

THE IMPACT OF COMPUTERS ON THE LEGAL PROFESSION

JOHN D. RANDALL*

In the next few years, the computer will alter the environment in which lawyers work. The computer is already streamlining office management, but its use as a data bank¹ and legal research tool² will have a far greater impact on the legal profession.

A data bank is a computer system designed to efficiently store and process enormous amounts of information. Computer data banks have been particularly useful in courthouses and law enforcement agencies.³ The improper use of these data banks, however, may tarnish the image of judicial independence.⁴ Reluctant to provide courts with funds sufficient for their own computing facilities, legislatures are encouraging courts and law enforcement agencies to *share* data banks.⁵ The

* Member, Iowa Bar Association; Member, John D. Randall Law Offices; Past President, American Bar Association.

1. Rust & Rome, *The Combination of a Manual and an Automated Approach to Trial Preparation*, 11 FORUM 810 (1976); Stokey, *How the Computer Can Help the Litigator*, 62 A.B.A.J. 212 (1976).

2. Harrington, *What's Happening in Computer-Assisted Research?*, 60 A.B.A.J. 924 (1974); Meldman, *A Structural Model for Computer-Aided Legal Analysis*, 6 RUTGERS J. COMPUTERS & L. 27 (1977); Pezold, *Computerized Legal Research—An Arrival*, 10 TULSA L.J. 583 (1975); Sprowl, *Computer-Assisted Legal Research: Westlaw and Lexis*, 62 A.B.A.J. 320 (1976); Sprowl, *Computer Assisted Legal Research in Illinois—The LEXIS System*, 64 ILL. B.J. 394 (1976); Tapper, *Legal Information Retrieval by Computer: Applications and Implications*, 20 MCGILL L.J. 26 (1974).

3. Castro & Owens, *Automation in the Courts: The Denver Experience*, 59 JUDICATURE 91 (1975); Draper, *Privacy and Policy Intelligence Data Banks: A Proposal to Create a State Organized Crime Intelligence System and to Regulate the Use of Criminal Intelligence Information*, 14 HARV. J. LEGIS. 1 (1976); Jacobs, *American Implications of Sentencing by Computer*, 4 RUTGERS J. COMPUTERS & L. 302 (1975); LaBar, *The Modernization of Court Functions: A Review of Court Management and Computer Technology*, 5 RUTGERS J. COMPUTERS & L. 97 (1975); Work, Richman & Williams, *Toward a Fairer System of Justice: The Impact of Technology on Prosecutorial Discretion*, 12 CRIM. L. BULL. 289 (1976); Yun Haeng & Seong-in, *A Proposal to Facilitate the Uniform Administration of Justice in Korea through the Use of Mathematical Model*, 4 RUTGERS J. COMPUTERS & L. 284 (1975).

4. Stern, *Courts and Computers: Conflicts in Approaches and Goals*, 58 JUDICATURE 222 (1974); Weinstein, *Judicial Independence in the Computer Age*, 59 JUDICATURE 372 (1976).

5. See, Weinstein, *supra* note 4, at 374.

problem with such a system is its appearance: a law enforcement agency with access to the court's data bank could control the court's information and thus its decisions. Sharing of data banks, therefore, may cause defendants to believe that the state denied them a fair trial by presuming guilt rather than innocence. To prevent the appearance of impropriety, courts must independently control all of the information, especially from the data bank, which they use in writing their opinions.

Increased use of the computer as a research tool will have a great impact on the manner in which a lawyer renders service to society.⁶ The legal profession encourages the representation of unpopular causes, proliferates public interest law firms,⁷ and supports legal aid and lawyer referral programs.⁸ Computerized research may enable properly trained lawyers to devote less time to research and more time to such public service projects.

The legal profession has also produced an exceptionally valuable public servant, the family lawyer.⁹ Thousands of family lawyers throughout the United States bulwark the profession and society. Beyond legal expertise, the family lawyer is often the person best informed on the community's social and economic conditions. In solving legal problems, the family lawyer must consider the effects of a proposed solution on not only the client, but also on the client's family and community. Family lawyers are uniquely valuable to their bar associations and their communities.

But it is the family lawyer who is most vulnerable to the competitive advantages accruing to the users of computerized research. Users of computer facilities pay a high fixed cost which is too expensive for the low-volume operations of the family lawyer. Only large, privately and publicly financed firms can maintain their own facilities. If the family lawyer is to be saved from this competitive disadvantage, the organized

6. For a particularly pessimistic view see, Rohner, *Jurimetrics, Nol*, 54 A.B.A.J. 896 (1968).

7. Handler, Hollingsworth, Erlanger, & Ladinsky, *The Public Interest Activities of Private Practice Lawyers*, 61 A.B.A.J. 1388 (1975); Rauch, *Public Interest Law: Should Lawyers Pick Up the Tab?*, 61 A.B.A.J. 453 (1975); Rogovin, *Public Interest Law: The Next Horizon*, 63 A.B.A.J. 334 (1977).

8. Champayne, *Lawyers and Government Funded Legal Services*, 21 VILL. L. REV. 860 (1975-76).

9. Handler, Hollingsworth, Erlanger, & Ladinsky, *supra* note 7, at 1392-93 (solo practitioners engage in more public interest law than members of large firms).

bar must ensure that computer facilities are available in every county seat community. The organized bar should aggressively promote continuing education for computer research and discourage the conversion of law libraries to data banks. The social value of our profession depends on the freedom of individual, family lawyers. Their freedom must be ensured by securing for them the same benefits of computer research available to the state employed lawyer and the members of large firms.

