

[End Tape 2 for 6/10 session]

Interview of James F. Davey

Session #4 - June 19, 2008

This interview is being conducted on behalf of the Oral History Project of the Historical Society of the District of Columbia Circuit. The interviewee is James F. Davey. The interviewer is Steven P. Hollman. This interview was conducted by telephone on June 19, 2008, commencing at 4:00 p.m.

Mr. Hollman: I thought we'd start today, if it's okay, talking a bit about the judges on the court and how the composition changed over time and what that did to affect the job of the Clerk.

Mr. Davey: Okay.

Mr. Hollman: So, tell me about the structure of the court in terms of who was Chief Judge when you started and his relationship with other active members of the court.

Mr. Davey: Judge Curran was the Chief Judge at the time of the study that I participated in, and he was also my first Chief Judge. I think I told you earlier that when I was voted in as Clerk it was a 12-to-3 vote with the three voting against me being then Chief Judge Curran, Judge Sirica who would be the next Chief Judge, and Judge Hart, who would follow him, follow Sirica. And that pretty much indicates that the old-timers weren't ready for a change, except Judge Hart. I still don't know why he voted against me.

But in any event, when Chief Judge Curran — back then, the rule was that you got to be Chief Judge based strictly on seniority. And as long as you were under 70 years of age, even if you only had three months to serve when the last

Chief Judge stepped down, you would become Chief Judge. The shortest tenure that I recall, I had seven Chief Judges during the period 1970-1990, and the shortest one I recall, I'd have to verify, would be Judge Smith, who served only a year. They have since changed that rule, and — because it was just a revolving door of old judges. [Laughter] And again, I'm not sure of this, but I think you have to be under 65 to be Chief Judge, and there's a term limit on the number of years you can serve so that you don't get into the reverse situation where a young guy inherits it at 45 and has it until he's 70, for 25 years. I think its six or seven years now. But the changes are big improvements over what it was.

The chiefs, back to Judge Curran, he wasn't a very strong Chief. He had no real administrative inklings. And I remember that, as a result, or during the course of the study, they formed an executive committee headed by Judge Hart, and I forget who the other members were. Judge Gesell comes to mind. But I'm not sure; I don't have my notes. But the executive committee, in effect, was the committee that we as study members contacted rather than the Chief Judge and our dealings were through them, so it wasn't a very powerful post and with respect to the Chief Judge, when Judge Hart got to be Chief, by then we had overcome any differences he might have had with me.

And, let's see, when we got the — we no longer had the — when we got to Judge Hart we no longer had the executive committee. But there was the — oh — Judge Hart explained to me the power of a Chief Judge. We wanted to take the court reporters out from under the thumb of the individual judge and put them under the Clerk's control. Now, frankly, I wasn't literally, personally looking forward to that because court reporters are a unique breed. They've historically

been associated with the judges, and I wasn't going to get any more pay taking over that headache. But, organizationally and administratively, it made sense to have them report to a non-judge rather than being on their own. And that non-judge, in this case the Clerk, would be able to manage them more effectively. Some judges have had heavier caseloads than others. Some judges, I mean heavier times in court just by nature of the way they conducted their business. I think I mentioned Judge Gasch didn't feel like he was doing his job unless he was in the courtroom, and if he's in the courtroom, people are talking, and if people are talking, the court reporter has to take it all down. And in the early days, they didn't have transcribers. Most of them didn't have transcribers. So their court reporters were not only taking it, the stuff down, but in their free time, they were transcribing it. And you can see how cumbersome and tiring that would be although the court reporters were making more money than the judges.

But back to Judge Hart, we came up with a proposal that made all kinds of management sense to reorganize the reporters under my control and he said, "Jim, I'm going to show you the power of the Chief Judge." Back then I was not allowed to attend executive sessions except if I had a particular point to make to them. And that led to some miscommunications and all. You know I'm, in effect, operating as a CEO, and they are the board of governors, board of — chairmen of the board. And I'm never in the room when they're making policy. And I would — I don't know if I was even given copies of the minutes of their meetings initially. But eventually, I was able to get the minutes, and although other courts were more progressive and began to have their clerks sit in as the secretary of the meeting, in D.C. it was the junior judge who had that

responsibility, and they didn't want non-judges around. I think because it would show — [Laughter] reveal too much of how they made policy.

And it wasn't until Aubrey, well, yeah, just before Aubrey Robinson came on, there was a new Administrative Assistant to the Chief Judge, and she began to go into the judges' executive session. And she would become the secretary. And that wasn't a tough thing for the judges to accept because she was not a manager, or whatever; she was just a member of the Chief Judge's staff.

And, I kept pushing for entry into these sessions on a regular basis. And Judge Robinson said, "Cool your heels; cool your heels. If we put it to a vote, you're gonna lose." And other courts had begun to do that, progressive courts.

So finally, he said, "Jim, what I'm going to do is just have you come up one time and not even put it to a vote. And the Gesells and Harold Greenes and all — maybe we can slip one by them." And that's the way, that's the way I eventually ended up being at all the meetings. It was never put to a vote. But that shows you some of the progression in the way of administering the court. Progress is slow and would have been — without Aubrey Robinson, it wouldn't have happened.

But, so back to your point about Judge Curran. He was, you know, a likable sort, but he didn't really care for administration. And I didn't have a lot of contacts with him. And then when Judge Sirica became Chief Judge, he too wasn't inclined to get too much involved in administrative matters. And back then, we did not — the individual courts did not control their own budgets. That was all done by the Administrative Office of the U.S. Courts. So, and now today, that's altogether different. We pushed through the years to decentralize that

budget process, and just after I took over, I mean just after I left, full budget control for the courts was put down to the Clerk's office. But that took a 20-year period and a progressive head of the AO, Ralph Mecham. So my point being there weren't heavy-duty matters of arguing how much money the Probation office will get versus the Clerk's office versus the judges, so there was little — there were still a lot of things to do on a day-to-day basis. You had to — working with GSA, you had to be sure there was enough air conditioning in the building and the security, although security wasn't a big issue when we first came in.

In any event, Judge Curran and Judge Sirica didn't really like to get involved in administrative matters. I can remember when I had to, when I came in, all deputy clerk appointments had to be approved by the Chief Judge. And that wasn't a very good idea.

In some courts it was a lot worse than in our court. Out in Cleveland, for example, as a deputy clerk position became available they rotated the ability to appoint that deputy clerk among the judges. They had some major problems out there. But I would — I would have to go to the court for approval of any appointments. That changed, and I can't remember just when it changed but I think it was under Judge Hart.

I remember Judge Robinson when he became Chief reinforcing the point that I remember one of the judges was questioning how I was handling the financial department and the — Chief Judge Robinson, who was not Chief Judge at the time, mentioned to her that, "Hey, it's not our job to tell Davey what to do with the finance department. That's his job. And if we don't like what Davey's

doing, then we get rid of him, but we don't interfere with how he's running the shop."

In fact, he came out so strong I wanted to say, I'll accept your suggestions, you know, and we can talk about it. But Judge Robinson cut it off at the pass.

But I do remember having, when I came in — in an earlier talk I mentioned there was a major reorganization needed of the Assignment Commissioner's office, pretrial examiners, Motion Commissioner's office, the Clerk's office. And when I presented my proposal to the court, I even went down by name and position who was being shifted, who would be shifted over to the Superior Court because of the cases were going over there, and I remember Chief Judge Sirica asking me, he said, "Mr. Davey, I don't see that you're doing anything for Marion Lewis, who's been in the Clerk's office for 20 years or more, why is that? And by the way, is Marion a man or a woman?" [Laughter] But the reason I relate it, it showed that the judges were involved in personnel decisions that they shouldn't have been involved in, and they would go for the old-timers. And all that gradually shifted over time and to the benefit of the court. You know, just letting me make those decisions and holding me accountable.

So, that pretty much went — under Judge Curran and Judge Sirica, I pretty much could do what I wanted to do without any real oversight. And then Judge Hart comes along, and he didn't mess with me in the Clerk's office, but he was very active and very supportive of making, trying to make changes where changes were needed. And one of my management philosophies that I developed — if you ever wanted to make — you can mess around in the Clerk's office all you want over a period of years, okay, but if you want to make major change in

the court as an institution, you have to find a friendly judge. And I didn't bat a thousand with Judge Hart, but we did do some major things under his leadership. And one of the things was improving jury utilization which had tremendous impact not only financially but on the court's image.

When I came in the philosophy was we never have a judge wait for a panel. Whenever the judge calls for a panel we should have enough jurors in the courthouse to send him or her one. And I mentioned previously that judges tended to want to start their trials on Monday, so on any given Monday, you'd have three, four hundred jurors coming in. And it was a truly wasteful, and a lot of them never, never got into the courtroom, because, you know, last minute pleas and settlements.

Mr. Hollman: Sure.

Mr. Davey: So what I started doing without any judicial control or without advising the judges, I just started cutting back, you know, 2%, 3%, 5%, 10%. Crossing my fingers, you know. And then one of the good things that the Administrative Office let me do, they let me hire, they knew I couldn't do everything on my own, and I don't, I should take that back. I never did everything on my own. My whole philosophy was to get a team that could work it, but, let's put it this way, when I took over, it reminds me of my little-league team, you know, the shortstop picking his nose, the second baseman throwing rocks. [Laughter] You know, not really paying too much attention to the goal, and everybody doing their own thing, and you know, happy in what they're doing. But the thing was to try and get them to pick their nose while they're on the bench. [Laughter] and um, but the Administrative Office gave me a management assistant at a grade 13 level,

which was pretty high to help me and that was both good and bad. It was good that I had somebody that had some management experience that could, you know, help me with some of the details. It was bad that others in the Clerk's office resented a newcomer coming in had that high a grade and when it turned out that the newcomer had some personal issues, that didn't help matters. However, one of the things that the management assistant did do is we developed a formula based, analyzing jury usage over a period of years. One thing that the clerk's office was very good at was keeping records. Nobody ever looked at them, but they had records of how many jurors came in and when they went into the courtroom. Not only how many went into the courtroom on a given day, you could figure out when they went in so you could get, oh you know, 10 o'clock, some of it is just intuitive. Ten o'clock is going to be your busy time, and so on, but it was very helpful to have that kind of data. So based on analyzing all that data over a long period of time and making allowances for criminal panels and civil panels, we developed a formula. If you had three criminal and two civil, you bring in X number. If you had six criminal and two civil you bring in Y number. And that was designed to make sure that 90% of the time, if a judge called, he'd get the jurors, the panel on time. And it worked.

And so — but then, oh jeez, I don't know whether it was Harold Greene or Judge Gesell, they had to wait. And they complained to me, and they complained to Judge Hart. And, you know: "Davey, you know, you're counting pennies and you're missing the big picture. They're only so many judges in the court system. There's a whole bunch of jurors. You know, bring in the jurors."

And so I went to Judge Hart, and you know, I explained to him the formula and the whole bit. And you know, he says, “Well this makes sense, but we’ll make one exception. What we’ll do is we’ll follow this formula, but if a judge when he requests a panel” — you know, they have to request it a day in advance — “guarantees it, then you’ll use the formula for all the others but you’ll guarantee this judge they’ll have a panel.”

So — well, you know what that led to with some judges — all the time, every one of their panels was guaranteed. And you know, they abused the system. But it was still, still better than, a lot better than what it used to be. But without Judge Hart helping me out with that — the formula and the “guaranteed” — we’d have reverted back to the old system of jurors don’t count, only judges do.

So Judge Hart was a wonderful person to work for from an administrative standpoint. If I — he was always accessible, and he dealt with matters, and he dealt with them quickly and efficiently.

Just a couple of quick stories about Judge Hart. It’s a small one but it’s funny. A guy came in and thought he could file a case with our court. And my new case desk said, Mr. Davey, we have someone here and he really — our court doesn’t have jurisdiction. And, you know, we’ve got to tell our deputies, you don’t — you’re not the lawyer, you know, don’t argue with him. But this one was so clear. So they brought him in to me, and I called up Judge Hart, and I said “Hey Judge, I’ve got an attorney here who thinks he’s got a case that was within our jurisdiction, and we don’t think it is.”

“Bring him up.”

So I brought him up and sat outside, and about five minutes later the guy comes out. And Judge Hart has a, had a case dismissed stamp prepared because he handled pro se matters and most of those were as Chief Judge he took them, and he dismissed a lot of cases. So rather than writing it out all the time, he just stamped it. So I take it the lawyer who wants to file an appeal, but we haven't filed it yet. And I told him, the lawyer riding down the elevator, "You know, most courts measure their backlog from filing to disposition. In th[is] court, we measure ours from disposition to filing." [Laughter]

But he was great. A prisoner had filed a petition complaining about something at a prison. He, Judge Hart, called the prison up and [said], "Deal with it."

And we had another set of cases where Filipinos were eligible for some relief if they proved they helped us out in World War II. And it turned out a scam developed. And I don't know whether it was me or one of my deputies, as I recall it was me, but I could be wrong — I noticed they would send their complaints in, and they'd send a picture of themselves in a uniform to prove that they were of service, they had served. I noticed the damned uniform looked the same on all of them. It turned out some guy was bringing these people in, putting the uniform on them, taking a picture. Judge Hart raised hell with the Veteran's Administration. Finally got that one cleaned up.

But he was, he was just wonderful and he cared about — and the judges respected him, which meant a lot. And so he was a great Chief Judge.

And then, want me to go just through the Chief Judges or — ?

Mr. Hollman: I've got a couple of follow-up questions for you before you do that.

Mr. Davey: Sure.

Mr. Hollman: First, you mentioned in passing the question of security. And it just caused me to wonder whether there ever were any security incidents that you recall?

Mr. Davey: No. I mean, you could walk into that courthouse and walk into a judge's chambers. And I don't — well we had a security incident that probably would have occurred even with the security and that was under Judge Hart's reign when some, a couple of prisoners took over the cellblock downstairs. But that wouldn't have been prevented by all this security at the doors and — you know what I mean?

In fact I remember Judge Gesell saying one day, he said when they were discussing more stringent security, you know like putting guards or you know, checking people before they came in, he says, "I'm going to die on my way to the courthouse getting hit on C Street." [Laughter] So no, I don't recall any incidents where somebody wandering in off the street caused harm.

Mr. Hollman: Or any incidents involving criminal defendants?

Mr. Davey: The criminal defendants, yes, you know, there was that cellblock takeover. And that was under Judge Hart's reign. And I remember that he was, he — Judge Hart was managing the crisis. And again, you'll have to forgive me, I forget the outcome. But I do know that the prisoners in the — we had a huge cellblock downstairs and they would, the way it worked would be that the prisoners would come in from the jail in a bus, and they'd go into the basement of the building where there's a series, several cellblocks, one for men, one for women, and the like. And then, the prisoners would be escorted to the courtrooms by separate

elevators that ran from the cellblock, and they would go into a smaller cellblock behind each courtroom, if you get the picture.

So, when these prisoners overcame the deputy marshals in the main cellblock — I think they got his gun, and I don't know how many deputy marshals were being held hostage — but what I do remember is Jim Palmer, who was a very good looking and smart, um, didn't turn out to be too smart in this case, though — he was the chief deputy marshal and he was on his way to, he thought, to becoming the marshal. And independent of Judge Hart's control of the situation, Palmer decided to negotiate on his own, and when Hart found out, he not only got rid of him for the day, he told him, told the marshal never to let him come back into the courthouse. And I remember when Judge Hart left, Judge Jones was then Chief, and he had to deal with Palmer wanting to get back in the courthouse. But that's the only prisoner one.

And we did have the time when the, that wasn't a security thing, no. So in terms of security we didn't have any incidents that I recall that on their own would warrant increased measures other than the general, you know, obviously some things were happening in government and all the government buildings were getting more secure.

Mr. Hollman: On the question of court reporters being shifted from the judges to controlled by the clerk's office?

Mr. Davey: Yes.

Mr. Hollman: How did the court reporters react to that?

Mr. Davey: Well, number one, the proposal was killed, 14-0. I didn't finish the story. Judge Hart said, "Oh, I'm going to show you how powerful a Chief Judge is." Did I mention this?

Mr. Hollman: Yes, you started, yeah.

Mr. Davey: Okay and he, we uh, he invited me in to present the case to the judges, and the vote was 14 to 1 against. With Judge Hart voting for. He said, "Jim, I told you I'd show you how important a Chief Judge was." But years later I did assume responsibility, and I did get a manager, court reporter manager, former court reporter, and the court reporters fought it tooth and nail. I mean this, Berk Brown was his name. Nice guy, former court reporter, he was trying to be fair to all the reporters, and then they were just blowing him out.

[End TAPE 1, Side A; Begin TAPE 1, Side B]

Mr. Davey: Then there was the scandal that wasn't. I don't know if you want to get into that at this point. But we didn't have enough court reporters to take care of our fifteen active judges and our five to seven senior judges. So, in fact the Administrative Office — I remember when Judge Hart was Chief Judge. This was back in '73, and this is one memo I wish that I had kept. The AO, by '73, they had concluded I was significantly overstaffed, and I was, but not as much as they thought. And what I wanted it to do was to shift the staff as the workload shifted to the Superior Court and also just not to fill vacancies rather than lay somebody off.

And they — the problem was, Steve, back then, the staffing formula that they used to staff courts with personnel in the Clerk's office, you get one deputy clerk for every hundred filings, and that was how they worked it. And generally that worked out all right. However, my court, see now it's *my* court, how 'bout

that? [Laughter] Never say that around some judges. But our court was, had too many judges for the caseload. And remember that's one of the main findings of our study. So I couldn't argue it both ways. On the other hand, if you go based on filings, what I, what I showed them — this would be the simplest way of explaining it — New Jersey District Court and our District Court had the same number of filings. New Jersey had ten judges, I had fifteen. Well, when I go to unlock the door to the courthouse to begin business that day, I need more people than the New Jersey court just because I've got more judges. You follow me?

Mr. Hollman: Yes.

Mr. Davey: Even if my judges don't have as many cases, I still got to get my courtroom deputy, a court reporter, and whatever. They didn't take that into account. They didn't take how many jurors you brought into, brought in. They didn't have a system of weighing cases. Like *Watergate* was just one case. That's all I got out of that. So eventually, eventually, they devised a formula that took into consideration number of judges, number of senior judges, the types of cases and the like. But when I say eventually, I'm talking over a 10-year period.

And so I'm fighting these people as we're going along, and they — in terms of court reporters where I think we started this — they came over with their, they — the Administrative Office — came over with their data showing how much time, how many dispositions there were, our judges compared to other judges, and whatever. And they concluded that we only needed eight or nine court reporters for our 15 judges. And I mean that was incredibly ignorant of how things work. So, but statistically it worked out. So I said, I got tired of fighting them and I brought them over to the Chief Judge's chambers and let them explain

to him. And then we talked a long, a lot, and I said, “Judge Hart, let’s get down to the nuts and bolts. What they’re saying here is that you and Judge Corcoran — one of our other judges — have got to share a court reporter. And you decide whether you want to take mornings or afternoons. And Judge Corcoran gets the other.” And it was just, you know, just incredible. But whatever.

This leads up to, okay, they finally agreed that I needed some extra help for our senior judges, that they didn’t count in the formula. But they wouldn’t let me have real reporters that know how to take down, you know, with their stenographic machine.

Mr. Hollman: Right.

Mr. Davey: We even had maybe 13 stenographic and 2 steno masks, you know the ones that would just talk into a mask?

Mr. Hollman: Uh huh.

Mr. Davey: Okay, they wouldn’t let me have those kind of people. And they let out a contract, the Administrative Office, with — they sent it out for bid. And we got this outfit that — they gave it to the lowest bidder. And this, I got more damn complaints, I’ll try to keep it short. But it shows you what the courts and all had to go through before we got into the decentralized process we have now. These people would come in with their tape recorders, and they’d set them up. And they wouldn’t even pretend to take down, they would just record it, and then they, in fact, some of them would laugh. You know, they had no idea how to act in a courtroom. And then they would take their tapes back to the office, and they’d have some other person transcribe. Well, we started having troubles, getting transcripts, and I finally, I went over to the place where they did business and I,

the first thing I saw was, I noticed on the door that the IRS had some claim against them. And I go in there, and Steve, I wish I had my Minolta camera that I couldn't remember last time with me. I mean there were tapes and boxes, and it was just incredible. And these foreigners, and I don't, I'm not saying they were illegal immigrants or what, but, you know, they got their headphones on, and they're trying to type. And fortunately, the senior judges were only hearing civil cases and not criminal cases, because most, a lot of these transcripts could never be produced. And I can't tell you how many, how many we had to retry. I don't think it was a significant number. But that was one of the prices we paid for having control being exercised by a party not knowing what really goes on in a courtroom.

So my history with the AO is a rather difficult one. I'm not saying that it was impossibly difficult. I had to educate them, and they got to thinking I was a pain in the ass. And, you know, whatever it took. So the answer to your question I think you started with, when the court reporters got under my control, and I hired a manager, it was difficult. And he ended up having to go out early with physical problems.

And then Dawn Copeland took over, and by then we had smoothed things out, and it was working fairly good. And, you know, she would be more amenable to switching people around. But court reporters were always very difficult from a management standpoint.

Mr. Hollman: Tell me about the, tell me about the interaction of the judges in the executive sessions and whether that was a revelation to you?

Mr. Davey: No, I didn't see — how do I put it? 'Cause most of the time that I was in there was under Judge Robinson. All the time. And he ran a good show, you know what I mean?

Mr. Hollman: Right.

Mr. Davey: So, a lot of what might have been going on before wasn't going on under Judge Robinson. So I don't have any, you know, really great stories to tell about those executive sessions and I wouldn't anyway. I know you didn't ask for specifics but there would be, there would be heated arguments. Judge Sporkin was kind of a maverick, and you know, he'd wander in late and not pay too much attention but then, you know, get into some discussions. For the most part, though, they weren't — there wasn't anything bizarre or heated going on.

Judge Robinson was respected, although I do remember him saying, "You know, Jim, Judge Gesell just doesn't think we can run the court without his help." That was true, and Judge Gesell would always have his view. And Harold Greene would be independent.

And, but some, a lot of the big issues like whether we should have a federal defender, a lot of the judges opposed that, because, I won't say because, but there was, you know, the idea of the Fifth Street Bar, you know, we've got these guys that are doing a good job of representing defendants. They know the system, and we know them. And the federal defender would come in and cause problems. You know, raising issues. But Judge Robinson got those through. As I say, I'm sure that if I had been in the executive session in the early years, there would have been a lot more disagreement.

Mr. Hollman: Was Robinson the Chief immediately after Hart?

Mr. Davey: Excuse me?

Mr. Hollman: Did Robinson become Chief immediately after Hart?

Mr. Davey: No, Judge Jones, wonderful guy, became Chief Judge. And he and I had a good rapport. He wasn't in there very long. You know, I wish that I — I should have — but he died. And my recollection of Judge Jones, he was well respected by the Bar and by his fellow judges, and it was kind of a calm tenure. But it wasn't too long.

And then after him came Judge Bryant, and he served for quite a while. And he, I really think that we didn't make much progress in terms of court-wide projects like the federal defender, automation and all. Judge Bryant, I mean he was a beautiful man, and I loved him dearly, but he couldn't make a decision easily. Especially when it came to personnel issues. I'd have people appeal, when they got disciplined, when he became Chief some of the, let's put it that way, minorities in my office thought that they could get a better deal from him than they could from me. So they would appeal to him. And I remember having one case, this employee, Eleanor Farrar, she just was a mess from beginning to end. And she caused problems for everybody. And she, you know, she filed a complaint against me and she's going to go to the Equal Employment Opportunity Commission. I said, "Eleanor, you're wasting your time. The EEOC doesn't have jurisdiction."

In any event, she had a case pending before him, it seemed like a couple of years, and that, really, it really was creating problems for me because she was such a misfit, and I had to put up with her. And so, under Judge Bryant, there weren't any real initiatives taken from an administrative standpoint, either on the

court, you know, and that's where you go play in your sandbox down in the Clerk's office where they leave you alone. And that's — we started the — we started the automation under Judge Jones. That was the beginnings, but furthered it under Judge Bryant.

I do remember one night, I got a call real late, not real late at night, around 5, 5:30. There had been a prison break in the D.C. prison, and they had the — I think the head warden was a guy by the name of Hardy. I don't know if you've got this in your notes, Steve, of cases. But they had him at knifepoint, and they wanted to see Judge Bryant. And they were aggrieved about the conditions there. And the call came into my office, and I had — I remember going up to see Judge Bryant, and they said, I actually remember him saying at one time, I don't know if it was this time, he says, "Jim, every time you come in here, I've got more problems after than when you walked in." So I told him what the situation was, that they wanted to talk to [him]. And he had to think about it. And he finally agreed, but only on the condition that he would not take up any of their individual cases that landed them in prison, but he would hear them on their problems in the court system, I mean in the general conditions. So they brought the prisoners over, and one of them had Hardy still at knifepoint. And they put him in a separate room in the courthouse. And there was — five or six or seven of these other guys. And so they set up, we set up to have the hearing, and before the judge came on the bench, one of the deputy marshals realized that they hadn't searched these guys.

And so, in the courtroom — and there wasn't a real, my recollection, wasn't a lot of people there because it was late-breaking and people had gone

home, and all but one of the prisoners said, “Well, if you’re gonna search us, do it like they do in jail.” And they stripped buck naked in the courtroom. [Laughter] And then we got over that, and the judge took the bench, and he made it clear to them he would not listen to any of their individual grievances, but he would hear them on their overall grievances. And so we had the hearing and he, you know, questioned them, promised to follow through. And the prisoners had enough faith in him that they released Hardy. And so he put that fire out, which I’m not sure other judges would have done that. But I — so under Judge Bryant not a lot, no major initiatives in terms of making the court a better or more responsive institution. And I don’t say that in a negative way, just in all there’s another, which brings up another point.

And then he was followed by Judge Smith, and Judge Smith and I had had a couple of run-ins before that I mentioned. And Judge Smith had been Chief Judge of the local court. And then when he came over he was just another judge. And then when I didn’t do something for him that he thought I should have done, he told me that if I worked over at the Superior Court, he’d have fired me a long time ago. So I wasn’t really looking forward to his tenure as Chief Judge. In fact, I updated my resume for the first time since going there. And, but I got lucky. He only had a year and he called me in soon after he became Chief. He says to the effect that he didn’t want to be bothered with administrative matters, let, you know, let me take care of all that and we’d get along fine. Which was a-okay with me. And then he only lasted a year, and then Judge Robinson came on.

And then between when Hart was Chief and when Aubrey was Chief, that’s the golden eras in terms of court administration. I might add that Judge

Hart, when he was Chief Judge — well the Chief Judge of the District Court in D.C. automatically is a member of the Judicial Conference of the U.S., which is the policy-making body for the judiciary) headed by the Chief Justice, and normally the Chief Judge of the, each of the U.S. Courts of Appeal and a district judge, not necessarily a chief but, maybe it was, yeah, a district — one district judge from each of the Circuits. Well, in our case, we only had one district so we always had a voice on the Judicial Conference, and that was big when Judge Hart was Chief because Judge Hart became the Chairman of the Committee on Court Administration which was the Committee of the Judicial Conference that handled administrative matters, and we got him to get us a twenty percent pay raise.

But I also remember, it was back during his tenure when we were trying to get the title of the Clerk changed because we didn't think it represented what the Clerk really did in the modern age, and we wanted it to be Court Executive, which is more descriptive, or Clerk/Court Executive. And I remember Judge Hart saying, "I'm not going to push this one Jim. Why would you want to get rid of the ancient and honorable title of Clerk?" [Laughter]

And I said, "That's the problem with it, it's ancient and honorable, but it doesn't represent what we need." And they still, there are a number of courts now that do have the title, they've done it locally — Clerk/Court Executive, or just Court Executive, and among your peers, you know they're — they've got a leg up on you. I never made it. [Laughter] And it took me a while to get into the executive session. That was two things that you got judged on. Whether you got into the executive session and what your title was.

Mr. Hollman: Well, but at least you remained ancient and honorable.

Mr. Davey: Yes, that's right. With the emphasis on ancient.

Mr. Hollman: So who followed Judge Robinson as Chief Judge?

Mr. Davey: Judge Penn. I remember when I told him I was going to retire, he said, "Jim, you and I had a deal. You weren't going to retire until I did."

And I said, "We never had that deal."

After, oh yeah, that was another interesting one: Judge Penn. And Judge Penn truly was not an administrator. And Judge Robinson was truly concerned about what was going to happen when Judge Penn became the Chief Judge. One of the things we did, I had a beach house in the Outer Banks in North Carolina, and I had initiated years before, taking my management team, we'd have management retreats, we'd go down there, let your hair down, and come up with ideas on how to improve things. Judge — I proposed to Judge Robinson that, why don't we get you, Judge Penn, myself, Nancy, who was my Chief Deputy, LeeAnn Flynn, Judge Robinson's Administrative Assistant and the chief probation officer to go down. And the theme of the two or three days was going to be looking to the future, what are the changes that are going to happen in the court, and how do we plan for them. And just try to get Judge Penn geared up to the role. And so we went down to my beach house, and it turned out to be a fantastic seminar. We laid out things, and it was really something that any organization should do when there's, you know, expecting big change. Not that it had made any difference after Judge Penn got to be chief, but at least it was a step in the right direction.

But Judge Penn took over and by then Judge Robinson had taken on most of the major issues, and down in the Clerk's office we had come along pretty

well. And we were one of the most automated courts and modern management, and so we were — things were in pretty good shape when Judge Penn took over. And I remember Nancy, Nancy was, and he loved Nancy and Nancy loved him. And so my recollection, my understanding is that the tenure, his tenure as Chief Judge was good.

Mr. Hollman: Okay, I think that actually is sort of a natural breaking point.

Mr. Davey: Okay.. ⁸₁

[End of TAPE for 6/19 session]

¹⁸ Reverse Chronology of Important Cases During the “Davey Era,” 1975-1990, Tab 16.