to work smarter not harder. I knew I could work really hard but I also needed to be there for soccer games and dance recitals, and because I was established in my position I was allowed that flexibility. I had wonderful Chief Judges who when I said to them one of my daughters is receiving an award tomorrow afternoon so I'm coming in early so I can leave a little early, or I have to come in a little bit late and I will stay late, they would always say "I'm measuring you on what you are doing not the schedule you keep. Be there for your family." That was really good to hear. I think if I had been in my 20s and I'm still learning my job and trying to plan for my future and at the same time wondering how to be a wife and mother, it would have been much harder. My husband was amazingly flexible. He was a school teacher, he was off in the summers and he's off during all the vacation times so that helped a lot that he could be home when I couldn’t. He was around for those times when I had to
spend more time at the office. He got home earlier than I did and made dinner and I came home and helped with homework.

Ms. Woodbury:              So, sharing?
Ms. Mayer-Whittington: Very good sharing and an extended family. I remember saying to all my kids that you can't join any team unless one of your cousins is on it. That way we could share carpooling. Having nine sisters living close by and their families, it helps hugely, it helps a lot. I've been blessed with having a great career and a wonderful family.

Ms. Woodbury:              Nancy, we have come to the end of today's session and of your interview for the Historical Society's Oral History Project. This has been a wonderful experience and I want to thank you again for all of your time.

Ms. Mayer-Whittington: Thank you, too.
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United States v. Microsoft Corporation, 253 F.3d 34, 265, 268-69.
Nancy Mayer-Whittington Biographical Sketch

Nancy Mayer-Whittington received her B.A. in History from the University of Maryland and M.A. in Public Administration from George Washington University.

Nancy began her career with the District Court for the District of Columbia on September 12, 1977 as an assistant in the Jury Office; her first promotion was as supervisor of that office in September 1978. Nancy became the Supervisor of Administrative Services in June 1982, and was named the Assistant Clerk for Administrative Services in January, 1984. In September, 1985, Nancy was selected as the Chief Deputy.

In 1991, Nancy was appointed as Clerk of Court, becoming the first woman to hold that position. In addition, she served as the Clerk of the Alien Terrorist Removal Court and the United States Bankruptcy Court for the District of Columbia. She retired in November, 2009.

Nancy is co-founder and President of Isaiah's Promise, Inc. a non-profit network of direct service and support for parents continuing their pregnancy after a severe or fatal prenatal diagnosis. She also authored the book For the Love of Angela. She is an active volunteer, especially with her church, the Shrine of St. Jude Catholic Church, and the Academy of the Holy Cross. She is the mother of five daughters and the grandmother of three.
Ellen Woodbury Biographical Sketch

Ellen Woodbury received her B.A. in History from Radcliffe College/Harvard University in 1969. She received her J.D. from New York University School of Law in 1980 and her M.A. in Politics from Princeton University in 1981. Ellen practiced law as a corporate litigator in New York from 1981 through 1990. In 1991 she moved to Washington DC where she worked until her retirement first as an associate, then as counsel and partner in Chadbourne & Parke's Washington office specializing in arbitration and litigation of reinsurance and insurance disputes.