



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 a 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 awhile 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 everyday. 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



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 a way, 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 break through.

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



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 3<sup>rd</sup> 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 4<sup>th</sup> floor for the Chief Judge's chambers or the 6<sup>th</sup> 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 4<sup>th</sup> floor space was not the designated chambers for the Chief Judge. But the problem with Judge Hogan staying on the 4<sup>th</sup> 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 3<sup>rd</sup> 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 3<sup>rd</sup> 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 plane 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 Marshal 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

leave. 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.