

ANNUAL
REPORT
1975





Public Law 90-219
90th Congress, H. R. 6111
December 20, 1967

An Act

To provide for the establishment of a Federal Judicial Center, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FEDERAL JUDICIAL CENTER

Sec. 101. Title 28, United States Code, is amended by inserting, immediately following chapter 41, a new chapter as follows:

“Chapter 42.—FEDERAL JUDICIAL CENTER

“§ 620. Federal Judicial Center

“(a) There is established within the judicial branch of the Government a Federal Judicial Center, whose purpose it shall be to further the development and adoption of improved judicial administration in the courts of the United States.

“(b) The Center shall have the following functions:

“(1) to conduct research and study of the operation of the courts of the United States, and to stimulate and coordinate such research and study on the part of other public and private persons and agencies:

“(2) to develop and present for consideration by the Judicial Conference of the United States recommendations for improvement of the administration and management of the courts of the United States;

“(3) to stimulate, create, develop, and conduct programs of continuing education and training for personnel of the judicial branch of the Government, including, but not limited to, judges, referees, clerks of court, probation officers, and United States commissioners: and

“(4) insofar as may be consistent with the performance of the other functions set forth in this section, to provide staff, research, and planning assistance to the Judicial Conference of the United States and its committees.

* * * * *

Functions of the Federal Judicial Center, extracted from Public Law 90-210

FEDERAL JUDICIAL CENTER

ANNUAL REPORT

1975

Dolley Madison House
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Washington, D.C. 20005

FEDERAL JUDICIAL CENTER

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Chief Justice of the United States

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for the Tenth Circuit

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Kenneth C. Crawford – Continuing Education and Training

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Charles W. Nihan – Innovations and Systems Development

Alice L. O'Donnell – Inter-Judicial Affairs and Information Services

THE FEDERAL JUDICIAL CENTER

DOLLEY MADISON HOUSE
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August 22, 1975

TO THE CHIEF JUSTICE AND MEMBERS OF THE JUDICIAL CONFERENCE
OF THE UNITED STATES

Subj: Annual Report of the Federal Judicial Center

At the direction of the Board of the Federal Judicial Center, I am honored to transmit herewith the Center's Annual Report for fiscal year 1975. The report provides a brief description of the major elements of the Center's current program. Complete details on each of our activities is available whenever the Conference or its committees may desire further information.

This year has been one of great promise for the judiciary and the Center. As one example, Congress has provided funds for starting the implementation of the Center developed computerized local court management information system called COURTRAN II on a national basis. We hope that this technology will ultimately enable the Administrative Office and the Center to not only expedite statistical reports thereby enabling all courts to obtain timely information on the status of their dockets but also add a new dimension to effective case management techniques on the local level.

Let me take this opportunity to add a personal note. This report is my first as Director of the Center. It has been a continuing challenge and great privilege to follow in the footsteps of Justice Tom C. Clark and Judge Alfred P. Murrah, both of whom did so much to develop the Center and many of the programs described in this report. I have also been blessed with tremendous cooperation and support from the Board, the judiciary, and a dedicated staff. I would like to express my appreciation to all of those who have been a part of the Center's work, particularly to Judge William J. Campbell and Judge Murrah who have continued to contribute so significantly to our educational programs.

It is with great pride in the entire judicial system that this report is tendered.

Respectfully submitted,

Walter E. Hoffman
Director

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INTRODUCTION

This Annual Report presents a panorama of activities undertaken by the Federal Judicial Center aimed at improving judicial administration. Throughout its eight-year history, the Center has devoted its efforts to improving the Federal Judiciary and, by example and cooperation, to improving the judicial systems—both state and local—throughout the Nation.

The Center's mission permits—indeed, requires—diversity in substance, scope and method. Some projects are designed to anticipate the problems of the future and to develop recommended solutions, while others involve taking new approaches to problems that have existed for generations. Among the projects presently being conducted by Center staff members are: studies of the effectiveness of court procedures; evaluations of the effectiveness of the application of technology to the problems of judicial administration; education and training of court personnel—via seminars, correspondence courses, and audio and videotapes; analysis of the impact of legislative changes on the courts; development of new techniques to enhance the work of courts and court personnel; collection and dissemination of information to expedite caseflow; and planning for the future by developing forecasts which predict both the volume and types of cases which will be filed in federal courts in the future.

Before the creation of the Federal Judicial Center in December 1967, five organizations within the judiciary were (and still are) involved in the administration of the Federal court system—the Supreme Court of the United States, the Judicial Conference of the United States, the Circuit Judicial Councils, Circuit Judicial Conferences, and the Administrative Office of the United States Courts:

The Supreme Court, in addition to its general supervisory powers, has authority to prescribe rules of practice and procedure for all federal courts in both criminal and civil cases. Those rules, along with statutory laws of jurisdiction and venue, provide the systematic framework within which the federal courts operate.

The Judicial Conference of the United States was established in 1922 and is composed of 24 judges representing the circuit, district, and special courts, and is chaired by the Chief Justice of the United States. Conference duties include: making comprehensive surveys of the condition of the business in the federal courts, assigning judges to or from circuits or districts, continually monitoring the operation and effect of the rules of procedure, and recommending to Congress legislation designed to improve the operation of the Federal courts.

The Judicial Councils of the circuits, consisting of all United States Circuit Court judges in active service, have the broad power to make all necessary orders for the effective and expeditious administration of the business of the courts within their circuits. Thus the circuit councils have primary power and responsibility for the management of the federal judicial system.

The Judicial Conferences of the circuits are convened annually for the purpose of considering the business of the courts and advising means of improving the administration of justice within each circuit. Membership in these conferences includes all circuit and district judges and representatives of the bar as determined by circuit rules.

The Administrative Office of the United States Courts was created by an Act of Congress in 1939. It is the operations arm of the United States courts as distinguished from the Federal Judicial Center which is the research, development and training arm. Administrative Office functions include: providing staff assistance to the Judicial Conference of the United States; supervising all administrative matters relative to clerical and personnel needs for the Federal courts; administering a personnel system for supporting personnel; providing fiscal services especially with respect to budgeting and procurement processes; allocating supporting personnel based upon Judicial Conference recommendations; and collecting statistical data on federal court business.

Even with the important work of these five organizations, no agency had been charged with the responsibility, or given the necessary resources, to support the judicial branch through independent research, education and training, and through the development and application technology to court management.

The late Chief Justice Earl Warren and other members of the Judicial Conference recognized that the demands of the rapidly expanding federal caseload could not be met by *ad hoc* responses performed by individuals and organizations on a part-time basis. Accordingly, in 1966 the Conference authorized the Chief Justice to appoint a special study committee to probe the possible need for Congressional authorization of a broad program of continuing education, research, training and technological adaptation for the Federal courts. The resulting report of the committee, chaired by former Supreme Court Justice Stanley F. Reed, recommended the creation of a Federal Judicial Center to help the judiciary “. . .attain the dispensation of justice in the federal courts with maximum effectiveness and minimum waste.” This recommendation was approved by the Conference and draft legislation was submitted to Congress. After an extensive series of hearings, and with broad bipartisan support, the Congress enacted Public Law 90-219 on December 27, 1967, establishing the Federal Judicial Center. Shortly thereafter, under the

leadership of its first Director, Associate Justice (Ret.) Tom C. Clark, the Federal Judicial Center began functioning as the Federal Judiciary's research, development and educational arm.

The Center is supervised by a Board of seven members: The Chief Justice as a permanent member and Chairman; the Director of the Administrative Office of the United States Courts as a permanent member; and five members elected by the Judicial Conference of the United States for four-year terms—two circuit judges and three district judges (who are not members of the Conference). The Board selects the Director of the Center. The Director, in turn, appoints such additional professional and clerical personnel as are necessary to enable the Center to fulfill its responsibilities.

The Center's Congressional mandate to "further the development and adoption of improved judicial administration in the courts of the United States" has been implemented through several programs. Each involves a number of individual projects, some of which continue over a period of several years and some of which are completed in the short run. Some require protracted research and unhurried analysis, while others may be susceptible to solution by short-term study or development. This Annual Report highlights the programs and the projects undertaken as part of each program.

The Center's organizational and management philosophy is the key to effective fulfillment of its Congressional mandate. As a professional organization the Center has the goal of selecting the most highly qualified individuals within each discipline which is involved in its unique work. It emphasizes an organic, adaptive (as opposed to bureaucratic) approach to organization. Thus, although the Center is divided into distinct divisions to achieve clear accountability and smooth administration, great emphasis is placed on horizontal interaction and integration. The resources of each division are available to every division. Several projects involve teams composed of individuals from different divisions. The management philosophy can be characterized as one which emphasizes individual responsibility, makes each job as broad as possible, is flexible in using the most appropriate expertise for each project, uses participative decision-making to the maximum extent feasible, and aims at making a response to each problem or request for assistance which reflects the needs of the problem or requestor, not the needs of the organization. The formal organization structure consists of four divisions each of which is responsible for designated projects and each of which uses resources from other divisions in performing its functions.

The Center's *Research Division* has as its two-fold mission the identification of those areas where lack of sufficient information hampers the formulation of recommendations and programs to improve the operation of the federal courts and the development of needed information in those areas. As detailed later in this Report, Research Division projects include: juror

representativeness, sentencing studies, the Civil Appeals Management project, and the forecasting of federal court caseloads. In its aim to generate the best information to guide the development of policy, the Research Division has successfully employed the powerful tools of controlled experimental research in its projects.

The Division of Innovations and Systems Development develops, tests and evaluates new technologies designed to improve the efficiency and effectiveness of court processes and studies various systems of case management and court organization in an effort to enhance the understanding of the advantages and disadvantages of particular systems for individual courts. The Systems Division has responsibility for such activities as the evaluation of computer assisted legal research systems, the district court studies, the COURTRAN project, evaluation of computer-aided transcription systems, and the videotape pilot projects. The tools of controlled experimental research are also used by this division in its evaluation projects.

The Division of Inter-Judicial Affairs and Information Services serves to coordinate Center activities with those of other organizations working in the area of judicial administration. This Division also provides information on the Federal Judiciary and court administration to interested persons through its Information Service.

The Continuing Education and Training Division is responsible for stimulating, creating, developing and conducting programs of continuing education and training for all personnel in the Judiciary. Its basic objective is to develop or increase in every member of the Federal court family the capacity to learn, accept and utilize new ideas in ever-changing circumstances.

While the Inter-Judicial Affairs and Information Services program and the Continuing Education and Training program more closely reflect strict division responsibilities, many projects do cross divisional lines. Also, the very nature of the work of these two divisions requires them to maintain continuous daily contact with other Center divisions. Thus, the Center has organized its programs and its divisions so as to combine optimal organizational efficiency with optimal organizational flexibility.

Each year in this Annual Report, the Center has acknowledged its indebtedness to the judges and other personnel of the Federal Judiciary. Any contribution by the Center is in very substantial measure due to the willing—indeed the eager—assistance of judicial personnel. As in the past, it is no longer adequate to merely express appreciation for this assistance. It is more accurate to acknowledge that this Report is a reflection of the partnership of the Federal courts and the Center working together in a joint program to achieve the very best of which the system is capable.

I. ORGANIZATION AND GENERAL SERVICES

A. **THE CENTER BOARD.** In September 1974, the Judicial Conference of the United States elected Chief Judge Alfred A. Arraj of the District of Colorado to the Board of the Center. Judge Arraj fills the unexpired term of Judge Walter E. Hoffman who resigned from the Board to accept appointment as the Center's third Director.

At its March 1975 session, the Conference acted to fill two vacancies on the Center Board. United States Circuit Court Judge Ruggero J. Aldisert of the Third Circuit Court of Appeals was elected to serve a four-year term. Judge Aldisert was originally elected to the Board in 1972 to fill the unexpired term of Judge Frank M. Coffin who resigned when he became Chief Judge of the First Circuit. United States District Court Judge Robert H. Schnacke of the Northern District of California was elected to replace Chief Judge Adrian A. Spears of the Western District of Texas whose term had expired.

B. **BUDGET.** The House Appropriations Committee has recommended an appropriation of \$6,400,000 for Center operations during Fiscal Year 1976, with an additional \$1,680,000 for the transition period. This amount represents an increase of \$2,950,000 over the prior fiscal year but is \$4,148,000 less than requested. This reduction resulted from the House Committee's decision to allow funds for the accelerated implementation of COURTRAN II to assist the Federal courts in meeting their responsibilities under the Speedy Trial Act of 1974 for one year at a time. The Center had requested a total of \$6,567,900 for COURTRAN II implementation to be available until expended. The amounts not allowed for the COURTRAN project will be sought in future appropriations.

The Center has requested Senate Appropriations Committee consideration of an amendment to cover the mandatory increase in subsistence and per diem allowances for fiscal year 1976 and the transition period caused by the Travel Expense Amendments Act of 1975.

During fiscal year 1975, the Center received a supplemental appropriation of \$1,020,000 to accelerate the implementation of COURTRAN II to meet the demands of the Speedy Trial Act. Of the total Center appropriation of \$3,450,000, approximately 61% was expended on research and development activities; 25% on continuing education and training; 9% for general supervision, administration and planning; and 5% on inter-judicial affairs and information services.

C. **STAFF.** At the end of October 1974, Judge Alfred P. Murrah, the Center's second Director, reached the statutory retirement age of 70 and returned to service with the Tenth Circuit Court of Appeals. The Board of the

Center elected Senior Judge Walter E. Hoffman, former Chief Judge of the Eastern District of Virginia and Center Board Member, to the Directorship.

In March 1975 Director Hoffman announced that Joseph L. Ebersole, who had been serving as the Director of the Center's Division of Innovations and Systems Development, had been appointed Deputy Director. Charles W. Nihan, Assistant Director of the Systems Division, was subsequently named Director of that Division.

During the year, several staff additions and replacements were made below the level of Division Director. The additional staff members were assigned to the Research and Systems Divisions. At the close of fiscal year 1975, the permanent Center Staff numbered 48 with an additional four (4) employees retained for special projects.

At the direction of the Board, the Center has engaged a consultant to develop a compensation administration plan for excepted category personnel. The recommendations developed from this study will be submitted to the Board early in the next calendar year.

D. FACILITIES. During the past year, the Center's staff reached a size which required additional office facilities. Space for the Center's COURTRAN II computer installation and its supporting staff was provided in the United States Courthouse in Washington. Plans for obtaining space necessary to meet the requirements of the coming year are currently being considered.

II. PROGRAM ON APPELLATE LITIGATION

The past year witnessed the culmination of two significant efforts, both supported by Center research projects, aimed at fundamental modifications in the structure and procedures of the courts of appeals. The Advisory Council for Appellate Justice presented proposals for circuit court improvement to the Commission on Revision of the Federal Court Appellate System. The Commission, in turn, completed its final report on the structure and operating procedures of the courts of appeals. The Center will monitor the progress of legislation introduced as a result of the Commission's report, and will provide any assistance the Judiciary or the Congress may require in implementing the proposals. In the meantime, projects designed to provide more immediate support for the courts of appeals will continue through efforts to evaluate the use of computer legal research technology and the provision of senior staff attorney assistance in civil appeals management.

A. COMMISSION ON REVISION OF THE FEDERAL COURT APPELLATE SYSTEM. The Commission has delivered its second and final report on the structure and internal operating procedures of the courts of appeals. This

report was delivered to the President, the Chief Justice, the Speaker of the House, and the President of the Senate on June 20, 1975.

The Commission recommended the establishment of a National Court of Appeals (under Article III of the Constitution) with reference jurisdiction from the Supreme Court and transfer jurisdiction from the circuit courts of appeals. The new court would sit *en banc* and its decisions would constitute precedents binding on all other federal courts unless modified or over-ruled by the Supreme Court. The Commission also made a number of recommendations concerning mechanisms for altering the internal operating procedures of the courts of appeals, standards for the grant or denial of oral argument, opinion writing and publication, and the use of central staff.

The Center assisted the Commission by conducting a survey of attorney attitudes toward various facets of appellate practice in three circuits. A similar questionnaire was administered to all federal judges and a report comparing the results of both surveys was submitted. Three two pieces of research indicate that judges and appellate practitioners agree that delay and crowded caseloads are a problem, but differ as to the proposed cure for swelling appellate dockets, with judges looking to changes in procedure and lawyers advocating more appellate judges and courts.

The Center and the Commission jointly sponsored a research effort assessing the potential development of a weighted caseload system for the appellate courts.

The recommendations of the Commission now await legislative, judicial, and executive consideration.

B. ADVISORY COUNCIL FOR APPELLATE JUSTICE. The Center continued to work closely with the Advisory Council (a group sponsored jointly with the National Center for State Courts) in its efforts to propose solutions to appellate problems at all levels of government. The Council gave particular attention to the fundamental issues of adequate resources for court systems, effective use of supporting personnel, fair and effective review of criminal cases with particular emphasis on finality, standards for the issuance and publication of opinions, and the need for the establishment of a national level court of review for the federal system.

The Council sponsored a national conference on appellate problems in San Diego in January, 1975. This Conference brought together over 250 members of the bench, the bar, the research community, academia, and the public to address critically the many problems faced by both state and federal appellate courts and to discuss proposals to cure or meliorate them. The Judicial Center and the National Center for State Courts lent assistance and

support to the organization of this conference, with the National Center now pursuing many of the proposals for state appellate court reform.

The final meeting of the Advisory Council was held at the Center in April, 1975. The Council reached a consensus on many of the issues and problems facing the courts and presented its views to the Commission on Revision of the Federal Court Appellate System for incorporation in the Commission's final report.

C. EVALUATION OF COMPUTER ASSISTED LEGAL RESEARCH SYSTEMS.

1. **Computerized Legal Information Retrieval Systems.** Computer assisted legal research systems are developing very quickly with evergrowing data bases of cases, administrative rulings and statutory materials. In the second half of this past fiscal year the Center began a project designed to evaluate two different types of systems. LEXIS, developed by Mead Data Central, Inc., is an interactive on-line system which allows the user to retrieve the full text of cases and other materials in the data base. QUIC/LAW, developed in the United States by West Publishing Company, is an interactive on-line system which allows the user to retrieve the text of case headnotes prepared by West's editors.

This evaluation project is the only rigorous systematic test of computer assisted legal research systems conducted, so far, in a real life setting. While some law firms and other organizations have installed computerized legal research systems without thorough in-house evaluation of such systems, there are several reasons for the Center having such a rigorous and methodical evaluation plan. First, since the potential expenditure of relatively large sums of public money are involved, the Board of the Judicial Center felt an evaluation of these systems should be made in order to be able to recommend use or non-use of these systems in the United States Courts. Accordingly, funds for a pilot project were approved, contingent upon an agreement by the judges in each pilot court to participate in the evaluation. Second, in order to justify the large expenditures of money over the long run for either commercially developed or internally developed computerized legal research systems, systematic and rigorous data on their usefulness must be collected. Third, money spent on computerized legal research systems might possibly be better spent on some other kind of research support for a federal court such as additional law clerks. Fourth, there are at least two and, possibly, there will be more legal research systems available. Systematic data is needed to indicate which system provides the best service at the best price.

Since both the choice of system and the evaluation may have very broad negative consequences for the company or companies not chosen, it is necessary to be certain that the evaluation be done as objectively and systematically as possible.

The core of the evaluation project consists of comparing two memoranda on the same issue, one prepared using a computerized system and the other using a solely manual system. This comparative methodology, settled upon after extensive discussion and review by both Center staff and outside consultants, is the only methodology that will provide the type of data needed to evaluate these systems fairly and accurately. By using this methodology we can eliminate the effects on research work of differences in ability of law clerks doing the research, differences in the research problems, and other confounding factors.

On the basis of the double memorandum phase of the project, the systems will be evaluated in terms of their cost effectiveness, potential for saving research time, and potential for maintaining or improving the quality of legal research. The project will also evaluate user satisfaction, based on the opinions of both actual users of the systems, which in most cases will be law clerks, and of the judges who receive legal research done using the systems. In addition, given the long experience federal judges have with law and legal research, the judges' general opinions about these computerized legal research systems are considered an integral part of the evaluation plan and will be solicited.

LEXIS terminals installed in Cincinnati and Denver are being used by judges and law clerks in the Sixth and Tenth Circuits, both of which have agreed to participate in the pilot project and evaluation plan. LEXIS and QUIC/LAW terminals have been temporarily installed in the D.C. federal courthouse on a demonstration basis while the Center and the judges work out the details of their participation in the pilot project.

Data collection has already begun in all three circuits. The data collection effort should be completed before the end of fiscal year 1976 and a final report on the project will be available shortly thereafter.

2. **Computerized Citation Verification System.** This project was undertaken to measure the usefulness of a computerized citation verification system called Autocite (developed by the Lawyers Cooperative Publishing Co.) to the federal courts. The Center has installed an Autocite terminal in the D.C. Courthouse for use by

both federal district and appellate judges, and has closely monitored its use. Much of the data needed to evaluate ACT service has been collected and a full report analyzing its potential will be forthcoming.

Preliminary analysis of the data indicates that it can save considerable amounts of time for law clerks involved in cite checking. However, not all law clerks in the D.C. Courthouse use the service. Presently, the non-users are being surveyed to determine why the system was not used.

There are two other remaining elements of the project. One is a follow-up study to determine what overlap exists between the Autocite service and any of the computerized legal retrieval systems. The second is a further analysis of the usage of the service now that it has been moved from a private office into the judges' library where it is more accessible and more visible.

D. CIVIL APPEALS MANAGEMENT PROJECT (CAMP). With continued Center support, the Second Circuit maintained its pilot project to determine the value of a senior attorney assisting the court in the preliminary stages of civil appeals. Through scheduling orders and conferences prior to briefing and argument, the senior attorney explores settlement possibilities, helps focus the issues on appeal, and works in other ways to improve the quality of the case on appeal.

The Center is evaluating the project through a controlled experiment, randomly assigning the cases eligible for senior attorney CAMP procedures to treatment and control groups. Cases in the treatment group receive the procedures designated by the senior attorney. Cases in the control group would have received CAMP procedures, but for the purposes of evaluation, those procedures have been withheld.

This evaluation method is a milestone in appellate court research since it is the first time that the powerful tool of controlled experimentation has been used to test the efficacy of a pilot court procedure. The model calls for a review of court records and a survey of attorneys who have been participants in the two groups of cases in the effort to assess the impact of the senior attorney and his procedures. Panels of judges will be queried in order to assess the impact of CAMP procedures on the quality of appeals that do not settle.

The project will continue through the end of 1975 and a report on the results and conclusions will be published thereafter.

E. CONFERENCE OF CIRCUIT CHIEF JUDGES. As in past years, the Center served as host to the Conference of Chief Judges of the United States

Courts of Appeals. The Conference met on two occasions on the Saturdays immediately following the semi-annual sessions of the Judicial Conference of the United States.

At their September 21, 1974 meeting, the Chief Judges considered a report from Chief Judge Kaufman on the Second Circuit's Civil Appeals Management Project and discussed the merits of staff attorney led settlement discussions in appropriate civil cases. Reports were also made on the Administrative Office's survey of court of appeals docketing procedures and the Center's activities in the study of computer assisted legal research. Mr. Robert Lipscher, Circuit Executive of the Second Circuit, described the general functional responsibilities currently performed by the Circuit Executives.

On March 8, 1975 the Conference met and amended its Bylaws to provide permanent membership for the Chief Judges of the United States Court of Claims and the United States Court of Customs and Patent Appeals. The Chief Judges discussed procedures for the assignment of opinion writing responsibilities; problems relating to the early appointment of law clerks; and claims for excess compensation under the Criminal Justice Act. Following the Conference, Chief Judge Irving R. Kaufman of the Second Circuit was selected, pursuant to the Bylaws, to serve as Conference Chairman for the period of one year.

F. STUDY OF SCREENING PRACTICES AND THE USE OF STAFF LAW CLERKS. Growing demands for federal appellate court services during the period 1965-1974 have forced a number of courts to institute screening mechanisms in order to identify and differentiate cases that require less than the full application of traditional oral argument and opinion-writing practices. These screening decisions have been the subject of critical review by attorneys and by the Commission on Revision of the Federal Court Appellate System. Some courts of appeals have also created central law clerk staffs (responsible to the court as a whole and not a particular judge) in order to handle the dramatic increase in appellate court business.

This year the Center completed an in-depth study of the use of central staff law clerks and their participation in screening decisions. This case study, conducted in the Fourth Circuit, addressed the central, yet underlying, question raised by the use of staff: To what extent, if any, does the delegation of particular tasks to staff law clerks result, as some observers fear, in the delegation of the effective power to decide cases? Although quantitative data on court operations in the courts of appeals may be instructive, it cannot answer this central question. However, extensive interviews with the judges of the Fourth Circuit, their personal law clerks, and the court's staff law clerks shed considerable light on a system that prevents the delegation of judicial authority. The study found that the key to such prevention is adequate

supervision and that this supervision is obtained by the frequent interchange of communications between the judges and the staff law clerks concerning particular cases. When a judge writes to another judge on a staff law clerk case, that judge always sends a copy of his correspondence to the staff law clerk. This procedure assures that the staff law clerk is apprised of correct as well as incorrect recommendations. This feedback from the judges permits the staff law clerk to modify future recommendations in similar cases in order to adequately reflect the views of the court.

Copies of the study were sent to the Circuit Revision Commission and the Senate Judiciary Subcommittee on Improvements in Judicial Machinery. The study has also been reprinted as the lead article in Volume 1/2 of the *Justice System Journal's* special issue on developments in appellate court management (March 1975).

III. PROGRAM ON TRIAL COURT LITIGATION

This program encompasses those Center activities that are designed to implement generalized solutions to the problems faced by the districts through the study of particular court situations and promising technological applications. In the latter area, for example, the Center's evaluation of computer-aided transcription services will provide information necessary to assess the value and impact this promising technology can have in the area of reducing transcript delays. The district court studies project is not only providing insights into the operations of trial courts but is also gathering information which will serve as the basis for evaluating the effectiveness of various methods of case-management throughout the system. A significant new addition to this program came as a result of the enactment of the Speedy Trial Act of 1974 whereby the Center is required to advise the district courts with regard to their criminal case-management responsibilities under the Act. This activity will draw upon the experience of many past and on-going projects and can be expected to be a principal Center function in the years ahead.

A. DISTRICT COURT STUDY PROJECT. The first phase of this project is now near completion, and is expected to be concluded by December 1975. This phase consisted of comprehensive visits to five metropolitan courts chosen for their contrasting performance in such variables as caseload per judgeship and median disposition times. The visits involved extended discussions with each judge, observation of representative proceedings, and discussions with most supporting personnel. Visits have been completed and an interim report submitted to the court for the districts of Maryland, Eastern Pennsylvania, and Eastern Louisiana. A number of suggestions made in these reports have already been adopted. A visit to the Central District of California is complete and a visit to the Southern District of Florida is in progress; interim reports will be finished shortly.

A comparative report on these five districts will bring this phase to an end by December, 1975. The report will highlight findings concerning the relative effectiveness of contrasting case-management techniques, as determined by observation and by analysis of court statistics. It is hoped that these findings can be assembled in the form of a proposal or group of proposals to courts that find it necessary or desirable to improve the speed or efficiency (or both) of their dockets. This portion of the report may serve as the preliminary version of a guidebook or manual for routine litigation.

The second phase has the objective of obtaining detailed hard data on the effects of alternative case-management procedures on a court's statistical performance. This phase has proceeded more slowly than expected. There have been unexpected obstacles, and it is now clear that the Center is engaged in the first systematic effort in this direction (thus, there is little useable guidance available from previous work). A number of projects currently in a pilot or planning stage appear particularly promising, and several others are projected. A civil case-flow study in progress will identify those specific aspects of the process (pleading, discovery, etc.) where unnecessary delay occurs in the courts studied. The study involves a comparison of cases from different courts which are matched on the facts, and the study of cases within a court that can be classified as simple or complex. These classifications will allow an analysis of the variation in a court's handling of different types of cases and cross-court analysis of case-management in similar cases. It is hoped that the technique developed can be refined into an easily-transferable package that would enable courts to identify readily some precise causes and cures for delay in civil cases.

Also under consideration are other projects to measure differences in lawyer attitudes and techniques in various courts, and the impact of those differences on the courts. Likewise, several statistical inquiries on the criminal side are underway in connection with the Speedy Trial Act. Possibly most significant, the Center hopes to arrange a pilot project which would permit evaluation of the effect of a "package" of proposed procedural changes (civil and criminal) on a court's docket.

The project has been heavily involved in the Center's response to the Speedy Trial Act. Five multi-division courts were visited very briefly early in 1975 to evaluate the special problems of those districts and to identify solutions. The results of these inquiries, plus the fruits of the "first phase" visits to metropolitan courts, will be an important part of the Speedy Trial Act seminars.

An important aspect of the project will be a number of proposed revisions in the system of judicial statistics. The most significant of these involves the case weight system presently utilized to evaluate the relative workload in the district courts. Research has shown that the present case weights may underestimate the judicial time involved in certain case categories

and that the variation in workload among the courts may be underestimated. The present system is being reevaluated and it is hoped that a revised system can be developed which will remedy the problems and allow an updating of weights without costly data collection.

Further plans also include some additional court visits to supplement the completed visits to metropolitan courts. Several smaller multi-division courts will be visited, rounding out the data base of the project and correcting any undue emphasis on the special problems of large courts that may now exist.

B. IMPLEMENTATION ON THE SPEEDY TRIAL ACT. Under Title I of the Speedy Trial Act of 1974, each district court is required to formulate speedy trial plans "after consultation with, and after considering the recommendations of the Federal Judicial Center." The Judicial Center is required to advise and consult with the district courts and their planning groups in connection with their duties under Title I. Several activities have been undertaken to comply with this statutory directive. The Center has provided staff assistance to the Committee on the Administration of the Criminal Law in its development of interpretive guidelines and revisions in the model plan under rule 50(b) in the light of Speedy Trial Act requirements. Center staff have paid visits to several multi-division districts to gain an understanding of the special problems that such districts face in complying with the Act. In cooperation with the Administrative Office, a project was commenced during the fiscal year to collect, tabulate, and provide to the district courts for their use in the planning process certain information that has previously been reported to the Administrative Office but not previously tabulated by them; these data include the time from filing to arraignment and the time from arraignment to commencement of trial. In September and October of this year, the Center will sponsor six orientation conferences in various locations for the members of the district planning groups established under the Speedy Trial Act.

C. COMPUTER-AIDED TRANSCRIPTION EVALUATION. The objective of this project is to both evaluate computer-aided transcription systems and to stimulate their use in the federal courts. Questions being addressed by the project are: (1) What percentage of official stenotype reporters have a style which would allow them to use computer-aided transcription?; (2) What impact can computer-aided transcription have on transcript delays?; (3) Under what circumstances is computer-aided transcription economically feasible?; (4) What types of service options are best suited for federal court reporter use?; and, (5) Are the services provided by each computer-aided transcription company of acceptable quality?

Over seventy reporters are involved in the project. Each has submitted sample pads and taken standard tests prepared by the National Shorthand Reporters Association expressly for this project. The sample and test products

have been evaluated using a specially developed analysis from which an index of predicted "computer compatibility" is derived. Reporters are then selected randomly to participate in the second phase which consists of training in and actual use of a computer-aided system. During this phase the Center lends each participating reporter an Electronic Shorthand Transcriber, pays the complete cost of the first 200 pages of transcript produced, and subsidizes the cost of up to 800 additional pages. The project includes an evaluation of both quality and speed of production of all transcripts produced under the subsidy.

As of the end of the fiscal year fifteen reporters had been trained and were using the system. During the year services were obtained from only one computer-aided transcription company. Arrangements have been made to include additional companies in the evaluation during the coming year. An additional service option will also be evaluated in fiscal year 1976. This will involve installation of editing terminals in two districts so that participating reporters can edit their own transcripts via the terminals. The purpose of testing this option is to determine whether it is a more economical method for transcript production. It is expected that an additional twenty-five reporters will be participants in the evaluation next year.

D. CONFERENCE OF METROPOLITAN CHIEF JUDGES. Under the Center's continued sponsorship, the Conference of Metropolitan Chief Judges met on two occasions during the past fiscal year.

The first Conference session was held in October 1974. The Steering Committee reported on its activities and proposed the creation of three *ad hoc* committees to identify future areas of study for the Conference. Discussions followed on the ways in which Circuit Executives can provide assistance to District Courts; the use of magistrates and staff law clerks to process prisoner petitions; methods of court organization and committee systems; class actions; and the reassignment of cases under differing calendaring systems. The Mission Statement developed by the Metropolitan Clerks Conference was reviewed and unanimously endorsed by the Conference.

The second meeting was held in March 1975. The Conference received the report of the Clerks' Conference and unanimously endorsed a series of guidelines prepared by the clerks. A report on recommendations of the Center's §1983 Committee was presented for discussion and comment. This first formal presentation outlining the requirements of the Speedy Trial Act of 1974 was made by Center and Administrative Office staff in order to assist the Chief Judges in beginning their planning for implementation of the Act. A special session on problems of courthouse security attended by the Director of the United States Marshal Service and the head of GSA's Federal Protective Service resulted in resolution of a number of problems which were common to metropolitan districts. The Conference had a special session on calendar management which explored suggested solutions for those problems of case

delay which still exist. Reports were received from each *ad hoc* committee and the Administrative Office General Counsel reported on the status of pending legislation which would, if passed, have an impact on the federal courts.

E. CONFERENCE OF METROPOLITAN DISTRICT COURT CLERKS. This Conference was established at the instance of the Metropolitan Chief Judges' Conference. Its purpose was to implement project assignments from that group. The Conference completed all of its projects this year after a life of less than two years. The outstanding success of the Conference confirmed the efficacy of the Center approach which involved: (1) Creating a group to conduct specific projects; (2) Providing consulting and project management assistance through a Center Staff member; and (3) Contracting for the services of an expert in organizational behavior to provide immediate feedback to the group and to advise on procedures for achieving organizational effectiveness.

The Conference produced a modernized statement of the mission of a District Court clerk's office and recommended duties and responsibilities of the clerk. Both of these were endorsed by the Metropolitan Chief Judges in October, 1974. Because of the importance of calendar management and the role a courtroom deputy clerk can play in assisting a judge in this area, the Conference produced a guideline describing the recommended functions to be performed by courtroom deputies.

There has been rapid growth in clerks' offices over the past twenty years, but changes in organizational structure and personnel administration to reflect new circumstances had been lacking in some courts. The Conference addressed this problem by preparing a set of organizational guidelines including a range of acceptable organization structures. This manual includes principles applicable to all clerks' offices and points out the dysfunctional features of structures which should not be used. To improve personnel administration in the clerks' offices, the Conference prepared special guidelines which reflect the best current practices adapted to the specific problems faced in courts, thus achieving a rare blend of the theoretical and practical. Both the organizational structure and personnel administration guidelines were endorsed by the Metropolitan Chief Judges in their March 1975 meeting. The Conference has been disbanded but may be reconvened in the future if circumstances warrant.

F. VIDEOTAPE APPLICATIONS. The Center's videotape pilot project continued in operation in four district courts (E.D. Mich., N.D. Ohio, E.D. Pa., and W.D. Pa.). The scope of the project is both broad and flexible. The pilot courts use video equipment, supplied by the Center and operated by Center trained deputy clerks, to pre-record testimony on videotape in studios located in the courthouse. The Center maintains close contact with the pilot courts, placing upon them the responsibility to implement the technology--through

local rules or policies as necessary, to maintain records for evaluation, and encouraging them to experiment with innovative applications of the medium.

In March 1975 the Center conducted a two-day seminar-workshop for the clerk technicians in charge of the daily operation of the projects. The performances of the individual courts, including the quality of the recorded tapes, were evaluated; court developed procedures and uses of the technology were discussed; new products were demonstrated; and suggestions for future programs were made. It is planned to expand the project to include a fifth pilot court, the Southern District of New York, during the coming year.

At the suggestion of a judge from the Middle District of Georgia following a conference at the Center, an experiment to test the efficacy of using videotape in § 1983 cases was conducted in that court. A hearing was conducted by a magistrate in the state prison thereby eliminating the transportation of prisoners to the courthouse and allowing prison conditions complained about to be videotaped. This experiment is now being evaluated to determine whether a pilot project should be initiated.

The Center has contributed substantially to the growth and development of video technology in the courts. The Center's publication on video technology, a procedural manual, *Guidelines for Pre-Recording Testimony on Videotape Prior to Trial*, is being widely used in both state and federal courts. Requests for copies were received from 420 individuals and organizations. These *Guidelines* set forth procedures with high standards aimed at insuring that a reliable and accurate recording will be produced.

Because there is still a possibility that equipment may malfunction or a tape may be lost or tampered with, further steps were taken this year to increase reliability and trustworthiness. Audio back-up systems capable of making duplicate original audiotapes for the court and cassettes for the parties were designed by the Center and now supplement the video systems in each pilot district.

In the past, the pilot courts used the counter on the videotape recorder to index tapes for locating particular points (for example, where a witness' testimony begins or an objection occurs). This year the pilot installations were provided with a more precise method of indexing—an electronic time-date generator which inserts the hour-minute-second and date into a portion of the tape. The recorded tape is permanently indexed, thereby facilitating editing on playback and safeguarding against the possibility of tampering. When used in conjunction with the Center's edit switch (which cuts off inadmissible testimony from the jury's view by a flip of a switch) courts will be able to more precisely edit videotapes when they are played back to the jury.

The possibility of the biasing effects of color or monochromatic videotapes has been the subject of recent research. The Center has been studying the results of this research for the possible preferences of either color or black and white equipment. A staff member has continued to sit on an advisory panel for research conducted at Michigan State University under a National Science Foundation grant. The Center has also served in an advisory role for a prospective closed circuit remote oral argument to a court of appeals sponsored by the ABA Appellate Judges Conference.

The Center's own video system and technical experts have been used to record seminars, to present technology sessions at conferences, to produce a videotape describing the pilot project in the Northern District of Ohio, and, along with the pilot courts of the Western and Eastern Districts of Pennsylvania, to record the Third Circuit Judicial Conference.

During the coming year the thrust in this area will be shifted to research into the impact this technology has on juror perceptions, trial procedures and trial outcome. The differential effects of alternative production and editing techniques and alternative screen sizes will be researched in order to provide guidelines for the control of production and playback methods in the courts.

G. EVALUATION OF PROCEDURES FOR PRISONER CIVIL RIGHTS PETITIONS. In 1973, the Center's Board appointed a committee of judges to look into the problems associated with the large number of prisoner civil rights petitions filed in the district courts. That committee, known as the § 1983 Committee, began work by polling the entire federal judiciary for suggestions. Synthesizing these inputs with their own ideas and impressions, and working in conjunction with the Ad Hoc Habeas Corpus Committee of the Judicial Conference, the Committee has established tentative standards for processing prisoner civil rights cases through the courts and has developed model forms to expedite those procedures.

In an effort to evaluate some of the recommended procedures, the Center will be funding an experiment with the use of a staff law clerk in three district courts. This clerk will receive prisoner petitions and prepare memoranda, reports, and draft documents in these cases, thus freeing valuable judge and elbow law clerk time. In addition, the Center will be documenting various other methods and procedures employed in several district courts for the handling of these cases, which constitute one-sixth of the filings in the average district court's civil docket. This research, combined with the tentative standards, will be analyzed and reported to the Center's Board with recommendations for implementation as appropriate.

The Committee is chaired by Judge Ruggero J. Aldisert, United States Court of Appeals for the Third Circuit. Other Committee members are Judge Griffin B. Bell, Judge Robert C. Belloni, Judge Frank J. McGarr, and Judge

Robert J. Kelleher. Professor Frank J. Remington of the School of Law, University of Wisconsin serves as reporter and consultant for the Committee.

H. JUROR REPRESENTATIVENESS. Under the provisions of 28 U.S.C. § 1863, the federal courts have a responsibility to assure that federal juries are drawn from a fair cross-section of the community in which the district court sits. The Judicial Conference Committee on the Operation of the Jury System has initiated a regular reporting procedure to monitor the results of jury selection. Data is periodically gathered reflecting race and sex of the persons in the more than 300 jury wheels in the federal system. In the past, the Center has obtained Bureau of Census data on the race and sex composition of the population in each of the wheel areas for comparison with 1972 and 1974 jury wheel data. Reports on these two studies have been made to the Committee.

In addition to the effort with comparative statistics, the Center, working with the Jury Committee and the Administrative Office, has developed a new system for regular data gathering. The system, designed to be less burdensome to the district clerk's office, is now under consideration by the Jury Committee. As proposed, it would enable analysis of juror representativeness at all stages of juror selection, from master wheel through actual appearance for service, and would aid in diagnosing some of the causes of non-representativeness. Further, the new system has a flexible reporting requirement; rather than a single date for the entire judiciary, reports would be prepared only at those times when the individual court refills a wheel, changes the excuse or exemption provisions, or the like.

I. JUROR UTILIZATION. All projects in this area were completed in previous years, however the Center continues to fund special surveys conducted in preparation for Center sponsored workshops. Only one juror utilization workshop was held this year. A series of workshops which will include sessions on juror utilization are planned for the coming year under the auspices of the Education and Training Division.

J. INTERPRETING SERVICES. The Center continues to collect information on the nature and possible problems associated with the provision of interpreting services in the federal courts. In the past, courts were surveyed to assess their present situations and to document the quantity and quality of services provided. Pending Congressional action in the form of the Bilingual Courts Act has resulted in increased attention to the impact and implications of a systematic interpretation framework. Particular interest has been generated in the related problems associated with a proposed change to permit the use of Spanish in the district court in Puerto Rico. The Center is providing assistance in this regard to the Judicial Conference Committee on Court Administration.

K. BOARD OF EDITORS - MANUAL FOR COMPLEX LITIGATION.

The Center continues to sponsor and support the work of the Board of Editors for the *Manual on Complex and Multidistrict Litigation*. The Board holds meetings during the year to maintain the *Manual* up-dating and revision process. Center support will continue during the next fiscal year.

L. BAIL STUDY. Over the past two years, the Center has been studying the extent and kind of usage of bail alternatives provided by the Bail Reform Act of 1966. Data was collected from defendant case files, magistrates' records, United States Attorneys' records, and other sources of relevant records at each of the district courts. The analysis will provide information as to the subsequent behavior of defendants under bail or personal recognizance as well as detailing the imposition of bail conditions and bail alternatives.

Scheduled completion of the bail study has been deferred so that staff could be assigned to critical stages in the preparation for implementation of the Speedy Trial Act. The analysis of the data collected in the project will be completed in the fall of 1975. In addition to a systematic review of practices under the Bail Reform Act, the report will provide materials essential for evaluation of the impact of the Speedy Trial Act on rates and duration of detention.

IV. PROGRAM ON SENTENCING AND PROBATION

The Center's activities in this vital area continue to be shaped to respond to the needs of the judiciary for current information both on sentencing practices and the policies of the various corrections agencies. This past year, special emphasis was given to supporting circuit sentencing institutes through assistance in program design and presentation.

A. SECOND CIRCUIT SENTENCING STUDY. The Second Circuit Committee on Sentencing Practices requested that the Center conduct a study to determine the extent of disparity in the sentencing of criminal defendants within the circuit. The district judges of the circuit (43 active and 7 senior judges participating) were asked to render sentences in 30 cases on the basis of identical presentence reports. The cases were mailed to the judges over a brief period in the spring of 1974 and the responses were returned to the Center for tabulation and analysis by staff personnel.

The unique quality of this experiment, which sets it apart from all previous studies of disparity, was the opportunity to observe a large number of judges rendering sentences in identical cases. Earlier studies have all been based on the observation of sentences rendered by different judges in different cases. For the first time, analysis has been made on the extent of agreement and disagreement among many judges on a case-by-case basis.

The report of the study was published in August of 1974 and was presented at the Second Circuit Conference in September. Since that presentation, the Center has forwarded copies of the report to numerous interested law schools, universities, research institutes, and state and local courts.

The Center staff is continuing to work with the Committee on Sentencing Practices on a consultant basis as that Committee seeks ways to reduce the disparity disclosed in the study.

B. AID TO SENTENCING INSTITUTES. In response to a Judicial Conference request, the Center has assumed an increased measure of responsibility for the planning, development, and coordination of the programs at sentencing institutes. Through the efforts of a staff level committee, established with representatives of the Bureau of Prisons, the Board of Parole, the Probation Service, and the Judicial Center, a number of institutes have been organized and presented, including one for the Fourth, Fifth, and District of Columbia Circuits held in Atlanta in October and one planned for the Sixth and Ninth Circuits this fall.

The program emphasis is placed on a description of the range of services available to the courts and to individual offenders thus providing a vehicle for communication between the correctional services' representatives and the bench. The planning committee is developing a number of presentation modes, employing lecture, workshop, and seminar techniques to enhance the efficacy of the programs. Also, Center personnel are now taking an active role in the presentations at the institutes.

The institutes serve as a convenient method of examining sentencing activity with each presentation bringing refinements through feedback and other suggestions. The programs thus developed have a further use for the Education and Training Division at the Center, with ideas and information about sentencing and sentencing activity often integrated into the regularly scheduled seminars and workshops.

V. PROGRAM ON IMPROVING GENERAL ADMINISTRATION OF THE JUDICIAL SYSTEM

The projects which comprise this program reflect the Center's commitment to improving the administration of the judiciary through activities designed to offer better management capabilities at both the local court level and system-wide. The COURTRAN project is being accelerated to provide necessary support to the districts in meeting their responsibilities under the Speedy Trial Act. The forecasting work is moving into a new phase of data

refinement which, when completed, will result in methods of anticipating court resource needs at the national level.

A. COURTRAN PROJECT. This project has the objective of developing computerized local court management information systems for both district and appellate courts. The Center is now past the research phase and is moving toward full scale pilot operation. During the past year the project was substantially expanded as a result of a budget supplement granted for the purpose of accelerating installation of the systems so as to provide assistance to district courts in meeting the requirements of the Speedy Trial Act of 1974.

The progress made during the past year represented a major step forward in a continuous stream of development. Our relatively extended period of experimentation represented a deliberate attempt to avoid computerizing operations merely because the technology existed and to make certain that software would be designed to meet the actual, realistic needs of the courts. From its inception to project has aimed at determining how automatic data processing could help judges implement the principles of effective civil and criminal case management taught at our seminars for district judges. First priority was given to incorporating in a computer system the best practices and procedures currently used by parajudicial personnel who work in support of judges applying these principles. Secondary priority was given to more traditional objectives such as better record keeping and more accurate statistics.

The project has gone through several phases, each of which represented both an evolutionary step forward and a change in concept. The original version of the system, COURTRAN I, was operated in several courts using rented computer time. Last year, development of COURTRAN II, an advanced system to be operated in mini-computers with general purpose processing capabilities, was initiated. Development of the civil case version was completed and that system is now in operation. The criminal case system has been completely designed and software development will be completed in the fall of 1975.

The design of each system contains several software innovations which make it unique in the field. These include: the information engram concept, a transition matrix for court events, specially created system dictionaries, a syntax and grammar for court processes, a special modular software structure, a technique for monitoring speedy trial plans, a status distinguishing technique which identifies situations requiring court action, and a free-floating data entry technique which allows nontechnical personnel to use the system. The efficacy and effectiveness of these innovations in combination were proven in experimental operation in three courts in the COURTRAN I phase.

Although priority has been given to the criminal and civil case systems these are only two of the applications planned for COURTRAN. Other applications include (1) jury selection and utilization, (2) appellate case processing, (3) financial accounting, (4) attorney conflicts of engagement management, (5) computer-aided transcription editing, and (6) bankruptcy petition management. The first version of a financial system for use initially by the Administrative Office and later by court clerks' offices is nearing completion and will be operating in the fall of 1975. The design process for both jury selection and appellate case applications has been initiated but neither system will be ready for testing for approximately a year. All of these applications are designed to have the dual effect of reducing clerical effort while enhancing administrative effectiveness in the federal courts.

Equipment used during fiscal year 1975 consisted of two minicomputer systems. We had planned to add a third minicomputer system and conduct pilot operations in six courts by having terminal stations in three courts connected to the three computers. These plans were revised when it became clear that the passage of the Speedy Trial Act imposed data collection and monitoring requirements on all districts which would require broader scale installation of COURTRAN II. Because it takes several years for an effort of this magnitude it was necessary to start immediately. We thereupon asked the Congress for funds to install 25 minicomputers and 40 terminal stations which would give COURTRAN capabilities to 65 districts.

An initial amount of \$1,020,000 was requested as a supplement to our fiscal year 1975 budget. The remainder of the money we felt essential for the completion of the project was included as "no-year" money in the 1976 budget request. In the hearing before the House Appropriations Subcommittee on the FY 1975 Supplemental, we stated the first task we would undertake was a communications network survey. The purpose of this survey was to determine the optimum geographic location of computing equipment and the optimum mix of computer sizes for the COURTRAN II applications we were considering.

This study indicated that serious consideration should be given to a different allocation of computing power than originally planned. After a thorough analysis the advantages of a combination of three larger regional computers tied into much smaller computers in some courts, and terminal stations in every court, represented a more economical approach than the original plans. During the first half of fiscal year 1976 we will have one larger computer installed in the District of Columbia District Court with terminal stations in five other districts. Further expansion will be made during the latter half of fiscal 1976. Although this is a change in equipment allocation, there has been no change in the project objectives. Instead this new evolutionary step represents a better method for achieving the objectives for which the Congress has provided funds.

B. FORECASTING DISTRICT COURT CASELOADS. The Center's initial forecasting effort was completed in fiscal year 1975 and the results are most encouraging. Instead of basing caseload predictions on filing trends from previous years, the project was founded on the premise that changes in litigation activity are signaled by changes in social, political, economic and demographic indicators. If we can measure variations in those indicators and relate them to variations in filings, then we should be able to describe case filing experience in terms of indicator activity and then monitor those indicators to predict litigation activity in the future.

Case filing models (mathematical equations relating filing volume to indicator activity) were developed for 42 types of civil and criminal cases for the period 1950 through 1970. Models for each case type were developed for each district court, for each circuit, and for a national expression. In all, 4200 sets of models were generated using 158 different variables or indicators of case filing volume. Then, two sets of projections of caseloads 5, 10, and 20 years in the future were made. One reflects the experience of the past without potential change and the other is based upon the occurrence of selected potential future events (prepaid legal insurance, restrictions in diversity jurisdiction, nationwide no-fault insurance, and the like) and their probable impact on filings.

A report on this preliminary work is being prepared and plans for further study are already being implemented. Further analysis and evaluation is being made to see if actual caseload experience in 1975 falls within the bounds of the forecasts for 1975 based upon the 1950-1970 data. Redundancies and overlap in the indicator sets will be reduced by generating a smaller number of indicators. Further study will identify similarities and differences among districts. All these efforts will enhance the precision and reliability of this tool in planning for the future needs of the federal judiciary.

C. FORECASTING APPELLATE COURT CASELOADS. Center staff have begun to make initial inquiries into more sophisticated methods of forecasting the caseloads in the appellate courts. Preliminary data indicates we can successfully apply some of the techniques learned in the district court forecasting study in an effort to anticipate appellate filings.

In a related project, a procedure for assigning case weights was attempted in the District of Columbia, Sixth, and Eighth Circuits. A taxonomy of appellate case types was developed and the judges were asked to assign a unit of effort to each category of cases. The results of this project are being analyzed by Center staff and a report on their conclusions will be forthcoming in fiscal year 1976.

As skills and methods on the trial court level are refined and advanced, the work with the appellate court will proceed more rapidly.

D. AID TO CIRCUIT CONFERENCES. The Center continues to lend assistance and support to the various circuits in planning and managing their circuit conferences. Results of a questionnaire prepared by the Ninth Circuit were tabulated and analyzed by Center personnel in support of that circuit's effort to improve the quality and effectiveness of its conference activity.

E. FEDERAL COURT LIBRARIES' STUDY. At the direction of the Judicial Conference of the United States, the Center is conducting a study of the federal court libraries aimed at producing a recommendation for a model library system in the federal courts. Circuit court libraries as well as district court and in-chambers libraries will be studied with a view towards eliminating unnecessary duplication of books in the same building. Areas of study will include suggested holdings for the various types of libraries, standards for personnel to staff them, and the impact which use of technological equipment (computer assisted legal research, microphotography, and rapid document transmission) may have on court libraries. The study is a joint project of the Division of Inter-Judicial Affairs and Information Services and the Division of Research, which will provide methodological guidance.

The study will be conducted in several stages with periodic reports to the Center's Board so they will be in a position to guide further steps of the study while it is in progress. At the end of the year the project was in the planning stage. Several meetings have been held to determine the study approach and to refine statements of the objectives. The planning process has benefitted from input received from judges, court librarians, circuit executives, research consultants, and librarians of law schools and major law firms. The study will be done under contract with outstanding law librarians who will be supported by a small advisory committee.

F. AID TO CIRCUIT EXECUTIVE PROGRAM. The Subcommittee on Judicial Statistics had requested the Center to work with the circuit executives and the Administrative Office to develop a model statistics program to meet the specialized needs of the circuit executive. Several circuit executives, members of the Subcommittee, and Center staff met to discuss these needs and explore means for implementing recommendations resulting from the meeting. Work is now progressing to effectuate these ends within existing Administrative Office capability and as part of the general planning for the COURTRAN system.

The Center has also initiated a study of the functions of circuit executives. The project will include compiling a list of all functions performed by executives. All circuit executives will be surveyed so that a composite showing how many perform each function can be prepared and given to all circuit councils.

VI. PROGRAM ON INTER-JUDICIAL AFFAIRS AND INFORMATION SERVICES

A. LIAISON WITH JUDICIAL ADMINISTRATION ORGANIZATIONS. The Division continues to maintain contacts with all organizations functioning in the judicial administration field to assure a free exchange of information on all projects and programs, planned and ongoing. Such information is secured through interorganizational meetings of staff representatives, through an exchange of reports, and through telephone contacts. Of mutual concern are over-lapping or duplicated efforts on given projects, cost savings, access to reports, and long-range plans involving the state and federal courts.

In the state-federal area interest has been expressed by the National Center for State Courts and the National College of the State Judiciary in furthering better state-federal relations. In recent months discussions have been held to explore the type of program or conference which might be the most effective and to determine whether it would be feasible to co-sponsor an endeavor of this nature.

B. STATE-FEDERAL JUDICIAL COUNCILS. Over forty State-Federal Judicial Councils were formed following the recommendation for such action by The Chief Justice. The Division paid the expenses of those federal judges who attended these council meetings. Upon request, agenda suggestions and material gathered from previous council meetings were furnished. The Center's Director has attended council meetings and has participated in the discussions. The Division provides a special service by gathering recorded minutes, relevant speeches, and related articles from the states so as to provide information on this new and developing area.

C. THE THIRD BRANCH. Twelve thousand copies of this eight-page official bulletin of the federal courts are printed and distributed monthly to all personnel in the federal judicial system, many state judges, law school deans, libraries, foreign judicial officials and interested individuals. *The Third Branch* attempts to keep its readers aware of the latest developments affecting the courts. Featured are speech summaries, legislative action reports, and interviews with outstanding individuals in the judicial, legal, law enforcement and corrections fields. Occasionally special inserts are distributed which give coverage to topics of particular importance. The Center's various Divisions find *The Third Branch* a ready vehicle for reporting the progress of their respective programs and projects. This bulletin generally affords the federal judiciary a forum for an exchange of ideas, techniques and other information valuable in assisting the courts.

D. INFORMATION SERVICES. In addition to meeting the library and informational needs of the staff of the Center, the Information Service

responds to numerous requests from federal and state judges and supporting judiciary personnel, law schools, libraries and many others. Those requiring assistance contact the Service by phone, letter, or in person. Hundreds of requests for copies of Center publications alone have been handled in recent months. A total of over 1600 requests, an increase of 25 percent over last year, have been answered this year. Over 440 new volumes have been acquired bringing total holdings to approximately 3500. Each month the Information Service publishes in *The Third Branch* a listing of new articles and materials of interest to the judiciary.

Projects have included: Preparing special bibliographies on requested subjects; compiling legislative histories on selected bills; gathering materials for use at seminars; and expanding the book collection (this year with emphasis on treatises dealing with management, statistics, and automation). Book loans totaled 712 volumes and over 250 volumes were borrowed from the Library of Congress and other sources.

The Center's Information Specialist recently attended a national conference of librarians and exchanged information on holdings as well as functions performed by libraries serving court personnel. Following the meeting, a Council of Judicial Administration Libraries was formed. This new group will coordinate the use and maintenance of library holdings on subjects of mutual concern.

E. EVALUATION OF USE OF LAW STUDENT RESEARCHERS BY FEDERAL JUDGES. The Division has completed its research to determine the feasibility and advisability of having law students assist federal judges on case research problems to gain experience while acquiring academic credit.

A summation of the findings, resulting from surveys of participating law schools, judges and former students, was compiled in August of 1974. The findings were presented to the Judicial Conference Ad Hoc Subcommittee of the Committee on Court Administration.

F. VISITOR SERVICES. This Division continues to receive visitors to the Center from across the country and throughout the world. These guests are generally briefed on the structure and functions of our dual court system and the operations of the Center. The Division also assists visitors in scheduling appointments at other points of interest, such as the Supreme Court, the Administrative Office, the Institute for Court Management and the Institute of Judicial Administration. Our ability to host visitors successfully results from cooperation with the United States Department of State, the Asia Foundation, the International Legal Center at the United Nations, bar associations, law schools, and other organizations active in the judicial administration area. In recent years representatives from more than twenty-five nations have visited the Center.

Center personnel have rendered modest assistance to organizational work being done in preparation for the 1975 Washington Conference on Law of the World to be held in October 1975.

G. PROJECT TO IMPROVE EDUCATION IN JUDICIAL ADMINISTRATION IN LAW SCHOOLS. The Division Director continues as a member of the ABA Committee on Education in Judicial Administration. This two-year old committee is striving to improve the teaching of judicial administration in the nation's law schools and to promote in the general populace a keener awareness of daily functions of our courts.

Under the Committee's leadership outstanding jurists, lawyers, and legal educators have met to attempt to develop teaching modules and other methods by which problems affecting the administration of justice can gain greater exposure.

In a move to further the purposes of this committee, plans have been made to hold a meeting of a selected group of law professors at the National College of the State Judiciary in August of 1976.

The Division provides liaison, research, and logistical support to this new committee which has held several of its planning sessions at the Center.

VII. PROGRAM ON CONTINUING EDUCATION AND TRAINING

A. TRAINING POLICIES. The purpose of the Continuing Education and Training Division is to conduct a broadly-based, comprehensive training program for the federal judiciary. This was accomplished during the past fiscal year by conducting resident seminars, institutes and conferences, publishing the proceedings of these educational endeavors, establishing correspondence courses and furnishing local instructional materials to courts.

The primary objective of the Division is to provide high quality resident seminar instruction. Achieving this quality level requires continuous reevaluation of and revision of methods of instruction as requirements change. Continual effort is made to improve the quality of the seminars. To complement these courses, local field training is being increasingly emphasized.

Sound court management requires that the courts achieve the most efficient and productive utilization of their personnel. The Continuing Education and Training Division meets this challenge by training supporting personnel to perform an increasing number of routine legal and non-judicial functions formerly conducted by judges. The program thus involves identifying these administrative duties which may properly be performed by clerical

personnel. All tasks which do not require the attention of a judge, magistrate, bankruptcy judge, public defender, or clerk of court are evaluated for possible inclusion in training programs for parajudicial personnel.

Publications prepared by the Division include special texts which, in addition to their classroom use, are, to the extent possible, designed for use as desk books by participants. In addition, emphasis is given to publishing the scholarly papers presented at seminars.

The responsibilities of a newly appointed employee continue to serve as the guideline for the instruction provided in the orientation courses. The objective in these courses is to tailor training to practical employee duties.

During the past year the Division began correspondence and local training programs. These emphasize on-the-job training and relationships between types of roles within the system. Continuing attempts have been made to use persons and agencies outside the federal judiciary who have relevant expertise as educational resources. Invitations to participate in educational programs are extended whenever appropriate.

B. RESIDENT INSTRUCTION

- 1. Experienced District Judges.** After completing, in fiscal year 1974, a series of conferences for district judges having served five or more years on the bench, the Center planning committee recommended a similar series for those having served at least two, but less than five, years. All district judges in this category were invited and 92 attended. Although the Center continued the use of a modified "Arden House" format, participation of professors and deans of law schools as reporters was discontinued. Instead, judges who were participants in the conference were assigned as the discussion group reporters. This change was well received by the participants. It is not expected this conference format will be repeated in fiscal year 1976 due to the small number of eligible invitees.
- 2. Newly Appointed District Judges.** An orientation seminar for newly appointed judges was held at the Center in June with a faculty of experienced judges, staff members from the Center, the Administrative Office and the Department of Justice. A compilation of papers presented will, as in the past, be published. Thereafter it is expected that a hard-bound volume, combining the papers from the 1973, 1974, and 1975 conferences will be published under Center auspices.

3. **Appellate Judges.** Judge Ruggero J. Aldisert of the Third Circuit chaired two seminars which added a new dimension to our program of continuing legal education for judges. "The Nature of the Judicial Process: Federal Appellate Judges" was the theme of the program and the distinguished faculty included not only Federal judges but retired and active justices and judges from state Supreme Courts and state and municipal courts, prominent educators and practicing attorneys. Topics presented included "The Nature of Judge-Made Law"; "Precedent and Policy"; "Consumers of Justice"; "The Concept of Federalism"; "The View from State Courts"; "Federal-State Abrasions"; and "Appellate Judicial Opinions." Most formal and panel presentations were recorded both on audio and video tape. These tapes will be transcribed and, in combination with other papers, will be published.
4. **Omnibus Hearing Workshops.** At the request of the District Judges Association of the Fifth Circuit, the Center agreed to sponsor two workshops on pretrial and criminal discovery to study how effective the omnibus hearing procedure is in providing discovery by both prosecution and defense within Constitutional limits, exposing latent constitutional issues, assuring an informed plea by each defendant, and expediting trials. Participants in the first workshop, which was held in San Antonio, Texas, included trial judges, United States Attorneys, Federal and Community Public Defenders, and private defense attorneys. Fifty-seven persons participated in the first workshop. The second workshop will be conducted in Jacksonville, Florida, October 2-3, 1975.
5. **Circuit Executives and Metropolitan District Court Chief Judges and Clerks.** The Division provided logistical support for meetings of the Metropolitan District Chief Judges, the Metropolitan Clerks and coordination and liaison Conferences for Circuit Executives.
6. **Magistrates.** A combination orientation/refresher seminar was held for 57 Ninth Circuit magistrates. In this unusual approach to judicial education, separate seminars were held in the same building simultaneously during a portion of the course, and joint sessions were held during other portions of the seminar that were of mutual interest to both newly appointed as well as the more experienced Magistrates. Participants agreed this approach was very successful. We plan to use it in other circuits during fiscal year 1976.

An orientation course for 24 newly appointed United States Magistrates was held in Washington, D.C. This brought the total of

magistrates trained to 81 before budgetary restrictions forced postponement of additional seminars.

7. **Bankruptcy Judges and Staff.** Because of the budgetary restriction on travel funds, the planned meetings of deputy chief clerks of bankruptcy offices were postponed together with the annual orientation seminar for newly appointed bankruptcy judges. However, two refresher seminars were held for experienced bankruptcy judges and extensive use was made of the Center's video tape sequence illustrating a dischargeability proceeding.
8. **Probation.** The largest share of the probation training budget was allocated for orientation seminars for newly appointed officers. Eight seminars were conducted and 319 probation officers attended the courses. The faculty consisted of a mix of seasoned United States Probation Officers with expertise in the topic they presented and representatives from the Department of Justice, United States Board of Parole and the Federal Bureau of Prisons.

A new curriculum concept was designed for advanced professional seminars, formerly called refresher seminars. These courses were theme-oriented and encompassed the following four themes: "Cultural Differences and the Probation Officer"; "Narcotic/Alcohol Abuse and Treatment Programs"; "Treatment Strategies--Models for Change"; and "General Supervision Problems and Techniques." Under this procedure, all probation officers who had not attended an advanced seminar in the past three years were invited to select in advance the topic to be presented during fiscal year 1975 which best met their professional requirements. Unfortunately, because of budget restrictions, only three of eight scheduled seminars were held. However, 98 officers were trained. These theme-oriented advanced seminars were successful and will be continued during fiscal year 1976.

The second and last seminar for chief clerks of probation offices was conducted with 46 participants present.

One formal management seminar was conducted at the Center in conjunction with the Court Management Institute of the University of Maryland. Thirty-seven chief probation officers and their deputies from the metropolitan offices attended this three and one-half day course.

9. **Local Training Programs.** This year, for the first time, the Division has become directly involved in up-grading, standardizing and encouraging consistent and in-depth training of newly appointed

officers in their local districts. This accomplishes two objectives: (1) it provides necessary basic training at minimum cost; and (2) it prepares the new officer to be more receptive to ideas and information presented during the formal orientation seminar conducted by the Center which he attends in his third or fourth month of service. In order to help the districts design and develop their local training programs, a substantive guide—*Guide for Training Newly Appointed Federal Probation Officers*—was published by the Division and distributed to all chief probation officers with the request that they appoint an officer especially charged with conducting and evaluating this local training.

Thirty-seven of these training officers were brought together for an instructional technology workshop conducted by the Center to explain local training objectives. Many instructional techniques were described and utilized during this workshop.

10. **Court Clerks and Staff.** The Clerks of the Courts of Appeals met under Center auspices for the purpose of exchanging procedural information and management techniques.

An orientation seminar for newly appointed courtroom deputy clerks was held to help them in maximizing the assistance they render both in the courtroom and in chambers.

One meeting of clerks of non-metropolitan district courts was sponsored by the Center. The program was designed to present management techniques, statistical reporting, calendar control and personnel procedures applicable to the operation of these smaller trial courts.

At the suggestion of the Administrative Office, all deputy clerks (or clerks, where applicable) with jury selection responsibilities were invited to participate in one of two seminars specifically concerned with improving administration of the selection process and juror utilization. These seminars represented some 82 courts, or divisional offices.

These seminars emphasized organization of jury plans and implementation, legal problems involved, pooling, multiple voir dices, statistical reporting, and automation of the jury process.

11. **Public Defenders.** A seminar for federal public defenders and community defenders assigned to federal trial courts was held in January. The first day of the seminar was designed to give a basic procedural and administrative indoctrination to those defenders

and deputies appointed since January 1974. This included methods of establishing additional offices, budgetary considerations and constraints and an introduction to the statistical reporting requirements. All phases of the day-to-day problems of a public defender were discussed including: ethical problems; sentencing alternatives and how they affect a client in prison, on probation, or on parole; a broad overview of the policies of the Bureau of Prisons, the Board of Parole, and the Probation Division; use of wire taps; and grand and petit jury practice and procedure. Members of the Criminal Justice Act Committee of the Judicial Conference participated in the seminar.

12. **Improving Supervisory Skills/In-Court Management Training.** Four hundred and eight court personnel shared in these seminars, designed to improve supervisory skills, coordination and an understanding of court responsibilities. They have been an overwhelming success, at a very low cost of \$51.74 per person trained, and have filled a definite need in providing supervisory personnel with the latest methods of problem solving and understanding as well as coping with interpersonal relations. These programs will continue to be presented, as the need arises, during fiscal year 1976.
13. **Statistical Summary.** During the year a total of fifty-one resident seminars and conferences were held. Summary data is as follows:

<u>No.</u>	<u>Category</u>	<u>Participants</u>	<u>Faculty</u>	<u>Total</u>
9	Federal Judges	290	138	428
2	United States Magistrates	81	34	115
2	Bankruptcy Judges	86	22	108
15	Probation Officers and Staff	576	224	800
6	Court Clerks and Staff	179	64	243
2	Circuit Executives	16	-	16
1	Public Defenders	34	12	46
<u>14</u>	<u>In-Court Training</u>	<u>358</u>	<u>50</u>	<u>408</u>
51		1,620	544	2,164

C. OTHER EDUCATION SERVICES

1. **Correspondence Courses.** A correspondence course designed to reach court personnel interested in improving their supervisory skills by self-study was launched in January, 1975. It consists of three lessons in basic supervision. The first lesson is a three-unit series dealing with supervisory duties and responsibilities. Lesson II is a two-unit series covering communications skills. The third lesson is a two-unit series dealing with human relations. Persons in the court system who enroll in the course are sent Unit I of Lesson I with a work sheet. Upon completion of the work, the second unit is mailed. This method of distribution is continued until such time as the person has completed the entire lesson. A final examination is then mailed to the participant, and upon completion of the exam, Lesson II is mailed. So far, the response to the correspondence course has been beyond expectation. In the first six months over six hundred persons have enrolled.

2. **Training of Judicial Personnel at Institutions of Continuing Education.** In order to augment the training provided by our various seminars and to provide the degree of expertise needed to meet the requirements of changing circumstances, employees of the United States Courts have been encouraged to maintain and augment their proficiency and potential by participating in job-related educational programs available to them through both governmental and non-governmental sources. Courses available under this program, once approved, are funded from appropriations allocated for this purpose in the Center's annual budget. During the past fiscal year, 369 persons attended these job-related short courses at an average cost of \$151.83. A total amount of \$56,025.00 was expended.

Courses taken included those given by the Civil Service Commission, the Graduate School, United States Department of Agriculture, and private institutions throughout the country. Ten clerks and deputy clerks of court were sent to The Institute for Court Management to participate in the Court Executive Development Program offered by that Institute. The 369 individuals who received tuition grants for participation in courses during the past year were distributed organizationally as follows:

Offices of Clerk of Court	41.4%
Administrative Office of the U.S. Courts	22.2%
Probation Officers	20.1%

Federal Public Defenders	6.4%
Magistrates	3.8%
U.S. Supreme Court	2.6%
Federal Judicial Center	2.4%
Miscellaneous (Secretaries, Circuit Executives and Bankruptcy)	1.1%

3. **Audio Cassette Program.** The Cassette Lending Library continues to expand as new topics from each seminar are added. A catalog listing the availability of 386 topics in 17 categories was published and disseminated in June, 1974. Because of additional recordings made this year, the Division has begun compiling a supplement entitled *Addendum I to the Catalog of Cassettes*. The supplementary catalog will be ready for distribution in the fall of 1975. This will bring the total cassettes to 612 topics in 22 categories. The library presently has a circulation of 2,187 of these recordings which are available on loan for a period of two weeks upon request. The purpose of the library has been to afford to those who could not attend the seminars the opportunity to share in these educational endeavors. The number of requests which have been filled from recordings of the various topics now exceeds 2,800 with the judges' category, with 962 requests, being in the greatest demand.

4. **Publications.** The following publications were produced during the year:

- Guide for Training Newly Appointed Federal Probation Officers.
- Guide to Community Relations for United States Probation Officers.
- Federal Rules of Evidence Annotated.
- Seminar for Newly Appointed United States District Judges, 1974.
- Report of the Conference of District Court Judges, October, 1-4, 1973.

- Report of the Conference of District Court Judges, February 11-14, 1974.
- Report of the Conference of District Court Judges, April 8-11, 1974.
- Report of the Conference of District Court Judges, May 20-23, 1974.
- Seminars for Circuit Judges, 1972-1973.

D. EVALUATION OF EDUCATION AND TRAINING PROGRAMS.

Pursuant to directions given by the Board, the Center staff began formulating a plan for an evaluation of the training prepared and presented by the Division. A formal study is now contemplated, concentrated primarily not on rating how effective the programs have been in the past, but rather on building a framework for future planning. The project will begin by setting objectives for each segment of the training program and then assessing the resources and strategies available within the judiciary in the effort to match methodologies with objectives. A by-product of the study will be the development of a means for a continuing evaluation of the effectiveness of training programs in meeting stated objectives themselves. The study is being conducted under contract to a University Department of Continuing Education assisted by senior Law School faculty.

E. COOPERATION WITH OTHER AGENCIES. As in the past, the Division continues to cooperate with other agencies, both within and without the government, in developing programs in continuing legal education. At the request of a study group from Carnegie-Mellon University and Duquesne University, a pilot TV tape on "Products Liability" was produced.

The recently organized Federal Judicial Secretaries' Association was permitted to hold the first general association meeting in Center facilities.

Assistance was rendered to the following organizations which are establishing new training programs:

- Bureau of Hearings and Appeals, Social Security Administration.
- California Center for Judicial Education and Research.
- Alameda County (California) Criminal Justice Program.
- Division of Continuing Legal Education, University of the Philippines.

F. NEW DIMENSIONS IN TRAINING FOR FISCAL YEAR 1976. The activities conducted during the past fiscal year will continue. In addition, the following plans and goals have been established:

- Seminars designed to improve written communication skills, especially presentence report writing, will be conducted for probation officers desiring such assistance.
- The correspondence program will be expanded to fields other than supervision.
- Advanced orientation and special interest courses for magistrates will be scheduled.
- Official court reporter seminars will be conducted as required and computer transcription training will be offered as computer capability expands.
- Conferences for Assistant Public Defenders will be programmed.
- Seminars are planned for Courtroom Deputy Clerks on the effects and requirements of the recently enacted Speedy Trial Act.
- With the cooperation of the Administrative Office, seminars will be offered to those deputy clerks (or clerks) charged with the responsibility of maintaining the financial records of the federal courts.
- The film lending library for the probation service will be expanded.
- A series of eight or ten regional workshops will be conducted for district judges. The agenda will emphasize juror utilization, the new Federal Rules of Evidence and recent amendments to the Federal Criminal Code.



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