

**Nancy Mayer-Whittington Oral History**  
**Interview Session IV**  
**March 3, 2011**

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 awhile 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 from 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 when 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 went 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



Ms. Woodbury:

Thank you.