

Nancy Mayer-Whittington Oral History
Interview Session X
May 17, 2012

Ms. Woodbury: Good morning. Today is Thursday, May 17, 2012. This is the continued interview of Nancy Mayer-Whittington, who was the Clerk of the Court for the United States District Court in the District of Columbia and retired now almost two years ago, I guess... Is that right?

Ms. Mayer-Whittington: A little over two years.

Ms. Woodbury: And when we spoke about a month ago, you were discussing some of the big cases that had been heard in the United States District Court here in Washington, D.C. and the ways in which those cases impacted the court and your involvement. One of the cases you mentioned was the Hinckley case involving the attempted assassination of President Reagan. I think you had some discussions with the judge in that case, Nancy. Will you tell us about that?

Ms. Mayer-Whittington: Yes, at that time, I was working in the Jury Office. I was the Supervisor and we were getting the jurors ready to go into the courtroom. We had divided them into panels and we were sending them to the courtroom for voir dire. I was calling the jurors by number for the second or third panel to be sent to the courtroom and I called the number of one of the prospective jurors and they said "Oh Lordy, they aren't going to want me, I'm going to hang him." I was stunned. In the jury assembly room, which was fairly quiet at the time because all the jurors were listening for their number to be called, there was this collective gasp.

Ms. Woodbury: Everybody heard him?

Ms. Mayer-Whittington: Yes and it was actually a woman.

Ms. Woodbury: Oh, a woman?

Ms. Mayer-Whittington: Yes. I wasn't sure what to do, so I just continued calling the rest of the numbers, and got the group of jurors together and sent them to the courtroom. Then, I got on the phone and called Judge Parker's courtroom deputy and I told him what had happened. As it turned out the courtroom deputy I spoke to was the Supervisor of the Courtroom Deputies. He was filling in for Judge Parker's courtroom deputy who was out ill that day. I explained to him what had happened in the jury assembly room. I told him that I wanted to pass the information along because I didn't know what impact it might have on the proceedings, but I just wanted to report it. I subsequently learned that the Courtroom Deputy Supervisor did not pass my message along to the Judge and Judge Parker had to ...

Ms. Woodbury: You found that out later?

Ms. Mayer-Whittington: Yes, I found out later. Judge Parker had this really famous reputation for being very tough, and not keeping thoughts to himself especially if he wasn't happy about something, so people always walked a fine line about conveying information to him.

Ms. Woodbury: They didn't like to give him bad news?

Ms. Mayer-Whittington: No they did not like to and so sometimes they didn't. I'm not sure what the thinking was behind the Courtroom Deputy Supervisor not passing the information along other than Judge Parker's reputation for "killing the messenger." When I found out that he had not passed the information along, I

didn't know what to do. I tried to call my boss, who was the Clerk of the Court, Jim Davey, but he was in a meeting out of the building at the time. So I really couldn't discuss it with Jim. I took it upon myself to call Judge Parker's secretary and told her what had happened and asked her if she would pass the information along to the Judge. Probably about a half hour later I got a call from her saying that the Judge wanted to see me, and could I come up right away. So I did and when I went into the office I said to her, because I knew her pretty well, "What did he say when you told him?" She said "I didn't tell him. You can go in and tell him. I just told him you needed to speak with him." So I was a new supervisor and I was young and I remember thinking I don't know if I'm going to be able to walk because my legs were shaking so much. But, I walked in and the Judge basically said "You needed to see me?" He was kind of looking over papers and not even looking at me, just clearly conveying that I was bothering him and wasting his time. I said to him: "Yes I just needed you to know about an incident that happened in the jury assembly room this morning." So I went on to tell him and he literally took off his glasses and threw them across the desk, and threw down the paper he was reading and he said: "What? What are you telling me? You know what could happen?" And he went on to say that I was not training jurors properly and asked how I could allow a juror to say such a thing. I said, "I don't know why she said it. I'm just trying to pass the information along to you and I did write it down, so I would make sure that I would remember it accurately. I know which juror it is who made the remark." Thank goodness Judge Bryant, who was Chief Judge at the

time, was in the chambers as well. After Judge Parker had gone on and on about how stupid the Jury Office was and how stupid a jury clerk I was and how ridiculous this was and did I know the impact this would have on jury selection, Judge Bryant interrupted him and said "Barrington, she's given you information that you needed to know. Now it seems to me that she has done a good job of writing it down and conveying it to you and so that you have the correct information. Why you were not told about this earlier today by the Courtroom Deputy is something we will have to look into. But, Nancy has done her job, now you need to do yours." And then, he turned to me and said, "Nancy, how are you doing? How is the family?"

Ms. Woodbury:

This is Judge Bryant?

Ms. Mayer-Whittington:

Yes. I said "Everyone is fine. Thank you." And then he said: "I think you've spent enough time up here. Come on let's go. Did you have any lunch yet?" and we walked out the door. If I could have given him a big hug I would have. He said "Don't you worry about this. He'll take care of it." He said "You did your job, you did the right thing. You just go on and take care of the rest of those jurors for us." And that was huge, really huge for me because I had heard a lot about Judge Parker. I had not had any incidents with him, but we had a little plaque, a little framed certificate that we would give to our employees after they had survived a "trial by fire" with Judge Parker. He was known for going off on people and really, truly killing the messenger. Hence the reason people didn't want to bring him information. Then you contrast that with Judge Bryant. At no point did he yell at Judge Parker, he just said to him

"you've got your job to do, she's done her job and you need to do your job Barrington." The he escorted me out of the chambers. I was so impressed with his demeanor and his kindness. I had worked with Judge Bryant as Chief Judge because he handled certain jury excuses so I had developed a little bit of a relationship with him. But that moment in Judge Parker's chambers made me a lifelong fan of Chief Judge Bryant. Over the years, I got to know him on a personal as well as professional level and it was one of the highlights of my life. He was an amazing man, and when push came to shove he stood up for me. That was so important to me and, as I learned, so typical of Chief Judge Bryant's character.

Ms. Woodbury: He handled that really well, all around?

Ms. Mayer-Whittington: Yes he did, and for me I saw the consequences of a juror making a statement like that. I felt like I had done the right thing by writing it down because I wanted to be sure exactly what was said. Ultimately Judge Parker questioned the juror about what she had said and soon thereafter she was dismissed from the panel. The judge also, in the presence of the attorneys, talked to the jurors who were in the room when she made the statement and asked if anyone was influenced in any way by what she had said. All the jurors told the judge they had not been impacted by her remark and ultimately it didn't cause a major problem.

Ms. Woodbury: This particular person in the juror pool who made the statement, she hadn't been selected to be on the jury, right?

Ms. Mayer-Whittington: No she was just in the pool about to go into the courtroom for voir dire.

Ms. Woodbury: Right and I guess one of the things that was of concern to you and to the judges was whether or not her statement had had any impact on the other people?

Ms. Mayer-Whittington: Yes and whether the information she conveyed would end up coming out during voir dire and whether she would be selected. And, did she have a bias against Hinckley that she wouldn't reveal under questioning during voir dire but had revealed in front of everyone else. So yes those were all the thoughts that were going through my mind when she was saying it.

Ms. Woodbury: How long between the times this incident happened, in which she made that statement, and the time you felt you needed to go explain to Judge Parker what had happened? Was it that day or... ?

Ms. Mayer-Whittington: Yes, the incident happened in the morning and I went to see him on his lunch break. So it was very soon after the incident. Ultimately, the Courtroom Deputy Supervisor could have handled it and then I could have gone to see the judge to give him the details. But since the Supervisor did not handle it, I felt that I needed to let the judge know about the incident. I was the Jury Supervisor who overheard the remark and I wanted to make sure the judge was aware of what happened. I didn't know what the judge was going to do because I didn't have a lot of experience with high profile trials. I didn't know if the juror's remark was something that the judge would think was a common reaction to the stress of jury duty. I just knew I needed to make someone in the judge's chambers aware of what happened so that it didn't come up down the road and I would be held responsible for not bringing it to the judge's attention. When I

told the secretary what happened, I assumed she would tell the judge. Even though she didn't convey the information to him, she did make arrangements for me to talk to the judge in person.

Ms. Woodbury: But it probably, from her point of view, it was better that he hear it from the person with personal knowledge?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: But she might have given him a heads up?

Ms. Mayer-Whittington: Yes. It would have been nice if she had told him that it was a juror's statement that I was concerned about and wanted to share it with him. Instead of just telling him, the Jury Clerk wants to see you. Because it was clear when I walked into his chambers that he was thinking, "Why in the world does the Jury Clerk need to see me?" You know this took place back in the days before we met with the judges ahead of time to discuss jury selection in high profile cases. Our Jury Clerk now meets with the judge in advance of jury selection and they go over the case.

Ms. Woodbury: Beforehand?

Ms. Mayer-Whittington: Yes, but in those days the judges were not inclined to meet with a Grade 8 jury clerk about anything.

Ms. Woodbury: Nancy, when did it become part of the usual procedure for people from the Jury Office to meet with judges in advance of jury selection for a big trial?

Ms. Mayer-Whittington: It became more of the norm when our office established recommended procedures based on our experiences with jury selection that were designed to assist judges with jury selection in big cases. The judges who utilized the

information and found it helpful told other judges about their experiences and more judges became interested in using the information we were providing. It also took a change in the makeup of our court. In the early 90s when a group of four judges came on board at the same time, the Clerk's Office got the chance to provide an orientation for all of them. Prior to this, orientations for new judges were very informal – no real structure or agenda – just a few judges sitting around a table with the new judge and answering questions. But once the Clerk's Office had the opportunity to conduct an orientation and introduce ourselves to the new judges, they saw first-hand that we had a lot of information that was very helpful to them. So, getting back to your question about meeting with judges prior to big trials, that came about after we had established that we had information and experiences we could share with them. We let them know that we kept statistics from high profile trials. That we could tell them the average time it takes to select a jury and why jury pooling works well in some situations and doesn't work in other circumstances. Once we started compiling data that we could share with the judges, the newer judges on the bench who didn't have a lot of experience in selecting juries found the information very helpful. That's when it started becoming more the norm for the Jury Office to consult with the judge about jury selection for a big case. Another factor that helped develop a partnership with the Clerk's Office was Chief Judge Robinson's decision to invite Jim Davey as Clerk of Court to the monthly judges' meetings. This occurred in the last few years of Jim's tenure as Clerk. A lot of the judges at first were asking, "What is he doing here, why

does the Clerk of the Court need to attend our meetings?" Jim had a few rough moments at those meetings until the judges got used to having him there. That paved the way for me to attend when I took over as Clerk. Towards the end of my career, I used to have a regular place on the agenda where I would report on the status of various projects and activities of the Clerk's Office. Because the primary purpose of the meetings was to discuss administrative issues not legal issues.

Ms. Woodbury: And the Clerk's Office was really the best source of information on that?

Ms. Mayer-Whittington: Yes, and as I said before, due to technology the judges increasingly relied on our office more and more to produce reports, analyze data and write programs to extract the information they needed to manage their cases. This reliance was difficult at first for our more experienced judges who were used to working very independently and change can be a hard adjustment. But as more and more new judges came on board, they were interested in working in partnership with the Clerk's Office and taking advantage of the changes.

Ms. Woodbury: The fact that the Clerk's Office started participating in orientation of the new judges meant you had a relationship with them from the outset?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: And they knew you and they knew they could go to you for help and information?

Ms. Mayer-Whittington: Right and it put us in the position of sharing information that they needed to do their jobs and not just as the staff whose primary job was to receive and file papers. Instead of viewing us as clerical staff, they saw us more

as professional staff, people who could help them manage their cases, helps them conduct research and connect them with their counterparts throughout the country. They were open to that help even if it came from people who didn't have a law degree.

Ms. Woodbury: Right but from people who brought professional expertise of a different kind to the process?

Ms. Mayer-Whittington: Yes.

Ms. Woodbury: Nancy, I know you can't speak for all the district courts, but through your work you have been in touch with several other courts, is it your impression that in most of or many of the other courts there has been that same change in relationships between the judges and the Clerk's Office?

Ms. Mayer-Whittington: Yes, I think generally that's been the case. I think in the smaller courts you have always had a closer relationship between the judges and Clerk's Office staff because there were fewer people involved so the contact was limited to a smaller group. But I think that relationship has changed a bit from being primarily a friendly one to a more professional one for the same reasons as it changed in our court. But the smaller courts will always have a different culture because of their size.

Ms. Woodbury: People know each other?

Ms. Mayer-Whittington: Yes. I think that the medium sized and larger courts saw the same transition when automation and technology started to be something that the judges could benefit from, but they didn't quite understand or quite know how to manage that and the Clerk's Office could help them do that. I think that our

Court was unique and somewhat similar to the District Court for the Southern District of New York. Because our courts are entirely located in one building there are more opportunities for contact and the more opportunities you have to see judges one-on-one the better chance you have of establishing that kind of relationship.

Ms. Woodbury:

Nancy, I would like to ask you some broad questions about the changes at the Court over your tenure, not just as Clerk of the Court but the whole time you worked there. Looking back what were the biggest changes at the court between the time you started working there and the time you retired, either in staff or operations or the judiciary itself?

Ms. Mayer-Whittington:

Well, broadly speaking one major change has been in the diversity of the staff and of the judges. When I started out in the Clerk's Office, our staff was majority Caucasian and predominantly female. Our judges were predominantly Caucasian and predominantly male. The same was true for our law clerks. When I retired, we were much more diverse in our racial makeup both on the bench and in the Clerk's Office. We are still I think over 60% female in the Clerk's Office but the numbers used to be over 85% female at one point. With the ability to attract a broader base of people because of going from clerical to professional positions, we are getting more male applicants. A lot of the diversity in the ranks of the judges came about because of Jimmy Carter's appointments. I think we started getting a lot more diversity on the bench, and continued to...

Ms. Woodbury:

Both racial diversity and women?

Ms. Mayer-Whittington:

Yes, but women still lag behind because there are remnants of the good old boy network still in place. I do believe that there has been a lot of progress in the past thirty years. There are more female judges than ever before but our bench is still more male than female, even though law schools have been graduating more females than males for some time now. Another change has been in the Clerk's Office. We were coming from a culture where we were pretty much told what to do and took our directions from the judges without any real input into the direction of the court or input into the direction of the judiciary. That changed, and now there is really more of a partnership between the judges and the Clerk's Office. In addition to advances in technology the change came about because we had some really good Chief Judges, who recognized that as the leaders of the Court it was better to include the Clerk's Office when establishing a vision for the future and utilize the talents available there. And not just limit yourself to your own chambers staff or your law clerks for all the resources you need in order to run the court. Another big change is in the area of security. This change has been very dramatic. When I first started working for the court, we walked through the doors of the courthouse and didn't have to be screened and didn't have to show any kind of ID. You were just eye-balled by the court security officer who was at the entrance to the building. Then, in the late 90s but prior to September 11, 2001, we had a shooting in our parking lot where one of the Assistant U.S. Attorneys was shot by a friend of a defendant in a drug case and that made everyone aware of our vulnerability. The shooting did not take place in the courthouse, rather it

happened in the parking lot adjacent to the courthouse but it was in broad daylight with lots of people coming and going. That made the Federal Protective Service limit access to our parking lot to Courthouse employees and not available to the public to walk through. Another change over the years is in the nature of the types of criminal cases we handle. There was a time when we didn't have organized crime cases per se in the District of Columbia. Now we have much more gang related criminal cases and cases involving criminal enterprises than when I first started out.

Ms. Woodbury: When did that start, the gang related criminal cases?

Ms. Mayer-Whittington: Probably in the mid 80s. Now whether they actually started then or they just started being prosecuted, I do not know. We were known as a stopping point between New York and Miami for drug traffickers so sometimes people would get arrested at Union Station because they were on an Amtrak train carrying drugs. And then in the 80s, I'm not sure of the reason, there started to be more organized gang activity associated with the drug activity.

Ms. Woodbury: Here in D.C.?

Ms. Mayer-Whittington: Here in D.C.. Yes, so the U.S. Attorney's Office in addition to having a Drug Task Force also had a Gang Activity Task Force. The gangs would block off their turf that they operated on and protected and for a while it seemed as long as they stayed confined to these areas, the criminal activity could be contained as well. But then, when they ventured out of their areas, the public got a lot more concerned about it. But ultimately, I think they just really recognized that it was pervasive in certain parts of the city and they needed to

do something about it.

Ms. Woodbury:

When you say it wasn't viewed as a big deal? Do you mean by police or...

Ms. Mayer-Whittington:

That's the sense you got, that they kind of looked the other way because the gangs weren't heavily involved in murders, they were big on selling and distributing. It wasn't really as violent. Then everyone started recognizing the impact it was having on school children and on the community as the gang activity began to escalate.

Ms. Woodbury:

Did those kinds of cases continue through the time that you were Clerk of the Court?

Ms. Mayer-Whittington:

Yes. I think that different Police Chiefs had differing abilities to control things, but I think that once the gangs established a foothold in D.C. it became a matter of trying to manage them, rather than ever really getting rid of them. And I think that's still the case today. Then we had different cases of notoriety. That didn't change much, but the way we handled them changed just because with more information and more technology everything was faster and more accessible. Technology created huge changes and it was very different from having everything paper driven. Going to electronic filing was huge. Another area in which there were major changes was in Human Resources with the advent of family friendly personnel policies and in staff development - encouraging employees to take the initiative to think and make decisions on their own to be more proactive and not wait for the supervisor to tell them what to do. Before this change, we were very much a top down, hierarchical system

of management. Also, when I first started working for the court, there was an attitude that employees were supposed to come to work, do your job, and go home and you weren't supposed to bring any of your family problems to the office. You weren't supposed to acknowledge you even had a family because if you had children that might create problems and you might have to take off from work when they were sick or if they were involved in school events. Gradually, there was a change to being much more family friendly and supportive of people as whole people instead of just as employees. There was a time in the late 70s and early 80s that if you arrived late to work that you would never dare say to your supervisor that you were late because your child was sick; you would always say you were late because you had a flat tire or traffic was very heavy.

Ms. Woodbury:

Nancy, do you think those changes came about because of changes in the law? Why do you think those changes happened...the more family friendly policies?

Ms. Mayer-Whittington:

I think that a variety of things contributed to that change. One, the laws were beginning to change in response to the needs of a growing population of women in the workforce. Formalizing maternity leave policies and extending the ability for women to use sick leave not only for their own illnesses but also for their child's illness as well were examples of the changes. There was a growing recognition that women had rights and we shouldn't be discouraging their interest in having a family just because we felt we needed them to be available 24/7. I think also we had a workforce that was changing. I remember

sitting in the Clerk's Office lunch room one day a couple of years after I started at the court and listening to the women talking about the lack of opportunities to advance to higher positions in the office. They were very, very frustrated with the fact that they wanted to do a good job, they wanted to get ahead, but every time they went to an interview the supervisor or manager who was conducting the interview would pose these impossible questions: "What happens if your child gets sick or your mother dies? Are you going to come to work the next day?" If you responded that you would not go into the office under those circumstances, you wouldn't be selected for the position. The women who were discussing this at the lunch table just wanted some recognition for the responsibilities that they had at home, they just wanted some flexibility. But the culture in the Court at that time was such that your work at the Court had to be your number one priority and everything else was a distant second. Fortunately, society was changing and that helped. I was coming from a large family where family was first. I was really disappointed when I got to the court house and found people so reluctant to talk about their families or share any information about them. I started seeking out work-family seminars and tried to collect as much information as I could on the subject. I remember the subtitle of one of the seminars on balancing work and family went something like this: "If you think that your employees are leaving their personal problems at home, think again." The implication being that all employees from time to time had to deal with family issues, health issues, and home issues and that they were going to have to use some of the time that they

were at work to take care of these issues. By recognizing this and giving employees the opportunities to address personal issues on the job, it would relieve some of the burden and stress of the situation and they would be better able to focus on the job. I came back from that seminar and talked to Jim Davey about changing some of our personnel policies to accommodate employees' personal lives. For example, we had a policy at that time that said employees could only use their office phone to make and receive business calls. This was before cell phones. I proposed that we change the policy to allow some limited personal calls each day. Employees would be allowed to make and receive personal calls not to exceed twenty minutes total time per day. This allowed someone to make a call from work to schedule a plumber or other maintenance worker for a home repair. Also to check in with their children to make sure they arrived home from school safely since there was no one at home to greet them. It was amazing how appreciative the staff was from this one change in the personnel policies. In addition to attending seminars on work and family issues, I was reading as much of the literature as I could on the subject. The early data showed that the employees who had outside interests, including families, were better employees, overall and that they scored better on productivity and they were more reliable than people who had no life outside the office. So, there was a cultural shift that was going on and a variety of things that were coming together at the same time that led to more family friendly policies. Also, having a Clerk at the time, Jim Davey, who was very receptive to new ideas who basically said: "Let's look into some things and try

some things to see if we can make life in the Clerk's Office better for our staff." That helped a lot. Again, it was a variety of things, from the employees being fed up, to society changing, to an interest on my part and a willingness on the part of management to explore our options. That is what caused things to change. Today employees talk openly about their families and we encourage people to make choices that are in the best interest of the family at certain times and then make choices that are best for the workplace and so that you have a balance. That has worked out for everybody.

Ms. Woodbury:

Nancy was most of the impetus coming from the work force, was it coming from the women employees who were mothers or was there ever a time when the men employees also seemed interested in making sure that they had time and the ability to attend to their families?

Ms. Mayer-Whittington:

When I first started at the Clerk's Office, most of the interest initially came from the younger female employees. For a while there I thought that no one who was a Courtroom Deputy was married. That wasn't the case, but I would say that about 75% of them were not married. They were single, divorced or whatever, and so they were able to dedicate their whole lives to their judge. And it was just kind of an interesting demographic. Then, as courtroom deputies retired and people who were younger applied for those jobs it became apparent that the questions used in the interviews that effectively weeded out anyone who was married and had children were discriminatory. Those questions were based on the perspective that, if you are going to get married in the next few years, or if you are going to have a baby you really can't

take this job. But it was hard to change the culture until one clerk who had been in training to be a courtroom deputy and then interviewed for the next opening for a courtroom deputy job took matters into her own hands. After the official job interview, she had the audacity to go and talk to the judge who had the opening and told him, "I'm a mom right now and I've got two young kids and I would like to work for you. But, I would also like to get out of here about 4:30 p.m. and if that's okay with you, I will make sure I get in early the next morning and to do what I have to do." And the Judge said "Okay let's try that."

Ms. Woodbury: So some flexibility from the judges too?

Ms. Mayer-Whittington: Yes. And it was interesting too, because in talking to some of the older judges who had had courtroom deputies that weren't married, they were like "Man they were awful, they had no life." The judges had nothing to really talk about with those courtroom deputies. The judges said they enjoyed it so much better when they got a new person who came in, who had something to talk about, somebody who had interests outside the courthouse. But it was the kind of a culture that was there when I started. I don't think that was a culture they even cultivated as much as that was a reflection of the people who were attracted to those positions, which were pretty much highly clerical.

Ms. Woodbury: And possibly the kinds of jobs that could take up all your time, because the judge might not even know the extent to which his or her demands were foreclosing a lot of other options?

Ms. Mayer-Whittington: Yes that's true, and then we had courtroom deputies who, because they didn't have anything to go home to, would stretch the work day and be here

until 9 o'clock at night, and not because they had that much work.

Ms. Woodbury: It's their home?

Ms. Mayer-Whittington: Yes. Then they had a hard time when they were trying to train someone. The bad habits of manufacturing work didn't sit well with the trainees. They, in essence, were being taught to fill up the day and into the evening when working more efficiently and getting out of the courthouse at a decent hour were what they wanted to do. But yes that was another big change.

Ms. Woodbury: Do you have any impression whether the other district courts in the United States have gone through a similar metamorphosis in terms of, historically courtroom deputies who devoted their lives to their jobs and then moving towards something that's a little more balanced?

Ms. Mayer-Whittington: Yes. I think that a lot of the courts went through the same issues. The courts which didn't, in my opinion, benefit from some of the changes were some district courts whose Courtroom Deputies were located in chambers and are just not clearly...

Ms. Woodbury: Say that again?

Ms. Mayer-Whittington: The Courtroom Deputy for each judge in some courts is actually located in the Judge's chambers. So that they work totally for the judge and they do a variety of things including backing up when the judge's secretary is not there. Our District Court has never done that and we have been able to use Courtroom Deputies who are available to support another judge whose Courtroom Deputy is unavailable. And that gave the Courtroom Deputies a wider range of experiences and kept them from being beholden to the judge 24/7. So I think

some of the courts where Courtroom Deputies still are located in chambers have not necessarily seen that kind of shift from people who devote themselves entirely to a single judge.

Ms. Woodbury:

In terms of your tenure as Clerk of the Court, what achievements you are most proud of?

Ms. Mayer-Whittington:

Well, one of them is developing staff, developing employees to reach their potential -- five or six of my deputies have gone on to be Clerks of their own courts -- and watching them grow. Seeing them develop and take on different responsibilities. And, for those who didn't go on to be Clerks in other courts, but just developed to their full potential in the office, well, there is nothing more satisfying than helping them reach their full potential. I am really proud of them and that has been one of the most satisfying parts of the job. Just giving people the resources and the support and the opportunities to go do what they want to do and do what they want to do well. There is nothing to compare to that feeling of accomplishment, it's huge. Another thing I am proud of is helping develop a partnership with the judges and having the ability to actually work with them and help make their job better and truly assist in the administration of justice. To recognize and get your staff to recognize what the true mission of the court is and not think about the job in terms of what your particular piece of it is, but instead looking at the Clerk's Office as a whole. Seeing how everything we do is inter-related and thinking of yourself as having a role in the administration of justice. For all of our employees, everything they do impacts somebody's life either down the road or potentially somebody's

immediate freedom, if they don't process information correctly, and that's a big responsibility. Doing your job well and owning the importance of doing it correctly the first time can be very gratifying. Also, seeing our true job too, in addition to the administration of justice, as conveying information and recognizing that there are lots of audiences out there for the work that we do. So that being accurate and being timely in getting the information processed is critical in the age instant messaging and real time technology. Without a doubt seeing all the different efforts that people engage in within the office, the different projects they take on where they demonstrate their talents and capabilities and the creative ways we have been able to use people's talents to fulfill our mission - that's very satisfying.

Ms. Woodbury:

What were the opportunities for development that you have talked about? What did it involve? Supporting people going back to school, internal training...?

Ms. Mayer-Whittington:

Exposing people to lots of different training and helping people see that if they have a talent that they can use in the office, then we will explore ways to utilize that talent. For example, we had some staff members who we discovered were really good with computer graphics but their job did not involve that skill set. When we asked them to help develop the logos and templates for our annual reports and other publications, they jumped at the chance to contribute at that level. If we hadn't made efforts to discover these hidden talents, we would not have benefitted from their creativity and they would not have had the opportunity to showcase their talents. We provided

training in public speaking and found that we had several employees who were wonderful at it. These staff members began making presentations at our monthly meetings and volunteered to lead tours of our office for student groups. The positions they held in the office did not call for them to do any public speaking but because we uncovered these talents we were able to take advantage of this skillset and the employees were able to add a new and satisfying dimension to their job. Exploring through training and staff development all the talents and capabilities of our staff was definitely a win-win for everyone. It is interesting to note that sometimes this process resulted in an employee concluding that they really needed to take their talents and find a different position in a different organization. They realized that they had a good job and they were making good money, but they really wanted to utilize their talents full time and they couldn't do that in their position at the court. For example, one of our employees realized she wanted to teach so she left us and went back to school to get a teaching degree. We had let her do some training for us and she discovered that training/teaching was where her heart was, where she was happiest. We encouraged people to find out what they were passionate about – what skills they had that when they used them they felt fulfilled and fully engaged. If you can figure out a way to move that passion into your daily tasks, it makes everything so much better, and it makes for much better employees. Other ways to help employees have a more positive approach to their jobs involved telecommuting. Some staff members just needed to work at home a day a week so they could cut back on their commute. Getting that

opportunity to spend one day a week working from home and not fighting traffic for two hours on the way to work and two hours on the way home improved their whole outlook on their job and their overall well-being - again a win-win for everyone. We tried to be creative and innovative in our approach to developing our staff. We tried to tap into as many areas of staff development as we could. We wanted to think outside the box and use flexibility, creativity, the utilization of hidden talents and innovative ideas to make our workplace and workforce the best it could be and thU.S. Attract and retain productive and satisfied employees.

We had a project one time involving our files room. Our files room was a mess. The files room staff would do their best to keep the files organized but since most of our staff and staff from our judges' chambers had access to the room and pulled and refiled case files on a regular basis, there were too many opportunities for misfiled case jackets and files left in random stacks throughout the room. We decided to start a program called "Adopt a File Shelf." It was based on the popular "Adopt a Road" program that most of our employees were familiar with where an organization volunteers to clean up and maintain a section of a major road. We asked our staff who were not assigned to work in the files room to sign up to adopt a shelf or adopt up to three shelves. They would then be responsible for going through the case files on that shelf or shelves and make sure they belonged on that shelf and that they were filed in the correct order. Then it became their job in their free time to manage those shelves. It had to be during their lunch hour or before or after their work hours.

I was so pleased with the enthusiasm and all the efforts that our staff put into the shelves they adopted. It was amazing. It was a program that was such a little thing and it went over so well. It was effective in stopping all the displaced files and everyone benefited because when they went to locate a file, it was actually in the correct place on the shelf. It made everyone more efficient and our staff more productive. And it was fun. After getting the files they were responsible for in proper order, people decorated their shelves, and it was a chance to utilize their creativity. It was people showing off a little bit. It was people getting competitive but collegial and in the long run it benefited everybody and it was a lot of fun.

Ms. Woodbury:

That's very interesting, and it gives everybody who is participating a project that's doable. It is not quite so overwhelming as taking on the organization of the entire file room.

Ms. Mayer-Whittington:

Right and it made the staff in the files room feel like people appreciated them for what they did. Because when people went in to manage their shelf, it was hard – it was harder than they thought. It was eye-opening for everybody and it actually caused some changes in the file room.

We also had a poetry contest one time for Valentine's Day. People submitted poems anonymously and then a group of employees reviewed all the poems and picked one winner. The woman whose poem was selected published her poems about three years later. She said "I finally got the courage to send my poems in for publication and that was because I won the contest." You know she was in our finance office. Her work had nothing to do with

of the Court. I wanted to ask you if there were any disappointments or things that you might do differently in retrospect.

Ms. Mayer-Whittington:

I don't know that I have any disappointments. I'm sure that there are things that I could have done better. Actually, I know there are. I'm not necessarily a detail person, I'm more of a big picture person and I am sure that sometimes, because that's not my constitution, we could have done a better job on some reports maybe or focusing in on some issue that was an underlying problem but we didn't necessarily address it. I guess maybe because I'm two years out, the disappointments have faded a little bit. One disappointment I had was that I really never felt that the Administrative Office, which is the central office that has oversight for the administration of the judiciary, ever really appreciated the significance of the role of the Clerk of Court. I think that they enjoyed dealing with judges and they set the tone for the Judicial Conference meetings because the AO does all the planning and supplies all the materials for the judges for their work at the conference meetings. But I don't think that there was ever really a good healthy relationship between the administrative staff of the courts and the Administrative Office.

Ms. Woodbury:

You've mention from time to time over these interviews some of the changes that occurred in the Administrative Office, were there other changes in the Administrative Office during the time you were with the Court?

Ms. Mayer-Whittington:

Yes, we went from what they called a "Mother may I" approach, where every time you wanted do anything you had to send them a letter or pick up the phone and ask them if you could buy more paper than you bought last year, and

that sort of thing. Certainly decentralizing the budget to the courts and letting the courts make day to day decisions, was huge. That was a huge change. But the problem was that the AO started growing at a very fast pace and outgrew its ability to manage itself. It grew from a fairly small entity into a major agency. In my opinion, the AO staff often forgets that the courts could exist without them but they could not exist without us. If there are no courts, there is no need for an AO. But the courts can exist on our own, without them. I'm making a broad generalization. But because of the size of the Administrative Office and because of the difficulty of managing the Administrative Office and its growth, you've got a stove pipe organization where each division within the Administrative Office had its own marching orders. The divisions did not work well together and the business of the courts suffered as a result. The AO was not a well-oiled machine. I think that in recent years they have made some efforts to change. Ralph Mecham, who was the head of the AO for a long time, tried to modernize the relationship between the courts and the Administrative Office. But it was a big cultural shift for the AO and it was hard to get people to change. Mecham was a strong leader but he needed a really strong second-in-command who actually managed the internal operations of the office. And for years and years he did not have one. As a side note, at the present time the AO has a judge who is the head of the agency. Judge Hogan from our court is now the head of the AO. The Supreme Court Chief Justice is the one who selects the AO Director and traditionally this person has been a non-judge who has extensive leadership and management experience. The man

who was hired to replace Mecham -- James Duff -- stayed for about 7 years and then moved back to the private sector. Before he came to the AO he worked as a lobbyist on Capitol Hill. He was hired primarily to persuade Congress that the judges deserved a pay raise and he worked very hard but ultimately unsuccessfully to accomplish that goal. But all of his efforts went toward that goal and none to reforming the internal culture of the AO. Jim Duff went back to private practice because it didn't appear that there was going to be a raise in the next few years, and he was tired of hitting his head against the wall. The search for a successor was not going well so, as I understand it, Chief Justice Roberts asked Judge Hogan if he would take over as Director of the AO on an interim basis. I guess until they could really decide what they wanted to do in the long term. Judge Hogan has been in that position almost a year and I think he's either going to be asked to stay on a little longer or they will ask another judge to come and do the same thing. I think that this is unfortunate because it misunderstands the whole nature of the Administrative Office. You need a trained experienced administrator to lead that effort, not a judge. I know in talking to other Clerks of Court with whom I still have contact that their relationship with the AO is still an issue. You still have to ask the question the right way in order to get resources. You know I met recently with one of our judges and the Deputy Director of the Administrative Office who is sort of new to the position. Our judge was recounting his concerns and they were very similar to the ones we had about how can you wrest back control from each individual AO office now that they have all created their own internal

automation staff, they've created their own little (for lack of a better word) HR staff, even though there is a central HR staff. But they have all worked on their own so much that it's hard to take that back from people when its been the culture for so long. There is a lot of...still a lot of misdirected energy there.

Ms. Woodbury: When you say each office, are you talking each court?

Ms. Mayer-Whittington: No, I'm talking about the offices or divisions within the Administrative Office like the Court Administration Division, the Probation Division, the Office of Defender Services, and the Judges' Division. All of those groups over time, because there wasn't a lot of direction from the top, improvised and created their own internal systems and now the upper level management is seeing the duplication of functions in so many offices. And the courts bear the brunt of that misdirection. The lack of coordination sometimes meant never getting things done because there was so much in-fighting among the divisions. The tension between the Administrative Office and the courts was there when I started and it was there when I left. Clearly what's really frustrating about it is that there are some very, very good people in the Administrative Office, really good staff, and they were equally frustrated.

Ms. Woodbury: And maybe it was just a hard thing to figure out what the relationship should be across all these different divisions, and what AO's role should be?

Ms. Mayer-Whittington: Yes and I go back to the fact that they had just had unprecedented growth, and with growth you need management of the growth and systematic review of it.

Ms. Woodbury: Why do you think that the AO had that growth? What caused that?

Ms. Mayer-Whittington:

I think part of it stemmed from the fact that there were some GAO reports of poor practices in the courts. One in particular was a report about jury management and how much money was spent on jurors who reported for jury service but were not actually needed. The GAO decided and recommended to Congress that the courts needed more oversight. So the courts' reaction was to form a Judicial Conference committee on jury improvements which is like taking a hammer to get a gnat. In order to support that committee the AO had to hire more staff. So some of the growth was just a reaction. Another example is the Civil Justice Reform Act. When it was enacted, the AO saw it as an opportunity to again hire more staff under the guise that they were doing it solely to support the judges. In turn, the judges' reaction was that they were happy to have the additional support.

Ms. Woodbury:

So piece by piece people justify the growth, but then overall it gets out of hand?

Ms. Mayer-Whittington:

Overall you sit back and say "What can all those people be doing?"

Ms. Woodbury:

And maybe the pieces stay on after their useful life?

Ms. Mayer-Whittington:

Absolutely. Also, the AO got creative in their growth at one point. This happened when several judges who were on Judicial Conference Committees got concerned when the number of employees at the AO was getting close to 1,000 people. The AO decided to use funding that was designated for the courts to hire contract workers. The rationale was that the contract workers were supporting the mission of the courts and thus the AO was justified in doing this. The AO got some judges on the Judicial Conference to sign off on

this practice and it went on for more than a few years. By hiring contract workers the AO could stay below the 1,000 employee limit because contract workers did not receive benefits and so did not count as employees in the traditional sense of the word. There was never a sense of transparency in what the AO was doing. The courts found out about this practice through some insiders at the AO who would leak information to the courts. Some of the Clerks of Court brought this practice to the attention of their Chief Judges and the AO had to discontinue using court funding for what are technically AO employees. In the present situation at the AO the Deputy Director Jill Sayenga, who was formerly the Circuit Executive for the D.C. Circuit, together with Judge Hogan have done a good job of going division by division and reviewing the mission of the office and reducing resources where there is duplication of efforts. There have been some good changes but there is still a lot of frustration because it has taken so long to make the adjustments.

Ms. Woodbury:

What prompted you to retire when you did?

Ms. Mayer-Whittington:

I was actually going to retire when I turned 50. That would have meant taking what is termed an early out. That was my plan. Ultimately, it was a pipe dream, but that was my original plan. I think that dream is what helped me get through some of the tough days when being a full time mom and being a full time Clerk seemed impossible to accomplish. I wanted to go while I liked what I was doing a lot and was still young enough to do something else. So my decision to retire definitely wasn't because I didn't like my job, and it definitely wasn't because it got overwhelming or because of the people, or because I got

bored, or anything like that. I really loved what I was doing. Going back to my original plan, I didn't retire at 50 for a variety of reasons. The number one reason was I hadn't thought through the financial implications of taking a 10% reduction in the annuity I would receive for leaving 5 years earlier than age 55 which is the earliest you can retire and receive a full annuity. Ultimately, it wasn't in the best interest of our family's financial situation in the long term. Another reason was the Court was in the midst of implementing online filing and it just wasn't a great time to go. Also when I turned 50 that was the point when my counterpart in the Bankruptcy Court decided that she wanted to retire, and take an early out. So, I decided to retire when I turned 55 and oversee the full implementation of electronic filing, consolidate the District and Bankruptcy Clerk's Offices and receive my full annuity. I would have been at the court for just over 30 years and that seemed good enough. There are great people in the office, and I knew the office was in really good shape, they would do fine, and in fact they would do wonderful new things. So that was my new plan and that would have been right before Judge Hogan stepped down as Chief Judge. What influenced me to stay after I turned 55 quite frankly was Judge Lamberth saying: "I'm going to be the new Chief Judge and you are trying to desert me here?"

Ms. Woodbury:

Judge Lamberth was saying: "I have to have a transition here"?

Ms. Mayer-Whittington:

I understood. I would have felt the same way. Once I let go of the pipe dream of 50 then 55 became the target. Adding two more years and going at 57 didn't seem so bad. So I told Judge Lamberth I would stay on for two more

years and then I really wanted to retire. He was wonderful to work with and when I turned 57 he was very supportive of my decision to go. I had wonderful relationships with the Judge Hogan and Judge Lamberth, and all my Chief Judges and good relationships with the other judges. That wasn't why I decided to retire. It was just the right time for me and my family.

Ms. Woodbury: Did you participate in any way in the choice of your successor?

Ms. Mayer-Whittington: Yes, I was involved in drafting the vacancy announcement, reviewing applications and being a part of the interviews. My successor is Angela Caesar.

Ms. Woodbury: Did you have any advice for her when she assumed your job as Clerk of the Court?

Ms. Mayer-Whittington: Well, yes. Let me give you some background so you can understand my relationship with Angela before she became Clerk of Court. While Chief Judge Hogan was still Chief Judge, he asked me if I had any idea of any candidates in the office interested in succeeding me as Clerk when I decided to retire. I told him there were a few people in the organization that would do a good job. One person was Greg Hughes, who was at that time and is still the Chief Deputy for Operations, and the other was Angela who at that time was the Assistant Chief Deputy for Operations. There were a couple of other people who I think had and still have potential to move up to a Chief Deputy and potentially a Clerk of the Court position. So I talked to Greg about his plans for the future and he said he might be interested in being Clerk of the Court, but he wanted to think about it. Ultimately, he concluded that he preferred being a Chief Deputy. This was like again, 2 or 3 years out. I talked to Angela and she was interested, but

she wasn't sure she wanted to do that and she was very humble and she said "Oh, I'm not sure I can take on all that responsibility." I told her "I think it's important for you to look at where you are now and decide if you are satisfied with your position. If not and you might want to become Clerk someday, you need to learn the other half of the court" which is the administrative part. Angela was mostly in the operations end of the Court. So she did, on her own, take on some projects and work with the Chief Deputy for Administration to become more acquainted with her responsibilities. Ultimately, when that position became vacant, because my Chief Deputy for Administration became Clerk of Court for the District of Connecticut, Angela applied for the position. I did not participate on that interview team. They had a screening process and I selected the person from the 3 candidates and we had Angela and two external candidates that applied. One from another court and one from the private sector. Ultimately, Angela's experience and knowledge and her work ethic and her working knowledge led to her appointment as Chief Deputy for Administration. And once that happened I knew she would then be able to pick up the budget piece and the finance piece and that would be a good thing for her if she decided to become the Clerk.

Ms. Woodbury: Is she happy, do you know, in her new role?

Ms. Mayer-Whittington: Yes, yes.

Ms. Woodbury: She's glad she did that?

Ms. Mayer-Whittington: She's glad she did it. And for the first 6 months to a year, she and I talked on a regular basis. This was mostly to help her take care of some issues

that she had not dealt with in the past. Some processes come up once every 3 years, for example, renewal of the Magistrate Judges, and some only occur once every ten year such as the reappointment of our Federal Public Defender, things like that that she would not necessarily have experienced first hand. Also, I had worked a lot with the judges on the Judicial Conference committees and although I shared that information with her, and Greg, once she became Chief Deputy some issues had long histories, you know and there was some institutional knowledge where I could help her, give her more background. She was very good at calling to get more information when she needed it. She was sweet. She told me, "Every time I have a difficult problem that I need to solve, I ask myself 'What would Nancy do?'" She was great at asking me for background information but she didn't ask me to solve any of her problems. She was very capable of doing that herself.

Ms. Woodbury: She was using you as a resource?

Ms. Mayer-Whittington: Yes, and that's exactly what I should be used for at that time, and it was very nice. She just showed really good judgment.

Ms. Woodbury: Have you enjoyed your retirement?

Ms. Mayer-Whittington: I've liked it a lot. I can honestly say that there is not one day that I have woken up and said "Gosh I wish I was back at the Courthouse."

Ms. Woodbury: "Oh I can't wait to get to the office this morning?"

Ms. Mayer-Whittington: Yes, and it has nothing to do with the people or the work. Most of it has to do with not having to commute every morning, and evening. Some of it is not feeling the pressure every day from being in a fairly high profile, highly

intense work environment. Not having that pressure has been really, really good.

Ms. Woodbury: Being able to decide what you want to do with your day?

Ms. Mayer-Whittington: Yes. And that actually was harder than I thought. I've been very busy, but some of it hasn't been as fulfilling as the work I was doing so I've learned over the last two years to pick and choose what I get involved in. I want to help out on efforts that are important to me but I don't want to run the whole thing – at least not right now – I just want to help out.

Ms. Woodbury: Right, you're not going to take on the whole organization or project?

Ms. Mayer-Whittington: Exactly. But I have been able to spend more time supporting the group that my friend and I founded, 16 years ago.

Ms. Woodbury: This is Isaiah's Promise?

Ms. Mayer-Whittington: Yes. I've been able to do a lot more with Isaiah's Promise. I'm able to speak regularly to groups or help with starting support groups, and talk about the importance of this type of support. I was actually just down at the Rayburn Building in February talking to some Congressional staffers about my work with Isaiah's Promise. I don't see my role or work with Isaiah's Promise as advocacy. I'm not convincing anybody to carry their child to term. I'm letting people know about the resources out there for people who decide to carry to term. We don't get involved in the politics of pro-life or pro-choice, or anything like that as much as we try to offer support to people who make that decision.

Ms. Woodbury: Let them know about things they might not have known about?

Ms. Mayer-Whittington:

Right, and make the path a little easier for them. We used to work with maybe 4 -5 families a year, when I was working full time. Right now we are supporting 6 families at once and we expect that number to increase as the year progresses. Last year we supported more than 20 families. So that's been a great benefit of retiring and having the time to expand our efforts with Isaiah's Promise. I've had the freedom to be able to do that. I'm writing a little bit, working on my second book, and I'm Vice President of the Rockville High School PTA, a member of a subcommittee of the Board of Trustees at the Academy of the Holy Cross High School and I'm chair of our Pastoral Council at my parish, the Shrine of St. Jude's.

Ms. Woodbury:

Nancy, one of the things that we touched on in one of the interviews was how you and your husband had juggled the family with the demands of your jobs. I'm just wondering as you stayed in the position of Clerk of the Court, and I'm sure a lot of women wonder, how you were able to handle such a high profile job and raise your children at the same time? I know in addition to Molly, you and your husband also adopted children. Were there any changes in the court that made juggling those responsibilities easier or was it again your family being close and able to help?

Ms. Mayer-Whittington:

It was probably a combination of both. I think that I benefited from the shift that occurred in the late 80s early 90s of accepting the idea that women with children were in the workforce to stay. That it was okay to say that your family and your job were important to you. I educated myself so that I had a better understanding of how you could develop policies that that helped

employees balance work and family responsibilities. Often times it was through trial and error that effective policies and practices developed but it was a learning experience and it helped me when I married and had children to be a good employee, employer and parent. Also, I had judges who had children and recognized the stress imposed on working parents and who encouraged me to be flexible and keep my priorities straight. I didn't get married until I was 34 so I was also an older mom, and I was more established in my career. I had already proven to the court my commitment to the office and I wasn't trying to impress people -- those are not the right words -- I didn't feel as though I had to go overboard to stay endless hours at the courthouse in order to get the job done. I needed to work smarter not harder. I knew I could work really hard but I also needed to be there for soccer games and dance recitals, and because I was established in my position I was allowed that flexibility. I had wonderful Chief Judges who when I said to them one of my daughters is receiving an award tomorrow afternoon so I'm coming in early so I can leave a little early, or I have to come in a little bit late and I will stay late, they would always say "I'm measuring you on what you are doing not the schedule you keep. Be there for your family." That was really good to hear. I think if I had been in my 20s and I'm still learning my job and trying to plan for my future and at the same time wondering how to be a wife and mother, it would have been much harder. My husband was amazingly flexible. He was a school teacher, he was off in the summers and he's off during all the vacation times so that helped a lot that he could be home when I couldn't. He was around for those times when I had to

spend more time at the office. He got home earlier than I did and made dinner and I came home and helped with homework.

Ms. Woodbury: So, sharing?

Ms. Mayer-Whittington: Very good sharing and an extended family. I remember saying to all my kids that you can't join any team unless one of your cousins is on it. That way we could share carpooling. Having nine sisters living close by and their families, its helps hugely, it helps a lot. I've been blessed with having a great career and a wonderful family.

Ms. Woodbury: Nancy, we have come to the end of today's session and of your interview for the Historical Society's Oral History Project. This has been a wonderful experience and I want to thank you again for all of your time.

Ms. Mayer-Whittington: Thank you, too.