

UNITED STATES DISTRICT COURT  
OFFICE OF THE CLERK  
WESTERN DISTRICT OF PENNSYLVANIA  
P. O. BOX 1805  
PITTSBURGH, PA 15230

JAMES A. DRACH  
CLERK  
412-644-3530

IN REPLYING, GIVE NUMBER  
OF CASE AND NAMES OF PARTIES

July 10, 1996

L. Ralph Mecham, Director  
Administrative Office of the U. S. Courts  
One Columbus Circle, N. E.  
Washington, D.C. 20544

Dear Mr. Mecham:

Enclosed please find the Second Annual Assessment of the Civil Justice Advisory Group for the Western District of Pennsylvania.

Very truly yours,

  
James A. Drach  
Clerk of Court

JAD/dj  
Encl.

**ANNUAL ASSESSMENT**

**CIVIL JUSTICE ADVISORY GROUP**  
of the United States District Court for the Western District of Pennsylvania

March 13, 1996



Lynette Norton, Chair  
Roslyn M. Litman, Past Chair  
Professor Mark A. Nordenberg, Reporter  
Honorable Donald E. Ziegler, Chief Judge  
Honorable Donetta W. Ambrose, Court Liaison  
James A. Drach, Clerk of Court

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**STATISTICAL YEAR 1995 ASSESSMENT**  
of the  
**CIVIL JUSTICE ADVISORY GROUP**  
of the  
**UNITED STATES DISTRICT COURT**  
for the  
**WESTERN DISTRICT OF PENNSYLVANIA**

(COVERING THE PERIOD FROM OCTOBER 1, 1994 THROUGH SEPTEMBER 30, 1995)

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**The Civil Justice Advisory Group**

The Civil Justice Advisory Group of the United States District Court for the Western District of Pennsylvania was constituted on March 11, 1991 by order of The Honorable Maurice B. Cohill, Jr., who then served as Chief Judge. The Advisory Group's Report, issued after a comprehensive study of the existing docket and alternatives for dealing more effectively with it, provided the foundation for the Expense and Delay Reduction Plan subsequently adopted by the Court. That Plan took effect on October 1, 1993, and progress under it first was measured in the Advisory Group's Assessment for Statistical Year 1994.

During the past year, both to comply with the terms of the governing statute and to respond to an evolving agenda, Advisory Group membership and organization once again were changed. The Judicial Improvements Act of 1990, which mandated the creation of Civil Justice Advisory Groups in each of the federal judicial districts, also requires that there be periodic turnover in group membership.

On March 1, 1995, Chief Judge Donald E. Ziegler appointed the following new

members to four-year terms on the Civil Justice Advisory Group:

Hon. Donetta W. Ambrose  
Ellen M. Doyle  
Mary J. Hackett  
Thomas Hollander

Lynette Norton  
Larry A. Silverman  
William F. Ward.

Lynette Norton was named Chairperson of the Civil Justice Advisory Group, effective that same date. Judge Ambrose was named Court Liaison.

To ensure that there would a desirable level of continuity in the Advisory Group's work, Chief Judge Ziegler also named the following individuals, who were original members of the group and whose terms of service otherwise would have expired, to serve four-year terms as non-voting members of the Advisory Group:

John H. Bingler  
Frederick N. Egler  
Wendell G. Freeland  
Thomas F. Halloran  
David J. Hickton  
Kerry Kearney  
Wallace J. Knox, II

Roslyn M. Litman  
Paul A. Manion  
W. Thomas McGough, Jr.  
Mark A. Nordenberg  
Samuel J. Reich  
Hon. Ila Jeanne Sensenich.

Reflecting the special leadership contributions that she had made over the course of prior years, Roslyn Litman was designated Immediate Past Chairperson. Mark Nordenberg was continued as Reporter.

Advisory Group members appointed in 1994 and already serving continuing terms were:

Leonard G. Ambrose, III  
Hon. Kenneth J. Benson  
Hon. Robert J. Cindrich  
James A. Drach  
Henry W. Ewalt  
Giles J. Gaca  
Amy Reynolds Hay  
Sandra Jordan

Hon. Gary Lancaster  
Hon. Sean McLaughlin  
Stephen I. Richman  
Caroline M. Roberto  
James J. Ross  
Eric W. Springer  
Hon. William L. Standish  
Frederick W. Thieman.

The first full meeting of the newly constituted Civil Justice Advisory Group was held on May 9, 1995. At that time, Chairperson Norton proposed that a new subcommittee

dealing with issues of court technology be appointed. The standing subcommittees currently functioning, then, are: Arbitration, Civil Cases, Court Technology, Mediation/Early Evaluation, Prisoner *Pro Se* and U.S. as a Litigant. In addition, an *ad hoc* subcommittee working in conjunction with the Civil Cases Subcommittee and charged with the responsibility of developing model jury instructions for use in employment discrimination cases has begun functioning in more recent months. (Rosters listing Advisory Group members, as well as the members of its various subcommittees, are included as Appendices 1 and 2.)

The work of the Civil Justice Advisory Group continues to be guided by a Steering Committee. Since March of 1995, its members have been: Lynette Norton (Chairperson), Hon. Donetta W. Ambrose (Court Liaison), James A. Drach (Clerk of Court), Roslyn M. Litman (Immediate Past Chairperson), and Mark A. Nordenberg (Reporter). Chief Judge Ziegler also has participated in many of the Steering Committee's meetings and has been an unfailing source of direction, good ideas and encouragement.

In addition to its other initiatives, representatives of the Advisory Group conducted interviews of each of the District's judges, senior judges and magistrate judges during the past year. Similar interviews last had been conducted in early 1992, as a part of the work leading up to the preparation of the group's original report. In describing that initial effort, the original report stated:

These interviews were invaluable for two very different reasons. First, they offered a view of the Court's work far richer than mere numbers could ever provide, and they were a source of informed and thoughtful reactions to ideas that might possibly be pursued in controlling cost and limiting delay. Second, they provided a substantial measure of inspiration for those directly involved in the process. The judges displayed pride in their work, commitment to their responsibilities, and great respect for others involved in the process. Nothing could be more important in meeting the challenges that lie ahead.

Advisory Group members participating in this "second round" of interviews were Lynette Norton, Frederick Egler, Roslyn Litman, Paul Manion and Mark Nordenberg. They were ably assisted by Vanessa Browne-Barbour, Rosa Copeland and Jeanette Ho, three lawyers who volunteered their time to serve as reporters for the various interview sessions.

Once again, those sessions were informative and inspiring. It was valuable both to meet for the first time with judges appointed to the District's bench since the original interviews were conducted in 1992 and to follow-up with their more senior colleagues.

Reactions and suggestions from the judges added to the understandings of the Advisory Group and will be referenced at appropriate points in this report.

### **The Western District's Docket**

The Expense and Delay Reduction Plan of the United States District Court for the Western District of Pennsylvania took effect on October 1, 1993. Annual assessments, then, are keyed to an October 1 through September 30 (of the following calendar year) timeframe. This also coincides with the judicial "statistical year," as that term is employed by the Administrative Office of the United States Courts. To be more specific, the period from October 1, 1994 through September 30, 1995 -- which is the principal focus of this report -- also is known as Statistical Year 1995 throughout the federal judicial system.

*Judicial Resources.* Because of chronic delays in the appointment of replacement judges when vacancies occur, the Western District has had a full complement of judges for only two and one-half months during the last eleven years. In fact, from Statistical Year 1986 to Statistical Year 1992, this Court *averaged* twenty-eight vacant judgeship months per year. That "vacancy rate" meant that the Court lost nearly one-fourth of its authorized judicial resources and was classified as an "emergency court," as that term is used by the United States Judicial Conference, over an extended period. The inherited backlog that presents continuing challenges to the current Court can, in no small measure, be traced to these extended periods in which the Western District's bench was operating at far less than full strength.

For a few, brief weeks early in Statistical Year 1995, the Western District actually reached its fully authorized complement of active judges. That status was short-lived, however, and the Court was forced to contend with twelve vacant judgeship months before the statistical year was over -- the equivalent to losing one of its ten authorized members. This also was the year in which Senior Judges Barron P. McCune and Glenn E. Mencer retired, after shouldering very substantial loads for many years. Under standard conventions, the loss of these services, though very significant to the Court, cannot be factored into re-calculated performance statistics.

*Case Filings.* From Statistical Year 1994 to Statistical Year 1995, total filings within the District decreased from 3,269 to 3,123, a drop of 4.47%. (See also Appendix 3.) During that same period, civil filings decreased by 1.98%, from 2,931 to 2,873. (See also Appendix 4.) Aside from Statistical Year 1992, when a large number of hearing loss actions were filed in the District, civil filings during the last five years have fallen within a relatively compressed range -- from a high of 2,931 in Statistical Year 1994 to a low of 2,821 in

Statistical Year 1993.

From Statistical Year 1994 to Statistical Year 1995, there was a more dramatic 18.56% decrease in criminal filings. (See also Appendix 5.) The numerical reduction was from 338 to 250 filings. During this same period, the number of criminal defendants charged decreased far more modestly, from 450 to 425, a reduction of less than 1%. This pattern -- a significant reduction in case filings, without a corresponding decrease in defendants charged -- would seem to be the product of an announced policy of the United States Attorney to raise case declination levels to focus prosecutorial resources on more significant cases.

The Civil Justice Reform Act of 1990 included an express Congressional finding that “[t]he problems of cost and delay in civil litigation in any United States District Court must be addressed in the context of the full range of demands made on the district court resources by both civil and criminal matters.” Obviously, to the extent that the demands of the criminal docket are in any way reduced, there is an increased potential within the Court to deal more effectively with its civil case responsibilities. Because studies show that a court’s burdens in handling a criminal case are directly related to the number of defendants charged, it is difficult to assess how a decrease in criminal filings, not accompanied by a corresponding decrease in the number of defendants charged, will affect the Court’s ability to deal efficiently and effectively with all aspects of its docket. However, the reduction in criminal filings probably should be viewed as an encouraging contextual sign as the Court continues to work to reduce expense and delay in its handling of civil cases.

*Civil Case Mix.* One of the most dramatic changes in the Western District docket is the significant increase in civil rights filings. Last year’s assessment noted that there had been “a dramatic upswing in civil rights filings” in the first nine months of Statistical Year 1994. In fact, between Statistical Year 1993 and Statistical Year 1994, civil rights filings had jumped from 300 to 422, a single-year increase of almost 41%. That trend continued in Statistical Year 1995, with civil rights filings climbing to 515 -- a 22% increase over the previous, record-setting year.

In fact, in the five years from Statistical Year 1991 to Statistical Year 1996, annual civil rights filings in the District increased by 119%. This is especially noteworthy because civil rights cases tend to be more difficult to resolve. When civil rights cases are “weighted” to take account of those “resolution” difficulties, their impact on the District’s docket is even more pronounced.

After a period of decline, the number of prisoner cases filed in the District also rose dramatically during the last statistical year. Prisoner filings increased from 440 in Statistical



Year 1993 to 511 in Statistical Year 1994 to 610 in Statistical Year 1995. This is a two-year increase of 38.6%, and an increase of 19.4% in the last year alone. Though cases of this type do not receive a higher “weighting” from the Judicial Conference, managing prisoner cases does present particular problems, which have been the focus of Advisory Group concern and attention in the past. As the number of prisoner filings increases, it becomes even more important to press forward with initiatives focusing directly on this category of cases.

Another perspective on recent changes in the Western District’s civil docket mix comes from comparing the “top five” categories of filings in Statistical Years 1993 and 1995. (See also Appendix 6.)

<u>Statistical Year 1993</u>	<u>Statistical Year 1995</u>
Prisoner (440)	Prisoner (610)
Contract (418)	Civil Rights (515)
Personal Injury (326)	Personal Injury (363)
Civil Rights (300)	Contract (346)
Social Security (263)	Social Security (185)

The significant increase in both prisoner and civil rights filings already has been noted.

The dramatic two-year decline in the number of contract actions brought in the District is consistent with a longer-term trend. From Statistical Year 1983 through Statistical Year 1989, contract actions were the single largest category of civil case filings within the Western District -- peaking at 831 filings in Statistical Year 1987, but never slipping below 700 annual filings during that period. The number of contract filings in Statistical Year 1995 is less than half the average for that earlier period.

There also has been a significant long-term decrease in the number of Social Security filings, which peaked at 692 in Statistical Year 1984. Social security cases differ from those in the other listed categories because most social security cases are resolved through summary judgment. That is, they are among the least burdensome cases to dispose of under the Judicial Conference’s weighted scale.

Terminations and Pending Cases. The Western District had a truly exceptional case termination record in Statistical Year 1994 -- terminating 3,834 cases, a 14.82% increase over Statistical Year 1993 and a level of case terminations that seems to have been exceeded only once in the Court’s history. A significant part of this increase seems attributable to the early disposition of some of the large number of hearing loss cases that had been filed in Statistical Year 1992. It is not surprising, then, that Statistical Year 1995 brought a markedly

lower level of terminations -- 3,138 terminated cases, an 18.15% decrease when compared to the preceding year.

Because Statistical Year 1994 was a somewhat aberrational period for case terminations within the Western District, it probably is more important to note that the number of cases terminated in Statistical Year 1995 was lower than the number of cases terminated in any of the last five statistical years. The number of cases terminated per "actual judge" (after vacant judge months have been factored out) also was lower than the comparative number in any of the last five statistical years.

<u>Statistical Year</u>	<u>Cases Terminated</u>	<u>Cases Terminated Per Actual Judge</u>
1991	3,285	376
1992	3,345	382
1993	3,339	417
1994	3,834	447
1995	3,138	347

However, the number of cases pending within the District as a whole actually decreased slightly from 2,789 to 2,774. This 0.54% drop, following the 16.85% reduction in Statistical Year 1994, left the Court with the smallest number of pending cases since Statistical Year 1985.

The situation at the end of the statistical year was somewhat different in the Erie and Johnstown divisions. During Statistical Year 1995, in both of those divisions, total filings were up, total terminations were down, and the number of pending cases was larger than it had been at the end of the previous statistical year. More specifically, in Erie, civil filings were up by almost 9%, civil terminations were down by 23.32%, and pending civil cases increased by 6.5%. Criminal filings decreased by 12%, criminal terminations decreased by almost 32%, and pending criminal cases increased by 47.6%. (See also Appendix 7.) In Johnstown, civil filings increased by 3%, civil terminations decreased by 27.9%, and pending civil cases increased by 3.97%. Criminal filings increased by 11%, criminal terminations increased by 3.5%, and the number of pending criminal cases remained the same. (See also Appendix 8.)

It is important to note that the Johnstown division is still relatively new and that there have been significant personnel changes in the Erie division. Further, given the smaller size of the dockets in these divisions and the fact that a single judge has principal responsibility for docket management, statistical swings of significant size are more likely from one year to the next in those divisions than they would be for the District as a whole. It is likely, for

example, that the hearing loss cases had a more pronounced impact in one or both of these divisions than they did on the statistics for the District as a whole.

*Key Indicators of Delay.* In all of its recent efforts, the Court has attempted to deal first and most aggressively with matters that have been pending on the docket for the longest period of time. This “first-in / first-out” approach has been applied to both pending cases and pending motions, and there has been marked progress on both fronts.

The number of civil cases pending for more than three years has been cut, steadily and significantly, in each of the last five years.

<u>Statistical Year</u>	<u>Number of Three-Year-Old Cases</u>
1991	250
1992	205
1993	183
1994	130
1995	105

This is a 58% decrease in three-year-old civil cases over the last five years and a 19.23% decrease in the last year alone.

Similarly, the number of motions pending for more that six months was cut from 160 at the end of Statistical Year 1994 to 99 at the end of Statistical Year 1995, a decrease of 38%. The single-year reduction is one part of a more extended, and more impressive, trend. At the end of Statistical Year 1993, there were 480 motions at least six months old pending in the District. In two years, then, the number of pending six-month-old motions has been reduced by nearly 80%.

The Expense and Delay Reduction Plan adopted by the Court imposed even more ambitious standards for the timely disposition of motions. Under amended Local Rule 7.1, non-dispositive motions are to be resolved “in an expedited fashion, ordinarily within 30 days” and dispositive motions are to be resolved “within 90 days of their filing.” Statistics maintained within the District indicate that at the end of Statistical Year 1995 there were 775 pending non-dispositive motions that had not been disposed of within 30 days and that there were 627 pending dispositive motions that had not been disposed of within 90 days.

One practical problem has been that the measurement of the time for disposition has been keyed to the date of the filing of the motion. The Advisory Group has recommended that the triggering date be changed to the “date of submission.” Even with that change, it

seems clear that the Court faces a real challenge in meeting the time requirements of Local Rule 7.1.

## **New and Continuing Initiatives**

*Alternative Dispute Resolution.* Consistent with the directives of the Civil Justice Reform Act, the initial efforts of the Western District's Advisory Group assigned a high priority to the further development of alternative dispute resolution mechanisms. More specifically, the Advisory Group strongly advanced three recommendations of its Subcommittee on Litigant and Attorney Practices. They were: supporting and enhancing the existing arbitration program; developing a program for the early neutral evaluation of cases; and doing more to educate judges and lawyers about available dispute resolution alternatives.

The voluntary arbitration program, first initiated in 1991 as part of a national pilot program, remains the keystone of alternative dispute resolution within the District. The program seems to be well accepted by the District's lawyers, and it is producing highly desirable results. Last year's assessment reported that 67% of the cases eligible for arbitration remained in the program -- that is, though the program is voluntary, in two-thirds of the eligible cases, no party exercised the right to "opt out." That number remained constant during the last statistical year.

What happens to the cases that remain in arbitration is very encouraging. For example, the percentage of cases in arbitration that were settled or discontinued before a hearing was held has increased from 52% to nearly 60% during the past year. Trials *de novo* have been held in only 1% of the cases that have come through the arbitration program. Even in larger cases, the program is producing positive results. By year-end, ten cases involving awards by arbitrators in excess of \$100,000 were resolved prior to trial *de novo*, and seventeen cases involving awards by arbitrators in excess of \$50,000 were resolved prior to trial *de novo*.

Given the program's success, it is perhaps not surprising that the most common suggestions received by the Advisory Group involve expanding its reach. Some members of the District's bench, apparently believing that the "opt out" level remains too high, would prefer that the voluntary nature of the program be changed. That view is not universally shared, and, for a range of reasons, the Advisory Group does not recommend such a change at this point in time. However, the group does believe that the scope of the program should be enlarged to include Title VII cases, as well as certain other civil rights cases including

those arising under the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Equal Pay Act, and the Fair Labor Standards Act. This will require an appropriate amendment to the local rules.

It also should be noted that, because this program was part of a national pilot effort, the District has received federal financial support for its maintenance. Given the program's success, we must be alert to threats to that funding and work to ensure that the financial base for the important alternative dispute resolution initiative remains secure.

The early products of our much newer Mediation/Neutral Evaluation Program also are encouraging. That program was launched on January 1, 1995. By the end of the statistical year, 29 cases had been placed in mediation, and 21 mediation conferences had been held. Of the 21 cases in which conferences had been held, 7 -- or 33% -- had been settled or discontinued. Though their overall experience with this new program has been limited, those judges who had referred cases to mediation seemed quite pleased with the results.

The biggest challenge for the program in its current state would seem to be increasing awareness of it, both within the bench and within the bar. Hopefully, the results of a more expansive effort would be positive, but in any event, we would then have a better base for assessment. The likely need for such "promotional efforts" was anticipated in the original Advisory Group Report, which, as noted above, stressed the importance of doing more to educate both judges and lawyers about available dispute resolution mechanisms.

One, more minor, change involves a recommended amendment to the local rules. The relevant provision now requires that each of the certified mediators have been used at least once before any individual on the approved list is asked to mediate a second case. Though the volunteer attorneys who have agreed to serve as mediators deserve some protection from repeated service requests, the rule in its current form could create practical problems as the number of certified, but not-yet-selected, mediators becomes smaller and smaller over time. Therefore, the Advisory Group recommends that the rule be changed to provide that no individual be asked to serve as a mediator more than once in any year.

Though reactions of the judges are somewhat mixed, members of the Steering Committee also strongly encourage the Court's involvement in an alternative dispute resolution initiative of a different type -- some form of collective settlement effort. Such efforts, in a variety of different forms, have been very successful in other courts. Rather than advancing a specific proposal in this assessment, we urge the Court to consider some such approach, and we pledge our help in designing and implementing an appropriate program, perhaps on a totally experimental basis that need not involve all members of the Court.

Managing Civil Cases. Last year's assessment in certain limited, but important, respects was incomplete. We simply were unable to statistically measure the existing level of compliance with particular aspects of the earlier adopted plan for managing cases through the pretrial stage -- or, for that matter, to assess reactions to the provisions that had been implemented. This was one of the important reasons for "reinterviewing" the District's judges during the past year.

Following the submission of the Advisory Group's initial report, Local Rule 16.1 was amended to provide for early judicial control of civil actions through a case management conference to be scheduled "within 60 days of the filing of an answer (or the answer of the last defendant)." Virtually all of the District's judges said that they were able to comply with this requirement. Even more important is the fact that virtually all of the judges seem to believe that such early involvement by them is highly desirable.

Local Rule 16.1 also was amended to provide for the entry of a case management order, the designation of actions as Track I or Track II cases (depending upon the level of case complexity), and the use of a "trailing docket" in Track I cases. Again, virtually all of the interviewed judges do enter the required order and seem to believe that it provides a useful framework for the management of the action, even though modification requests frequently are received. Few members of the Court seem to be formally employing the Track I / Track II designation, though many appear to be giving greater pre-trial attention to more complex cases, which was the principal reason for the rule change. The practices of individual judges with respect to the "trailing docket" requirement seem to be quite mixed. The Civil Cases subcommittee reexpressed its belief that trailing dockets "promote judicial efficiency in that time on the bench can be spent more productively" and urged their continued use.

One of the most encouraging pieces of "case management news" to emerge from the judicial interviews related to the Court's ability to fix early, firm trial dates. Moving to the point that courts set early, firm trial dates -- such that a civil trial ordinarily is scheduled to occur within eighteen months after the filing of the complaint -- was widely considered to be the "centerpiece" management principle of the Civil Justice Reform Act. From their interview responses, it appears that virtually all of the District's judges have been able to achieve this level of trial calendar control.

Two other case management matters, earlier discussed, should be briefly revisited here. The most recent interviews reconfirmed what had been said three years earlier -- that the judges of the Western District have no general antipathy toward motions, dispositive or otherwise. Though given the opportunity to do so, no judge proposed procedural changes that would cut back on a litigant's ability to file motions.

However, there also was a general recognition that dealing with motions is time-consuming and that dealing with motions on a timely basis presents a continuing challenge for the Court. As already has been noted, the Court has achieved a laudable level of success in dealing with a sizeable accumulation of motions more than six months old. However, a looming challenge involves achieving a higher level of success in meeting the more ambitious standards of Local Rule 7.1.

After surveying members of the Western District's bar, the Civil Cases subcommittee again recommended that the "standstill order," delaying the implementation of certain changes in the rules governing discovery practice remain in effect. This is consistent with the position consistently taken by the Civil Justice Advisory Group -- that any change in this District should await further information regarding the experiences in those districts that moved forward with "disclosure" provisions. There was a strong expression of particular interest in an anticipated report on experiences within the Eastern District of Pennsylvania.

As already has been noted, an *ad hoc* subcommittee currently is at work developing standard jury instructions that can be employed in employment discrimination cases. The product of this group's efforts will fill a real need, since the Third Circuit stands virtually alone in not having standard jury instructions. Given the rapid rise in civil rights filings within the Western District, standard instructions in this particular area of the law should also help both the bench and bar deal effectively with a growing portion of the Court's docket.

*Effectively Utilizing Technology.* As also was noted earlier, a new subcommittee, focusing on Court Technology, was appointed during the past year. In charging that group, Chairperson Norton requested that it examine what is being implemented in other courts and consider what could be implemented here, always being mindful of competing considerations such as cost and intrusiveness. That subcommittee already has tendered its initial report, which quite comprehensively discusses the ways in which new technologies might advance the work of the Court, describes the current "state of technology" within the Western District, and sets forth both short-term and long-term objectives.

The subcommittee began by noting that "with ever-expanding workloads and the dwindling amount of time each judge and his or her staff have to devote to any one matter, time has become the court's most important resource. Automation and technology can be applied as a tool to reduce the amount of the time needed by judges and their staffs to obtain and use essential information. The time saved will be available for thoughtful consideration on the merits." Other potential uses of technology cited by the subcommittee were:

--To ensure appropriate access to electronic information at a reasonable cost to the judiciary, the bar, the public, government agencies and litigants;

- To accommodate state-of-the-art presentation of testimony and evidence in the courtroom;
- To take the record of proceedings in the most cost- and time-effective manner;
- To reduce litigation costs by accommodating remote appearances of parties, witnesses or counsel;
- To enhance jury understanding through reproducible, multi-media presentations;
- To avoid conflicting precedents or rulings on like issues through computerized conflict checking software;
- To make judges, lawyers and litigants more “portable” by enabling them to conduct routine business from virtually any remote location;
- To promote efficiency through the collection and dissemination of statistical caseload disposition information; and
- To assist judges in managing their caseload through the use of data base management techniques.

The short-term objectives of the subcommittee are very basic. They include obtaining such courtroom improvements as additional electric outlets and phone jacks, better lighting, improved audio and visual equipment, and speaker phone capacity for large conferences. The subcommittee’s long-term objectives were set forth as follows:

A computer system, with terminals for lawyers, judges and jurors must be considered. This system should include court reporting assistance, enabling instant recording and reading of prior testimony, visual display on terminals of exhibits, which would enable the judge to view the exhibit prior to the jury, and access to court records and documents on file with the court. A comprehensive evaluation of systems used elsewhere should be undertaken so that we can benefit from the experience of other jurisdictions.

Judges should also encourage litigants in large matters to consider providing the equipment to the court. In some cases, the increased efficiency may be worth the expense of providing (and leaving) the equipment. Several courtrooms across the country have obtained new equipment this way.

Moving forward in this area is essential. Doing so effectively will require further thought, careful planning, and coordination of efforts with the Clerk of Court.

*Maximizing the Effective Use of Human Resources.* One central theme of each report prepared by this Advisory Group has been the significant disadvantage faced by the Court



when authorized judgeships have gone unfilled for extended periods of time. That problem was especially severe in the late 1980's and early 1990's, but it also remains a source of real concern today. The most recent vacancy, created when former Chief Judge Cohill assumed senior status in November of 1994, now has gone unfilled for nearly eighteen months.

In addition to maximizing the complement of judges available to help discharge the Court's important responsibilities, there is a complementary need to ensure that available judicial officers are employed most effectively. During the interviews conducted by Advisory Group members, it was frequently suggested -- both by Article III judges and by magistrate judges -- that the magistrate judges could be used in ways that would produce greater benefits for the Court. Specific suggestions ranged from improved communications to more expansive work assignments. In all cases, the proposals were crafted in ways intended to be sensitive to the special status of Article III judges.

Chief Judge Ziegler already has taken the lead to move forward on a number of related fronts. He has, for example, personally assumed the role of "liaison judge" for the magistrate judges and has begun what will be regularly scheduled meetings with them. He also is exploring modifications to the existing assignment system for civil actions that could increase the number of cases in which magistrate judges, with the consent of the parties, would have full authority to manage and ultimately resolve civil cases. Any such proposals would, of course, be submitted to the full Board of Judges.

A companion theme emerging during the judicial interviews involved perceived threats to the rich tradition of collegiality amongst the Article III judges themselves. There is, of course, a broad-based fear throughout the federal court system that escalating docket pressures have converted judges into managers -- with professional achievement more directly tied to the quantity of work produced, as opposed to its quality. One manifestation of that concern was the Court Technology subcommittee's expressed hope that technological tools could, in an age of "ever-expanding workloads," increase the time available for "thoughtful consideration."

But this Court always has been known not only for the quality and accomplishments of its individual members but also for its collective *esprit*. As the intense and unrelenting pressures of the modern judicial world have arrived in the Western District, there is a concern that the Court will have to struggle to sustain the somewhat casual, but professional, exchanges and relationships that have contributed to the shared sense of mission that has been a hallmark of the Court in the past. Hoping that it will not sound presumptuous, we urge the members of the Court to continue to make time for each other.

## **Conclusion**

The members of the Civil Justice Advisory Group remain very grateful for the time that the Western District's judges made available to us during the past year. Our face-to-face conversations advanced the group's work in tangible ways and also confirmed our existing sense that we are pursuing a greater good together. The ideas included in this annual assessment are respectfully submitted for your consideration and with the express hope that you will let us know if there are other ways in which we can be of assistance to you.

Lynette Norton, Chairperson  
Hon. Donetta W. Ambrose, Court Liaison  
James A. Drach, Clerk of Court

Roslyn M. Litman, Immediate  
Past Chairperson  
Mark A. Nordenberg, Reporter

May 1, 1996

APPENDIX 1

MEMBERSHIP ROSTER -- CIVIL JUSTICE ADVISORY GROUP

STEERING COMMITTEE

Lynette Norton, Chair  
Roslyn M. Litman, Past Chair  
Mark A. Nordenberg, Reporter

Hon. Donald E. Ziegler, Chief Judge  
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ADVISORY GROUP MEMBERS

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Sandra Jordan  
Kerry A. Kearney

Wallace J. Knox, II  
Hon. Gary L. Lancaster  
Paul A. Manion  
W. Thomas McGough, Jr.  
Hon. Sean J. McLaughlin  
Hon. Keith A. Pesto  
Samuel J. Reich  
Stephen I. Richman  
Caroline M. Roberto  
James J. Ross  
Hon. Ila Jeanne Sensenich  
Larry A. Silverman  
Eric W. Springer  
Hon. William L. Standish  
Frederick W. Thieman  
William F. Ward

## APPENDIX 2

### SUBCOMMITTEE ROSTERS

#### **Arbitration**

John H. Bingler, Co-Chair  
Henry W. Ewalt, Co-Chair

Hon. Gary Lancaster  
Stephen I. Richman

#### **Prisoner Pro-Se**

Hon. Kenneth J. Benson, Co-Chair  
W. Thomas McGough, Jr., Co-Chair

Wendell G. Freeland  
Thomas F. Halloran

#### **Neutral Evaluation**

Hon. William J. Standish, Co-Chair  
Giles J. Gaca, Co-Chair

Hon. Sean McLaughlin  
Amy Reynolds Hay  
David J. Hickton  
Wallace J. Knox, II  
Larry Silverman

#### **Civil Cases Generally**

Frederick N. Egler, Co-Chair  
Kerry A. Kearney, Co-Chair

Paul A. Manion  
Hon. Ila Jeanne Sensenich  
Eric W. Springer  
William F. Ward

#### **U.S. as a Litigant**

Frederick W. Thieman, Co-Chair  
Caroline M. Roberto, Co-Chair

Leonard G. Ambrose, III  
Sandra Jordan  
Samuel J. Reich  
James J. Ross

#### **Court Technology**

Hon. Robert J. Cindrich, Co-Chair  
Ellen Doyle, Co-Chair

Hon. Donetta Ambrose  
Mary Hackett  
Thomas Hollander  
James D. Morton

APPENDIX 3

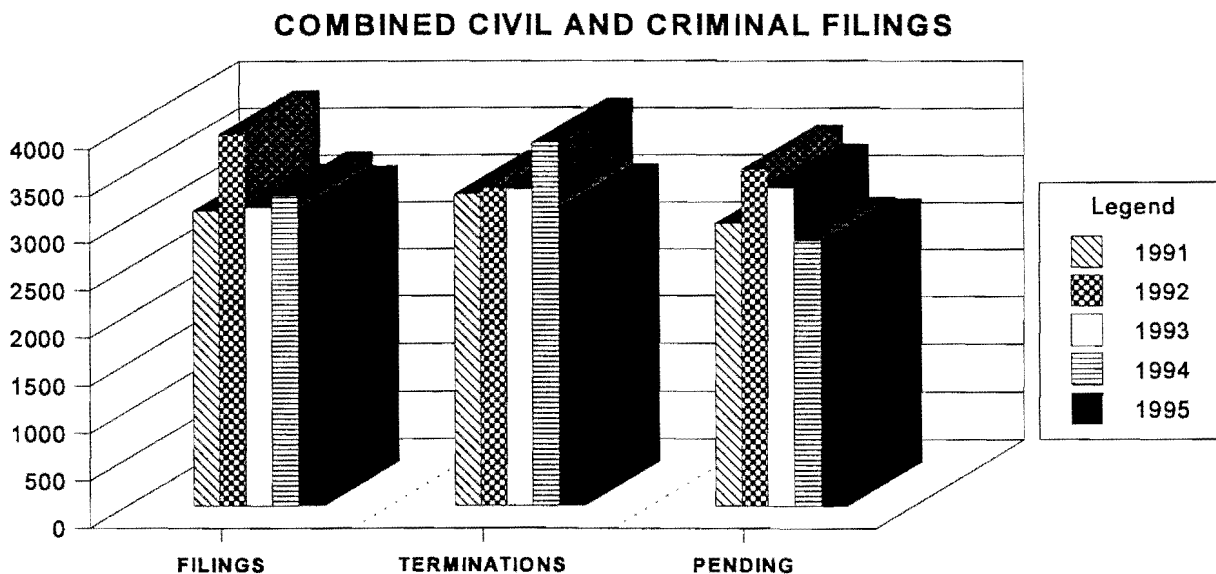
**TOTAL FILINGS (CIVIL AND CRIMINAL)**

In statistical year (October 1, 1994 - September 30, 1995) the total filings in the Western District decreased by 4.47% going from 3,269 last year to this year's total of 3,123. A total of 3,138 cases were terminated, representing a decrease of 18.15% over last year's figures and the total pending caseload decreased 0.54% during this period.

COMBINED CIVIL AND CRIMINAL FILINGS

STATISTICAL YEAR	FILINGS	TERMINATIONS	PENDING
1991	3106	3285	2972
1992	3924	3345	3551
1993	3142	3339	3354
1994	3269	3834	2789
1995	3123	3138	2774

Below is the above table in graph form.



APPENDIX 4

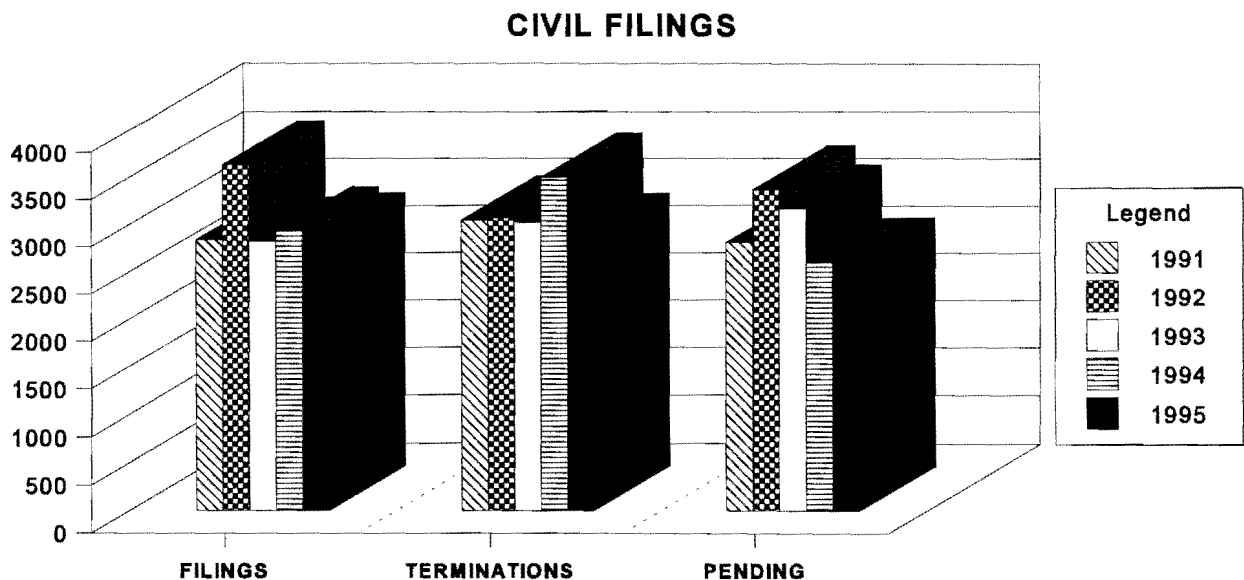
**CIVIL FILINGS**

Civil filings in 1995 decreased from 2,931 in 1994 to 2,873 in 1995, a decrease of 1.98% and a increase of 1.27% over the five-year period. Terminations decreased 18.11% from 3,500 in 1994 to 2,866 in 1995 and represents a 5.94% decrease of terminations since 1991. Pending civil cases increased by 7 from last year's figure of 2,601 for a increase of 0.27% and represents a 7.19% decrease in pending civil cases over the 1991 statistics.

CIVIL FILINGS

STATISTICAL YEAR	FILINGS	TERMINATIONS	PENDING
1991	2837	3047	2810
1992	3633	3071	3372
1993	2821	3023	3170
1994	2931	3500	2601
1995	2873	2866	2608

Below is the above table in graph form.



APPENDIX 5

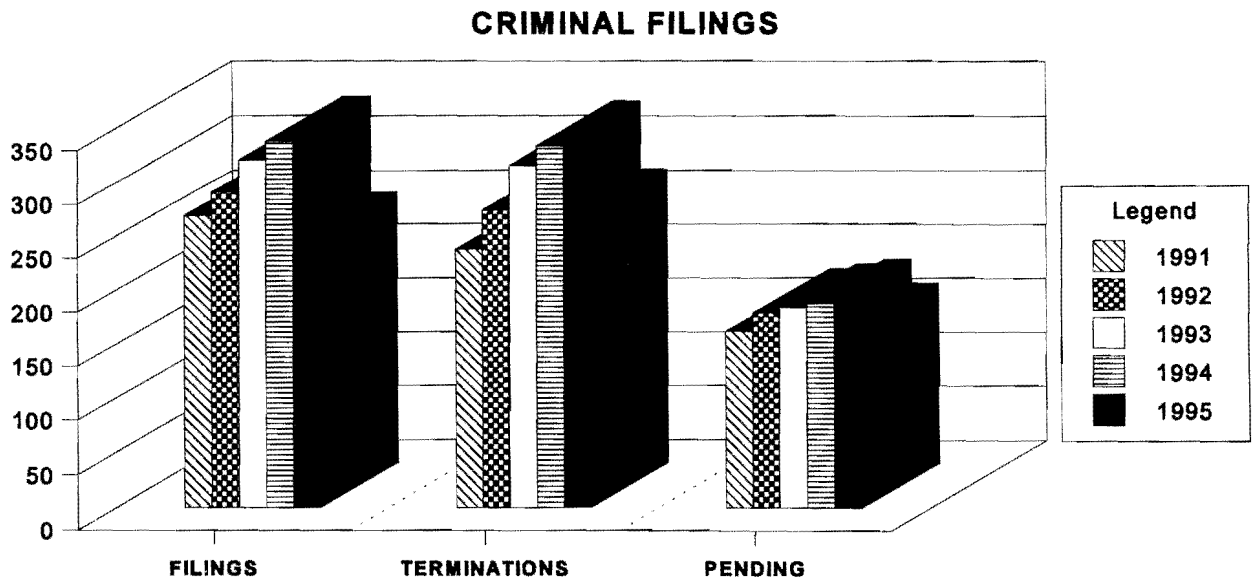
**CRIMINAL FILINGS**

Criminal case filings were at 250 and reflects a 7.06% decrease in the five years since 1991. Criminal terminations were down 18.56% from 334 to 272 in 1995, and the pending criminal caseload reflected a 11.70% decrease in 1995, and a 2.47% increase over the 1991 pending case statistics.

CRIMINAL FILINGS

STATISTICAL YEAR	FILINGS	TERMINATIONS	PENDING
1991	269	238	162
1992	291	274	179
1993	321	316	184
1994	338	334	188
1995	250	272	166

Below is the above table in graph form.



APPENDIX 6

Table 1: Filings by Case Type, SY86-95

Western District of Pennsylvania	YEAR									
	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Asbestos	34	9	18	91	140	21	9	5	0	6
Bankruptcy Matters	81	65	94	134	137	108	94	94	79	78
Banks and Banking	1	2	2	3	12	4	13	5	5	1
Civil Rights	235	215	236	248	254	235	316	300	422	515
Commerce: ICC Rates, etc.	10	23	16	12	6	21	24	12	16	9
Contract	763	831	846	712	395	443	412	418	441	346
Copyright, Patent, Trademark	46	52	73	62	43	46	54	53	64	56
ERISA	164	159	188	140	184	211	216	225	242	171
Forfeiture and Penalty (excl. drug)	45	13	13	63	53	11	17	26	23	8
Fraud, Truth in Lending	10	17	11	24	18	5	17	19	15	20
Labor	133	122	119	108	118	121	102	80	75	89
Land Condemnation, Foreclosure	65	63	106	113	95	82	96	167	155	100
Personal Injury	364	336	360	300	266	248	1110	326	337	363
Prisoner	436	455	510	469	501	651	570	440	511	610
RICO	7	15	34	16	23	24	20	28	16	13
Securities, Commodities Tax Co	22	48	32	14	25	37	49	21	25	18
Social Security	384	342	321	336	224	189	152	263	295	185
Student Loan and Veterans	262	161	165	196	103	82	121	37	9	1
Tax	23	30	42	43	19	36	34	34	17	13
All Other	277	246	203	204	255	199	246	204	242	218
All Civil Cases	3362	3204	3389	3288	2871	2774	3672	2757	2989	2820



APPENDIX 7

**ERIE DIVISION**

Erie reported total case filings of 365 civil and 36 criminal for an increase of 6.65% from 1994 report figures. Civil terminations decreased 23.32% over the 1994 report figures, and the civil pending caseload increased by 6.48%.

ERIE CIVIL FILINGS

STATISTICAL YEAR	FILINGS	TERMINATIONS	PENDING
1991	313	273	299
1992	399	298	400
1993	372	306	466
1994	335	446	355
1995	365	342	378

The number of civil matters filed during this period was up by 16.61% since 1991, and the number of criminal matters was up by 16.13% over 1991.

ERIE CRIMINAL FILINGS

STATISTICAL YEAR	FILINGS	TERMINATIONS	PENDING
1991	31	32	19
1992	25	25	19
1993	47	48	18
1994	41	38	21
1995	36	26	31

APPENDIX 8

**JOHNSTOWN DIVISION**

Johnstown reported total case filings of 333 for a increase of 3.10% from 1994 report figures. Terminations decreased 27.90% over the 1994 report figures and the pending caseload increased by 3.97%.

JOHNSTOWN CIVIL FILINGS

STATISTICAL YEAR	FILINGS	TERMINATIONS	PENDING
1991	274	262	197
1992	607	342	462
1993	315	400	377
1994	323	448	252
1995	333	323	262

Johnstown reported total criminal filings of 30 for a increase of 11.11% from 1994 report figures. Terminations increased 3.45% over the 1994 report figures, and the pending caseload remained the same.

JOHNSTOWN CRIMINAL FILINGS

STATISTICAL YEAR	FILINGS	TERMINATIONS	PENDING
1992	19	11	10
1993	36	26	20
1994	27	29	18
1995	30	30	18