

## **T. John Lesinski's Grand Experiment**

Professor Emeritus Norman Otto Stockmeyer  
Court of Appeals Research Director, 1968-1976

The most recent annual report of the Court of Appeals shows that its Research Division has 44 research attorneys and senior research attorneys, plus some 25 part-time contract attorneys. That's a far cry from the earliest days of the Court's research unit. Then it was just me and a handful of cast-off law clerks.

When the Court began in 1965, the nine judges were allotted one law clerk each. I was Judge John Fitzgerald's law clerk. The Supreme Court had transferred 365 appeals to the new court. This instant backlog quickly grew larger as attorneys took full advantage of the new appeal of right.

The Court's initial response was to give each judge a second law clerk to augment performance of the traditional law clerk duties: researching pending appeals and helping draft opinions. But it soon became clear that with extra law clerks, the judges produced more lengthy opinions instead of more numerous ones.

So in March of 1968, Chief Judge T. John Lesinski decided to experiment with creating a centralized staff to do the legal research half of the law clerks' job. The staff would research pending appeals and prepare prehearing memoranda (elsewhere called "morning reports" or "bench memos"). Each judge gave up a law clerk to form the new unit.

I was picked to head up what became the Research Division, with marching orders from the Chief Judge and nine second-hand law clerks. Although they had gained valuable experience clerking, some were not pleased to part company with "their" judge and relocate to makeshift quarters in Lansing.

Our first offices were in non-air conditioned space on an upper floor of the Washington Square Building. With no window screens, in the summer months research attorneys sometimes would return from lunch to find a pigeon strutting (and doing other pigeon things) on their desk.

But the experiment soon proved successful. With research workups on all appeals prior to submission, the judges were able to absorb a 33% greater caseload with no net increase in personnel (except for me and my secretary). With some additional staff and more frequent use of per curiam opinions, by 1971 productivity per judge had increased by 46%. The judges never got their second law clerks back.

The Court's Research Division became recognized as a new model for appellate courts in an era of rapidly expanding caseloads. We were flattered to be imitated by other appellate courts. They included four that the National Center for State Courts selected for demonstration projects, seeking to replicate the "Michigan experiment." A law professor oversaw each project. The overseer at the Virginia Supreme Court was a young University of Virginia faculty member, Antonin Scalia.

I left the Court to begin teaching at Cooley Law School in 1977. Almost a quarter-century later, one of my students, Larry Royster, became Research Director. Larry, who started as a research attorney, is one of more than 1,000 research division alums who have gone on to achieve success in every branch of the legal profession. Thanks to T. John's grand experiment.

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