

SESSION 4

Building technology savvy human resource in Judiciary

Changes are inevitable and so is the need to adapt to such changes like technological developments which have happened and are proposed to take place in the Indian judiciary with the passage of time. So, building technology savvy human resource in the judiciary is the need of the hour so that the institution as a whole is able to grow on the road of development.

The article “*How the Digital Revolution Is Changing and Will Transform the Court Workforce*”¹ written by Gordon M. Griller (Principal Court Management Consultant, National Center for State Courts) talks about the developments and the impact on different stakeholders performing tasks of record keeping, etc in the courtroom while moving towards paperless regime, so it discusses about the need before the court leaders prepare and reengineer their workforce of different age groups with respect to computerization. It further discusses the changing nature of work with the digital revolution.

¹ http://www.ncsc.org/~media/Microsites/Files/Trends%202015/DigitalRevolution_Griller.ashx



Leadership & Technology





How the Digital Revolution Is Changing and Will Transform the Court Workforce

Gordon M. Griller, Principal Court Management Consultant,
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As computer technology assumes more court work, how will the workforce, work itself, technology, and customer services change? What should court leaders do now to prepare for it?

There is little doubt in the minds of labor economists, researchers, and justice system experts that the court workplace, along with the jobs and skill sets of court employees, will undergo a significant transformation. Automation and technological efficiencies, including enterprise software and the Internet, have already reduced or restructured numerous clerically oriented, paper-intensive court jobs where the economics of software versus hiring frequently favors software. Digitized case management systems, audio/video transcripts, remote interpreter systems, e-filing, and automated DIY forms and instructions for the self-represented are only the beginning of a broader impact to come for court staff.

Courts are neither alone in the need to look for ways technology and work can be more effectively integrated nor unique in the problems and opportunities they will confront. The Pew Research Center recently surveyed nearly 2,000 experts to explore the impact of computerization on both current and future employment. What they initially found seems obvious to many serious court watchers, “[many] workers performing routine, precise, well-defined tasks—such as bookkeeping, clerical work, and repetitive production and monitoring activities”—have been and will continue to be widely impacted by computerization (see Desilver, 2014; Purcell and Rainie,

2014). Many of those jobs have been eliminated, reduced, or substantially altered already. Dubbed “middle-skilled, middle-wage jobs,” they will continue to be hollowed out while employment at both the high and low ends of the skill spectrum—tasks involving abstract, creative, and social

reasoning on one end and manual labor on the other—will rise in numbers and fare better in the near term according to Pew. The distant future, however, is projected to take another turn and begin to impact low-wage, low-skilled workers as computerized robotics move into the “human zone” with such things as self-driving cars (e.g., Google, Tesla), drone package delivery, and robotic cleaning systems. How court leaders prepare and reengineer their workforces for a more computerized work environment now and in the distant future needs to be a priority.

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To a large extent, court managers appear to agree with Pew researchers. In a recent futures survey, the vast majority concluded that the number of “knowledge workers,” essentially the broad range of non-judge professionals working in the courts, is “highly likely” to rise over the next decade and with it greater demands for job autonomy, flexible work hours, telecommuting options, and innovative, Web-based training approaches all helped by high-tech advances (Knox and Keifer, 2013).

These predictions and reflections should lead perceptive court leaders to think more deeply about policies, practices, and programs that stimulate and acclimate a diverse workforce to the digital revolution rather than resist it, ignore it, or disparage those advancing it. Digitization is inevitable and certainly more job focused in process-oriented organizations like courts, where inputs principally involve managing data, and outputs—i.e., decisions, orders, rulings, findings, evaluations, and judgments—take the form of process directives.

In examining the current and future impact of the digital revolution on court workers and how judicial branch officials can prepare for it, a helpful approach is to think in terms of four areas of court life: 1) the characteristics of court workers themselves, 2) the types of work performed, 3) the current and expected uses of technology, and 4) the expectations and skills of court customers. Each of these areas is interrelated with the others, each influences the others, each is in constant flux, and each conditions the pace of every court’s electronic transformation in numerous ways.

The Changing Characteristics of Court Workers

A generational change is underway in developed countries. Baby Boomers (born from 1945-1964) are retiring at the rate of 10,000 to 15,000 a day in the United States and will do so at that level for the next 15 years. By 2025, there will be more people retired in America than working (see *USA Today*, January 18, 2015).

In the midst of this exodus today, the U.S. job market remains tough, especially in government sectors. Since 2010, state and local government employment has not reached pre-recession levels (see Knowledge Center, Council of State Governments). Many courts continue to “ghost” positions (hold vacancies open) longer than normal to meet

limited budgets. Some courts have been reluctant to make permanent hires, turning instead to temporary and contract workers—a negative for the young but welcomed by Boomers who keep working in larger numbers.¹ Since 2000, employment in all economic sectors for those aged 65 and over has risen 51 percent, while hiring among 25-64 year olds has fallen 3.5 percent (see *The Economist*, October 11, 2014).

Older workers with court experience will increase within the judicial branch, some holding on to upper-level, higher-salaried positions where their experience and wisdom can be very helpful. Others will work as part-time consultants or contract staff on special projects and office remotely (e.g., “homesourcing” arrangements). Some will take middle-skilled jobs to supplement their retirement. Court technologists will need to ensure older workers are up-to-speed on new electronic methods. Tech education through distance learning will likely grow as a result.

There are two additional generations of workers in organizations today, and a third age group on the way in five years. Understanding their strengths and capabilities will help to

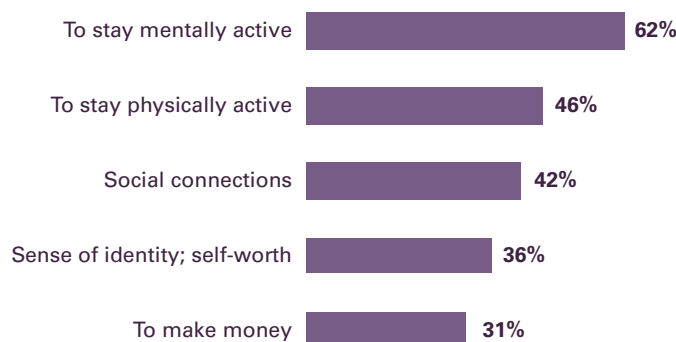
ensure tasks, technology, and staffing achieve higher levels of productivity per employee as middle-skilled, middle-wage jobs continue to disappear.

Generation X (born from 1965-1979) values mobility, autonomy, and balance in their lives between work and personal pursuits. Freedom and responsibility in the workplace are important to them. Many display a casual disdain for authority and structured work hours. They dislike being micromanaged and embrace a hands-off

management philosophy. The first generation to grow up with computers, technology is woven into their lives. They are comfortable with smartphones, texting, laptops, and streaming

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Why Retirees Keep Working*



* Survey sponsored by Merrill Lynch in partnership with Age Wave (2014). Researchers found that the majority of pre-retirees (72%) would like to keep working in retirement.

¹Although a March 2015 U.S. Census Bureau report indicates judicial and legal employment at state and local government levels are only 2.2 percent of those workforces, part-time positions have grown to 10 percent of the 427,000 total number of justice system employees since the recession.

video. Gen Xers adapt well to change, accept alternative lifestyles readily, easily learn new digital skills, and exhibit high levels of ambition. They expect courts to embrace the digital revolution.

The *Millennial Generation* (born from 1980–2000), following close behind the Baby Boomers, has never been without technology. They value constant feedback, prefer to work in teams, and appreciate diversity. They are hyper-connected to multiple electronic devices. The oldest are 35 this year. Many are moving into high-level court management and judicial positions. If *ur/18* (read: “you are over 18”), working remotely, using instant messaging, tweeting, and text messaging, you are definitely in this group.

Young children, adolescents, and teens today are labeled *Gen 2020* (born after 2000); they are a workforce only a few years away from joining the court staff. Having owned digital wireless devices all their lives, they are intimately familiar with them and use them as much as six hours per day. Their need for physical proximity is not great and will eventually influence court workplaces, causing remote cyberspace employment to grow. With an attitude of personal freedom picked up from Generation X parents, they will mix business and personal activity over the course of a day and “self-organize” into “communities of interest” as virtual project groups or teams. Interconnections with other courts in a state or throughout the nation will occur more frequently as a result of their business and social-network skills, providing a rich resource for increased innovation and comparative analyses (Friedrich et al., 2010).

Amid these generational changes, there likely will be some intergenerational conflict over management decisions, work styles, productivity, and problem-solving approaches. Surveys show, however, that six out of ten employees see these differing perspectives and work patterns as either having a

positive impact on improving organizations or making no difference. Most employees concede when confronted with cross-generational disputes; they adapt the ways they communicate and gain commitment from colleagues to avoid difficulties and promote constructive outcomes (Kelly Services, 2009).

In this mixed generational environment, court leaders would be wise to nurture greater staff input, cyber space employment, cross-functional teams, transparency, and enhanced feedback, as well as provide more freedom for employees to move from one career path to another. Rewards other than money to benefit employees in life or career-enhancing ways are strong motivators for both young and older generations alike, but especially important for skilled high-tech staff where compensation is notably less than the private sector. Finally, the credibility of court leaders between their statements and actions are key commitment generators for both Gen Xers and Millennials. This is especially true for technology initiatives where top leaders (often technology-challenged Boomers) may mistakenly advocate unrealistic visions, timetables, or expectations only to see initiatives collapse or derail through mismanaged projects; poor design; inadequate technology-development skills; or complex, confusing, or changing requirements.

Generational issues affect judges, too. E-filing and electronic-document-management systems (EDMS), e-mail, audio/video transcripts, and video conferencing are much easier for Gen X and Millennials to embrace and master. As courts have increasingly reengineered their adjudication functions through more configurable, Web-based electronic processes, judges and lawyers are increasingly adapting to paperless systems.

The Changing Nature of Work

A second major consequence of the digital revolution is the changing nature of work. For most court workers, life on the job means life online. And for a growing number of judges, managers, and professionals, working faster, better, and on your own time is quickly becoming the rule not the exception.

“Always on” wireless smartphones, tablets, and laptop environments facilitate collaboration, employee mobility, and off-site work. The added flexibility and team building is astounding on the one hand, and troubling on the other, as work/life balances become complicated. With fewer boundaries between one’s work and private life, integration issues increasingly fuel the debate between remote and on-site work. To help empower employees and support meaningful achievement and enjoyment in all aspects of life—work, family, friends, and self—farsighted court leaders should institute policies and practices that protect employees from overwork, burnout, and the feeling of being constantly on call.

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Since mobile technology makes it possible to work from anywhere, many businesses are beginning to reconfigure on-site work space in new, more-flexible ways that challenge the allocation of private offices and “cubicle farms.” Some are moving to what has been called “living office” spaces, combining the best of private and social space with desks set in friendly clusters and separated by low clear partitions. Glass-encased meeting rooms and a few solo office spaces are scattered throughout this open plan. “Work pods” are often created to allow more self-directed functional teams to share interrelated tasks, as opposed to operating through a hierarchy where discrete duties are person based (see *The Economist*, January 3, 2015).

Some courts have begun to reorganize staff in work pods. Podular design allows work units to be more independent, adaptive, accountable, and linkable. Many private companies (e.g., Xerox, Procter and Gamble, AT&T, etc.) have credited self-directed teams arranged in work pods with a marked impact on their operations, including improvements in client services and business processes. It is an approach consistent with the digital revolution that is worth a look by court leaders.

Another dimension of the “work-from-anywhere” world enables entire courts to outsource functions within a judicial branch, or remotely to outside business partners, causing value-added work to be done and then, depending on the workflow, transmitted back to the originating court. State courts with single, statewide electronic-case-management systems (Minnesota is a prime example) are currently routing clerical tasks between courts many miles apart. As middleware becomes more sophisticated in connecting different applications across computer platforms, standalone court case management systems, too, will increasingly link to local and state justice agencies to reduce redundant data entry, share essential information, and improve overall efficiencies.


One of the biggest digital-revolution impacts has been on judicial work. Increasing numbers of judges now access electronic case files, review and sign electronic orders, and enter data in real time from the bench as cases are adjudicated in what is becoming a paperless world. Procedures are changing due to remote testimony, video hearings, and high-tech language-translation systems. Trials are becoming more visual through PowerPoints, litigation software, recorded images, and animated reenactments. Electronic discovery and the absolute magnitude of voicemails, e-mail, images, and video that may be introduced in contemporary litigation can be a game changer when it comes to the oversight and management of cases by judges. Technology is affecting case law as the types and complexity of disputes grow. Simple identity theft has morphed into phishing and hacking cases. Peeping Tom cases can easily become peeping drone cases. Interaction between evidence and technology will become more complex. Applying rules of evidence to Facebook posts and Twitter tweets is new ground for lawyers and judges (Lederer, 2014).

The Current and Expected Use of Technology

Digital life today and in the foreseeable future will continue to be dominated by the Internet. Ninety-three percent of online workers say the Internet has made them more productive, and an increasing number reveal they spend more time working outside the workplace because of it (Purcell and Rainie, 2014).

There is “little doubt that in the coming decade more and more people will wear the internet (and even have linked stuff inside their bodies), walk into internet-connected rooms and down networked streets, drive in connected cars and public transit, get food and order goods from smart refrigerators/toasters/ovens, move through spaces bristling with connected sensors, and monitor remote places via apps and cameras” (Anderson and Rainie, 2014a, b). Court pollsters Kiefer and Knox found similar attitudes among judicial managers about the influence of the Internet within the national community of courts now and in future.

The Internet has streamlined and simplified court work. Do-it-yourself forms and instructions for lawyerless litigants, on-demand scheduling of court appearances, juror-service self-booking, GPS electronic monitoring of defendants, and social-media posts about notorious trials all evidence that fact. The capacity of court leaders to adapt, implement, and institutionalize technology changes that have been successful in other courts, or non-court organizations, is crucial in modernizing and restructuring work. Learning from the high-tech experiences of others and replicating those practices in ways suitable for a particular environment is a needed skill for court leaders today and in the future.



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Myths and Realities Regarding Internet and E-mail Use in the Workplace	
Myth	Reality
Employers do not have a right to read employee's personal e-mail or review the Internet sites an employee visits.	Employees have no privacy rights in their e-mail or Internet use. Employers are not prohibited from monitoring that use. E-mail is discoverable.
It's no big deal if employees use e-mail or the Internet for personal reasons on the job.	Failure to reasonably monitor employees' e-mail and Internet use can lead to legal liability should court officials know, or should have known, about inappropriate conduct or criminal activity.
Unique computer passwords give rise to a reasonable expectation of privacy for an employee regarding personal e-mail.	Case law holds that since e-mail is transmitted over an employer's (read: a court's) network and accessible to review by third parties at many points, there is no right to privacy.

The tech revolution is helping courts collect, analyze, and manage caseload data in more accurate and useful ways. Potential future gains from smart case analytics will be substantial and require skilled staff to develop that performance data. Currently, caseload processing rests on imperfect knowledge. Increasingly accurate predictions of which cases will settle or plead and when; which will go to trial and how long they will take; and how best to deploy judicial resources are on the horizon. Judges, lawyers, and litigants will be the chief beneficiaries as more cases resolve sooner and caseload predictability improves.

Security, privacy, and regulation of e-mail and Internet use in the workplace will continue to generate stress for both employers and employees in the future. Hack attacks and malware (malicious software) are increasing and prompting many employers to revisit personal e-mail use and storage policies. Most courts have found it unrealistic or counterproductive to completely prohibit the personal use of court computers by employees, opting instead for a middle ground that 1) encourages primarily court-related-business use and 2) specifically prohibits inappropriate or potentially harmful personal use. Understanding some common myths and realities about e-mail use in the workplace is a first step for both employers and employees in crafting realistic policies.

The Expectations and Skills of Court Customers

Finally, one of the biggest challenges in the digital revolution will be how judicial branch leaders continue to expand public access, choice, convenience, and transparency for an increasingly tech-savvy customer base. Even the oldest Boomers are plugged-in. According to the Pew Research Center, six out of ten seniors ages 65 or older are Internet users and nearly eight out of ten have cell phones (Smith, 2014). Grandkids are teaching grandparents about new apps, social media, Skype, and smartphones.

Fortunately, court applications have become more intuitive in recent years, reducing the public's learning curve in navigating court Web sites, completing interactive forms, and filing their own cases. Lawyers in many states are practicing in unbundled ways, providing discrete services and tasks for litigants who do not want full representation. Alternative dispute resolution programs have become widespread, offering many mediation and arbitration options to litigants.

Tech-savvy consumers will place increased pressure on courts to reimagine and reinvent the adjudication process. The Internet and mobile phones will become more prominent as access points to service providers, including courts. In response, court leaders should give serious consideration to cultivating and developing a cadre of Web designers and court-business-process analysts to enrich and improve computer services to customer groups, including lawyers, litigants, jurors, law-enforcement agencies, and the general public. Aside from better-informed and better-educated court users, a significant byproduct will be the transfer of various work tasks from court employees to court customers. John Clarke and Bryan Borys (2011) suggested that approach when they proposed that interactions between customers and staff should shift from full service and self-help to self-service. In other words, court users should be given the digital tools to complete more court tasks by themselves. The digital revolution will open further pathways and options in doing so.

Conclusion

Technical advancements have always tended to make certain jobs obsolete. Human history is replete with job displacements in the wake of new processes, inventions, or machines that either perform tasks more efficiently or eliminate them entirely. Many argue that increased computerization will be no different. As noted at the beginning of this article, jobs most susceptible to computerization in the next decade or so will be

middle-skill, middle-wage ones typical of office administrative support functions. As in the past, labor markets and workers will readjust, and new occupations and opportunities will develop. In looking at changes in this way, people should be relatively optimistic about the future. There will be a world of new benefits as humanity continues to develop digital technology. But in the short term there will be considerable disruption and a need for court leaders to understand and responsibly manage these inescapable changes. ◀

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Truly transformational events have come along infrequently in our history, and this age of technology is one of them, but we have only begun to scratch the surface.

– Chief Justice Mark S. Cady of Iowa



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