

**SUMMARY OF RESEARCH DESIGN  
FOR EVALUATION OF THE PILOT PROGRAM  
OF THE  
CIVIL JUSTICE REFORM ACT OF 1990**

Terry Dunworth and James Kakalik, Principal Researchers

November 11, 1992

RAND  
1700 Main St.  
Santa Monica, CA 90407-2138  
Telephone (310) 393-0411

## ABSTRACT

This document summarizes the research design for the RAND evaluation of the Pilot Program of the Civil Justice Reform Act of 1990 (CJRA). The design was approved on December 9, 1991 by the Judicial Conference Committee on Court Administration and Case Management.

The general evaluation strategy is based on making two types of comparisons: "before versus after" implementation of the CJRA in January 1992; and "pilot versus comparison districts". The evaluation involves 10 federal districts in the pilot program, and 10 other comparable districts that are not in the pilot program. The principal factors being measured at both points in time and in both types of districts are the case management policies actually used, the time to disposition, the litigation costs, and the fairness of and satisfaction with both case outcomes and case management procedures, as reported by judges, lawyers, and litigants.

Following a brief description of the Act that created the Pilot Program and mandated its evaluation, we describe the scope and objectives of this evaluation. We then discuss the research questions to be addressed before the evaluation concludes in December, 1995. Next, the general research strategy is outlined, followed by a discussion of the specific research tasks with a timetable for each task. We conclude with RAND's qualifications.

CONTENTS

ABSTRACT..... ii

FINALIZED RESEARCH DESIGN FOR EVALUATION OF THE PILOT PROGRAM OF THE CIVIL JUSTICE REFORM ACT OF 1990..... 1

SCOPE AND OBJECTIVES..... 1

RESEARCH QUESTIONS ..... 2

    Implementation Questions..... 2

    Processing and Delay Questions..... 2

    Cost Questions ..... 3

    Outcome Questions ..... 3

TIME FRAME..... 4

GENERAL RESEARCH STRATEGY..... 4

    Two Critical Principles of Evaluation Design..... 4

    Before and After Comparisons..... 5

    Pilot and Comparison Districts..... 5

    Data Sources and Issues ..... 6

RESEARCH TASKS ..... 6

    Task 1: Review Pilot District Plans and Implementation Strategies..... 9

    Task 2: Recommend Comparison Districts..... 9

    Task 3: Conduct Design Site Visits and Analyze Information ..... 14

    Task 4: Analyze Existing Court Data Bases for Design Purposes ..... 14

    Task 5: Finalize Design..... 14

    Task 6: Project Administration..... 14

    Task 7: Conduct Implementation Site Visits and Analyze Information..... 14

    Task 8: Analyze Existing Court Data Bases for Evaluation Purposes..... 14

    Task 9: Analyze Current FJC Judge Time Study Data..... 15

    Task 10: Conduct Operational Site Visits and Analyze Information ..... 15

    Task 11: Select a Sample of Cases for Intensive Data Collection..... 16

    Task 12: Conduct Judicial Time Study for Sample of Cases Filed in 1992 in Pilot and Comparison Districts ..... 25

    Task 13: Conduct Docket Survey for All Sample Cases ..... 27

    Task 14: Conduct Attorney Survey for All Sample Cases ..... 27

    Task 15: Conduct Case Closure Survey of Judges for Sample of Cases Filed in 1992-3..... 27

    Task 16: Conduct Litigant Survey for All Sample Cases ..... 28

    Task 17: Evaluation of CJRA Policy Implementation and Impact..... 28

    Task 18: Periodic Briefings for Judicial Conference and Others ..... 28

    Task 19: Write Implementation Report on Pilot and Comparison Districts .. 28

    Task 20: Write Evaluation Report on Pilot and Comparison Policies..... 29

PERSONNEL AND ORGANIZATIONAL QUALIFICATIONS..... 29

JUDGE QUESTIONNAIRE

ATTORNEY QUESTIONNAIRE

LITIGANT QUESTIONNAIRE

**TABLES**

Table 1: Tasks and Timelines for CJRA Evaluation .....	8
Table 2: Comparison Districts for the CJRA Pilot Program .....	13
Table 3: Categories of Cases by Nature of Suit .....	19
Table 4: Percentage of Cases and Judicial Officer Work Time in Categories of Cases ...	20
Table 5: Surveys for Evaluation of CJRA Pilot Program .....	24
Table 6: Division of Responsibility for Administration of New Judicial Time Survey ....	26

## **FINALIZED RESEARCH DESIGN FOR EVALUATION OF THE PILOT PROGRAM OF THE CIVIL JUSTICE REFORM ACT OF 1990**

### **INTRODUCTION**

Concerns about the cost and time to disposition of civil cases in the federal courts led to the passage of the Civil Justice Reform Act of 1990. The Act makes several salient findings about these problems: first, the courts, litigants, lawyers, and all three branches of federal government share responsibility for the problems and their solutions; second, methods must be developed to identify and disseminate effective techniques for dealing with the problems; and third, though the Act focuses on civil litigation, efforts to deal with costs and delay must take the criminal as well as the civil caseload into account.

The Act also specifies that pilot program policies to manage civil litigation and to reduce cost and delay should be implemented in ten pilot districts. Those pilot program policies are to embody the following interrelated principles:

- A. Systematic, differential case management tailored to the characteristics of different categories of cases (the Act specifies several factors such as case complexity that may be used in categorizing cases);
- B. Early and ongoing control of the pretrial process through involvement of a judicial officer in assessing and planning the progress of the case, setting an early and firm trial date, controlling the extent and timing of discovery, and setting timelines for motions and their disposition;
- C. For complex and other appropriate cases, judicial case monitoring and management through one or more discovery and case management conferences (the Act specifies several detailed case management policies in this regard, such as scheduling and limiting discovery);
- D. Encouragement of cost effective discovery through voluntary exchanges and cooperative discovery devices;
- E. Prohibition of discovery motions until the parties have made a reasonable good faith effort on the matter; and
- F. Referral of appropriate cases to alternative dispute resolution programs.

The Act also mandates that an evaluation of the pilot implementation of the legislation and its impact on the courts and litigants be conducted by an independent research organization. This paper presents a design for conducting such an evaluation.

### **SCOPE AND OBJECTIVES**

The general objective of the evaluation is to identify effective approaches to cost and delay reduction for civil cases in the federal district courts. The specific objective is to evaluate the implementation and the effects of the policies created by the ten pilot districts preselected by the Judicial Conference committee.

The evaluation will focus on the federal district courts. Other federal courts--circuit and bankruptcy courts for instance--and state courts will not be included in the study,

except to the extent that they demonstrably and significantly influence district court activities in some way.

As required by the Civil Justice Reform Act, the evaluation will concentrate on the impact of the provisions of the Act on the civil caseload. However, in federal district courts, cases of all types can influence civil case processing. Criminal cases, and particularly drug cases, are generally believed to have a serious and negative impact on civil case processing. Furthermore, there is considerable interdistrict variation in this impact (Dunworth, 1990). It will therefore be necessary for the evaluation to take into account these other, non-civil types of cases.

## **RESEARCH QUESTIONS**

These objectives generate a number of research questions, falling into four areas: the specific policies and their implementation; processing and delay; costs; and outcomes.

### **Implementation Questions**

An important component of the evaluation will be a review and assessment of the policies developed by the ten pilot districts and other districts included in the evaluation for purposes of comparison. Also important is the manner in which the plans are implemented. Differences in the impact of more or less identical plans is almost certain if one is poorly implemented while another is well implemented. We will therefore produce a written review of such plans and their execution, covering the following kinds of questions.

- What are the main elements and objectives of prior and new policies?
- How were the elements of the new policies developed, and what were the roles of the advisory committee and others?
- Are the elements of the new policies formulated in a manner that is consistent with the stated objectives of the legislation and the stated objectives of the policies?
- Have the policies been implemented as intended and on a timely basis by all judicial officers?
- What is the level of support for the policies among lawyers and judicial officers?
- What problems have been encountered based on operational experience, and what policy adjustments have been made?

### **Processing and Delay Questions**

Recent work on time to disposition and delay in both federal and state courts has shown that the question of how to reduce time-to-disposition is complex. Many of the factors that are intuitively appealing as possible explanations of intercourt variation in time to disposition -- for instance, simple measures of case mixture, level of resources, and general case processing characteristics -- seem to have limited explanatory power when examined empirically (Dunworth, 1990; Kakalik, 1990; Mahoney, 1988; and Flanders, 1977).

However, such prior research has for the most part been conducted with aggregate data rather than detailed court policy and case level information such as the event structure of the case and the specific court case management policies used in practice on the case. In this evaluation, we will seek to overcome this limitation by collecting more extensive and more detailed data on case structure and processing than has previously been available, and by assessing time to disposition (and costs and outcomes) in the light of that new

information. We will obtain this information from the court, from lawyers, and from litigants.

We will seek to answer the following questions for all civil cases combined and for various categories of cases processed by pilot districts' new case management policies, by comparison districts' new policies, and by prior existing policies.

What is the overall time to disposition?

What is the method of disposition (e.g. settlement, motion, trial)?

What types of court events (conferences, motions, trials, etc) occur, and how often?

What are the time intervals between events of different types?

### **Cost Questions**

We plan to focus on two general types of costs: those borne by litigants, on the one hand; and those borne by the federal court system, on the other. The former category is clearly a primary focus of the Civil Justice Reform Act. There is general conviction that litigant costs are high and getting higher, and that they should be reduced if possible. This aspect must therefore be a major element of the evaluation. However, institutional court costs are also of major importance. The changes in court procedures that the legislation requires will have an effect on the district courts that is separate from the effect on litigants, and, in order to properly assess the impact of district court case management policies, such costs must be assessed.

We will ask the following questions for all civil cases combined and for various categories of cases processed by pilot districts' new policies, by comparison districts' new policies, and by prior existing policies.

What are the nonrecurring costs of implementing the Act at the district level?

What are the recurring costs to the district court system, in terms of judicial time and total dollars?

What are litigant costs, as measured by litigant time spent on the case, by lawyer time, and by direct dollar expenditures?

### **Outcome Questions**

Increased judicial management of civil litigation is not universally seen as desirable. Some commentators argue, for example, that it is improper for courts to actively promote settlement, and that a denial of justice may be one consequence of doing so (Resnik, 1982 and 1987). This is a complex question, and we do not propose to seek a definitive philosophical or doctrinal answer. However, we do propose to empirically review the changes, if any, that occur in case outcomes after implementation of the policies. We also plan to obtain expert assessments of the policies and opinions about the nature of the outcomes through surveys of participating judges and attorneys and litigants.

We will therefore pursue the following kinds of questions, in cases that are dropped and settled privately, as well as those for which the court is involved in the disposition in some way. As with the cost and delay questions, the outcome questions will be asked for the pilot districts' new policies, for the comparison districts' new policies, and for prior existing policies.

- What monetary outcomes occur (settlements, awards)?
- What non-monetary outcomes occur (agreements, injunctions)?
- What is the appeal rate?
- What is the level of satisfaction of judges and lawyers and litigants with the court process, costs, and outcomes?
- Is court management of the civil caseload, as implemented under the new policies, an improvement over prior practices?

## **TIME FRAME**

The research began September 11, 1991, and a final report will be submitted no later than September 30, 1995. This would provide the Judicial Conference with a 90 day period before the legislatively mandated report to congress is due on December 31, 1995. An implementation evaluation report will be produced by the end of 1993, and detailed briefings and status reports will be provided annually to the Judicial Conference and others.

The first six months of the study focus on selecting the comparison districts and on refining the specific research design. We will refine our survey questionnaires and prepare to field test them. Detailed data collection will begin in 1992, and will continue until December, 1994. A draft final report will be produced by the summer of 1995, with revisions based on Judicial Conference and other reviews to be completed no later than the September due date of the final report.

At least three years are needed for the measurement of the effects of the cost and delay reduction policies because the greatest impact of such plans may well be on the type of cases that currently take the longest amount of time to process and, in all likelihood, are the most costly. Though the median time to disposition for private civil cases has been about nine months for some years, there is nevertheless a significant number of cases that remain in the courts much longer (Dunworth, 1990). In addition, it is probable that, over the course of the three year period, district policies will be modified and improved on the basis of experience, and it will be important that the report to Congress reflect such improvements to the extent that they occur.

## **GENERAL RESEARCH STRATEGY**

### **Two Critical Principles of Evaluation Design**

The emphasis of this research is on the evaluation of specific case management policies implemented by ten selected pilot districts. Consequently, it is necessary that an examination of those pilot district policies and the cases they directly influence be an



integral part of our work. However, such an examination does not in and of itself constitute a satisfactory evaluation. Standard design principles for evaluation research (Campbell and Stanley, 1963) require that two other dimensions be incorporated. First, the experience of the pilot districts prior to the implementation of the new policies must also be measured and documented to permit an assessment of the changes that occur in those districts. Second, a comparison of the ten pilot districts with other districts should be made to ensure that pilot district changes are due to the policies implemented there rather than to other factors.

It is well known that research in real-world settings faces difficulties in establishing the control that these two principles require. Courts are not ideal, controllable laboratory settings. Baseline information -- the "before" aspect -- is often difficult to obtain. The courts being studied are not standing still and the courts do not generate all the information required for the evaluation as a routine matter. And control or comparison courts that ideally should continue business as usual during the evaluation cannot be fully "controlled" in the true scientific sense. These factors increase the difficulty of the research.

### **Before and After Comparisons**

Before and after comparisons will be made of policies in pilot districts and in comparison districts to the extent that this is possible. In this way, data depicting changes over time will be generated for all districts included in the study. This will permit evaluation of different policies within each group, and will not be complicated by any differences that may exist between the pilot and comparison groups.

However, the different policies may come into effect in different courts at different times. And factors such as changes in lawyer behavior over time, trends in caseloads and case mix, and the condition of the economy -- all of which are beyond project control -- may complicate the evaluation. Trends in criminal drug case or asbestos case filings, for example, might tend to increase civil case time to disposition while the pilot district policy might tend to decrease time to disposition. Such factors must, to the extent possible, be identified and analyzed.

Care must also be taken to consider the "experimental effect" (judges and lawyers who know they are in an experimental program may behave differently as a result), which may complicate the "before and after" evaluation.

### **Pilot and Comparison Districts**

Pilot and comparison districts policies will be compared with respect to implementation and policy costs and effects. This will facilitate evaluation of different policies at the same time in "matching" groups of districts, and will not be complicated by any general trends that may exist in the country.

Selection of ten comparison districts has been made by the Judicial Conference, based primarily on districts we recommended for consideration (these districts and the basis for selecting them are discussed in detail later in this document -- see Task 2). Ideally, as noted, comparison districts should be selected that are as similar as possible to the ten pilot districts on all dimensions EXCEPT the policies for civil litigation management. This is the standard scientific control group method. However, its success depends on finding comparison districts that resemble the pilot districts as closely as possible on various relevant factors. The more dissimilar the two groups, the more likely it is that observed differences in the costs and effects will be due to differences among districts rather than due to differences in the policies.

Further complications arise in this particular evaluation from the fact that non-pilot district courts are currently proceeding with the development and possible implementation of their own policies. Some of these may be identical to, or at least have similar components to the policies adopted by the pilot districts. This will create difficulties for the evaluation,

but it will also add to the richness of the variety of alternative policies that can be evaluated.

### **Data Sources and Issues**

Multiple sources of data will be used in the evaluation, including court statistics, and case level surveys of judges and lawyers and litigants. These are discussed in detail later in this document under various different Task descriptions.

We consider the district court to be the primary unit of analysis of the evaluation. We therefore expect to aggregate information by participating district. Within district, breakdowns obviously will be needed with respect to variables such as case type, basis of jurisdiction, case policy management "tracks", and others. However, we will NOT present breakdowns for individual judges or magistrates; such breakdowns are not only unnecessary from a research viewpoint, but might also inhibit the cooperation we receive from some judicial officers. We also will NOT present information on individual cases.

Quantitative data will be collected from existing federal court data systems such as the Integrated Federal Courts Data Base, the automated version of the JS-10 trial reports, and automated dockets to the extent implemented under ICMS in the study districts. Supplementary information will be developed as needed from paper records such as docket sheets, pleadings, budgetary records maintained by the Administrative Office, and so on.

Detailed information from the judicial time study that the Federal Judicial Center is currently conducting will be essential to assist in the development of baseline information on the amount of judicial work that is required by prior case management policies, and baseline cost and case processing information in the 20 study districts. We expect to use the methodology of that study to generate new cost and case processing statistics for a sample of about 5000 cases drawn from 1992 filings in the 20 participating districts (an average of 250 per district -- see Task 12). The principal RAND researchers have worked with data from federal and state judicial time studies previously and appreciate the sensitivity of the data. The information will be coded without the name of the judicial officer involved, will be handled in a strictly confidential manner. As noted, all evaluations will be done at the district or multidistrict or case category level; none will be done at the level of the individual judicial officer.

Information on litigant costs, satisfaction, and other factors will be developed from surveys of the attorneys and litigants involved on both sides of the cases sampled. The sample size will be about 5000 cases filed before 1992, and another 5000 cases filed during 1992 (see Task 11 for a discussion of how we arrived at that number). Each lead lawyer and each litigant<sup>1</sup> for the sample of the cases will be contacted by mail. While we expect nearly full judicial cooperation with our surveys, some fraction of the lawyers and litigants will not respond to mail queries. We will identify and compensate for any possible bias due to nonresponses.

Supplementary qualitative data will be collected from interviews and mail surveys of judges, other district court staff, and attorneys.

## **RESEARCH TASKS**

We have defined 20 tasks needed to implement the general research design discussed above. Table 1 summarizes the tasks and the timelines. These are estimates because, as

---

<sup>1</sup>If there are more than 20 litigants on one side in a case, we will select a random sample of 20 to survey.

the work proceeds, adjustments in the timing and details of work may be dictated by what is discovered as tasks are performed between now and the end of 1995.

Tasks 1 through 5 concern development of the specific details of the research design, and will consume the first six months of the project. Field testing of the data collection questionnaires will be completed shortly thereafter, depending on scheduling of visits to the districts involved.

Task 6 is project administration which continues throughout the study.

Tasks 7 through 17 concern the conduct of the research and will start immediately upon approval of the design and definitization of the contract. While some tasks are relatively short lived, others are ongoing throughout most of the study (such as analysis of data from existing court databases as it becomes available).

Tasks 18 through 20 involve periodic briefings to the Judicial Conference and others, and published reports on the implementation and impact of the Pilot Program.

In the remainder of this section, each individual task is discussed.

**Table 1: Tasks and Timelines for CJRA Evaluation**

Tasks	Timelines				
	9/11/91 - 3/10/92	3/11/92 - 12/31/92	1/1/93 - 12/31/93	1/1/94 - 12/31/94	1/1/95 - 12/31/95
1. Review district plans	_____				
2. Recommend comparison districts	_____				
3. Conduct design site visits	_____				
4. Analyze court data for design	_____				
5. Finalize design	_____				
6. Administer project	_____				
7. Conduct implementation site visits		_____			
8. Analyze court data for evaluation	_____				
9. Analyze current FJC judicial time survey data	_____				
10. Conduct operational site visits			_____		
11. Select sample of cases		_____			
12. Judicial time survey for 1992 case sample		_____			
13. Docket survey		_____			
14. Lawyer survey		_____			
15. Case closure survey of judges		_____			
16. Litigant survey		_____			
17. Conduct evaluation	_____				
18. Give periodic briefings	_____				
19. Write implementation report			_____		
20. Write evaluation report				_____	

**Task 1: Review Pilot District Plans and Implementation Strategies**

The Act provides a general outline of pilot program policies, but leaves the specifics of actual policies to individual districts. A review and assessment of the plans that pilot districts formulate is therefore called for. This review will help define exactly what policies are being evaluated, and will guide the process of the research in each individual district.

**Task 2: Recommend Comparison Districts**

The Civil Justice Reform Act of 1990 establishes a 10 district pilot program, and requires that 10 additional districts be selected for purposes of comparison with the pilot districts. This task develops a set of recommendations about the districts that would be suitable comparisons to the 10 pilot districts that the Committee on Court Administration and Case Management of the Judicial Conference of the United States has already selected.

A set of recommendations for comparison districts was submitted by RAND to the Administrative Office. Alternate comparison districts were also suggested in the event that one or more of the recommended districts proved to be unsuitable. The Act names five Demonstration districts, and these were not recommended for use as comparison districts. Though these Demonstration districts may be comparable to one or more pilot district in terms of size, caseload, and performance characteristics, discussions with Administrative Office and Federal Judicial Center staff led us to the conclusion that no Demonstration district should be used as a comparison for any pilot district because of their special demonstration status under the Act. The recommended districts were approved by the Judicial Conference, with one exception (an alternate comparison district that provided a better match to the pilot district based on the criminal caseload).

In the following discussion, the principles underlying the recommendations are first presented. This is followed by an identification of the comparison districts themselves and a brief summary of their characteristics.

**Principles Underlying The Selection of Control Groups.** Standard principles of evaluation research affirm the need to identify a control group that can be compared to an experimental group when the possible effects of a particular process or program are being assessed. Ideally, the two groups should be identical in characteristics and activities during the evaluation period, except that the experimental group participates in the process being evaluated while the control group does not. Since both groups can consequently be presumed to be subject to the effect of undetected extraneous factors to more or less the same degree, the effect of such factors on the outcome of the experiment can, to some extent, be discounted. That is, if one group is influenced in a particular way by some unobservable or unmeasurable factor, then, all other things being equal, the other group should be influenced in the same way. This increases the confidence that observed differences between the two groups with respect to the process being evaluated are due to the fact that one participates in the process while the other does not.

In a laboratory, this ideal can sometimes be realized. The environment can be controlled, along with the activities of the members of the experimental and control groups. In a real world setting, however, such controls cannot normally be established with much confidence. The outside world does whatever it wishes, and it is often impossible to identify control group members that have the same characteristics and activities as experimental group members. The consequence is that it is usually necessary to proceed with a less than completely satisfactory approximation of the controls that would be imposed in an ideal world.

These are precisely the circumstances under which the evaluation of the CJRA pilot program must be conducted. Neither the pilot districts, nor any possible set of comparison districts, are "controllable" in the laboratory sense. Even though they are all part of the

same court system, the legal and social environments in which they operate are diverse and fluid. There is also significant inter-district variation in court characteristics—size, case mix, processing norms and styles, and so on. Finally, and perhaps most significantly, the group of districts from which the comparison set will be chosen are free to implement any cost and delay reduction programs that they wish, as long as such programs are operational by the statutorily mandated deadline of December 1, 1993. This contrasts sharply both with the requirement that the pilot districts establish programs embodying the six specific principles of litigation management detailed in the Act, and the implementation deadline of January 1, 1992 that the act imposes on the pilot districts.

For these reasons, it must be acknowledged and accepted that the comparison between pilot districts and comparison districts will be imperfect.

**Selection Criteria.** Despite the significant difficulties that are attendant upon comparative analysis of pilot and other districts under the CJRA, it is still desirable to choose comparison districts that are as similar as possible to the pilots on a number of salient factors. Such factors can be categorized into two main groups: characteristics of the district courts that are separate from their activities under the CJRA; and the scope and pace of their activities that are specific to the CJRA. The discussion in this subsection is organized accordingly.

**District Court Characteristics.** From among the many court characteristics that could, in principle, be examined, three are judged to be of primary importance: the size and mix of the caseload; the authorized number of judges; and the time taken to dispose of cases. It would also be valuable to be able to classify districts according to cost levels per case, but this is impossible at present because no readily usable information about costs exists.

The rationale for focusing on these factors is straightforward.

With respect to size, there seems little justification to comparing districts with different size caseloads. A district that has 10,000 filings per year differs from a district with 1500 filings per year in more ways than just the filing level. For one thing, each has management options denied to the other. The larger district is likely to have a more diverse case mixture and, consequently, a greater potential for implementing and sustaining varied cost and delay reduction programs. However, the smaller district may find it easier to mobilize resources around specific case management objectives since there are fewer judges and staff members from whom cooperation must be secured.

Resource levels, as represented by the authorized number of judgeships and the ratio of that number to various aspects of the caseload, are also of clear relevance to cost and delay. Some districts have more than 500 weighted filings per judgeship each year. Others hover around 300. Even granting that the current, decade old, caseweights may no longer be a completely satisfactory measure of the burden of the caseload, such differences cannot be ignored without risk. It would not seem appropriate, for instance, to assume that the impact of expanded judicial involvement in the pre-trial process would be the same for a district with 300 weighted cases per judge as for a district with 500. Consequently, comparison districts ought to have weighted caseloads per judgeship that are roughly similar to those of their relevant pilot.

Time taken to dispose of cases is perhaps the most crucial of the three measures. Two aspects of this factor are taken into account. The first is the median time-to-disposition, in months. The second is the proportion of the pending caseload that is older than 3 years. Both are traditional measures of processing performance, and are routinely calculated by the Administrative Office of the U.S. Courts, and by most researchers conducting time-to-disposition analysis. That a pilot and its comparison district should be similar on these measures is obvious. Improvement in time-to-disposition seems likely to be easier to achieve in a district that currently has a relatively long time to disposition than in one where

disposition times are short. In contrast, choosing one of the former to be a comparison to one of the latter, or vice versa, would be almost certain to lead to distorted findings.

**The Scope and Pace of CJRA Implementation.** As noted, pilot districts are required by the Act to implement cost and delay reduction plans focusing on the six principles of litigation management by January 1, 1992. The ten pilot districts will therefore be able to obtain more than three full years of experience with their programs before the evaluation must begin drawing to a close. In the ideal world that, as we noted above, does not exist, the comparison districts would have a similar timetable. The reality is that the timetable of non-pilot districts may be different.

This is because districts that do not fall into one of the three special categories—pilot districts, other early implementation districts, or demonstration districts—have no statutory obligation to initiate cost and delay reduction plans before December, 1993. Therefore, in the absence of voluntary early implementation by these other districts, the period during which CJRA programs can be observed in the comparison districts may be much shorter than the period of observation for pilot districts.

At first glance, it might seem that the early implementation districts that are not also in the pilot program should be used as comparisons since they, in principle, will have roughly the same amount of experience with cost and delay reduction programs as the pilot districts. Such districts are certainly candidates for comparison status. However, there are a number of arguments for not restricting the comparison districts to the early implementation group.

First, the implementation districts have no automatic comparability with the pilot districts. In fact, an examination of their characteristics suggests that most of them do not match as well as other districts to individual pilot districts. Therefore, restricting the selection of comparison districts to the early implementation subset of districts would result in largely unsatisfactory bases for comparison on most dimensions except the timing of CJRA implementation.

Second, the fact that a district has opted for early implementation does not necessarily mean that it will or will not initiate plans that reflect the six principles of case management that the pilots are mandated to employ. The specifics of plans implemented early are not determined by the legislation. Thus, there is no automatic correspondence between pilot districts and other early implementation districts that would bring them closer together with respect to the evaluation research principles enumerated earlier in this document.

Third, the early implementation districts are already the subject of research attention by the Federal Judicial Center. If it should turn out that an early implementation district is a desirable candidate for inclusion in the pilot program evaluation, then in all likelihood it would be desirable to arrange for a cooperative effort between RAND and the FJC, or to have the FJC drop that district from its own inquiries, or for the FJC to pursue an evaluation in that district that is consistent with the pilot program evaluation design.

Finally, the reasons that cause a district to choose to implement early (or late) may influence the outcomes of the policy they implement. Choosing all early implementing (or all late implementing) districts may lead to bias or distortion in the policy evaluation we must do.

The conclusion we draw from these considerations is that comparison districts should be selected on the basis of the criteria identified in the previous section—that is, on the basis of size, resources, and time to disposition characteristics that are not dependent on CJRA. CJRA considerations pertaining to pace and scope of implementation of cost and delay reductions programs must be ignored because there is no effective way to take them into account at the present. This is the approach we follow in the next section.

**Approved Comparison Districts.** The Committee on Court Administration and Case Management of the Judicial Conference of the United States has already selected the 10 pilot districts. In alphabetical order, they are:

California (S)  
Delaware  
Georgia (N)  
New York (S)  
Oklahoma (W)  
Pennsylvania (E)  
Tennessee (W)  
Texas (S)  
Utah  
Wisconsin (E)

In developing our recommendations concerning comparison districts, all non-pilot districts initially were considered to be viable candidates for inclusion. An examination was made of the caseload, case mixture, resource levels, and time-to-disposition characteristics of all districts, and preliminary selections were made according to the similarity between pilot districts and these others. From these groups, two potential comparison districts were selected for each pilot district except Pennsylvania(E) and New York(S). These two districts are among the four largest in the entire federal court system, and only the two other large districts—California(C) and Illinois(N)—are considered viable as comparisons. Consequently, only one district was selected for each of them. Subsequent to the preliminary selections, it was decided to exclude Demonstration districts from consideration as comparison districts, for the reason noted above. The recommendations and alternates were presented to the Judicial Conference Committee on Court Administration and Case Management in December, 1991. The Committee selected ten comparison districts -- nine of the recommended districts, and one of the alternative recommended districts. The alternative was selected because it provided a better match on the basis of criminal caseload.

The results of the process are presented in Table 2. The table summarizes the SY1990 status of each pilot and comparison district on the primary measures used to classify districts.

It is evident from the table that interdistrict variation is too great for precise correspondence between a pilot district and a comparison district to be achievable on all measures. The selections are therefore judgmental, with the judgments being guided by the best information available.



Table 2  
COMPARISON DISTRICTS FOR THE CJRA PILOT PROGRAM

Pilot and Comparison Districts	District	Number of Judgeships	Weighted Filings		Raw Filings Per Judgeship			Median Civil time Intervals (months)		Pct of Civil Cases over 3 Yrs Old
			Total	Per Judgeship	Civil	Criminal(Fel.)	Pending	Filing-Disp	Issue-Trial	
Pilot	CA,S	7	3080	440	275	131	591	12	18	12.7
Comparison	AZ	8	3296	412	358	104	538	9	20	11.5
Pilot	DE	4	924	231	195	28	249	10	17	8.6
Comparison	FL,N	3	984	328	358	70	454	9	23	7.3
Pilot	GA,N	11	4169	379	312	35	350	10	19	4.0
Comparison	MD	10	4000	400	350	38	378	9	11	10.2
Pilot	NY,S	27	11043	409	325	29	505	9	19	12.8
Comparison	IL,N	21	10248	488	380	36	346	5	12	11.6
Pilot	OK,W	5	2220	444	458	49	287	7	11	3.2
Comparison	PA,M	5	2305	461	447	53	380	8	10	5.3
Pilot	PA,E	19	12122	638	488	26	537	7	12	2.1
Comparison	CA,C	22	10714	487	401	48	471	7	12	8.6
Pilot	TN,W	4	1408	352	325	78	514	14	30	14.5
Comparison	KY,W	4.5	1503	334	361	35	442	13	19	11.7
Pilot	TX,S	13	7631	587	460	181	816	11	23	13.2
Comparison	NY,E	12	5940	495	369	80	589	9	19	13.1
Pilot	UT	4	1620	405	310	60	481	11	14	12.3
Comparison	IN,N	5	1530	306	277	41	325	12	15	12.0
Pilot	WI,E	4	1684	421	369	61	386	7	20	6.0
Comparison	KY,E	4.5	1606	357	385	48	389	8	18	5.0

**Task 3: Conduct Design Site Visits and Analyze Information**

Five districts were visited during the design phase. In each district, meetings were held with the Chief Judge, the Clerk, members of the Clerk's staff, and, when feasible, with one or more members of the Advisory Group.

An outline of the research plan contained in this document will be provided to each district, and the main elements of the plan and how it would be implemented at the district court level are being discussed in some detail. In each of the five districts visited, agreement to the main elements of the plan--including the judge time study, the lawyer survey, and the litigant survey--was obtained. In general, in all five districts, the level of cooperation extended to us was exemplary, and every indication was given that such cooperation will continue during the life of the evaluation.

**Task 4: Analyze Existing Court Data Bases for Design Purposes**

The Federal Judicial Center has provided RAND with copies of the Integrated Data Base (IDB) for SY71-CY91, and preliminary processing of these data has been conducted. This data base was used in the development of recommendations for comparison districts, and it is also anticipated that it will be used extensively over the life of the project. It is anticipated that subsequent years of data will also be provided as they are incorporated into the IDB.

**Task 5: Finalize Design**

This document describes our finalized design plan, which has been approved by the Judicial Conference.

**Task 6: Project Administration**

This task involves managing the research, staff meetings, recordkeeping required by the contract, and other project administrative tasks.

**Task 7: Conduct Implementation Site Visits and Analyze Information**

Every pilot district and every comparison district will be visited at least once as early in the study as is feasible. The timing of the visit to each district will depend in part on the implementation schedule for the CJRA cost and delay reduction plan for that particular district. The objectives of the visit will be twofold. First, an assessment will be made of the implementation procedures and practices being followed by the districts. Second, the case selection and monitoring procedures called for by the evaluation design will be established and initiated.

**Task 8: Analyze Existing Court Data Bases for Evaluation Purposes**

This task will involve analysis of the data that flow from the pilot and comparison districts into the existing court data bases and statistical reports, both before and after implementation of the pilot and comparison district policies. The accumulation and compilation of data will be an ongoing process at least through the end of 1994.

As noted above, the Integrated Federal Courts Data Base will be used extensively to analyze district court civil and criminal caseloads. In addition, the Statistical and Reporting Division of the Administrative Office, in conjunction with the Federal Judicial Center and the Sentencing Commission, has provided copies of the Federal Probation, Sentencing, and Supervision Information System (FPSSIS) for 1984-1990. These data will be used to explore

the impact of the criminal caseload on the pace and character of civil case processing in each of the districts under study. The FPSSIS data, though no longer being collected, are a valuable supplement to the IDB because they identify for the above time period those cases that were sentenced under guidelines and those that were not. It is therefore possible to use the data base to assess the impact of the guidelines on criminal case processing and on judicial workload.. The criminal caseload data from FPSSIS will itself be supplemented by other information developed at the district level, and by other reports from the Sentencing Commission.

Data bases maintained separately by the districts will also be utilized. Of particular relevance is the ICMS docketing system. This will be used to create an event structure for each case that is included in the intensive data collection described below under Task 11.

### **Task 9: Analyze Current FJC Judge Time Study Data**

The judicial time study currently being conducted by the FJC will provide essential information on case events, judicial work time by event, and calendar time for approximately 3200 cases in pilot and comparison districts "before" the implementation of new policies. These data will be used to estimate the amount of work time required from judicial officers for various types of court events and activities for various types of civil cases using case management policies that existed before the CJRA was implemented. This information can then be compared to similar measures derived from the judicial time study that will be conducted during the life of the pilot program, thus permitting estimates of the relative burden of CJRA and pre-CJRA policies.

Discussions concerning the current time study data base have been held with the FJC, and it has been agreed that the data base can be made available to RAND, provided that the privacy and security commitments made by the FJC to the federal judiciary are not violated. To assist in the realization of this goal, RAND proposes that the data be linked by the FJC to IDB records on a case by case basis, and then be given to RAND without judge and case identification. The latter information is not necessary for the RAND evaluation, and, in any case, would not be used by RAND for any purpose other than linking time and case records together. Since this linkage is already being performed by the FJC, there is no need for RAND to have access to the data elements that make it possible. It will, however, be necessary for the time records provided RAND to have district identifiers included in order that the individual records can be aggregated by specific district and analyzed in other ways that are called for by the evaluation design.

We reiterate at this point in the discussion what we have stressed previously. The RAND evaluation of the pilot program will be performed at the district and/or case category level. There will be no evaluation that identifies individual judicial officers.

### **Task 10: Conduct Operational Site Visits and Analyze Information**

While the implementation site visits will tell us what the districts initially planned to do, we need information on how the policies changed over time (as they surely will), and on what features of the policies caused particular difficulties or successes. We also need periodic visits to make sure the survey data collection is proceeding as desired. Two operational site visits to each pilot and comparison district will occur -- one each in 1993 and 1994. The last visit to each district will include "debriefing" interviews with judges and lawyers regarding the litigation management policies.

The operational site visits are separate from, and in addition to, the implementation site visits. Also, budgetary provisions are being made for trouble-shooting visits to a limited number of sites, over and above those for implementation and operations.

### **Task 11: Select a Sample of Cases for Intensive Data Collection**

During the past three months, we have refined the method of selecting a sample of cases, and tested that method by drawing a sample of cases terminated in 1991 in two districts. The basic sampling principles remain the same as we originally proposed. This section refines and fleshes out those general principles so that they can be implemented.

**General principles of sample selection:** We will select a sample of cases that allows us to make four comparisons. The first two comparisons will help us to evaluate the overall effects of the pilot program. The other two will help us to evaluate the effects of different case management approaches on different types of cases, thereby allowing recommendations for improvements in court case management policies. The four comparisons are:

1. Cases before January 1992 vs. cases after January 1992.
2. Cases in the pilot districts vs. cases in the comparison districts.
3. Cases grouped according to different case management approaches used within each district.
4. Cases grouped by "nature of suit" categories, where the categories are defined in the same way for every district.<sup>2</sup>

The sampling problem is how to draw a sample of cases that will permit these objectives to be realized. It is a difficult problem because of the interdistrict differences that exist with respect to the factors that are most significant for the evaluation -- in particular, the cost and delay reduction plans and the methods of implementing them.

A simple random sample of cases drawn from the entire universe of all cases in all districts, that is, a sample in which each case is selected with the same probability, would tend to over-represent the larger districts, and the case management approaches and case categories containing the greater numbers of cases. Preliminary analysis of federal court and other data sources containing outcome measures similar to the ones we plan to study suggests that the relative variation in these measures (i.e., the coefficient of variation) is similar in every important subset of cases. Therefore, to enhance our ability to make all these comparisons, we need to draw a stratified random sample of cases, with cases drawn in such a way that we have roughly equal numbers of cases on both sides of any comparison we wish to make. In particular, this means our sample should contain:

1. The same number of cases before and after January 1992.
2. The same number of cases in the pilot districts as in the comparison districts.
3. About the same number of cases processed with each different major case management approach.
4. About the same number of cases in each category.

We have designed a sampling method that simultaneously stratifies by 20 districts, by before and after, by an average of 4 case management approaches in each district that will be tailored to the district's case management plan, and by three categories of cases that will be defined the same in all districts. Appropriate weights will be assigned to estimates derived from each sampling stratum to obtain unbiased estimates of overall effects.

**Case management approaches used by the districts:** Before detailing our specific sampling method, we need to elaborate on what we mean by "case management approach", and how it differs conceptually from the formal differential case management "tracks" that districts are defining as part of their CJRA plans.

---

<sup>2</sup>The different case management approaches and the nature of suit case categories are discussed in more detail below.

Each district has explicit or implicit case management “tracks” whereby it applies different case management procedures to different types of cases. In their CJRA plans, districts usually have a complex case track that receives relatively high intensity case management, a standard track that receives medium intensity case management, and several minimal management tracks (usually for case types such as social security, prisoner, bankruptcy, and recovery cases). In addition, some districts have various other tracks. To further complicate the sampling problem, some districts use different procedures for different cases within the same track -- for example a district might randomly assign half its standard track cases to mediation.

We want to sample based on the major different case management approaches used by each district, but conclude that sampling solely based on a district’s formal track definitions would not be sufficient for several reasons:

1. Some major case management approaches are used but not defined as a track in some districts (e.g. complex case management, or minimal case management of prisoner petitions).
2. Some formal tracks include more than one case management approach (e.g. cases with stakes less than \$100,000 within the track are assigned to arbitration).
3. Some case management approaches are very similar for several tracks (e.g. social security, recovery, bankruptcy, and prisoner petitions all are processed using a minimal management approach).

Every district will have different major case management approaches, and we will use their different major approaches as a basis for selecting a sample of cases. We budgeted for a sample size that will permit statistical analyses of an average of four major case management approaches per district (at least 200 and an average of 250 cases per district in each of the two time periods). To operationalize this in light of the complexities noted above, we decided to sample on the district’s case management approaches as follows:

1. **Complex case management approach:** Always sample this approach separately in every district, even if it is not a formal track.
2. **Standard case management approach:** Always sample this approach separately in every district, even if it is not a formal track.
3. **Minimal case management approach:** Always sample this approach separately in every district, but do not attempt to sample separately on the multiple different tracks that may or may not formally exist in a single district using this approach. Instead, for every district, group the cases with the following “nature of suit” codes together and sample from them as a group: recovery cases (codes 150-153); foreclosure cases (code 220); bankruptcy cases (codes 420-423); prisoner petitions (codes 510-550); forfeiture and penalty cases (codes 610-690) and social security cases (codes 860-865). These cases usually do not involve pretrial conferences and are minimally managed using routine procedures.

If a district did not use the same case management tracks before and after implementation of the Act, then we will stratify our sample so that we obtain a sample of cases that would have been in the track had it existed at that time (if that is not possible because the track is subjectively defined by lawyers and judges, for example, then we will have to consolidate certain tracks for analysis so that we can compare the same type of cases before and after).

**Grouping cases by categories that are defined in the same for every district.**

We defined three categories of cases that are the same for every district. These categories -- defined on the nature of suit codes that the Administrative Office uses -- reflect cases that in the past have typically required low, medium, and high average levels of judicial work. This will allow comparisons of different programs of case management approaches used by different districts on the same categories of cases.

We need categories defined the same for every district because only comparing "complex" track cases, for example, could result in an "apples and oranges" comparison -- one district might designate only 1 percent of its cases as complex, while another might designate 10 percent of its cases as complex. Or, a complex nature of suit in one district might be a standard nature of suit in another. Finally, within any district, some cases with a given nature of suit might be considered complex, while others with the same nature of suit might not.

To mitigate the effects on the analysis of this variability among districts, we grouped "nature of suit" codes by the level of judicial work required on average based on preliminary data from the judicial work time study currently being conducted by the Federal Judicial Center.<sup>3</sup> To expedite sample selection and facilitate analysis later, we sought to have three large categories with approximately 20 to 40 percent of the overall judicial work time in each category.

We analyzed FJC data on the average judicial time required per case by nature of suit (due to confidentiality requirements of the FJC study, we had preliminary summary data but not the event time records for individually identifiable cases.) Although 90 percent of the civil cases in that study are closed, about 10 percent were still open when we created our category definitions. We considered average time spent on closed cases, and average time spent on both closed and open cases to date. Whether we used only closed cases or both open and closed cases, similar categorizations resulted. If and only if the number of cases in a particular NOS was less than 50 in the current FJC judicial time study, then we also considered the 1980 FJC judicial time study data before assigning the NOS to a category.

Finally, for certain types of cases that we want to sample and analyze together, we made sure they were in the same category. This applied to the NOS codes for recovery cases (which all fell into the low category), to the NOS codes for forfeiture and penalty cases (which all fell into the low category), to the NOS codes for prisoner petitions (all of which were placed into the low category), and to the NOS codes for social security cases (all of which were placed into the low category). Because these cases are not the main focus of the CJRA, because they require relatively low judicial effort on the average, we want to relatively undersample them. Grouping them together in the low category facilitates this relative undersampling.

Since the current FJC judicial time study is still ongoing and their preliminary averages may change, it is possible that we might have categorized certain types of cases that were near the dividing lines differently if we had been doing this in 1995 after the FJC study is finished and after we have collected all of our data. However, we believe that most types of cases would not be changed. In any event, from the viewpoint of our study, the most important point is to have categories that are defined the same for every district to allow comparisons among different groups of districts; the precise definition of the categories is less important.

Furthermore, when we analyze the data, if we discover that certain case types really should have been in a different category, we can shift them for the analysis. The current categorization is for purposes of sample selection -- to be sure that we have a sufficient

---

<sup>3</sup>We could not use both nature of suit and jurisdiction due to the small sample sizes in the time study data for many of these more detailed cells.

number of high category cases to analyze and to permit undersampling the low category cases that are often a high percentage of total filings.

Table 3 shows which types of cases were assigned to the high, medium, and low categories for sample selection purposes. Note that asbestos cases do not appear in the table since they are not part of this study.

**Table 3**  
**High, Medium, and Low Categories of Cases**  
**by Nature of Suit**  
**for Sample Selection Purposes**

HIGH		MEDIUM		LOW	
Contract product liab.	195	Insurance	110	Marine contract	120
Tort product liab.	245	Stockholders	160	Miller Act	130
Airplane prod. liab.	315	Other contract	190	Negotiable instrument	140
Fed. employ liab.	330	Rent lease	230	Recovery	150-153
Marine prod. liab.	345	Torts to land	240	Land condemn	210
Motor veh. prod. liab.	355	Other real property	290	Foreclosure	220
Pers. inj: med. mal.	362	Assault, libel, slander	320	Airplane	310
Pers. inj: prod. liab.	365	Marine pers. inj.	340	Bankruptcy	420-423
Other fraud	370	Motor veh. pers. inj.	350	Deportation	460
Other pers. prop. dam.	380	Other pers. inj.	360	Prisoner petitions	510-550
Prop. dam. prod. liab.	385	Truth in lending	371	Forfeiture and pen	610-690
Antitrust	410	State reapportion	400	Other labor	790
Banks and banking	430	Interstate commerce	450	Social Security	860-865
Civil rights	440-444	Labor Man. Rel. Act	720	Tax suits	870
RICO	470	Railway Labor Act	740		
Fair Labor Stan.	710	ERISA	791		
Labor Man. Reporting	730	Selective service	810		
Patent	830	Copyright	820		
Secur. Commod. Exch.	850	Trademark	840		
Environmental	893	IRS third party	871		
Freedom of Inf.	895	Customer challenge	875		
Constit. State Statutes	950	Other statutory	890		
		Agricultural	891		
		Econ. Stabilization	892		
		Energy Allocation	894		
		Appeal of Fee EAJA	900		
		Local quest.	910-940, 990		

For all pilot and comparison districts combined, Table 4 shows the percentage of all civil cases terminated in 1991 that were in each of the high, medium, and low categories. The table also shows an estimate of the percentage of judicial officer work time spent on each of the categories.<sup>4</sup>

**Table 4**  
**Percentage of Cases and Judicial Officer Work Time**  
**in High, Medium, and Low Categories of Cases**

Category	Percent of 1991 Terminations	Percent of Judicial Officer Work Time
High	19	35
Medium	36	38
Low	41	26
Asbestos (not in study)	4	1

**Specific sampling method:** We designed a stratified sampling procedure that will identify about 5000 civil cases closed in 1991 prior to implementation of the Act ( an average of about 250 for each pilot and comparison district), and about 5000 cases filed after January 1, 1992. Selection of the sample will be supervised by a RAND survey research specialist who will visit each of the pilot and comparison districts. The sample size is determined by the minimum precision desired for our analysis, which is discussed below. To select the sample, the following steps are required.

1. Define MANAGEMENT APPROACHES in each district that reflect the district's case management plan.
2. Define 3 CATEGORIES of cases that are the same for all districts that reflect cases that in the past have typically required low, medium, and high average levels of judicial work.
3. Open a sampling window for cases filed in each district beginning when we make our first evaluation visit to the district (as soon as possible after January 1, 1992) and have a district clerk screen the first 700 cases. Select at least 50 new filings in each MANAGEMENT APPROACH. If a batch of more than 5 cases are filed on the same day, use the special procedures outlined in the next section. The screening of 700 cases should be sufficient to fill the sample quota for each management approach, unless the district defines a management approach that contains less than about 7 percent of the filings on average (in which situation we would purposefully seek additional filings in that management approach to fill the sample quota).
4. In the same sampling window of 700 cases, select at least 50 cases in the low CATEGORY, 75 in the medium category, and 75 in the high category, thereby guaranteeing at least 200 cases in each district (with more emphasis on the medium and high categories where the new case management policies may show the most effect). Since there will be overlap between cases selected in categories and management approaches, we will end up with at least 200 but no more than 350 selected cases in each district with 4 management approaches (for budgeting

<sup>4</sup>The estimate was made for each nature of suit code separately by multiplying the number of terminations in 1991 times the preliminary average judicial officer work time per case (based on the ongoing Federal Judicial Center judicial officer time survey).



purposes we assume an average of 250 per district). The screening of 700 cases should be sufficient to fill the sample quota for each category, but if we are a few cases low in a category we would purposefully seek additional filings in that category to fill the sample quota.

5. Close the sampling window, and record the number of cases among the 700 cases screened that were and were not selected in each management approach and category combination so that we can assign weights to each sampling strata to enable us to compute valid statistics for all civil cases combined in each district.
6. Steps (3) through (5) will also be followed for a sampling window of 700 cases terminated in each district in 1991 before the CJRA plan was implemented. This will be done at RAND by working backwards in time through a list of cases terminated on or before December 15, 1991.<sup>5</sup> Information used will come from the federal court integrated database, and if necessary, case docket information on "track" assignment.

**Cases Filed in Batches:** A batch of similar cases is defined as more than 5 cases with the same nature of suit (NOS) code filed on the same day with either the same lawyer or the same defendant(s) or the same plaintiff(s). For examples, 30 securities, commodities, exchange cases filed the same day involving the same bank, or 50 cases filed by the federal government on the same day for recovery of defaulted student loans.

The problem is that the case mix observed at the filing window is generally random, but these batches of similar cases clearly are not random. Excluding every case in the batch would result in loss of important information. Including every case in the batch would be inefficient in the sense that every additional one included from the batch yields less and less new information; and including every case in the batch would pack a stratum with a batch of cases rather than giving us a good random distribution of case types within the stratum. Hence, we will sample a few cases from each batch. While the number to be selected ideally would depend on their prevalence in the population, we must have a sample selection rule that can be easily implemented in the districts. Consequently, we decided to have the clerks screen only 5 cases from each batch for possible inclusion in the sample (using the normal sample selection procedures). Batch case numbers 6 and up will be SKIPPED by the clerks and will not be considered as part of the 700 being screened. For the 1991 termination sample, the same rule applies, except we will consider cases terminated on the same day in a batch. Based on inspection of 1991 terminations, we anticipate having only a couple of batches per district in each of the two time periods used for sample selection.

From an analysis viewpoint, we will know the size of the batches, and will individually investigate each batch to see how it should be analyzed. The prime issue influencing the analysis is whether the batch is composed of independent cases, or is composed of cases that are somehow related.

**Precision of the estimates in our evaluation:** We have designed our sample to give us at least 200 cases per district per time period. This sample size of at least 200 cases is the number required to offer a "good chance" of detecting a 10 percent change in the average cost or time to disposition of cases before and after January 1992, or a 10 percent difference between two different districts.<sup>6</sup>

---

<sup>5</sup>In our preliminary exploration of sample selection, we discovered that the mix of cases terminated the last two weeks of the year may not be representative of the rest of the year (for example, the mix of cases may be biased in favor of the non-complex cases).

<sup>6</sup>By the phrase "detecting a 10 percent change", we mean the null hypothesis of no difference will be rejected at a significance level of 5 percent in those comparisons where the true difference is at least 10 percent. By a "good chance", we mean the power of this test is 80 percent -- that is, we

We base this calculation on the following assumptions: (1) case time to disposition and costs have a coefficient of variation ranging between 0.8 and 1.2<sup>7</sup>; and (2) differences in case mix and other characteristics which we will be able to control for in multivariate analyses account for between 0 percent and 50 percent of the variation. Both of these assumptions appear reasonable in light of previous analyses done at RAND<sup>8</sup>.

As described above in our discussion of this Task 11, the minimum of 200 cases selected in each district during each time period will be allocated to management approaches and to case categories in such a way that each management approach will have at least 50 cases; the low category of cases that typically require little judicial effort will have at least 50 cases; and the two categories of cases that typically require medium and high judicial time will have at least 75 cases. To reach these constraints, it may be necessary to draw more than 200 cases in some districts, and we estimate the average will be 250.

These allocations of cases to management approaches and case categories determine the statistical power to detect other differences among management approaches, categories, districts, time periods, and various combinations of those factors.

At one extreme, our ability to detect differences between individual tracks in a particular district will be somewhat limited. For example, 50 cases will allow us to detect a 14 percent difference in the best of circumstances (low coefficient of variation, large reduction in variation by controlling for case mix and other factors). For this purpose, our sample size is minimally acceptable.

On the other hand, a principal purpose of the study is to evaluate the effects of different case management policies, in comparison to policies in place before the Act or in comparison to other case management policies implemented as a result of the Act. We will be combining data from several districts to do this evaluation. And, when we combine information across a number of districts, our ability to detect relatively small differences is substantial.

For example, suppose a particular management approach is adopted in 10 tracks in 10 different districts. We will have at least 500 cases in which this approach was attempted, and we will be able to select at least 500 suitable comparison cases, either before January 1992, or in other tracks in other districts where the approach was not attempted. We have adequate statistical power to detect differences as small as 5 percent in this situation.

For the simplest but perhaps most important of questions -- how much effect did the pilot program case management reforms adopted in January 1992 have across all the districts in the study combined -- we have about 5000 cases before and 5000 after. This sample size is adequate to detect differences as small as 2 percent.

**Cases not in the CJRA sample:** Asbestos cases will be excluded from the detailed surveys, but will be considered in this evaluation to the extent that the workload they create impacts on the processing of other civil cases. Though the asbestos litigation situation is critically important to the federal courts and to the nation as a whole, we believe that it should be the subject of a separate detailed study. The principal reason for this view is that after the recent consolidation of the asbestos caseload in the Eastern District of Pennsylvania, the future management of such cases will be unique, and not within the

---

will detect at least 4 out of every 5 comparisons where the relative difference exceeds 10 percent. These levels of significance and power are used for all of the discussions in this section.

<sup>7</sup>This estimate of the coefficient of variation is based on analysis of time to disposition data for 1990 dispositions for several districts and for several different groupings of cases. We did not have case level information on costs sufficient to estimate the coefficient of variation of litigation costs.

<sup>8</sup>These analyses were conducted during various previous RAND studies of all federal cases, auto accident cases, asbestos cases, and aviation accident cases.

mainstream of Civil Justice Reform Act policies that this study is evaluating. Inter-district comparisons under CJRA will be impossible, and no generalizations about case management as a whole can be made. It will, of course, be necessary to consider what effect, if any, the consolidation has on the Eastern District of Pennsylvania, and on the other districts whose workload may have been reduced as a result of the consolidation.

**Summary of information sought for civil cases using various surveys.** The sample of cases will be used for the collection of a wide variety of information from court records, judges, lawyers, and litigants. As a guide to the survey task descriptions that follow, we have included Table 5, which summarizes what information is being sought using each different survey.

same court system, the legal and social environments in which they operate are diverse and fluid. There is also significant inter-district variation in court characteristics—size, case mix, processing norms and styles, and so on. Finally, and perhaps most significantly, the group of districts from which the comparison set will be chosen are free to implement any cost and delay reduction programs that they wish, as long as such programs are operational by the statutorily mandated deadline of December 1, 1993. This contrasts sharply both with the requirement that the pilot districts establish programs embodying the six specific principles of litigation management detailed in the Act, and the implementation deadline of January 1, 1992 that the act imposes on the pilot districts.

For these reasons, it must be acknowledged and accepted that the comparison between pilot districts and comparison districts will be imperfect.

**Selection Criteria.** Despite the significant difficulties that are attendant upon comparative analysis of pilot and other districts under the CJRA, it is still desirable to choose comparison districts that are as similar as possible to the pilots on a number of salient factors. Such factors can be categorized into two main groups: characteristics of the district courts that are separate from their activities under the CJRA; and the scope and pace of their activities that are specific to the CJRA. The discussion in this subsection is organized accordingly.

**District Court Characteristics.** From among the many court characteristics that could, in principle, be examined, three are judged to be of primary importance: the size and mix of the caseload; the authorized number of judges; and the time taken to dispose of cases. It would also be valuable to be able to classify districts according to cost levels per case, but this is impossible at present because no readily usable information about costs exists.

The rationale for focusing on these factors is straightforward.

With respect to size, there seems little justification to comparing districts with different size caseloads. A district that has 10,000 filings per year differs from a district with 1500 filings per year in more ways than just the filing level. For one thing, each has management options denied to the other. The larger district is likely to have a more diverse case mixture and, consequently, a greater potential for implementing and sustaining varied cost and delay reduction programs. However, the smaller district may find it easier to mobilize resources around specific case management objectives since there are fewer judges and staff members from whom cooperation must be secured.

Resource levels, as represented by the authorized number of judgeships and the ratio of that number to various aspects of the caseload, are also of clear relevance to cost and delay. Some districts have more than 500 weighted filings per judgeship each year. Others hover around 300. Even granting that the current, decade old, caseweights may no longer be a completely satisfactory measure of the burden of the caseload, such differences cannot be ignored without risk. It would not seem appropriate, for instance, to assume that the impact of expanded judicial involvement in the pre-trial process would be the same for a district with 300 weighted cases per judge as for a district with 500. Consequently, comparison districts ought to have weighted caseloads per judgeship that are roughly similar to those of their relevant pilot.

Time taken to dispose of cases is perhaps the most crucial of the three measures. Two aspects of this factor are taken into account. The first is the median time-to-disposition, in months. The second is the proportion of the pending caseload that is older than 3 years. Both are traditional measures of processing performance, and are routinely calculated by the Administrative Office of the U.S. Courts, and by most researchers conducting time-to-disposition analysis. That a pilot and its comparison district should be similar on these measures is obvious. Improvement in time-to-disposition seems likely to be easier to achieve in a district that currently has a relatively long time to disposition than in one where

disposition times are short. In contrast, choosing one of the former to be a comparison to one of the latter, or vice versa, would be almost certain to lead to distorted findings.

**The Scope and Pace of CJRA Implementation.** As noted, pilot districts are required by the Act to implement cost and delay reduction plans focusing on the six principles of litigation management by January 1, 1992. The ten pilot districts will therefore be able to obtain more than three full years of experience with their programs before the evaluation must begin drawing to a close. In the ideal world that, as we noted above, does not exist, the comparison districts would have a similar timetable. The reality is that the timetable of non-pilot districts may be different.

This is because districts that do not fall into one of the three special categories—pilot districts, other early implementation districts, or demonstration districts—have no statutory obligation to initiate cost and delay reduction plans before December, 1993. Therefore, in the absence of voluntary early implementation by these other districts, the period during which CJRA programs can be observed in the comparison districts may be much shorter than the period of observation for pilot districts.

At first glance, it might seem that the early implementation districts that are not also in the pilot program should be used as comparisons since they, in principle, will have roughly the same amount of experience with cost and delay reduction programs as the pilot districts. Such districts are certainly candidates for comparison status. However, there are a number of arguments for not restricting the comparison districts to the early implementation group.

First, the implementation districts have no automatic comparability with the pilot districts. In fact, an examination of their characteristics suggests that most of them do not match as well as other districts to individual pilot districts. Therefore, restricting the selection of comparison districts to the early implementation subset of districts would result in largely unsatisfactory bases for comparison on most dimensions except the timing of CJRA implementation.

Second, the fact that a district has opted for early implementation does not necessarily mean that it will or will not initiate plans that reflect the six principles of case management that the pilots are mandated to employ. The specifics of plans implemented early are not determined by the legislation. Thus, there is no automatic correspondence between pilot districts and other early implementation districts that would bring them closer together with respect to the evaluation research principles enumerated earlier in this document.

Third, the early implementation districts are already the subject of research attention by the Federal Judicial Center. If it should turn out that an early implementation district is a desirable candidate for inclusion in the pilot program evaluation, then in all likelihood it would be desirable to arrange for a cooperative effort between RAND and the FJC, or to have the FJC drop that district from its own inquiries, or for the FJC to pursue an evaluation in that district that is consistent with the pilot program evaluation design.

Finally, the reasons that cause a district to choose to implement early (or late) may influence the outcomes of the policy they implement. Choosing all early implementing (or all late implementing) districts may lead to bias or distortion in the policy evaluation we must do.

The conclusion we draw from these considerations is that comparison districts should be selected on the basis of the criteria identified in the previous section—that is, on the basis of size, resources, and time to disposition characteristics that are not dependent on CJRA. CJRA considerations pertaining to pace and scope of implementation of cost and delay reductions programs must be ignored because there is no effective way to take them into account at the present. This is the approach we follow in the next section.

**Approved Comparison Districts.** The Committee on Court Administration and Case Management of the Judicial Conference of the United States has already selected the 10 pilot districts. In alphabetical order, they are:

California (S)  
Delaware  
Georgia (N)  
New York (S)  
Oklahoma (W)  
Pennsylvania (E)  
Tennessee (W)  
Texas (S)  
Utah  
Wisconsin (E)

In developing our recommendations concerning comparison districts, all non-pilot districts initially were considered to be viable candidates for inclusion. An examination was made of the caseload, case mixture, resource levels, and time-to-disposition characteristics of all districts, and preliminary selections were made according to the similarity between pilot districts and these others. From these groups, two potential comparison districts were selected for each pilot district except Pennsylvania(E) and New York(S). These two districts are among the four largest in the entire federal court system, and only the two other large districts—California(C) and Illinois(N)—are considered viable as comparisons. Consequently, only one district was selected for each of them. Subsequent to the preliminary selections, it was decided to exclude Demonstration districts from consideration as comparison districts, for the reason noted above. The recommendations and alternates were presented to the Judicial Conference Committee on Court Administration and Case Management in December, 1991. The Committee selected ten comparison districts -- nine of the recommended districts, and one of the alternative recommended districts. The alternative was selected because it provided a better match on the basis of criminal caseload.

The results of the process are presented in Table 2. The table summarizes the SY1990 status of each pilot and comparison district on the primary measures used to classify districts.

It is evident from the table that interdistrict variation is too great for precise correspondence between a pilot district and a comparison district to be achievable on all measures. The selections are therefore judgmental, with the judgments being guided by the best information available.

Table 2  
COMPARISON DISTRICTS FOR THE CJRA PILOT PROGRAM

Pilot and Comparison Districts	District	Number of Judgeships	Weighted Filings		Raw Filings Per Judgeship			Median Civil time Intervals (months)		Pct of Civil Cases over 3 Yrs Old
			Total	Per Judgeship	Civil	Criminal(Fel.)	Pending	Filing-Disp	Issue-Trial	
Pilot	CA,S	7	3080	440	275	131	591	12	18	12.7
Comparison	AZ	8	3296	412	358	104	538	9	20	11.5
Pilot	DE	4	924	231	195	28	249	10	17	8.6
Comparison	FL,N	3	984	328	358	70	454	9	23	7.3
Pilot	GA,N	11	4169	379	312	35	350	10	19	4.0
Comparison	MD	10	4000	400	350	38	378	9	11	10.2
Pilot	NY,S	27	11043	409	325	29	505	9	19	12.8
Comparison	IL,N	21	10248	488	380	36	346	5	12	11.6
Pilot	OK,W	5	2220	444	458	49	287	7	11	3.2
Comparison	PA,M	5	2305	461	447	53	380	8	10	5.3
Pilot	PA,E	19	12122	638	488	26	537	7	12	2.1
Comparison	CA,C	22	10714	487	401	48	471	7	12	8.6
Pilot	TN,W	4	1408	352	325	78	514	14	30	14.5
Comparison	KY,W	4.5	1503	334	361	35	442	13	19	11.7
Pilot	TX,S	13	7631	587	460	181	816	11	23	13.2
Comparison	NY,E	12	5940	495	369	80	589	9	19	13.1
Pilot	UT	4	1620	405	310	60	481	11	14	12.3
Comparison	IN,N	5	1530	306	277	41	325	12	15	12.0
Pilot	WI,E	4	1684	421	369	61	386	7	20	6.0
Comparison	KY,E	4.5	1606	357	385	48	389	8	18	5.0

**Task 3: Conduct Design Site Visits and Analyze Information**

Five districts were visited during the design phase. In each district, meetings were held with the Chief Judge, the Clerk, members of the Clerk's staff, and, when feasible, with one or more members of the Advisory Group.

An outline of the research plan contained in this document will be provided to each district, and the main elements of the plan and how it would be implemented at the district court level are being discussed in some detail. In each of the five districts visited, agreement to the main elements of the plan--including the judge time study, the lawyer survey, and the litigant survey--was obtained. In general, in all five districts, the level of cooperation extended to us was exemplary, and every indication was given that such cooperation will continue during the life of the evaluation.

**Task 4: Analyze Existing Court Data Bases for Design Purposes**

The Federal Judicial Center has provided RAND with copies of the Integrated Data Base (IDB) for SY71-CY91, and preliminary processing of these data has been conducted. This data base was used in the development of recommendations for comparison districts, and it is also anticipated that it will be used extensively over the life of the project. It is anticipated that subsequent years of data will also be provided as they are incorporated into the IDB.

**Task 5: Finalize Design**

This document describes our finalized design plan, which has been approved by the Judicial Conference.

**Task 6: Project Administration**

This task involves managing the research, staff meetings, recordkeeping required by the contract, and other project administrative tasks.

**Task 7: Conduct Implementation Site Visits and Analyze Information**

Every pilot district and every comparison district will be visited at least once as early in the study as is feasible. The timing of the visit to each district will depend in part on the implementation schedule for the CJRA cost and delay reduction plan for that particular district. The objectives of the visit will be twofold. First, an assessment will be made of the implementation procedures and practices being followed by the districts. Second, the case selection and monitoring procedures called for by the evaluation design will be established and initiated.

**Task 8: Analyze Existing Court Data Bases for Evaluation Purposes**

This task will involve analysis of the data that flow from the pilot and comparison districts into the existing court data bases and statistical reports, both before and after implementation of the pilot and comparison district policies. The accumulation and compilation of data will be an ongoing process at least through the end of 1994.

As noted above, the Integrated Federal Courts Data Base will be used extensively to analyze district court civil and criminal caseloads. In addition, the Statistical and Reporting Division of the Administrative Office, in conjunction with the Federal Judicial Center and the Sentencing Commission, has provided copies of the Federal Probation, Sentencing, and Supervision Information System (FPSSIS) for 1984-1990. These data will be used to explore



the impact of the criminal caseload on the pace and character of civil case processing in each of the districts under study. The FPSSIS data, though no longer being collected, are a valuable supplement to the IDB because they identify for the above time period those cases that were sentenced under guidelines and those that were not. It is therefore possible to use the data base to assess the impact of the guidelines on criminal case processing and on judicial workload.. The criminal caseload data from FPSSIS will itself be supplemented by other information developed at the district level, and by other reports from the Sentencing Commission.

Data bases maintained separately by the districts will also be utilized. Of particular relevance is the ICMS docketing system. This will be used to create an event structure for each case that is included in the intensive data collection described below under Task 11.

#### **Task 9: Analyze Current FJC Judge Time Study Data**

The judicial time study currently being conducted by the FJC will provide essential information on case events, judicial work time by event, and calendar time for approximately 3200 cases in pilot and comparison districts "before" the implementation of new policies. These data will be used to estimate the amount of work time required from judicial officers for various types of court events and activities for various types of civil cases using case management policies that existed before the CJRA was implemented. This information can then be compared to similar measures derived from the judicial time study that will be conducted during the life of the pilot program, thus permitting estimates of the relative burden of CJRA and pre-CJRA policies.

Discussions concerning the current time study data base have been held with the FJC, and it has been agreed that the data base can be made available to RAND, provided that the privacy and security commitments made by the FJC to the federal judiciary are not violated. To assist in the realization of this goal, RAND proposes that the data be linked by the FJC to IDB records on a case by case basis, and then be given to RAND without judge and case identification. The latter information is not necessary for the RAND evaluation, and, in any case, would not be used by RAND for any purpose other than linking time and case records together. Since this linkage is already being performed by the FJC, there is no need for RAND to have access to the data elements that make it possible. It will, however, be necessary for the time records provided RAND to have district identifiers included in order that the individual records can be aggregated by specific district and analyzed in other ways that are called for by the evaluation design.

We reiterate at this point in the discussion what we have stressed previously. The RAND evaluation of the pilot program will be performed at the district and/or case category level. There will be no evaluation that identifies individual judicial officers.

#### **Task 10: Conduct Operational Site Visits and Analyze Information**

While the implementation site visits will tell us what the districts initially planned to do, we need information on how the policies changed over time (as they surely will), and on what features of the policies caused particular difficulties or successes. We also need periodic visits to make sure the survey data collection is proceeding as desired. Two operational site visits to each pilot and comparison district will occur -- one each in 1993 and 1994. The last visit to each district will include "debriefing" interviews with judges and lawyers regarding the litigation management policies.

The operational site visits are separate from, and in addition to, the implementation site visits. Also, budgetary provisions are being made for trouble-shooting visits to a limited number of sites, over and above those for implementation and operations.

### **Task 11: Select a Sample of Cases for Intensive Data Collection**

During the past three months, we have refined the method of selecting a sample of cases, and tested that method by drawing a sample of cases terminated in 1991 in two districts. The basic sampling principles remain the same as we originally proposed. This section refines and fleshes out those general principles so that they can be implemented.

**General principles of sample selection:** We will select a sample of cases that allows us to make four comparisons. The first two comparisons will help us to evaluate the overall effects of the pilot program. The other two will help us to evaluate the effects of different case management approaches on different types of cases, thereby allowing recommendations for improvements in court case management policies. The four comparisons are:

1. Cases before January 1992 vs. cases after January 1992.
2. Cases in the pilot districts vs. cases in the comparison districts.
3. Cases grouped according to different case management approaches used within each district.
4. Cases grouped by "nature of suit" categories, where the categories are defined in the same way for every district.<sup>2</sup>

The sampling problem is how to draw a sample of cases that will permit these objectives to be realized. It is a difficult problem because of the interdistrict differences that exist with respect to the factors that are most significant for the evaluation -- in particular, the cost and delay reduction plans and the methods of implementing them.

A simple random sample of cases drawn from the entire universe of all cases in all districts, that is, a sample in which each case is selected with the same probability, would tend to over-represent the larger districts, and the case management approaches and case categories containing the greater numbers of cases. Preliminary analysis of federal court and other data sources containing outcome measures similar to the ones we plan to study suggests that the relative variation in these measures (i.e., the coefficient of variation) is similar in every important subset of cases. Therefore, to enhance our ability to make all these comparisons, we need to draw a stratified random sample of cases, with cases drawn in such a way that we have roughly equal numbers of cases on both sides of any comparison we wish to make. In particular, this means our sample should contain:

1. The same number of cases before and after January 1992.
2. The same number of cases in the pilot districts as in the comparison districts.
3. About the same number of cases processed with each different major case management approach.
4. About the same number of cases in each category.

We have designed a sampling method that simultaneously stratifies by 20 districts, by before and after, by an average of 4 case management approaches in each district that will be tailored to the district's case management plan, and by three categories of cases that will be defined the same in all districts. Appropriate weights will be assigned to estimates derived from each sampling stratum to obtain unbiased estimates of overall effects.

**Case management approaches used by the districts:** Before detailing our specific sampling method, we need to elaborate on what we mean by "case management approach", and how it differs conceptually from the formal differential case management "tracks" that districts are defining as part of their CJRA plans.

---

<sup>2</sup>The different case management approaches and the nature of suit case categories are discussed in more detail below.

Each district has explicit or implicit case management “tracks” whereby it applies different case management procedures to different types of cases. In their CJRA plans, districts usually have a complex case track that receives relatively high intensity case management, a standard track that receives medium intensity case management, and several minimal management tracks (usually for case types such as social security, prisoner, bankruptcy, and recovery cases). In addition, some districts have various other tracks. To further complicate the sampling problem, some districts use different procedures for different cases within the same track -- for example a district might randomly assign half its standard track cases to mediation.

We want to sample based on the major different case management approaches used by each district, but conclude that sampling solely based on a district’s formal track definitions would not be sufficient for several reasons:

1. Some major case management approaches are used but not defined as a track in some districts (e.g. complex case management, or minimal case management of prisoner petitions).
2. Some formal tracks include more than one case management approach (e.g. cases with stakes less than \$100,000 within the track are assigned to arbitration).
3. Some case management approaches are very similar for several tracks (e.g. social security, recovery, bankruptcy, and prisoner petitions all are processed using a minimal management approach).

Every district will have different major case management approaches, and we will use their different major approaches as a basis for selecting a sample of cases. We budgeted for a sample size that will permit statistical analyses of an average of four major case management approaches per district (at least 200 and an average of 250 cases per district in each of the two time periods). To operationalize this in light of the complexities noted above, we decided to sample on the district’s case management approaches as follows:

1. **Complex case management approach:** Always sample this approach separately in every district, even if it is not a formal track.
2. **Standard case management approach:** Always sample this approach separately in every district, even if it is not a formal track.
3. **Minimal case management approach:** Always sample this approach separately in every district, but do not attempt to sample separately on the multiple different tracks that may or may not formally exist in a single district using this approach. Instead, for every district, group the cases with the following “nature of suit” codes together and sample from them as a group: recovery cases (codes 150-153); foreclosure cases (code 220); bankruptcy cases (codes 420-423); prisoner petitions (codes 510-550); forfeiture and penalty cases (codes 610-690) and social security cases (codes 860-865). These cases usually do not involve pretrial conferences and are minimally managed using routine procedures.

If a district did not use the same case management tracks before and after implementation of the Act, then we will stratify our sample so that we obtain a sample of cases that would have been in the track had it existed at that time (if that is not possible because the track is subjectively defined by lawyers and judges, for example, then we will have to consolidate certain tracks for analysis so that we can compare the same type of cases before and after).

**Grouping cases by categories that are defined in the same for every district.**

We defined three categories of cases that are the same for every district. These categories -- defined on the nature of suit codes that the Administrative Office uses -- reflect cases that in the past have typically required low, medium, and high average levels of judicial work. This will allow comparisons of different programs of case management approaches used by different districts on the same categories of cases.

We need categories defined the same for every district because only comparing "complex" track cases, for example, could result in an "apples and oranges" comparison -- one district might designate only 1 percent of its cases as complex, while another might designate 10 percent of its cases as complex. Or, a complex nature of suit in one district might be a standard nature of suit in another. Finally, within any district, some cases with a given nature of suit might be considered complex, while others with the same nature of suit might not.

To mitigate the effects on the analysis of this variability among districts, we grouped "nature of suit" codes by the level of judicial work required on average based on preliminary data from the judicial work time study currently being conducted by the Federal Judicial Center.<sup>3</sup> To expedite sample selection and facilitate analysis later, we sought to have three large categories with approximately 20 to 40 percent of the overall judicial work time in each category.

We analyzed FJC data on the average judicial time required per case by nature of suit (due to confidentiality requirements of the FJC study, we had preliminary summary data but not the event time records for individually identifiable cases.) Although 90 percent of the civil cases in that study are closed, about 10 percent were still open when we created our category definitions. We considered average time spent on closed cases, and average time spent on both closed and open cases to date. Whether we used only closed cases or both open and closed cases, similar categorizations resulted. If and only if the number of cases in a particular NOS was less than 50 in the current FJC judicial time study, then we also considered the 1980 FJC judicial time study data before assigning the NOS to a category.

Finally, for certain types of cases that we want to sample and analyze together, we made sure they were in the same category. This applied to the NOS codes for recovery cases (which all fell into the low category), to the NOS codes for forfeiture and penalty cases (which all fell into the low category), to the NOS codes for prisoner petitions (all of which were placed into the low category), and to the NOS codes for social security cases (all of which were placed into the low category). Because these cases are not the main focus of the CJRA, because they require relatively low judicial effort on the average, we want to relatively undersample them. Grouping them together in the low category facilitates this relative undersampling.

Since the current FJC judicial time study is still ongoing and their preliminary averages may change, it is possible that we might have categorized certain types of cases that were near the dividing lines differently if we had been doing this in 1995 after the FJC study is finished and after we have collected all of our data. However, we believe that most types of cases would not be changed. In any event, from the viewpoint of our study, the most important point is to have categories that are defined the same for every district to allow comparisons among different groups of districts; the precise definition of the categories is less important.

Furthermore, when we analyze the data, if we discover that certain case types really should have been in a different category, we can shift them for the analysis. The current categorization is for purposes of sample selection -- to be sure that we have a sufficient

---

<sup>3</sup>We could not use both nature of suit and jurisdiction due to the small sample sizes in the time study data for many of these more detailed cells.

number of high category cases to analyze and to permit undersampling the low category cases that are often a high percentage of total filings.

Table 3 shows which types of cases were assigned to the high, medium, and low categories for sample selection purposes. Note that asbestos cases do not appear in the table since they are not part of this study.

**Table 3**  
**High, Medium, and Low Categories of Cases**  
**by Nature of Suit**  
**for Sample Selection Purposes**

HIGH		MEDIUM		LOW	
Contract product liab.	195	Insurance	110	Marine contract	120
Tort product liab.	245	Stockholders	160	Miller Act	130
Airplane prod. liab.	315	Other contract	190	Negotiable instrument	140
Fed. employ liab.	330	Rent lease	230	Recovery	150-153
Marine prod. liab.	345	Torts to land	240	Land condemn	210
Motor veh. prod. liab.	355	Other real property	290	Foreclosure	220
Pers. inj: med. mal.	362	Assault, libel, slander	320	Airplane	310
Pers. inj: prod. liab.	365	Marine pers. inj.	340	Bankruptcy	420-423
Other fraud	370	Motor veh. pers. inj.	350	Deportation	460
Other pers. prop. dam.	380	Other pers. inj	360	Prisoner petitions	510-550
Prop. dam. prod. liab.	385	Truth in lending	371	Forfeiture and pen	610-690
Antitrust	410	State reapportion	400	Other labor	790
Banks and banking	430	Interstate commerce	450	Social Security	860-865
Civil rights	440-444	Labor Man. Rel. Act	720	Tax suits	870
RICO	470	Railway Labor Act	740		
Fair Labor Stan.	710	ERISA	791		
Labor Man. Reporting	730	Selective service	810		
Patent	830	Copyright	820		
Secur. Commod. Exch.	850	Trademark	840		
Environmental	893	IRS third party	871		
Freedom of Inf.	895	Customer challenge	875		
Constit. State Statutes	950	Other statutory	890		
		Agricultural	891		
		Econ. Stabilization	892		
		Energy Allocation	894		
		Appeal of Fee EAJA	900		
		Local quest.	910-940, 990		

For all pilot and comparison districts combined, Table 4 shows the percentage of all civil cases terminated in 1991 that were in each of the high, medium, and low categories. The table also shows an estimate of the percentage of judicial officer work time spent on each of the categories.<sup>4</sup>

**Table 4**  
**Percentage of Cases and Judicial Officer Work Time**  
**in High, Medium, and Low Categories of Cases**

Category	Percent of 1991 Terminations	Percent of Judicial Officer Work Time
High	19	35
Medium	36	38
Low	41	26
Asbestos (not in study)	4	1

**Specific sampling method:** We designed a stratified sampling procedure that will identify about 5000 civil cases closed in 1991 prior to implementation of the Act ( an average of about 250 for each pilot and comparison district), and about 5000 cases filed after January 1, 1992. Selection of the sample will be supervised by a RAND survey research specialist who will visit each of the pilot and comparison districts. The sample size is determined by the minimum precision desired for our analysis, which is discussed below. To select the sample, the following steps are required.

1. Define MANAGEMENT APPROACHES in each district that reflect the district's case management plan.
2. Define 3 CATEGORIES of cases that are the same for all districts that reflect cases that in the past have typically required low, medium, and high average levels of judicial work.
3. Open a sampling window for cases filed in each district beginning when we make our first evaluation visit to the district (as soon as possible after January 1, 1992) and have a district clerk screen the first 700 cases. Select at least 50 new filings in each MANAGEMENT APPROACH. If a batch of more than 5 cases are filed on the same day, use the special procedures outlined in the next section. The screening of 700 cases should be sufficient to fill the sample quota for each management approach, unless the district defines a management approach that contains less than about 7 percent of the filings on average (in which situation we would purposefully seek additional filings in that management approach to fill the sample quota).
4. In the same sampling window of 700 cases, select at least 50 cases in the low CATEGORY, 75 in the medium category, and 75 in the high category, thereby guaranteeing at least 200 cases in each district (with more emphasis on the medium and high categories where the new case management policies may show the most effect). Since there will be overlap between cases selected in categories and management approaches, we will end up with at least 200 but no more than 350 selected cases in each district with 4 management approaches (for budgeting

---

<sup>4</sup>The estimate was made for each nature of suit code separately by multiplying the number of terminations in 1991 times the preliminary average judicial officer work time per case (based on the ongoing Federal Judicial Center judicial officer time survey).

purposes we assume an average of 250 per district). The screening of 700 cases should be sufficient to fill the sample quota for each category, but if we are a few cases low in a category we would purposefully seek additional filings in that category to fill the sample quota.

5. Close the sampling window, and record the number of cases among the 700 cases screened that were and were not selected in each management approach and category combination so that we can assign weights to each sampling strata to enable us to compute valid statistics for all civil cases combined in each district.
6. Steps (3) through (5) will also be followed for a sampling window of 700 cases terminated in each district in 1991 before the CJRA plan was implemented. This will be done at RAND by working backwards in time through a list of cases terminated on or before December 15, 1991.<sup>5</sup> Information used will come from the federal court integrated database, and if necessary, case docket information on "track" assignment.

**Cases Filed in Batches:** A batch of similar cases is defined as more than 5 cases with the same nature of suit (NOS) code filed on the same day with either the same lawyer or the same defendant(s) or the same plaintiff(s). For examples, 30 securities, commodities, exchange cases filed the same day involving the same bank, or 50 cases filed by the federal government on the same day for recovery of defaulted student loans.

The problem is that the case mix observed at the filing window is generally random, but these batches of similar cases clearly are not random. Excluding every case in the batch would result in loss of important information. Including every case in the batch would be inefficient in the sense that every additional one included from the batch yields less and less new information; and including every case in the batch would pack a stratum with a batch of cases rather than giving us a good random distribution of case types within the stratum. Hence, we will sample a few cases from each batch. While the number to be selected ideally would depend on their prevalence in the population, we must have a sample selection rule that can be easily implemented in the districts. Consequently, we decided to have the clerks screen only 5 cases from each batch for possible inclusion in the sample (using the normal sample selection procedures). Batch case numbers 6 and up will be SKIPPED by the clerks and will not be considered as part of the 700 being screened. For the 1991 termination sample, the same rule applies, except we will consider cases terminated on the same day in a batch. Based on inspection of 1991 terminations, we anticipate having only a couple of batches per district in each of the two time periods used for sample selection.

From an analysis viewpoint, we will know the size of the batches, and will individually investigate each batch to see how it should be analyzed. The prime issue influencing the analysis is whether the batch is composed of independent cases, or is composed of cases that are somehow related.

**Precision of the estimates in our evaluation:** We have designed our sample to give us at least 200 cases per district per time period. This sample size of at least 200 cases is the number required to offer a "good chance" of detecting a 10 percent change in the average cost or time to disposition of cases before and after January 1992, or a 10 percent difference between two different districts.<sup>6</sup>

---

<sup>5</sup>In our preliminary exploration of sample selection, we discovered that the mix of cases terminated the last two weeks of the year may not be representative of the rest of the year (for example, the mix of cases may be biased in favor of the non-complex cases).

<sup>6</sup>By the phrase "detecting a 10 percent change", we mean the null hypothesis of no difference will be rejected at a significance level of 5 percent in those comparisons where the true difference is at least 10 percent. By a "good chance", we mean the power of this test is 80 percent -- that is, we

We base this calculation on the following assumptions: (1) case time to disposition and costs have a coefficient of variation ranging between 0.8 and 1.2<sup>7</sup>; and (2) differences in case mix and other characteristics which we will be able to control for in multivariate analyses account for between 0 percent and 50 percent of the variation. Both of these assumptions appear reasonable in light of previous analyses done at RAND<sup>8</sup>.

As described above in our discussion of this Task 11, the minimum of 200 cases selected in each district during each time period will be allocated to management approaches and to case categories in such a way that each management approach will have at least 50 cases; the low category of cases that typically require little judicial effort will have at least 50 cases; and the two categories of cases that typically require medium and high judicial time will have at least 75 cases. To reach these constraints, it may be necessary to draw more than 200 cases in some districts, and we estimate the average will be 250.

These allocations of cases to management approaches and case categories determine the statistical power to detect other differences among management approaches, categories, districts, time periods, and various combinations of those factors.

At one extreme, our ability to detect differences between individual tracks in a particular district will be somewhat limited. For example, 50 cases will allow us to detect a 14 percent difference in the best of circumstances (low coefficient of variation, large reduction in variation by controlling for case mix and other factors). For this purpose, our sample size is minimally acceptable.

On the other hand, a principal purpose of the study is to evaluate the effects of different case management policies, in comparison to policies in place before the Act or in comparison to other case management policies implemented as a result of the Act. We will be combining data from several districts to do this evaluation. And, when we combine information across a number of districts, our ability to detect relatively small differences is substantial.

For example, suppose a particular management approach is adopted in 10 tracks in 10 different districts. We will have at least 500 cases in which this approach was attempted, and we will be able to select at least 500 suitable comparison cases, either before January 1992, or in other tracks in other districts where the approach was not attempted. We have adequate statistical power to detect differences as small as 5 percent in this situation.

For the simplest but perhaps most important of questions -- how much effect did the pilot program case management reforms adopted in January 1992 have across all the districts in the study combined -- we have about 5000 cases before and 5000 after. This sample size is adequate to detect differences as small as 2 percent.

**Cases not in the CJRA sample:** Asbestos cases will be excluded from the detailed surveys, but will be considered in this evaluation to the extent that the workload they create impacts on the processing of other civil cases. Though the asbestos litigation situation is critically important to the federal courts and to the nation as a whole, we believe that it should be the subject of a separate detailed study. The principal reason for this view is that after the recent consolidation of the asbestos caseload in the Eastern District of Pennsylvania, the future management of such cases will be unique, and not within the

---

will detect at least 4 out of every 5 comparisons where the relative difference exceeds 10 percent. These levels of significance and power are used for all of the discussions in this section.

<sup>7</sup>This estimate of the coefficient of variation is based on analysis of time to disposition data for 1990 dispositions for several districts and for several different groupings of cases. We did not have case level information on costs sufficient to estimate the coefficient of variation of litigation costs.

<sup>8</sup>These analyses were conducted during various previous RAND studies of all federal cases, auto accident cases, asbestos cases, and aviation accident cases.



mainstream of Civil Justice Reform Act policies that this study is evaluating. Inter-district comparisons under CJRA will be impossible, and no generalizations about case management as a whole can be made. It will, of course, be necessary to consider what effect, if any, the consolidation has on the Eastern District of Pennsylvania, and on the other districts whose workload may have been reduced as a result of the consolidation.

**Summary of information sought for civil cases using various surveys.** The sample of cases will be used for the collection of a wide variety of information from court records, judges, lawyers, and litigants. As a guide to the survey task descriptions that follow, we have included Table 5, which summarizes what information is being sought using each different survey.

Table 5

SURVEYS FOR EVALUATION OF CJRA PILOT PROGRAM

TYPE OF INFORMATION	SOURCE OF INFORMATION <sup>1</sup>						
	Court Files and Data Bases	Docket Survey	Judge Time Survey	Judge Case Closure Survey	Lawyer Case Closure Survey	Litigant Name and Address Survey	Litigant Case Closure Survey
<b>SAMPLE SIZE:</b>							
Pre-1992 cases	5000	5000	3193 FJC ongoing	0	12500	15000	15000
1992 cases	5000	5000	5000 Same as FJC	5000 <sup>2</sup> Max 20	12500 Max 30	15000 5	15000 Max 25
<b>NUMBER OF QUESTIONS</b>							
<b>CASE INFORMATION</b>							
Docket number	x	x	x	x	x	x	x
Names of all plaintiffs and defendants	x					x	
Addresses of litigants						x	
Type of litigant	x					x	x
Names of lawyer(s) for each litigant	x						
Addresses of lawyers	x						
Experience of lawyers					x		
Experience of litigants							x
Nature of suit	x						
Basis of jurisdiction	x						
<b>CASE ACTIVITIES AND WORKLOAD</b>							
Type and number of activities in court		x	x				
Workhours spent on various activities			x		x		
Method of disposition	x	x					
<b>COURT MANAGEMENT FOR THIS CASE</b>							
Level of intensity of management				x	x		
Specific types of management				x	x		
Preferred types of management				x	x		
Satisfaction and fairness of process				x	x		x
Opinion on new vs. old policy				x	x		
<b>TIMELINESS FOR THIS CASE</b>							
Dates of major events		x	x		x		x
Opinion on timeliness				x	x		x
Reasons for any lack of timeliness				x	x		x
<b>COSTLINESS OF THIS CASE</b>							
Total litigation costs, and fee arrange.					x		x
Nonattorney litigation costs					x		x
Litigant time spent on case							x
Opinion on costliness					x		x
Reasons for lack of reasonable costs					x		x
<b>OUTCOME AND STAKES OF THIS CASE</b>							
Stakes (\$ and nonmonetary)					x		x
Outcome (\$ and nonmonetary)					x		x
Appeal					x		x
Satisfaction and fairness of outcome					x		x

<sup>1</sup>The following items also will be estimated, but not with case-specific survey information: Nonrecurring costs of implementing CJRA; court costs other than for judicial officers.

<sup>2</sup>In addition to 5000 civil cases, 1000 criminal cases will be in the survey.

**Criminal case sample.** While criminal cases are not the prime focus of this CJRA evaluation, we are concerned about the impact the criminal case workload has on civil case processing. Consequently, we need to know both how many criminal cases are filed, and how much judicial work time those criminal cases require. The Federal Judicial Center's judicial time study provides average judicial work time for criminal cases filed in the late 1980s, but there is some concern that the averages may now be different. We will be conducting a new judicial time study on 50 criminal cases (and all defendants on those cases) filed in mid-1993 in each pilot and comparison district.

### **Task 12: Conduct Judicial Time Study for Sample of Cases Filed in 1992 in Pilot and Comparison Districts**

**A. Civil cases:** A judicial time study will be conducted for the sample of cases being selected for intensive analysis under the evaluation. This will provide us with essential information on civil case events and both judicial work time and calendar time after implementation of the Act. This data collection will start with 5000 cases filed in 1992, an average of 250 cases in each of the pilot and comparison districts.

The survey forms and procedures will be identical to those used in the prior FJC time study, to minimize the burden on district court personnel and to maximize the validity of the "before and after" comparison. The only deviation from the FJC methodology will be in the way the sample of cases is selected (see Task 11 above).

In order to allow time for completion of our report, data collection will terminate on December 31, 1994; some adjustments will be made in the analysis for the small percent of the cases that may still be open at that time (approximately 10 percent of the sample). We will identify the characteristics of those still open then and survey the lawyers involved (see task 14) in order to help adjust for any bias resulting from the remaining open cases.

**B. Criminal cases:** We will include in the time study a sample of 1000 criminal cases filed in 1992 (50 in each of the pilot and comparison districts). Although the CJRA evaluation focuses on civil cases, criminal cases must be considered because of their impact on the work time judicial officers have left to spend on civil cases. Discussions with judges during design site visits have made it clear that the judiciary believes the negative impact of the criminal caseload on civil case processing is increasing. By including a selection of criminal cases in the judicial time study, we will be able to estimate the judicial officer work time per criminal case, and to estimate the overall workload of criminal cases in each district court. These estimates will be based on current criminal case management policies.

**C. Administration of the Time Study:** Rather than having RAND administer this new judicial time study, the Federal Judicial Center will extend its current time study to include the new set of cases identified by the RAND sampling procedure. As noted, the specification of cases to be included will be done by RAND, and analysis of the results will also be done by RAND. This will preserve the independence of the evaluation. The data would also be available to the FJC for any analyses they might wish to perform that are separate from the RAND evaluation.

The benefits of this approach are substantial: (a) existing FJC procedures, forms, and administrators from the prior ongoing judicial time study could be used for the new sample of cases, thereby lessening the burden and disruption on district court personnel; (b) existing FJC coding and checking procedures would be used, thereby improving the comparability of data obtained from the prior ongoing judicial time study and the new sample of cases; (c) judges would be sending data to the FJC rather than directly to RAND, thereby enhancing the likelihood of judicial cooperation (according to our interviews with district court personnel); and, (d) the cost of the time study should be less since there will

be no need for RAND to duplicate the procedures and personnel training within RAND that have already been developed by the FJC.

Table 6 outlines the division of responsibility for the judicial time study work.

**Table 6: Division of Responsibility for Administration of New Judicial Time Survey**

<b>Required Activity</b>	<b>FJC Will Do</b>	<b>RAND Will Do</b>
Select sample of cases	No	Yes
Orient district staff and on-site preparation	No	Yes
Receive completed forms, code, call for clarification of problem entries	Yes	No
Answer questions from district personnel	Yes	No
Compare with docket and call district about missing information	Yes	No
Data entry of individual forms and transmission of data file to RAND with docket numbers attached	Yes	No
<b>Analyze data</b>	<b>Yes, for FJC purposes.</b>	<b>Yes, for CJRA purposes</b>

### **Task 13: Conduct Docket Survey for All Sample Cases**

The purpose of the docket survey is to obtain information on court events and the nature and dates of those events for each case in the sample. This will be useful for the analysis of litigation calendar time, and will also be useful in evaluating how different management policies affect the number, nature, and timing of case events. Combined with data from the judicial time surveys, this allows analysis of the impact of the court's policies on judicial work time per case.

Based on the dates on which the various pilot and comparison districts were supposed to have implemented their computerized docket systems, we estimate that we will have automated dockets from the ICMS in 14 of the 20 districts for mid-1991 case closures and 17 of the 20 districts for mid-1992 case filings. This will greatly facilitate the docket survey.

### **Task 14: Conduct Attorney Survey for All Sample Cases**

Surveying attorneys is the best method of getting information on private litigation costs, on activity that may not have been reflected in court records, and on the level of attorney satisfaction with the court's litigation management policies. We will survey all lead attorneys involved with the samples of 5000 cases closed in 1991 and 5000 cases filed in 1992-3<sup>9</sup>. The surveys will be sent as soon as possible after the case is closed, in order to maximize the response rate and the quality of the responses we receive. For sample cases filed in 1992, the lawyer survey will be done soon after case closure, but no later than the end of 1994 even if the case is still open at that time.<sup>10</sup>

We assume an average of 2.5 lawyers per case in the sample. The FJC found about 2.4 lawyers per case in their unstratified sample from their ongoing judicial time survey. Since our stratified sample cases may be slightly more complex on average, we assume a slightly higher number of lawyers per case. Thus, we estimate that we will be surveying 12500 lawyers for cases closed in 1991 and 12500 lawyers for cases filed in 1992. Note that we have included all lawyers for the sample cases, rather than half the lawyers as previously planned. The prime benefit of this change is being able to conduct a statistically sound analysis. Our analysis indicates that the sample size for cases is minimal from a statistical viewpoint, and hence we will need lawyer information on the entire sample of cases.

While we expect nearly full judicial cooperation with our surveys, some fraction of the lawyers will not respond to our mail queries and any bias due to nonresponses must be identified and analyzed. With an initial mailing and two mail followups, we expect a 50 to 65 percent response rate, thus giving us usable data from at least 12500 lawyers.

We will receive the names and addresses of the lawyer for each litigant from the district court, and RAND will conduct the mailings, data cleaning, and data entry.

### **Task 15: Conduct Case Closure Survey of Judges for Sample of Cases Filed in 1992-3**

After closure of each case in the sample of cases filed in 1992-3, we will send the involved judicial officer a survey questionnaire with a maximum of 20 questions. The

---

<sup>9</sup>If more than one lead attorney is listed for a litigant, we will survey the first one listed. If that first lead attorney indicates that we need to obtain information from some other attorney for the litigant, then we will also survey that other attorney.

<sup>10</sup>Based on the distribution of time to disposition of all civil cases terminated in 1990, we expect that less than 10 percent of the mid-1992 filings will still be open at the end of 1994.

purpose of the closure survey of judicial officers is to determine how well the new litigation management policies worked for the case, including the level of judicial satisfaction with the new case management policy relative to the old management policy. This survey will involve 5000 cases and we are assuming an 80 percent response rate.

A draft questionnaire is being prepared for field testing, and a final version will be available in mid-1992.

#### **Task 16: Conduct Litigant Survey for All Sample Cases**

The prime benefits of this litigant survey are obtaining information on: (a) litigant satisfaction with the court management and outcome of their case, (b) litigant time and other costs that may not be known to lawyers, and (c) litigant views of costs and time to disposition.

For survey design purposes, we assume that the average case in the sample will have three litigants (slightly higher than the 2.5 average number of lawyers per case).<sup>11</sup> With a sample of 5000 cases before January 1992 and 5000 cases after, we plan to attempt to survey 15000 litigants in each time period.

While we expect nearly full judicial cooperation with our surveys, we will not know the addresses of some litigants and when we do know the addresses, some fraction of the litigants will not respond to our mail queries. If we can get the litigant's address, we expect a 50 to 65 percent response rate. Assuming we can get addresses for about 3/4 of the litigants, we thus expect to obtain usable data from between 40 and 50 percent of the litigants, or at least 12000 litigants. Any bias due to nonresponses must be identified and analyzed.

#### **Task 17: Evaluation of CJRA Policy Implementation and Impact**

From an evaluator's viewpoint, this is the heart of the study when all the long hard work of data collection pays off. The principal factors being analyzed at both points in time and in both types of districts are the case management policies actually used, the time to disposition, the litigation costs, and the fairness of and satisfaction with both the case outcome and the case management. When we evaluate the alternative policies, we expect that we will find both pros and cons to the various alternative policies, and that cases with different characteristics may be amenable to different policies. We have no preconceived judgements as to the findings of this study, and will let the data lead us to our conclusions.

#### **Task 18: Periodic Briefings for Judicial Conference and Others**

Near the end of each calendar year, we plan to brief the Judicial Conference, the Administrative Office of the U.S. Courts, the Federal Judicial Center, and others on our progress. We would like those briefings to be not only opportunities for us to give a status report, but opportunities for us to benefit from feedback.

#### **Task 19: Write Implementation Report on Pilot and Comparison Districts**

A formal RAND report will be issued at the end of 1993, on the implementation of the pilot and comparison policies. This reporting date will allow discussion of not only the initial policies and their implementation, but initial problems with the policies and how the implementation was changed to help solve the problems. A draft of the report will be sent for review and comment before it is issued.

---

<sup>11</sup>If there are more than 20 litigants on one side in a case, we will select a random sample of 20 to survey.

#### **Task 20: Write Evaluation Report on Pilot and Comparison Policies**

A formal RAND report on this independent evaluation will be issued in September, 1995, three months in advance of the due date for the Judicial Conference report required by the Act. An advance draft of the RAND report will be submitted for review and comment.

#### **RAND'S PERSONNEL AND ORGANIZATIONAL QUALIFICATIONS**

The Civil Justice Reform Act Pilot Program evaluation is being conducted within the Institute for Civil Justice (ICJ) at The RAND Corporation. RAND is a nationally known policy research organization with an excellent reputation for independent, high quality work. It has the organizational depth and capability to successfully execute a project of this scope. For example, in addition to the project team whose qualifications are discussed below, RAND has a large inhouse survey staff and dozens of other researchers with multidisciplinary experience in civil justice. These resources are available for the project leaders to use as required by the design and execution of the research.

In the area of civil justice research, the RAND Institute for Civil Justice, in the eleven years of its existence, has become the premier independent empirical research organization in the United States. Its staff have been responsible for many ground-breaking studies on federal and state civil justice systems, including a number on costs and delay and alternate dispute resolution programs, that are the natural precursors to the evaluation that is called for by the Civil Justice Reform Act.

The project will be under the joint direction of Drs. Terence Dunworth and James Kakalik. Both have extensive research credentials that bear a direct relationship to the demands that this study makes.

For more than a decade, Dr. Dunworth has conducted research and analysis pertaining to the federal court system. His 1990 system-wide study of delay in the district courts calls for new research of precisely the kind that will be performed for the evaluation of the cost and delay reduction policies that the pilot districts are implementing. He is also intimately familiar with the statistical and data reporting systems used by the Administrative Office, having created, under contract to the Federal Judicial Center, the original version of the Integrated Federal Courts Data Base. This data base is updated regularly by the FJC, and has become a primary research tool for individuals conducting work in the federal court area. He did earlier work assisting the Federal Judicial Center in the analysis of the data collected during the 1979 judicial time study. The result was the case weighting system that is currently used to assess district court workload. He also produced other reports focusing on the institutional costs of the federal courts, the design of federal case weighting systems, bankruptcy courts, and U.S. Attorneys' offices.

Dr. Kakalik has been a senior member of the Institute for Civil Justice since its inception, and has led more than a dozen major research projects in civil justice in the last decade. In 1990, he was the principal investigator for the ICJ study of civil case delay in the Los Angeles Superior Court. He is also a nationally recognized expert on civil litigation costs. In this area, he has led investigations of court costs, the private costs of various types of civil litigation in general, and the outcomes and costs of asbestos and aviation accident litigation in particular. He co-directed a recent study of no-fault auto insurance, which provides an in-depth examination of the relationships between economic losses, compensation, transactions costs, and time to disposition.

Drs. Dunworth and Kakalik will be directly assisted in the work by a number of individuals who bring special and appropriate qualifications to the work. For example,

RAND's inhouse Survey Research Group (SRG) is, under the direction of the two principals, responsible for conducting the surveys. The SRG work on this project is being led by Ms. Laural Hill, who has extensive experience with court-related surveys. The SRG was established in 1972 and is highly experienced in the kind of work that is needed for this project. It provides researchers with support for data collection design, survey instrument production, and computerized data collection, cleaning, data entry, and standardization systems. It has conducted surveys with sample sizes ranging from a few dozen to more than 20,000, focusing on populations such as judges, court administrators, attorneys, school officials, corporate executives, general households, and many others.



## JUDGE COVER LETTER

DATE

JudgeName  
Judge Address

Re: (Case Name), (Court docket number )

Dear Judge (Name)

The above-referenced case is one of a sample of federal district court cases that are the subject of a major research project being conducted by RAND at the request of the Judicial Conference of the United States. The study was mandated in the Civil Justice Reform Act of 1990. It will evaluate federal court case management and its impact on litigation costs, outcomes, and time to disposition. The findings of the study are likely to influence future legislation and federal court case management policies. It is therefore critical that the experience and opinions of the judiciary concerning these policies be fairly and fully represented in the reports that will be produced. We will also be asking all lawyers and all parties in this case to provide input.

This case recently closed, and I enclose a brief questionnaire to get your views. Would you please complete the questionnaire and return it in the envelope provided?

Please note that we will not be presenting any case level or judge-specific information in our report to the Judicial Conference. Information obtained from the questionnaires will be combined with information for other cases before being reported as averages and totals. No case, judge, attorney, or party will be identified in any RAND report.

Thank you for your assistance.

Sincerely,

James S. Kakalik, Ph.D.

# EVALUATION OF FEDERAL COURT MANAGEMENT POLICIES

## JUDGE QUESTIONNAIRE

### INSTRUCTIONS:

1. Purpose: This questionnaire seeks information about the overall court management of the case identified in the cover letter.
2. Please answer questions by circling the appropriate number, 1 (2), or by filling in the answer as requested.
3. If you have any questions, please call Jim Kakalik at (310) 393-0411, extension 7621.
4. When you are finished, please return the questionnaire in the enclosed, postage-paid envelope.

THANK YOU FOR TAKING PART IN THIS STUDY

**Statement of Confidentiality**

All information that would permit identification of the case, judge, lawyers or parties will be regarded as strictly confidential, will be used only for the purpose of the study, and will not be released for any other purpose without your consent, except as may be required by law. All identification information will be destroyed following the completion of our analyses.

CASE ID:

1-10/

FORM:

J	1
---	---

13-14/

BATCH:

--	--	--	--

15-18/

19-30/BK

**SECTION 1: COURT MANAGEMENT OF THIS LITIGATION**

1. When this litigation began, how would you have ranked this case in terms of each of the listed factors? -

*(Circle One Number On Each Line)*

	High	Medium	Low	Don't Know	
a. Overall complexity .....	1	2	3	4	31/
b. Difficulty of discovery .....	1	2	3	4	32/
c. Complexity of legal issues .....	1	2	3	4	33/
d. Difficulty in relations between parties and attorneys .....	1	2	3	4	34/

2. Some civil cases are intensively managed by judges or magistrate judges. Other cases may be largely unmanaged by judicial officers, with the pace and course of litigation left to lawyers and with court intervention only when requested.

How would you characterize the level of court management in this case?

*(Circle One)*

Intensive .....	1	
High .....	2	
Moderate .....	3	
Low .....	4	
Minimal .....	5	
None .....	6	
I'm not sure .....	9	35/

3A. Was this case assigned to a special case management category or "track"?

YES..... 1 ---> **SKIP TO QUESTION 3C**

36/

NO..... 2 }  
DON'T KNOW..... 3 } ----->

<p>3B. Do you think this case should have been assigned to a special case management category?</p> <p><i>(Circle One)</i></p> <p>YES..... 1</p> <p>NO ..... 2</p> <p><b>SKIP TO QUESTION 4A, PAGE 3</b></p>
---

37/

3C. What effect did this track assignment have on time to disposition?

*(Circle One)*

- Increased..... 1
- Decreased..... 2
- No effect..... 3
- Don't know..... 4

38/

3D. What do you think of the decision to assign this case to a track?

*(Circle One)*

- Case was assigned to the correct track..... 1
- Case should have been assigned to a track with more intensive management..... 2
- Case should have been assigned to a track with less intensive management..... 3
- Case should not have been assigned to a track ..... 4

39/

4A. Alternative Dispute Resolution (ADR) methods may include arbitration, mediation, mini or summary jury trial, early neutral evaluation, settlement conferences, special masters or other settlement techniques. Was there any kind of ADR used in this case? IF YES, indicate which ones were used.

NO ADR USED..... 0 ---> SKIP TO QUESTION 4C 40/

**OR**

*(Circle All That Apply)*

- Arbitration ..... 1 41/
- Mediation ..... 2 42/
- Mini or Summary Jury Trial..... 3 43/
- Early Neutral Evaluation ..... 4 44/
- Settlement Conference with  
Judicial Officer ..... 5 45/
- Special Master ..... 6 46/
- Other ADR ..... 7 47/

4B. What effect did ADR have on time to disposition?

*(Circle One)*

- Increased..... 1 48/
- Decreased..... 2
- No effect..... 3
- Don't know..... 4

4C. Given what you now know about this case, what do you think should have been done regarding ADR for this case?

SHOULD NOT HAVE USED ADR AT ALL.... 0 49/

**OR**

SHOULD HAVE USED THE FOLLOWING

*(Circle All That Apply)*

- Arbitration ..... 1 50/
- Mediation ..... 2 51/
- Mini or Summary Jury Trial..... 3 52/
- Early Neutral Evaluation ..... 4 53/
- Settlement Conference with  
Judicial Officer ..... 5 54/
- Special Master ..... 6 55/
- Other ADR ..... 7 56/

5. COURT MANAGEMENT OF THIS CASE

Here is a list of case management actions that could have been taken by the court. For each action please indicate whether such action was taken in this case. If the action was taken please indicate what effect you think this might have had on time to disposition.

	<u>Was The Action Taken?</u>		IF YES: What effect did this action have on time to disposition?				
	<i>(Circle One on Each Line)</i>		<i>(Circle One on Each Line)</i>				
	No or Not Applicable	Yes	Increased	Decreased	No Effect	Don't Know	
a. Hold pretrial conference(s) with judicial officer .....	1	2	1	2	3	4	13/ 14/
b. Set a schedule of dates for pretrial activities .....	1	2	1	2	3	4	15/ 16/
c. Rule promptly on pretrial motions .....	1	2	1	2	3	4	17/ 18/
d. Set limits on discovery ..	1	2	1	2	3	4	19/ 20/
e. Encourage voluntary exchange of information among litigants .....	1	2	1	2	3	4	21/ 22/
f. Require good faith effort to reach agreement with opposing counsel regarding discovery before filing discovery motions .....	1	2	1	2	3	4	23/ 24/
g. Set an early, firm trial date .....	1	2	1	2	3	4	25/ 26/
h. Conduct or facilitate settlement discussions .....	1	2	1	2	3	4	27/ 28/
i. Exert active control over trial .....	1	2	1	2	3	4	29/ 30/
j. Other (please explain) ..	1	2	1	2	3	4	31/ 32/
							33-34/

## 6. RECOMMENDED CASE MANAGEMENT OF THIS CASE

Given what you now know about this case, what do you think should have been done to manage this case?

*(Circle One on Each Line)*

ACTION	SHOULD NOT HAVE TAKEN	APPROPRIATE AMOUNT WAS TAKEN	SHOULD HAVE TAKEN MORE	SHOULD HAVE TAKEN LESS	
a. Hold pretrial conference(s) with judicial officer .....	1	2	3	4	35/
b. Set a schedule of dates for pretrial activities .....	1	2	3	4	36/
c. Rule promptly on pretrial motions .....	1	2	3	4	37/
d. Set limits on discovery .....	1	2	3	4	38/
e. Encourage voluntary exchange of information among litigants...	1	2	3	4	39/
f. Require good faith effort to reach agreement with opposing counsel regarding discovery before filing discovery motions ..	1	2	3	4	40/
g. Set an early, firm trial date .....	1	2	3	4	41/
h. Conduct or facilitate settlement discussions .....	1	2	3	4	42/
i. Exert active control over trial .....	1	2	3	4	43/
j. Other (please explain) .....	1	2	3	4	44/
					45-46/

**SECTION 2: TIMELINESS OF LITIGATION OF THIS CASE**

7. In your opinion was the amount of time that elapsed from filing to disposition in this case too long, or too short for the interests of justice to be served?

*(Circle One)*

- Much too long?..... 1 } SKIP TO QUESTION 8B
- Too long? ..... 2 }
- Reasonable? ..... 3 --> SKIP TO QUESTION 9
- Too short? ..... 4 --> ANSWER QUESTION 8A
- Don't know..... 9 --> SKIP TO QUESTION 9

47/

8A. Which of the following were significant causes for the time to disposition being too short for the interests of justice to be served?

*(Circle All That Apply)*

- Court management, procedures and schedules..... 1 48/
  - Actions or failure to act by parties or attorneys ..... 2 49/
  - Other (please explain) ..... 3 50/
- 
- 51-52/

**SKIP TO QUESTION 9**

8B. Which of the following were significant causes of the time to disposition being too long?

*(Circle All That Apply)*

- Too many civil cases; backlog of civil cases in the court..... 1 53/
  - Too many criminal cases; demands of the court's criminal caseload..... 2 54/
  - Court management, procedures, and schedules ..... 3 55/
  - Nature or complexity of the case ..... 4 56/
  - Actions or failure to act by parties or attorneys ..... 5 57/
  - Other (please explain) ..... 6 58/
- 
- 59-60/



<b>SECTION 3: FAIRNESS AND SATISFACTION</b>
---

9. How fair do you think the court management and procedures were for this case?

*(Circle One)*

Very fair.....	1	61/
Somewhat fair .....	2	
Somewhat unfair.....	3	
Very unfair .....	4	

10. And, how satisfied were you with the court management and procedures for this case?

*(Circle One)*

Very satisfied .....	1	62/
Somewhat satisfied.....	2	
Neutral .....	3	
Somewhat dissatisfied.....	4	
Very dissatisfied.....	5	

<b>SECTION 4: EVALUATION OF NEW CASE MANAGEMENT POLICY COMPARED TO OLD POLICY</b>
---

11. Was there a difference in how you and any other judicial officer managed this case, compared to how you would have managed it if it had been disposed of prior to January 1, 1992?

*(Circle One)*

YES .....	1	--->	ANSWER QUESTION 12	63/
NO.....	2	--->	SKIP TO COMMENTS SECTION, LAST PAGE	

12. From your point of view, were the case management policies and procedures used in this case better or worse than the same kind of case prior to January 1, 1992?

*(Circle One)*

Much better .....	1	64/
Better.....	2	
About the same .....	3	
Worse .....	4	
Much worse .....	5	
Don't know.....	9	

13. If the old case management policy had been used on this case instead of the new case management policy:

A. Would the time to disposition probably have been:

*(Circle One)*

- Much longer ..... 1 65/
- Longer ..... 2
- About the same ..... 3
- Shorter ..... 4
- Much shorter ..... 5
- Don't know..... 9

B. Would the litigation costs probably have been:

*(Circle One)*

- Much higher ..... 1 66/
- Higher..... 2
- About the same ..... 3
- Lower..... 4
- Much lower ..... 5
- Don't know..... 9

C. Would the court management and procedures probably have been:

*(Circle One)*

- Much fairer ..... 1 67/
- Fairer ..... 2
- About the same ..... 3
- Less fair..... 4
- Much less fair ..... 5
- Don't know..... 9

;

14. How did the overall judicial officer work time required for this case compare to the work time that would have been needed under the case management policies in effect for the same kind of case prior to January 1, 1992?

(Circle One)

- Much greater ..... 1
- Greater ..... 2
- About the same ..... 3
- Less ..... 4
- Much less ..... 5
- Don't know..... 9

68/

Please use this page for any comments you would like to make about management of this case in particular or about management of litigation by the federal courts in general.

Thank You

COMMENTS:

---



---



---



---



---



---



---



---



---



---



---



---



---



---



---

69-70/

71-72/

73-74/

RAND  
 1700 Main Street, PO Box 2138  
 Santa Monica, CA 90407-2138

## ATTORNEY COVER LETTER

DATE

Lawyer Name  
Lawyer Address

Re: (Case Name), (Court docket number)

Dear (Lawyer Name)

I understand that you represented a party or parties in the above-referenced case in U.S. District Court for the ( ) District of ( ). This case is one of a select sample of federal district court cases included in a major research project being conducted by RAND, a non-profit research organization, at the request of the Judicial Conference of the United States. The study, which is mandated by the Civil Justice Reform Act of 1990, will evaluate federal court case management and its impact on litigation costs, outcomes, and time to disposition in 20 districts. Because the findings of the study are likely to influence future federal court case management policies, it is critical that the study have the contribution of lawyers' experience and opinions concerning those policies. We will also be asking all other lawyers, each party, and the judge in this case to provide input.

I enclose a brief questionnaire concerning the above-referenced case. Would you please complete the questionnaire and return it in the envelope provided?

Information obtained from the questionnaires will be combined with information from other cases before being reported as averages and totals. No case, judge, attorney, or party will be identified in any RAND report. The district court will not have access to the completed questionnaires.

If you were not sufficiently involved in this case to permit you to respond to the questionnaire, I would appreciate it if you would provide the name of the attorney most knowledgeable about the case for your party or parties. Please write his or her name and address on the back of the questionnaire and return it to us in the enclosed envelope.

Thank you for your assistance with this evaluation of federal court management policies.

Sincerely,

James S. Kakalik, Ph.D.

# EVALUATION OF FEDERAL COURT MANAGEMENT POLICIES

## ATTORNEY QUESTIONNAIRE

### INSTRUCTIONS:

1. **Purpose:** This questionnaire seeks information about the court management of the case identified in the cover letter, the timeliness with which it was resolved, the costs of litigation, and your satisfaction with the litigation process and outcome.
2. **Case and Court:** Most questions refer to "this case", which is the case identified in the cover letter. Some questions also refer to "this court", which is the federal district court in which the case was litigated. Please answer all questions with reference to this case and this court only.
3. Please answer questions by circling the appropriate number, 1 (2), or by filling in the answer as requested.
4. If you have any questions, please call the Survey Coordinator, Laural Hill, collect at (310) 393-0411, extension 6107.
5. When you are finished, please return the questionnaire in the enclosed, postage-paid envelope.

THANK YOU FOR TAKING PART IN THIS STUDY

### Statement of Confidentiality

All information that would permit identification of the case, judge, lawyers or parties will be regarded as strictly confidential, will be used only for the purpose of the study, and will not be released for any other purpose without your consent, except as may be required by law. All identification information will be destroyed following the completion of our analyses.

CASE ID:

1-10/

FORM:

A	2
---	---

13-14/

BATCH:

--	--	--	--

15-18/  
19-30/BK

**SECTION 1: COURT MANAGEMENT OF THIS CASE**

1. When this litigation began, how would you have ranked this case in terms of each of the listed factors?

*(Circle One Number On Each Line)*

	High	Medium	Low	
a. Overall complexity .....	1	2	3	31/
b. Difficulty of discovery .....	1	2	3	32/
c. Complexity of legal issues .....	1	2	3	33/
d. Difficulty in relations between parties and attorneys .....	1	2	3	34/

2. Some civil cases are intensively managed by a judge or magistrate through actions such as detailed scheduling orders, frequent monitoring of discovery, substantial effort to settle the case, or by requiring rapid progress to trial. Some cases may be largely unmanaged, with the pace and course of litigation left to lawyers and with court intervention only when requested.

How would you characterize the level of court management in this case?

*(Circle One)*

Intensive.....	1		35/
High.....	2		
Moderate.....	3		
Low .....	4		
Minimal.....	5		
None.....	6		
I'm not sure .....	9		

3A. Did the court assign this case to a special case management category or "track"?

YES..... 1 → SKIP TO QUESTION 3C 36/

NO..... 2 }  
 DON'T KNOW..... 3 } →

3B. Do you think this case should have been assigned to a special case management category?

*(Circle One)*

YES..... 1 37/

NO ..... 2

**SKIP TO QUESTION 4A, PAGE 3**

3C. What effect did this track assignment have on:

	INCREASED	DECREASED	NO EFFECT	DON'T KNOW	
costs (legal fees and expenses) to your party/parties?.....	1	2	3	4	38/
time to disposition?.....	1	2	3	4	39/

3D. What do you think of the decision to assign this case to a track?

*(Circle One)*

- Case was assigned to the correct track..... 1 40/
- Case should have been assigned to a track with more intensive management..... 2
- Case should have been assigned to a track with less intensive management..... 3
- Case should not have been assigned to a track ..... 4

4A. Alternative Dispute Resolution (ADR) methods may include arbitration, mediation, mini or summary jury trial, early neutral evaluation, settlement conferences, special masters or other settlement techniques. Was there any kind of ADR used in this case? IF YES, indicate which ones were used.

- NO ADR USED..... 0 —> SKIP TO QUESTION 4C 41/

**OR**

*(Circle All That Apply)*

- Arbitration ..... 1 42/
- Mediation ..... 2 43/
- Mini or Summary Jury Trial..... 3 44/
- Early Neutral Evaluation ..... 4 45/
- Settlement Conference with  
Judicial Officer ..... 5 46/
- Special Master ..... 6 47/
- Other ADR ..... 7 48/

4B. What effect did ADR have on:

	INCREASED	DECREASED	NO EFFECT	DONT KNOW	
costs (legal fees and expenses) to your party/parties? .....	1	2	3	4	49/
time to disposition? .....	1	2	3	4	50/

4C. Given what you now know about this case, what do you think the court should have done regarding ADR for this case?

SHOULD NOT HAVE USED ADR AT ALL.... 0 51/

**OR**

SHOULD HAVE USED THE FOLLOWING

*(Circle All That Apply)*

- Arbitration ..... 1 52/
- Mediation ..... 2 53/
- Mini or Summary Jury Trial..... 3 54/
- Early Neutral Evaluation ..... 4 55/
- Settlement Conference with  
Judicial Officer ..... 5 56/
- Special Master ..... 6 57/
- Other ADR ..... 7 58/



**5. COURT MANAGEMENT OF THIS CASE**

Here is a list of case management actions that could have been taken by the court. For each action please indicate whether such action was taken in this case. If the action was taken please indicate what effect you think this may have had on costs to your party or parties and on time to disposition.

	<u>Was The Action Taken?</u>		IF YES: What effect did this action have on:								
	<i>(Circle One on Each Line)</i>		<u>Costs to your party/parties?</u>				<u>Time to Disposition?</u>				
	No or Not Applicable	Yes	Increased	Decreased	No Effect	Don't Know	Increased	Decreased	No Effect	Don't Know	
a. Hold pretrial conference(s) with judicial officer .....	1	2	1	2	3	4	1	2	3	4	13/ 14-15/
b. Set a schedule of dates for pretrial activities.....	1	2	1	2	3	4	1	2	3	4	16/ 17-18/
c. Rule promptly on pretrial motions .....	1	2	1	2	3	4	1	2	3	4	19/ 20-21/
d. Set limits on discovery ..	1	2	1	2	3	4	1	2	3	4	22/ 23-24/
e. Encourage voluntary exchange of information among litigants.....	1	2	1	2	3	4	1	2	3	4	25/ 26-27/
f. Require good faith effort to reach agreement with opposing counsel regarding discovery before filing discovery motions .....	1	2	1	2	3	4	1	2	3	4	28/ 29-30/
g. Set an early, firm trial date.....	1	2	1	2	3	4	1	2	3	4	31/ 32-33/
h. Conduct or facilitate settlement discussions .....	1	2	1	2	3	4	1	2	3	4	34/ 35-36/
i. Exert active control over trial.....	1	2	1	2	3	4	1	2	3	4	37/ 38-39/
j. Other (please explain) ..	1	2	1	2	3	4	1	2	3	4	40/ 41-42/ 43-44/

## 6. RECOMMENDED CASE MANAGEMENT OF THIS CASE

Given what you now know about this case, what are your recommendations for what the court should have done to manage this case?

(Circle One on Each Line)

ACTION	SHOULD NOT HAVE TAKEN	APPROPRIATE AMOUNT WAS TAKEN	SHOULD HAVE TAKEN MORE	SHOULD HAVE TAKEN LESS	
a. Hold pretrial conference(s) with judicial officer .....	1	2	3	4	45/
b. Set a schedule of dates for pretrial activities.....	1	2	3	4	46/
c. Rule promptly on pretrial motions .....	1	2	3	4	47/
d. Set limits on discovery.....	1	2	3	4	48/
e. Encourage voluntary exchange of information among litigants...	1	2	3	4	49/
f. Require good faith effort to reach agreement with opposing counsel regarding discovery before filing discovery motions ..	1	2	3	4	50/
g. Set an early, firm trial date .....	1	2	3	4	51/
h. Conduct or facilitate settlement discussions .....	1	2	3	4	52/
i. Exert active control over trial .....	1	2	3	4	53/
j. Other (please explain) .....	1	2	3	4	54/

55-56

7. Was this case filed after January 1, 1992?

(Circle One)

YES ..... 1

57/

NO ..... 2 → SKIP TO QUESTION 8

7A. From your point of view, were the case management policies and procedures used by the court in this case better or worse than those in effect for the same kind of case prior to January 1, 1992?

(Circle One)

Much better ..... 1

58/

Better ..... 2

About the same ..... 3

Worse ..... 4

Much worse ..... 5

Don't know ..... 9

7B. How did the overall attorney work time required for this case compare to the work time that probably would have been needed under the case management policies in effect for the same kind of case prior to January 1, 1992?

(Circle One)

Much greater ..... 1

59/

Greater ..... 2

About the same ..... 3

Less ..... 4

Much less ..... 5

Don't know ..... 9

8. Which of the following are true for this case?

(Circle All That Apply)

There was a state court case concerning the same dispute ..... 1

60/

There was a federal or state administrative proceeding prior to filing this federal case ..... 2

61/

There was an appeal filed in this case ..... 3

62/

None of the above ..... 4

63/

**SECTION 2: ATTORNEY WORKLOAD ON THIS CASE**

*We are surveying attorneys in various districts with different court management policies so we can estimate the impact of court management on attorney workload.*

- 9. We would like to know the approximate number of hours worked by you and ALL attorneys for your party or parties on this case. Please include all in-house attorneys, government agency counsel, attorneys employed by party's insurers, U.S. Attorneys, and outside attorneys who worked for your party/parties.

Can you provide estimates of the total hours spent by ALL attorneys for your party or parties?

*(Circle One)*

YES, I can provide estimates of the work time spent by all attorneys combined for this party or these parties ..... 1

64/

NO, other attorneys outside my firm or organization also represented this party or these parties, and my estimates do not include their work time ..... 2 *(Please provide name(s) and address(s) below)*



WRITE IN OTHER ATTORNEYS' NAME(S) & ADDRESS(S) ONLY IF YOUR ESTIMATES DO NOT INCLUDE THEIR WORK TIME.

PLEASE PRINT CLEARLY

NAME \_\_\_\_\_

FIRM \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_

STATE \_\_\_\_\_ ZIP \_\_\_\_\_

NAME \_\_\_\_\_

FIRM \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_

STATE \_\_\_\_\_ ZIP \_\_\_\_\_

10A. Not counting time spent by those attorneys named in Question 9, what is the approximate total number of hours worked by you and all other attorneys for your party or parties on this federal case? Do not include activity related to state court, any government administrative proceeding, or appellate litigation.

Total Hours \_\_\_\_\_

13-17/

10B. How many of the total number of hours worked for your party or parties were spent on each of the activities listed below? Again do not include activity related to state court, any government administrative proceeding, or appellate litigation.

Type of Activity for Federal Court Case		Number of Lawyer Work Hours
ALL ACTIVITY AFTER FILING FEDERAL CASE	a. Trials (include direct preparation for trial here)	18-22/
	b. Alternative dispute resolution such as arbitration or mediation after filing (include preparation time)	23-27/
	c. Discovery after filing, including motions	28-32/
	d. Motion practice, excluding discovery	33-37/
	e. Other pretrial conferences or talks with judicial officer	38-42/
	f. Other time worked AFTER filing federal case: on research, investigation, writing, talking with parties and lawyers outside court, or anything else related to the litigation	43-47/
PREPARATION FOR FILING FEDERAL CASE	g. All time worked BEFORE filing federal case, in preparation for filing case.	48-52/

**SECTION 3: TIMELINESS OF LITIGATION OF THIS CASE**

11. Please indicate the approximate dates for the following events:

- |   |   |   |    |   |  |  |    |  |  |    |  |        |
|---|---|---|----|---|--|--|----|--|--|----|--|--------|
| a. Date the dispute started   | <table style="margin: auto; border-collapse: collapse;"> <tr> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> <td style="font-size: 10px; vertical-align: middle;">/</td> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> </tr> <tr> <td style="text-align: center; font-size: 8px;">MO</td> <td></td> <td></td> <td style="text-align: center; font-size: 8px;">YR</td> <td></td> </tr> </table> |   |    | / |  |  | MO |  |  | YR |  | 53-56/ |
|   |   | / |    |   |  |  |    |  |  |    |  |        |
| MO  |   |   | YR |   |  |  |    |  |  |    |  |        |
| b. Date you began work on this case   | <table style="margin: auto; border-collapse: collapse;"> <tr> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> <td style="font-size: 10px; vertical-align: middle;">/</td> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> </tr> <tr> <td style="text-align: center; font-size: 8px;">MO</td> <td></td> <td></td> <td style="text-align: center; font-size: 8px;">YR</td> <td></td> </tr> </table> |   |    | / |  |  | MO |  |  | YR |  | 57-60/ |
|   |   | / |    |   |  |  |    |  |  |    |  |        |
| MO  |   |   | YR |   |  |  |    |  |  |    |  |        |
| c. Date the case ended for your party or parties. (This may or may not be the same as the court disposition date) | <table style="margin: auto; border-collapse: collapse;"> <tr> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> <td style="font-size: 10px; vertical-align: middle;">/</td> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> <td style="border: 1px solid black; width: 20px; height: 20px; display: inline-block;"></td> </tr> <tr> <td style="text-align: center; font-size: 8px;">MO</td> <td></td> <td></td> <td style="text-align: center; font-size: 8px;">YR</td> <td></td> </tr> </table> |   |    | / |  |  | MO |  |  | YR |  | 61-64/ |
|   |   | / |    |   |  |  |    |  |  |    |  |        |
| MO  |   |   | YR |   |  |  |    |  |  |    |  |        |

12. In your opinion was the amount of time it took from filing this case in federal court to the end of this case, too long, or too short for the interests of justice to be served?

*(Circle One)*

- |                     |   |                              |                            |     |
|---------------------|---|------------------------------|----------------------------|-----|
| Much too long?..... | 1 | }                            | <b>ANSWER QUESTION 13B</b> | 65/ |
| Too long? .....     | 2 |                              |                            |     |
| Reasonable? .....   | 3 | → <b>SKIP TO QUESTION 14</b> |                            |     |
| Too short? .....    | 4 | → <b>ANSWER QUESTION 13A</b> |                            |     |
| Don't know.....     | 9 | → <b>SKIP TO QUESTION 14</b> |                            |     |

13A. Which of the following were significant causes for the time being too short for the interests of justice to be served?

*(Circle All That Apply)*

- Court management, procedures and schedules..... 1 13/
  - Actions or failure to act by parties or attorneys ..... 2 14/
  - Other (please explain) ..... 3 15/
- 
- 16-17/

SKIP TO QUESTION 14

13B. Which of the following were significant causes of the time being too long?

*(Circle All That Apply)*

- Too many civil cases; backlog of civil cases in the court..... 1 18/
  - Too many criminal cases; demands of the court's criminal caseload..... 2 19/
  - Court management, procedures, and schedules ..... 3 20/
  - Nature or complexity of the case ..... 4 21/
  - Actions or failure to act by parties or attorneys ..... 5 22/
  - Other (please explain) ..... 6 23/
- 
- 24-25/

**SECTION 4: STAKES AND OUTCOME OF THIS CASE**

14. To what extent was your party (or parties) concerned about possible consequences beyond the relief sought in this specific case, such as possible future litigation based on similar claims or the possibility of a legal precedent of significant consequences?

*(Circle One)*

- Consequences were of great concern ..... 1 26/
- Consequences were of some concern ..... 2
- Consequences were of little or no concern ..... 3
- I'm not sure ..... 9

15A. Did this case have monetary stakes?

*(Circle One)*

- YES ..... 1 27/
- NO ..... 2 --> SKIP TO QUESTION 17

15B. What was the combined total dollar amount of the final settlement and/or verdicts for or against your party or parties in this case? (Do not add or subtract legal fees and expenses)

Party/Parties to receive                      \$ \_\_\_\_\_ .00 28-35/

(OR)

Party/Parties (and/or insurer) to pay                      \$ \_\_\_\_\_ .00 36-43/

16A. Think about the worst likely monetary outcome for your party or parties combined that might have occurred at trial in this case. What did you think the verdict amount might have been?

Party/Parties to receive                      \$ \_\_\_\_\_ .00 44-51/

(OR)

Party/Parties (and/or insurer) to pay                      \$ \_\_\_\_\_ .00 52-59/



16B. Now think about the best likely monetary outcome for your party or parties combined that might have occurred at trial in this case. What did you think the verdict amount might have been?

Party/Parties to receive \$ \_\_\_\_\_ .00 60-67/

(OR)

Party/Parties (and/or insurer) to pay \$ \_\_\_\_\_ .00 68-75/

17. Were there any nonmonetary stakes involved in this case, for example your party or another party being asked to do something or stop doing something that didn't involve money?

(Circle One)

YES ..... 1 76/  
NO ..... 2

18. Was there any nonmonetary outcome that resulted from this case, for example an order from the court, or a nonmonetary substantive agreement between parties?

(Circle One)

Yes, a nonmonetary order from court..... 1 77/  
Yes, a nonmonetary substantive agreement between parties ..... 2  
No ..... 3

**SECTION 5: SATISFACTION AND FAIRNESS**

19. Now we would like you to think about the outcome of this case. Overall, how satisfied were you with the outcome of this case for your party or parties?

(Circle One)

Very satisfied ..... 1 78/  
Somewhat satisfied ..... 2  
Neutral ..... 3  
Somewhat dissatisfied ..... 4  
Very dissatisfied ..... 5

20. And, overall, how fair do you think the outcome of this case was for your party or parties?

*(Circle One)*

- Very fair..... 1 13/
- Somewhat fair..... 2
- Somewhat unfair..... 3
- Very unfair ..... 4

21. Next think about the court management and procedures for this case. How satisfied were you with the court management and procedures for this case for your party or parties?

*(Circle One)*

- Very satisfied ..... 1 14/
- Somewhat satisfied..... 2
- Neutral ..... 3
- Somewhat dissatisfied..... 4
- Very dissatisfied..... 5

22. And how fair do you think the court management and procedures were for this case for your party or parties?

*(Circle One)*

- Very fair..... 1 15/
- Somewhat fair..... 2
- Somewhat unfair..... 3
- Very unfair ..... 4

**SECTION 6: COSTS OF LITIGATING THIS CASE**

*Information about the costs of litigating this case will allow us to analyze the effect of federal court case management on attorney fees and other litigation costs, both before and after federal case filing. Include all activity that was in preparation for or occurred subsequent to filing the case in U.S district court, up until the time of final disposition of the district court proceedings. Do not include activity related to state court, or any government administrative proceeding, or appellate litigation.*

23. Do you think that attorney fees and/or attorney salaries and other costs of this lawsuit to your party or parties were:

*(Circle One)*

- |                    |   |                       |     |
|--------------------|---|-----------------------|-----|
| Much too high..... | 1 | } ANSWER QUESTION 24  | 16/ |
| Too high .....     | 2 |                       |     |
| About right.....   | 3 | } SKIP TO QUESTION 25 |     |
| No opinion .....   | 9 |                       |     |

24. Which of the following do you think were significant causes of the unreasonable costs to your party or parties?

*(Circle All That Apply)*

- |   |   |        |
|---|---|--------|
| Court management, procedures, and schedules .....   | 1 | 17/    |
| Delays caused by backlog of civil cases<br>or demands of the courts criminal caseload<br>increased costs by causing extra lawyer<br>work, such as repeated review of case ..... | 2 | 18/    |
| Nature or complexity of case .....  | 3 | 19/    |
| Attorney fees were unreasonable .....   | 4 | 20/    |
| Legal expenses other than attorney fees were<br>unreasonable.....   | 5 | 21/    |
| Actions or failure to act by lawyers<br>or parties .....  | 6 | 22/    |
| Other (please explain) .....  | 7 | 23/    |
| <hr/>   |   | 24-25/ |

25. What was the primary attorney fee arrangement with your party or parties?

(Circle One)

Contingent fee or sliding contingent fee ..... 1 →	Percentage of Monetary Outcome Actually Charged  _____%	26/  27-28/										
Hourly fee ..... 2 →	Average Rate Per Hour (Circle One Number)	29/										
Fixed fee ..... 3	<table border="0"> <tr> <td>1</td> <td>Less than \$75</td> </tr> <tr> <td>2</td> <td>\$76 - \$125</td> </tr> <tr> <td>3</td> <td>\$126 - \$175</td> </tr> <tr> <td>4</td> <td>\$176 - \$250</td> </tr> <tr> <td>5</td> <td>More than \$250</td> </tr> </table>	1	Less than \$75	2	\$76 - \$125	3	\$126 - \$175	4	\$176 - \$250	5	More than \$250	
1		Less than \$75										
2		\$76 - \$125										
3		\$126 - \$175										
4		\$176 - \$250										
5	More than \$250											
Prepaid legal insurance plan ..... 4												
Government attorney who was an employee of a party or parties ..... 5												
Private attorney who was a full time employee of a party or parties ..... 6												
Lawyer charged no fee ..... 7												
Other fee arrangement (for example, a mixture of the above) ..... 8												

26. We need to estimate the total attorney fees and other litigation costs for ALL attorneys for your party or parties, excluding costs associated with any state case, government administrative proceeding, or appeal. Will you provide these estimates?

(Circle One)

YES, I will provide estimates of attorney fees and costs for <u>all</u> attorneys combined for this party/ these parties ..... 1	30/
NO, other attorneys outside my firm or organization also represented this party/these parties, and my estimates do not include their charges ..... 2	

26A. Were there any government attorneys, or private attorneys who were salaried employees of your party or parties, or prepaid legal plan attorneys working for your party or parties on this case?

(Circle One)

YES ..... 1	31/
NO ..... 2 → SKIP TO QUESTION 27	

26B. What was the approximate total number of hours that government attorneys, or private attorneys who were salaried employees of your party or parties, or prepaid legal plan attorneys worked on this case?

\_\_\_\_\_ Hours 32-36/

26C. Please estimate the number of hours worked by government or other salaried or prepaid legal plan lawyers in each of the salary categories listed.

YEARLY SALARY	NUMBER OF HOURS	
Less than \$50,000		37-41/
\$50,000 - \$75,000		42-46/
\$76,000 - \$100,000		47-51/
\$101,000 - \$125,000		52-56/
Greater than \$125,000		57-61/

26D. For these government or other salaried or prepaid legal plan attorneys, please estimate the expenses such as expert witness fees, travel cost, transcript fees, the cost of paralegals or investigators paid by your party or parties.

\$ \_\_\_\_\_ .00 62-68/

27. Not including the cost and expenses reported in Question 26A-D for government or other salaried or prepaid legal plan attorneys, please estimate the legal fees and expenses paid by your party or parties. If you cannot separate fees from expenses you may just enter the total in row C.

(CARD 06) 11-12/  
1-10/

- A. Legal fees paid by your party or parties (not including expenses) ..... \$ \_\_\_\_\_ .00 13-19/
- B. Expenses such as expert witness fees, travel costs, transcript fees, the costs of paralegals or investigators..... \$ \_\_\_\_\_ .00 20-26/
- C. Legal fees plus expenses (A + B above) ..... \$ \_\_\_\_\_ .00 27-33/

<p><b>SECTION 7: BACKGROUND INFORMATION</b></p> <p>Finally, a few questions about your legal practice.</p>
--

28. How many years have you been practicing law?

\_\_\_\_\_ years

34-35/

29. What percentage of your practice has been devoted to federal district court litigation during the past five years (or, if less than five years, during the time you have been in practice)?

\_\_\_\_\_ %

36-38/

30. Approximately how many lawyers work in your law office or legal department?

\_\_\_\_\_ lawyers

39-41/

Please use this space for any comments you would like to make about management of this case in particular or about management of litigation by the federal courts in general.

Thank You

COMMENTS:

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

42-43/

44-45/

46-47/

RAND

1700 Main Street, PO Box 2138  
Santa Monica, CA 90407-2138

## LITIGANT COVER LETTER

### INDIVIDUAL PARTY VERSION

DATE

Litigant Name  
Litigant Address

Re: (Case Name), (Court docket number)

Dear (Litigant Name)

I am writing to ask for your cooperation in a national study of costs and delay in the federal district court. This study was ordered by Congress as part of the Civil Justice Reform Act of 1990. RAND, an independent, non-profit research organization is conducting the study.

We have selected at random a number of civil cases in 20 federal courts to be a part of the study and the case named above is one of these. As a party in this case, we would like you to give us your opinions about the way the case was handled, what it cost, and how long it took.

Please take a few minutes to fill out the attached questionnaire and return it to us. For your convenience we have enclosed a postage paid envelope. The questionnaires are mailed directly to RAND and will not be seen by attorneys, the judge, or the federal district court. No case, person, or organization will be identified in our report. We will combine information about your case with information about other cases and report averages and totals. Please do not send this questionnaire to your attorney to fill out because we will separately be contacting attorneys and the judge to get their opinions.

Your cooperation is important. This study will help Congress and the courts decide whether, and in what way, the management of the civil justice system in the United States should be reformed.

Thank you for your help.

Sincerely,

James S. Kakalik, Ph.D.

## LITIGANT COVER LETTER

### ORGANIZATION VERSION

DATE

Litigant Name  
Litigant Address

Re: (Case Name), (Court docket number)

Dear (Litigant Name)

I am writing to ask for your cooperation in a national study of costs and delay in the federal district court. This study was ordered by Congress as part of the Civil Justice Reform Act of 1990. RAND, an independent, non-profit research organization is conducting the study.

We have selected at random a number of civil cases in 20 federal courts to be a part of the study and the case named above is one of these. As a representative of an organization involved in this case, we would like you to give us your opinions about the way the case was handled, what it cost, and how long it took. Attorneys and the judge in the case are also being contacted.

Please take a few minutes to fill out the attached questionnaire and return it to us. For your convenience we have enclosed a postage paid envelope. The questionnaires are mailed directly to RAND and will not be seen by attorneys, the judge, or the federal district court. No case, person, or organization will be identified in our report. We will combine information about your case with information about other cases and report averages and totals.

If you are not the person within your organization who knows the most about this case, please give it to that person to complete. If you prefer, you may write the name and address of the correct person on the questionnaire and return it to us in the enclosed envelope. Please do not send the questionnaire to an attorney outside your organization, as they will be contacted separately.

Your cooperation is important. This study will help Congress and the courts decide whether, and in what way, the management of the civil justice system in the United States should be reformed.

Thank you for your help.

Sincerely,

James S. Kakalik, Ph.D.



# EVALUATION OF FEDERAL COURT MANAGEMENT POLICIES

## LITIGANT QUESTIONNAIRE

### INSTRUCTIONS:

1. Purpose: This questionnaire seeks information about the court management of the case identified in the cover letter, the timeliness with which it was resolved, the costs of litigation, and your satisfaction with the litigation process and outcome.
2. Case and Court: Most questions refer to "this case", which is the case identified in the cover letter. Some questions also refer to "this court", which is the federal district court in which the case was litigated. Please answer all questions with reference to this case and this court only.
3. Please answer questions by circling the appropriate number, 1 **(2)**, or by filling in the answer as requested.
4. If you have any questions, please call the Survey Coordinator, Laural Hill, collect at (310) 393-0411, extension 6107.
5. When you are finished, please return the questionnaire in the enclosed, postage-paid envelope.

THANK YOU FOR TAKING PART IN THIS STUDY

### Statement of Confidentiality

All information that would permit identification of the case, judge, lawyers or parties will be regarded as strictly confidential, will be used only for the purpose of the study, and will not be released for any other purpose without your consent, except as may be required by law. All identification information will be destroyed following the completion of our analyses.

CASE ID:

1-10/

FORM:

 

13-14/

BATCH:

   

15-18/  
19-30/

**SECTION 1: BACKGROUND**

1. Counting the current case, approximately how many federal cases have you (or your organization) been a party to in the last FIVE years?

*(Circle One)*

- |                   |   |     |
|-------------------|---|-----|
| One .....         | 1 | 31/ |
| 2 to 10.....      | 2 |     |
| More than 10..... | 3 |     |

2. Which of the following are true for this case?

*(Circle All That Apply)*

- |   |   |     |
|---|---|-----|
| There was a state court case concerning the same dispute.....                                 | 1 | 32/ |
| There was a federal or state administrative proceeding prior to filing this federal case..... | 2 | 33/ |
| There was an appeal filed in this case.....   | 3 | 34/ |
| None of the above.....  | 4 | 35/ |

3. Are you answering these questions:

*(Circle One)*

- |   |   |                           |                            |
|---|---|---------------------------|----------------------------|
| As an individual party in this case?.....                     | 1 | <b>ANSWER QUESTION 4A</b> | 36/                        |
| For a government organization? .....                          | 2 | }                         | <b>SKIP TO QUESTION 5A</b> |
| For a private organization with fewer than 50 employees?..... | 3 |                           |                            |
| For a private organization with 50 or more employees? .....   | 4 |                           |                            |

**SECTION 2: HOURS SPENT ON CASE**

**4A. FOR PEOPLE WHO ARE ANSWERING AS INDIVIDUALS**

Altogether, about how many hours did you spend on the legal aspects of this case? Include time spent talking with lawyers, going to court, collecting information, filing out forms but do not include time discussing the case with family and friends. Do not count any time related to state court, government administrative proceeding, or appellate litigation.

ENTER TOTAL HOURS \_\_\_\_\_ 37-40/

**4B. How many of the total hours above were spent on each of the following activities:**

Meetings with the judge or magistrate judge	41-43/
Meetings with an arbitrator or a mediator	44-46/
Meetings with lawyers	47-49/
All other legal aspects of this case, for example filling out paper work, collecting information	50-52/

**INDIVIDUAL PARTIES  
SKIP TO QUESTION 6**

**5A. FOR PEOPLE WHO ARE ANSWERING FOR AN ORGANIZATION**

Excluding time spent by lawyers, about how many hours were spent by individuals in the organization on the legal aspects of this case? Include time spent talking with lawyers, being deposed, going to court, collecting information, and filling out paper work. Do not count any time related to state court, government administrative proceeding, or appellate litigation.

ENTER TOTAL HOURS \_\_\_\_\_ 53-57/

**5B. How many of the total hours above were spent on each of the following activities:**

Meetings with the judge or magistrate judge	58-61/
Meetings with an arbitrator or a mediator	62-65/
Meetings with lawyers	66-69/
All other legal aspects of this case, for example filling out paper work, collecting information, and attending meetings regarding this litigation	70-74/

**SECTION 3: TIMELINESS OF LITIGATION OF THIS CASE**

6. Please indicate the approximate dates for the following events:

- a. Date the dispute started MO / YR 13-16/
- b. Date your lawyer began work on this case MO / YR 17-20/
- c. Date this case actually ended for you or your organization. (This may or may not be the same as the court disposition date) MO / YR 21-24/

7. In your opinion was the amount of time it took from filing this case in federal court to the end of this case too long, or too short for the interests of justice to be served?

*(Circle One)*

- Much too long? ..... 1
  - Too long? ..... 2
  - Reasonable?..... 3
  - Too short?..... 4
  - Don't know ..... 9
- } SKIP TO QUESTION 8B 25/
- } SKIP TO QUESTION 9
- } ANSWER QUESTION 8A
- } SKIP TO QUESTION 9

8A. Which of the following were significant causes for the time being too short for the interests of justice to be served?

*(Circle All That Apply)*

Court management, procedures and schedules .....	1	26/
Actions or failure to act by parties or attorneys.....	2	27/
Other (please explain) .....	3	28/
<hr/>		29-30/

SKIP TO QUESTION 9

8B. Which of the following were significant causes of the time being too long?

*(Circle All That Apply)*

Too many civil cases; backlog of civil cases in the court .....	1	31/
Too many criminal cases; demands of the court's criminal caseload .....	2	32/
Court management, procedures, and schedules .....	3	33/
Nature or complexity of the case .....	4	34/
Actions or failure to act by parties or attorneys.....	5	35/
Other (please explain) .....	6	36/
<hr/>		37-38/

**SECTION 4: STAKES AND OUTCOME OF THIS CASE**

9. To what extent were you concerned about the possible effects of the outcome of this lawsuit on other litigation that may involve you or your organization now or in the future?

*(Circle One)*

- Such effects were of great concern ..... 1 39/
- Such effects were of some concern ..... 2
- Such effects were of little or no concern ..... 3
- I'm not sure ..... 9

10A. Was any money at stake in this case?

*(Circle One)*

- YES ..... 1 40/
- NO ..... 2 **SKIP TO QUESTION 12**

10B. What was the total dollar amount of the final settlement or verdict (if there was no settlement) for or against you or your organization in this case? (Do not add or subtract legal fees and expenses.)

RECEIVE                    \$ \_\_\_\_\_ 41-48/

(OR)

PAY  
(OR INSURER  
TO PAY)                    \$ \_\_\_\_\_ 49-56/

11A. Think about the worst likely monetary outcome for you or your organization that might have occurred at trial in this case. What did you think the verdict amount might have been?

RECEIVE \$ \_\_\_\_\_

13-20/

(OR)

PAY  
(OR INSURER  
TO PAY) \$ \_\_\_\_\_

21-28/

11B. Now think about the best likely monetary outcome for you or your organization that might have occurred at trial in this case. What did you think the verdict amount might have been?

RECEIVE \$ \_\_\_\_\_

29-36/

(OR)

PAY  
(OR INSURER  
TO PAY) \$ \_\_\_\_\_

37-44/

12. Were there any nonmonetary stakes in this case (for example you or another party being asked to do something or stop doing something that didn't involve money)?

(Circle One)

YES..... 1  
NO..... 2

45/

13. Was there any nonmonetary outcome that resulted from this case (for example, an order from the court, or a nonmonetary substantive agreement between parties)?

(Circle One)

Yes, a nonmonetary order from court ..... 1  
Yes, a nonmonetary substantive agreement between parties..... 2  
No..... 3

46/

<b>SECTION 5: SATISFACTION AND FAIRNESS OF OUTCOME</b>
--

14A. Now we would like you to think about the outcome of this case. Do you think you won or lost?

*(Circle One)*

Won.....	1	47/
Lost .....	2	
Mixed result.....	3	
Don't know .....	9	

14B. How satisfied were you with the outcome of this case?

*(Circle One)*

Very satisfied.....	1	48/
Somewhat satisfied .....	2	
Neither satisfied nor dissatisfied .....	3	
Somewhat dissatisfied.....	4	
Very dissatisfied .....	5	

14C. And how fair do you think the outcome of this case was for you?

*(Circle One)*

Very fair .....	1	49/
Somewhat fair.....	2	
Somewhat unfair .....	3	
Very unfair .....	4	



**SECTION 6: SATISFACTION AND FAIRNESS OF COURT PROCESS**

15A. Next think about the court management and procedures for this case. How satisfied were you with the court management and procedures for this case?

*(Circle One)*

- Very satisfied..... 1 50/
- Somewhat satisfied ..... 2
- Neither satisfied nor dissatisfied ..... 3
- Somewhat dissatisfied..... 4
- Very dissatisfied ..... 5

15B. And how fair do you think the court management and procedures were for this case?

*(Circle One)*

- Very fair ..... 1 51/
- Somewhat fair..... 2
- Somewhat unfair ..... 3
- Very unfair ..... 4

**SECTION 7: COSTS OF LITIGATING THIS CASE**

16. Do you think your attorney fees and/or attorney salaries and other costs of this lawsuit were:

*(Circle One)*

- Much too high ..... 1
  - Too high..... 2
  - About right ..... 3
  - No opinion..... 4
- 52/
- } ANSWER QUESTION 17
- } SKIP TO QUESTION 18

17. Which of the following do you think were significant causes of the unreasonable costs?

*(Circle All That Apply)*

Court management, procedures, and schedules .....	1	53/
Delays caused by backlog of civil cases or demands of the courts criminal caseload increased costs by causing extra lawyer work, such as repeated review of case.....	2	54/
Nature or complexity of case .....	3	55/
Attorney fees were unreasonable .....	4	56/
Legal expenses other than attorney fees were unreasonable .....	5	57/
Actions or failure to act by lawyers or parties .....	6	58/
Other (please explain) .....	7	59/
<hr/>		60-61/

18. What was the primary fee agreement with your lawyer? If you used more than one lawyer or law firm, circle a code for the type of agreement you had with each lawyer.

*(Circle All That Apply)*

Contingent fee or Sliding contingent fee..... 1 -->	62/	Percentage of Monetary Outcome Paid  _____%	73-74/	
Hourly fee..... 2 -->	63/	Average Rate Per Hour (Circle One Number) 1 Less than \$75 2 \$76 - \$125 3 \$126 - \$175 4 \$176 - \$250 5 More than \$250	75/	
Fixed fee ..... 3	64/			
Prepaid legal insurance plan ..... 4	65/			
Government attorney who was an employee of the litigant ..... 5	66/			
Private attorney who was a full time employee of the litigant ..... 6	67/			
Lawyer charged no fee ..... 7	68/			
Other fee arrangement (for example, a mixture of the above) ..... 8	69/			
I don't know because my insurance company paid lawyer ..... 9	70/			
Did not use a lawyer ..... 10 -->	SKIP TO QUESTION 22			71-72/

**FOR PEOPLE WHO ARE ANSWERING AS INDIVIDUALS:**

19A. What were the TOTAL litigation costs you paid in this case, including lawyers' fees, expert witness fees, transcript fees, and fees for legal assistants or paralegals or investigators. Do not include the costs of medical treatment or lost earnings while injured, or the premiums paid for prepaid legal insurance.

\$ \_\_\_\_\_ .00 13-19/

19B. Approximately how much of the total above was for lawyers' fees?

\$ \_\_\_\_\_ .00 20-26/

**INDIVIDUAL PARTIES  
GO TO QUESTION 22**

**FOR PEOPLE WHO ARE ANSWERING FOR ORGANIZATIONS:**

20A. Were there any government attorneys, or private attorneys who were salaried employees of the organization, or prepaid legal plan attorneys working for the organization on this case?

*(Circle One)* 27/

YES..... 1 ANSWER QUESTIONS 20B AND 20C

NO..... 2 SKIP TO QUESTION 21

20B. What was the approximate total number of hours that government attorneys, or private attorneys who were salaried employees of the organization or prepaid legal plan attorneys worked on this case?

\_\_\_\_\_ Hours 28-32/

20C. Please estimate the number of hours worked by government or other salaried or prepaid legal plan lawyers in each of the salary categories listed.

YEARLY SALARY	NUMBER OF HOURS	
Less than \$50,000		33-37/
\$50,000 - \$75,000		38-42/
\$76,000 - \$100,000		43-47/
\$101,000 - \$125,000		48-52/
Greater than \$125,000		53-57/

20D. For these government or other salaried or prepaid legal plan attorneys please estimate the expenses such as expert witness fees, travel costs, transcript fees, the costs of paralegals and investigators that were paid by your organization.

\$ \_\_\_\_\_ .00

13-19/

21. Not including the cost and expenses reported in Question 20A-D for government or other salaried or prepaid legal plan attorneys, please estimate the legal fees and expenses paid by your organization. If you cannot separate fees from expenses you may just enter the total in row C.

- A. Legal fees paid by your organization (not including expenses) ..... \$ \_\_\_\_\_ 20-26/
- B. Expenses such as expert witness fees, travel costs, transcript fees, the costs of paralegals or investigators ..... \$ \_\_\_\_\_ 27-33/
- C. Legal fees plus expenses (A + B above) ..... \$ \_\_\_\_\_ 34-40/

22. Do you have any other comments about management of this case in particular or about management of litigation in general by the federal courts?

COMMENTS:

---



---



---



---



---



---



---



---



---



---



---

41-42/

43-44/

45-46/

Thank You

RAND

1700 Main Street, PO Box 2138  
Santa Monica, CA 90407-2138