

**Federal Judicial Center  
Annual Report**

**1977**

**1977 ANNUAL REPORT**  
**FEDERAL JUDICIAL CENTER**

# FEDERAL JUDICIAL CENTER

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A. LEO LEVIN  
DIRECTOR

August 15, 1977

TO THE CHIEF JUSTICE AND MEMBERS OF THE JUDICIAL  
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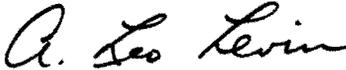
SUBJ: Annual Report of the Federal Judicial Center

At the direction of the Board of the Federal Judicial Center and pursuant to the provisions of 28 U.S.C. § 623, I am honored to submit herewith the Center's annual report for fiscal year 1977.

This report summarizes our activities and project work since the last annual report and describes the work projected through September 30, 1977, the formal end of the fiscal year. Specific details on any facet of our programs will, of course, be made available to you and your committees upon request.

This report chronicles the achievements of the Federal Judicial Center under the leadership of Judge Walter E. Hoffman, who served as its director until July 18, 1977, when he reached the age of mandatory retirement. The report recognizes and pays tribute to him for his enormous contribution to the Center. Judge Hoffman was the third in a line of distinguished directors of the Center and I count it a rare privilege to be allowed to follow in that succession. I wish to take this opportunity--in this my first official report to your distinguished body--to express the gratitude of the entire Center staff for your confidence and tell you that we will increase our efforts to support the Conference and the entire federal judiciary in any way that we can.

Respectfully yours,

  
A. Leo Levin

Attachment

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## INTRODUCTION

The pages that follow chronicle the achievements of the Federal Judicial Center under the leadership of Judge Walter E. Hoffman, who served as its director until July 18, 1977, when he reached the age of mandatory retirement. Building on the work of his distinguished predecessors, Justice Tom C. Clark and Judge Alfred P. Murrah, Judge Hoffman significantly expanded the size and scope of the Center's operation, while maintaining its tradition of professional excellence. His influence will continue to be felt for many years as projects initiated under his leadership are completed, and as further studies and training logically following therefrom are undertaken.

It is entirely fitting and proper that these pages record the passing, on June 13, 1977, of the first director of the Federal Judicial Center, Justice Tom C. Clark. In announcing the death of Justice Clark for the *Journal of the Court*, the Chief Justice noted that, even while sitting on the Supreme Court, Justice Clark "was a literal missionary for the improvement of judicial administration," adding that "it was logical that, when the Federal Judicial Center began operations in 1968, he was appointed its first director."

Tom Clark brought to the Center a unique combination of wisdom, dedication, and experience. In a memorial tribute at the National Presbyterian Church, the Chief Justice elaborated on Justice Clark's contribution to the Center:

He brought to it a vast experience in the practice of law and in the administration of justice. But, perhaps, even more important than the experience that he brought to it, was the standing and respect which he had with the federal judges of this country. That enabled him to secure the acceptance of this new institution from federal judges and he gave it standing and credibility in something less than the two years in which he served as its Director and until he was required at age 70, under the law, to retire from that position. No other person in America—lawyer, judge, or professor—could have given that Center its standing and credibility as Tom Clark was able to do in two short years.

Justice Clark's devotion to the Center and his contribution to it as an institution are only part of the story. He befriended people everywhere he went, and he left his mark as a man on the Center family. It is difficult to do justice to this dimension of the person.

Suffice it to quote from the eulogy by his son, Ramsey, at the National Presbyterian service:

As was said of another could be said also of him. Not often in history does there come a man who is both steel and velvet, hard as rock yet soft as drifting fog, who holds within his heart and mind the paradox of terrible storm, yet peace unspeakable and perfect.

Those rare qualities enriched the lives of all who came in contact with him.

The Center was established by Act of Congress, approved on December 20, 1967, and became operational the following year. A history of this first decade of service as the research and training arm of the federal judiciary is expected to be completed during the coming fiscal year.

The Center approaches its second decade of service at a time when there is widespread public interest in assuring the delivery of justice to all. This interest reflects a concern that should be encouraged; indeed, it is one that is indispensable to a civilized society. Efforts to translate the national aspiration of justice for all into reality are frequently accompanied by proposals to expand the role of the federal courts. This is understandable. The record of these courts, trial and appellate, is one in which the country as a whole can take pride. One need only mention the role of the federal judicial system in effecting desegregation and in redressing historic wrongs to large segments of our population, in contributing to the effectiveness of our political processes through reapportionment, and in holding that no man, whatever his office, is above the law. Fiercely independent, well selected and highly qualified, the federal bench has been widely credited, and justly credited, with lasting contributions to the stability of our government and to the welfare of the society as a whole during difficult and troubled times.

Unlimited expansion of the federal judiciary, however, can hardly serve as a panacea. There are limitations on what the federal courts ought to be expected to do; our federalism is premised on effective state judicial systems charged with implementing the national law. The proper balance between state and federal systems must remain a matter of continuing concern. By design, the federal system has been relatively small, its jurisdiction limited, although its impact has been enormous.

The delivery of justice, moreover, involves more than the opportunity to litigate. Problems of backlog and expense are already of serious concern to litigants in the federal system. It is important to distinguish between the formal right to file a lawsuit, and the

delivery of justice, which implies that the relief due an aggrieved litigant will in fact be afforded. Moreover, as the report of the American Bar Association's Pound Conference Follow-Up Task Force, chaired by the present attorney general, reminds us, "Statutory rights become empty promises if adjudication is too long delayed to make them meaningful or the value of the claim is consumed by the expense of asserting it."

Timely, effective relief, achieved in the proper balance of our federalism, remains a central concern in the Center's effort to make the delivery of justice a reality. Its training programs have been widely credited with contributing to increased productivity within the federal judicial system. Its research activities are designed to identify problems and to help develop solutions in the effort to assure the continued quality of the judicial process. The pages that follow are replete with examples. They describe work completed during the past fiscal year, work in progress, and projects in the planning stage.

The coming years can be expected to show substantial growth in the size of the federal judiciary, accompanied by a wide variety of innovations intended to cope with what has aptly been termed the crisis of volume. The Omnibus Judgeship Bill, currently pending in the Congress, promises long-needed relief through a substantial increase in the number of federal judges, and a significant number of proposals for change being developed by the Department of Justice give evidence of creativity in the effort to assure that the federal judiciary can continue to be efficient and effective in discharging its obligations to litigants and to the country.

The Center, under the leadership of the Chief Justice and the other members of its board, with no less zeal and no less dedication than heretofore, remains eager to contribute to that goal.



# **I. APPELLATE COURT PROJECTS**

## **A. Civil Appeals Management Plan Evaluation**

The United States Court of Appeals for the Second Circuit, in 1974, instituted its Civil Appeals Management Plan (CAMP), an innovative program designed to help manage case flow and improve the quality of appeals heard and decided by the court. CAMP has two unique features: court-issued, mandatory scheduling orders notifying counsel of deadlines for critical events and, in selected appeals, preargument conferences supervised by the court's staff counsel. These conferences, designed to encourage settlement, are authorized by the Federal Rules of Appellate Procedure, but CAMP represents the first systematic use of the conference procedure.

The Center was asked to provide some financial assistance during the experimental phase of the project and to design and implement an evaluation of the program. This the Center did, concluding its study with the publication this year of *An Evaluation of the Civil Appeals Management Plan: An Experiment in Judicial Administration*.

In evaluating CAMP, the Center conducted a controlled experiment: appeals deemed eligible for CAMP procedures were randomly assigned, over a period of one year, either to an experimental group of cases that received scheduling orders and preargument conferences, or to a control group that did not. With the Second Circuit's help, the Center's evaluation project staff developed criteria relating to the speed and quality of appellate case disposition, and applied them to both the experimental and control groups. This evaluation is the first controlled experiment in the federal courts.

The evaluation of the project was completed earlier this year with the analysis of data from court records, attorney assessments, and judge questionnaires. The published report concludes that, while the established measures of success point favorably to the plan, the magnitude of the difference between the two groups of cases (experimental and control) was not sufficient to warrant the conclusion that CAMP has been proved effective. By the same token, the data do not prove CAMP to be ineffective, and further study is deemed warranted.

## **B. Priority Litigation**

Cases brought under any of more than thirty separate statutory provisions in the *United States Code* are required to be handled on a priority basis in the courts of appeals. The typical statute requires that "such proceedings in the court of appeals shall be given precedence over all other cases pending therein, and shall be in every way expedited." The existence of so many cases requiring priority impedes orderly caseload progress, contributes to delay, and further complicates court management. To identify the scope of this problem, the Center compiled an annotated listing of all federal statutes requiring appellate priority for cases brought under them, and published *Priorities for Handling Litigation in the United States Courts of Appeals* in May, 1977. This report is similar to a document on trial court priorities, published by the Center in April, 1976.

Both reports were prepared in a loose-leaf format, allowing the research staff to update the contents as necessary. It should be noted, however, that the American Bar Association has recommended repeal of all statutory provisions requiring priority handling of any class or category of civil case (other than habeas corpus) by United States trial or appellate courts.

## **C. Computer Assisted Legal Retrieval Systems**

Several computer systems have recently been developed to supplement manual legal research, and such information retrieval is gaining acceptance as an effective tool. To test the quality and efficiency of these systems and ascertain their potential for effective use in the federal courts, the Center evaluated two types of systems: computer assisted legal research systems (CALR) and a citation verification system.

### **Computer Assisted Legal Research Systems**

The CALR project was designed to determine whether the major systems would improve the efficiency or quality of legal research performed by officers and employees of the federal courts. Assuming the systems proved to be cost-effective, the evaluation project also sought to ascertain which system was most useful for federal court operations and to determine the number and placement of terminals required to meet federal court needs. The results of the study have been published in *An Evaluation of Computer Assisted Legal Research Systems for Federal Court Applications*.

Two types of CALR systems were tested: 1) a headnote system, which retrieves the headnotes of most reported cases, and 2) a full-text system, which stores the entire text of the opinions. During the evaluation period, five full-text system terminals and four headnote

system terminals were installed in federal courts around the country. Some locations had both types of terminals installed, and others had only one type. In addition, legal research specialists were employed by the Center and assigned to the seat of each of two circuits in order to evaluate the feasibility of providing computerized legal research service to off-site judges and their staffs from a central terminal site.

Several types of data were collected for analysis. Center staff surveyed judges, law clerks, and staff attorneys to learn their opinions and impressions of the system. For each terminal location, the Center performed detailed computer analysis of the number of users, the number of user hours, and each class of user. Data was collected and analyzed from a form each user was asked to complete, describing the type of problem researched and the results of the research query. Finally, two field experiments tested computerized legal research versus manual legal research, and the full-text system versus the headnote system.

The project found both major systems improved the quality of research, in the sense that users felt they found cases they probably would not have found without the computer. Such improvement occurred more frequently with the full-text system than with the headnote system. The usage data also showed tremendous variation among users of one type of system, both at a single terminal location and across all terminal locations. For instance, at one site, law clerks for one judge used a terminal five times as much as the law clerks for another judge. The data from nonresident users indicated that the availability of a legal research specialist at the seat of the circuit, who would run problems on the computer and telephone or mail the results of the research, was very satisfactory. Some appellate judges called in as many as eight problems per month.

The data generally showed that both CALR systems were faster than manual research. Neither system saved enough time, however, to warrant the unequivocal conclusion that such systems are cost-justified on the basis of time savings alone. The full-text system was perceived to save much more time than the headnote system, although on some types of problems neither system saved much time. When the improvement in research quality was considered in addition to time saving, however, it was concluded that CALR is cost-justified.

The evaluation report recommended that the federal courts adopt the full-text system. Users found substantial benefit from computer-aided legal research, and on almost every comparative measure, preferred the full-text system to the headnote system. The report recommended that, for the present, terminals be installed in the following seventeen locations: Boston, New York, Brooklyn,

Philadelphia, Pittsburgh, Richmond, New Orleans (Appellate Courthouse), Miami, Houston, Cincinnati, Chicago, Detroit, St. Louis, Denver, Los Angeles, San Francisco (Appellate Courthouse), and the District of Columbia. It was also recommended that an eighteenth terminal be installed in a third Ninth Circuit location, to be determined by the Circuit. Furthermore, the report suggested careful monitoring of usage levels to allow removal or addition of terminals when warranted.

Other recommendations included providing two full-time legal research specialists in the Fifth and Ninth Circuits and part-time specialists in the other circuits (except in the District of Columbia Circuit, since all judges there are resident). The specialist should be available to handle requests from off-site judges and support resident users.

### **Citation Verification System**

In fiscal 1977, the Center finished evaluating federal court use of a computerized citation verification system.

To check a citation, a user types the citation on a communicating typewriter, which transmits it to the vendor's computer for checking. The computer then types out information, including a complete title of the case, the year of decision, the jurisdiction, the standard and parallel citations, and the history of the case. The system also notifies the user if the case is no longer good law or if it has been seriously challenged.

The system evaluation included installation of a communicating typewriter in the United States Courthouse in the District of Columbia for approximately two years, beginning in early 1975, and in the Appellate Courthouse in San Francisco for approximately six months, beginning in late 1976.

Center staff studied data from user reports describing the nature of the terminal usage, the results, and general impressions of the system. In addition, vendor data and an independent analysis of the system's speed and accuracy were evaluated.

General findings were as follows: first, using the system, researchers were able to check case citations much faster than could be done manually; indeed, in the field, the system proved to be two to ten times faster than manual cite verification. The independent analysis showed the system was four times faster. Second, the system was more accurate than manual citation checking. Third, the system's information was both more current and more comprehensive than manual verification.

Careful analysis revealed, however, that the system was not cost-effective. (The total cost to the federal courts for an eleven-terminal system was estimated to be approximately \$4,000 per month.) There may be other justifications, however, for federal court use of the system. For example, the value of more accurate citations may more than offset the cost of the system. If the appropriate policy-making body of the federal courts were to decide that increased accuracy of citations is worth the cost, installation of this type of system could be justified.

#### **D. Ninth Circuit Calendaring Project**

Whether a court of appeals consists of four judges or twenty-four judges, virtually all appellate cases are heard by panels of three judges. The method of selecting these panels and the assignment of cases to particular panels are therefore significant aspects of the judicial process. Techniques of panel appointment and case assignment typically attempt to balance the workload among panels, provide comparable mixes of simple and complex cases, concentrate cases of like subject matter, minimize judge travel time, and equalize the frequency with which any two judges sit on the same panel. The difficulty of attaining these important goals increases exponentially in the larger circuits such as the Fifth and Ninth, where 3,629 and 2,907 cases, respectively, were docketed in fiscal 1976.

The Ninth Circuit, which has developed sophisticated criteria governing case assignment and panel appointment, requested the Center's assistance in developing computer programs to provide systematic control of its appeals processing. Center staff are developing a relatively simple computer system to group cases and select judges for calendaring and panel assignment according to the court's criteria.

This system automatically equalizes workload, mixes simple and complex cases, concentrates like subject matter, reduces judge travel time, and controls the pairing of judges. The computer programs, however, will permit court personnel to override any tentative grouping of cases or judges, if new circumstances or additional criteria require different groupings.

The Center is designing the system to meet the Ninth Circuit's specifications. The basic concept, of course, may well be applicable to other appellate courts. The programs will be designed to be compatible with the Appellate Information System the Center is now developing.

The project is expected to be completed by early fall, 1977.



## **II. TRIAL COURT PROJECTS**

### **A. District Court Studies Project**

It is familiar knowledge that some courts are able to terminate more cases per judge per year than other courts with comparable caseloads. The reason for this is of obvious interest. A distinct but related question is why several courts terminating the same number of cases in one year take significantly different amounts of time, on the average, to do so. Both questions are obviously important not only to judicial efficiency, as such, but also to the litigants, who are vitally concerned with prompt dispute resolution.

To identify the procedures that are conducive to greater "productivity" and more rapid disposition, the Center designed the District Court Studies Project. In the first phase of this comprehensive research effort, five metropolitan district courts were selected for on-site, in-depth study: these courts were chosen primarily because they represented extremes in either time of disposition or productivity. Subsequently, five additional districts were studied. In each court, Center staff collected a massive amount of data to determine the nature and timing of every significant event in the civil case flow. A comprehensive report covering this phase of the work, *Case Management and Court Management in United States District Courts*, was completed in fiscal 1977. A series of individual papers are to follow, detailing the effects of specific judicial control mechanisms on civil litigation.

Another facet of the district court study was a survey of discovery practices prescribed under local rules and standing orders issued by individual judges. Each district judge was sent a questionnaire about the techniques being used to control discovery. The survey results, combined with information obtained from a review of all pertinent local rules, were published in a Center staff paper, *Survey of Local Civil Discovery Procedures*.

### **B. Revising the Weighted Caseload System**

In our judicial system, a complex antitrust case and a simple habeas corpus petition are each counted as a single filing and as a single termination. Equitable distribution of the workload among

judges and supporting personnel, not to mention other aspects of planning and management, requires a system that recognizes the differences in time and effort involved in processing various kinds of cases. Indeed, such information is essential to an understanding of how judicial resources are in fact being allocated among competing social needs: does environmental litigation, for instance, command more judge-time than Social Security cases?

The Administrative Office of the United States Courts is presently using caseweights developed by the Center in 1970 to measure the varying amounts of work required by different kinds of cases. There have been many changes in judicial procedures and in the nature of the judicial workload since 1970, and there is some feeling the weights no longer accurately reflect judicial workload.

The simplest way to develop a new system would probably be to ask each judge to report the time spent on each case. This was the technique used in 1970. Obviously, this imposes an onerous burden on the judges. The Center, accordingly, is exploring whether it is possible to develop a new technique and, thereafter, to correct and update the relevant data in some other manner. In this effort, the Center is working closely with the Subcommittee on Judicial Statistics of the Committee on Court Administration. A new system, by which new weights can be generated without imposing a heavy burden on judges, should be ready for testing during fiscal 1978.

### **C. Implementation of the Speedy Trial Act**

In the Speedy Trial Act of 1974, Congress provided that the Center advise and consult with the district courts and their planning groups. In compliance with the Congressional mandate, the Center continues to play an active role in the Speedy Trial planning process. To assist a subcommittee of the Committee on Court Administration designated to consider possible amendments to the Act, the Center sponsored a conference in June, 1977. Delegates to the conference included judges, prosecutors, defense counsel, a magistrate, a clerk, and a planning group reporter. Most delegates represented districts that were already applying the time limits that will become mandatory for all courts in 1979.

Center staff will continue to analyze the districts' experience and to respond to requests for technical advice.

### **D. Conduct of the Voir Dire Examination**

Rule 47(a) of the Federal Rules of Civil Procedure affords federal judges discretion to either forbid or allow direct oral participation by lawyers in jury selection. In 1976, the American Bar

Association recommended that the rule be amended to give lawyers the right to question jurors directly, instead of submitting questions through the judge. The Conference of Metropolitan Chief Judges asked the Center to analyze the issues involved in such a rule change, and also requested a thorough examination of voir dire practice.

A questionnaire survey showed that approximately three-fourths of the judges conduct voir dire without direct oral participation by counsel. The survey also disclosed differences in perception of the appropriate roles of judges and lawyers in the jury selection process. Judges are in relative agreement that their own role in voir dire is to insure the selection of an impartial jury. By contrast, approximately 30 percent of the judges said the lawyer's most important job during voir dire is to protect the client's interests, and about two-thirds of these judges explicitly referred to selecting a jury partial to or otherwise in favor of the client. The data from the survey also suggested a direct relationship between a state's voir dire practice and the federal jury selection process in that state. These findings and others were detailed in a report, *Conduct of the Voir Dire Examination: Practices and Opinions of Federal District Judges*, published in 1977.

The author of the report concludes that the discretion currently provided by Rule 47(a) should be retained. The author notes, however, that conducting the voir dire examination in a perfunctory fashion forfeits the opportunity now given by the rule to impanel an impartial jury.

Finally, it should be noted that the questionnaire surveyed the methods by which peremptory challenges were exercised; that subject will be examined in a future report.

## **E. Procedures for Handling Prisoner Civil Rights Cases**

The number of prisoner "conditions-of-confinement" cases (primarily those under 42 U.S.C. § 1983) has increased substantially in recent years. In 1973, the Center appointed a special committee, chaired by Judge Ruggero J. Aldisert (Circuit Judge, United States Court of Appeals for the Third Circuit), to study prisoner cases in the federal courts and to propose procedures for more effective handling of these cases.

Other members of the committee are Robert C. Belloni (District Judge, Oregon), Robert J. Kelleher (District Judge, Central District of California), Frank J. McGarr (District Judge, Northern District of Illinois), John H. Wood, Jr. (District Judge, Western District of

Texas), and Ila Jeanne Sensenich (Magistrate, Western District of Pennsylvania). Griffin B. Bell (formerly Circuit Judge, United States Court of Appeals for the Fifth Circuit) was an active member of the committee until his appointment as Attorney General of the United States. Professor Frank J. Remington of the School of Law, University of Wisconsin, has served as reporter and consultant to the committee from its inception.

The committee issued its first report, *Recommended Procedures for Handling Prisoner Civil Rights Cases in the Federal Courts*, in January, 1976. It included standards for processing prisoner civil rights cases through the courts, model forms to expedite processing, and commentary on the current state of the law in this growing field.

The committee completed a revised, expanded report in fiscal 1977. The revision reflected increased jurisdiction of magistrates, changes in the case and statutory law, and responses to the first report. Both reports have been labelled "tentative," evidencing the committee's commitment to continuing its study and monitoring the impact of its recommendations.

Under the aegis of this committee, the Center provided for the funding of staff law clerks to help process prisoner civil rights cases. This experiment was successful, and administrative authority was transferred to the Administrative Office, with the provision that similar positions be established in several additional courts, including Maryland, the Eastern District of Virginia, the Northern District of Illinois, and the Southern District of Texas.

## **F. Jury Projects**

The Center continues to work closely with the Judicial Conference Committee on the Operation of the Jury System and with the Administrative Office to assure that federal juries are representative of the communities in which the courts sit. The Center's primary contribution to this effort has been the development of a form for prospective jurors and a computer program to analyze data from the form. The program is now in operation on the Courtran II computer system. Although its primary emphasis has been on race and sex, the program has been designed to be capable of handling other demographic characteristics.

After testing and evaluation of the system is completed, operation of the program will be transferred to the Administrative Office, as part of its ongoing jury monitoring responsibility. The Center will, of course, continue to be available for advice in interpreting the jury data generated by the system.

In addition to its work on jury representativeness, the Center is involved in other projects and studies related to the jury system in general and to the important work of the Judicial Conference Committee on the Operation of the Jury System in particular. In 1976, the Center initiated a project to study the feasibility of comprehensive, computerized juror selection, management, and payment, designed as part of the Courtran computer system. The initial phase of the project has been completed, and the Center is currently studying the options that were developed in cooperation with a number of courts. Design and development of components are expected to commence early in fiscal 1978. Implementation in selected courts could begin in early 1979, if the present schedule is maintained.

At the request of the Committee on the Operation of the Jury System, the Center has begun a comparative study of various methods for the selection, qualification, and summoning of prospective jurors. Three systems now used in state jury processing will be compared with the current federal system (as prescribed in 18 U.S.C. §§ 1861-69). The study, using mathematical modeling techniques, will analyze the cost (in terms of clerical workload) per juror serving. Nine federal trial courts will be included in the analysis and data collection. This study is expected to continue through fiscal 1978.

## **G. Computer-Aided Transcription Evaluation**

The Center has conducted a two-year evaluation of computer-aided transcription (CAT), to determine whether computer technology can reduce transcript preparation time.

The project was designed to test the economy and quality of computer-aided transcription services and to determine the percentage of federal court reporters who could prepare stenotype notes that a computer could translate. In the first phase of the project, forty-three reporters used electronic stenotype machines to produce cassette tapes, which were sent to a computer vendor for translation and editing. In the second phase, four reporters used a remote video display terminal to edit the initial transcript from the computer vendor.

A separate part of the project validated a measuring instrument that could derive, from any sample of stenotype notes, a score that would predict the compatibility between the reporter's stenotype style and computer-aided transcription.

The Center has completed the project and is currently preparing a report based on the statistical data gathered from participating reporters, including their answers to a questionnaire on CAT services. A detailed cost analysis of various ways to provide federal court

reporters with computer transcription services is also in progress. A major factor prompting the cost analysis was the comptroller general's ruling that court reporters would have to be charged for CAT services if such services were provided using government equipment and personnel. While the ruling does not apply to research and development projects such as those undertaken by the Center, it would apply to any permanent arrangement that was developed. The cost analysis is intended to determine how to achieve economically feasible transcription services for federal court reporters within the statutory requirements.

## **H. Videotape Applications in the Courts**

The increased use of videotape for the presentation of evidence in court is of particular interest in judicial administration. The Center's guide for prerecording testimony on videotape was revised last year, and demand for copies of it from judges, attorneys, reporters, administrators, and technicians continues strong. It remains "the reference" for both state and federal practice.

Five pilot courts (the Southern District of New York, the Eastern District of Michigan, the Northern District of Ohio, and the Eastern and Western Districts of Pennsylvania) are now using Center-supplied video equipment to prerecord testimony in studios located in the courthouses. The courts have responsibility for implementing the technology and maintaining records for evaluation; the Center continues to assist them by providing technical advice and training to new deputy clerks.

This year the Center published *The Impact of Video Use on Court Function: A Summary of Current Research and Practice*, which analyzes court uses of videotape recording and live, closed-circuit television.

## **I. Uniform Air Crash Legislation**

In October, 1973, the Ninth Circuit Judicial Conference established a Uniform Air Crash Legislation Committee to study the problems associated with multi-party air crash litigation and to recommend a legislative solution. The following year, the committee reported its view that "there should be one uniform federal law throughout the United States governing all phases of aviation torts, including possible concurrent jurisdiction with the states in some occasions." The committee did not, however, endorse any of the several specific legislative proposals it had considered; instead, it recommended that a national committee be established to draft such a bill.

The Ninth Circuit Judicial Conference unanimously adopted this recommendation and referred it to the Judicial Conference Committee on Court Administration's Subcommittee on Federal Jurisdiction. This subcommittee asked the Center to study the need for such legislation. The Center prepared a report outlining the nature and scope of the existing problems and describing the various legislative proposals suggested by the Ninth Circuit committee and other interested parties. This report was published as a Center staff paper in June, 1977.

## **J. Manual for Complex Litigation**

As it has in past years, the Center continues to sponsor and support the Board of Editors' work on the *Manual for Complex Litigation*. The board members met several times this year to prepare a completely revised fourth edition, which is now in press. Distribution is expected in early fall, 1977.

In the foreword to the first edition, quoted with approval in the fourth edition, Judge Alfred P. Murrah stated that the manual

contains neither a simplified outline for the easy disposition of complex litigation nor an inflexible formula or mold into which all trial and pre-trial procedure must be cast. Rather, it is a collection of procedures which are 'Recommended,' because, as the product of experience and the development of able minds, they are deemed worthy of consideration by all.

Each edition has reemphasized that the manual's suggestions should be flexibly applied to new problems that continually arise in complex litigation.

The preparation of each edition includes soliciting the widest possible range of suggestions and criticisms from the bench and bar. Suggestions are received from representatives of both the defendants' and the plaintiffs' bar. In addition, hearings are held to afford bar association members and individual practitioners an additional opportunity to voice their comments.



### **III. SENTENCING AND PROBATION**

#### **A. Study of the Probable Impact of Mandatory Minimum Sentencing Legislation**

Several legislative proposals were introduced in the Ninety-fourth and Ninety-fifth Congresses to reduce disparity in federal criminal sentences and provide more stringent penalties for certain offenders. Under these bills, federal judges would be required to impose mandatory minimum sentences for offenses such as second-degree murder, rape, kidnapping, and robbery. In some cases, the sentences would be as high as ten years. In addition, the bills contain provisions that would radically affect the kinds of sentencing alternatives available to judges. For example, sentences under the Youth Corrections Act would not be permitted in certain instances.

To determine the probable impact of these suggested changes on the present pattern of sentencing, the Center studied six of the proposals. Data on fiscal 1976 convictions for offenses covered under the six bills were collected. Because of exceptions included in the legislation, it was also necessary to examine presentence reports in each case being studied. These data were analyzed to identify the extent to which sentences imposed under existing statutory authority would have been affected by each of the mandatory minimum requirements. The results of the project are included in a report, *An Evaluation of the Probable Impact of Selected Proposals for Imposing Mandatory Minimum Sentences in the Federal Courts*.

The Center found that the legislation would have little impact on most of the offense categories studied. Only a handful of sentences imposed during the surveyed period fell below the proposed minimums. For example, of the 2,138 sentences imposed for bank robbery, only one was less stringent than the minimum in one of the bills. Of the seventeen sentences for second-degree murder imposed in fiscal 1976, only one would have conflicted with the two- or three-year minimum sentence proposed in several of the bills studied.

The report is noteworthy in another respect: it is one of the first Center studies to be concerned with the probable impact of legislation on present practices. Thus, it deals with a question that has become of increasing significance and concern to legislators and to the

public. The report—copies of which have been sent to the Congressional committees currently considering reforms in federal sentencing—will serve at least two purposes. First, it will assist Congress in determining whether probable effects of proposed legislation fulfill legislative intent. Second, it will illustrate the opportunity for research contributions to policy making in matters affecting the judiciary.

## **B. Evaluation of Observation and Study Procedures for Federal Offenders**

To help in deciding on an appropriate sentence, a district court judge may commit a defendant, for a brief period, to undergo a series of tests and evaluations. These tests may be performed at a local facility or diagnostic center, but usually the defendant is sent to a federal correctional institution, where he functions as a regular inmate during the course of the evaluation. A summary of evaluation findings, known as an observation and study report, is prepared for the judge at the conclusion of the testing period.

Although this procedure often provides the sentencing judge with critical information that might not otherwise be available, dissatisfaction and concern with the process have been voiced. Some judges have complained that these summaries contain no information that does not already appear in the presentence reports and, further, that the diagnostic conclusions are often too general to be useful. The institutions, on the other hand, express frustration that the courts often do not communicate the reasons a study is requested, making it difficult for the institution to provide specific, useful answers.

In response to these concerns, the Center is evaluating the various procedures used in the observation and study process. The project has three objectives: (1) to identify the problems associated with this process, (2) to find ways to increase the utility of reports prepared by the Bureau of Prisons under the provisions of sections 4205(d) and 4010(e) of Title 18 of the *United States Code*, and (3) to identify less costly and less time-consuming ways of obtaining the needed information.

Because observation and study reports typically result from an extended process involving a number of people in several government agencies, the evaluation has required observation of the procedures used by probation officers, federal judges, United States marshals, and Bureau of Prisons and Parole Commission personnel. In addition to these general observations, new observation and study procedures were tested in three federal district courts: the Southern District of California, the Western District of Missouri, and the District of

Columbia. A psychologist worked with the courts in formulating the questions to be answered during the observation and study period and in interpreting the results of the testing and evaluation.

The use of local private and federal diagnostic facilities was also explored. Concurrently, all study reports prepared by the Bureau of Prisons in January, 1977 were reviewed, and interviews were conducted to determine the reasons for each study ordered in the federal system during April and May, 1977.

The research is intended to help improve general procedures in handling observation and study cases, and to serve as a decision-making guide in specific cases. A report is to be prepared in fiscal 1978.

### **C. Sentencing Institutes**

In response to concern over disparity in sentences, Congress provided that the Judicial Conference, at the request of the attorney general or the chief judge of a circuit, could convene an institute or joint council to study and discuss questions relating to the sentencing process, and to develop policies and standards to foster uniformity in sentencing procedures. A 1973 Judicial Conference resolution directed the Center to help in the planning and development of such institutes. Since then, the Center has fulfilled this responsibility, working with representatives of the Bureau of Prisons, the Parole Commission, and the Probation Service.

This year, the Center has helped develop an institute agenda for the judges of the Second and Seventh Circuits; the institute is scheduled for late October, 1977. It will feature an examination of the programs and policies of the Bureau of Prisons, the Parole Commission, and the Probation Service; particular emphasis will be placed on sentencing the juvenile or young adult offender. The participants will also spend a day at the Robert F. Kennedy Correctional Institution at Morgantown, West Virginia.

### **D. Sentencing Council Study**

Last year the Center began a study to determine whether sentencing councils reduce variation in sentencing. The sentencing council is one of several responses to the type of disparity documented in the Center's 1974 Second Circuit sentencing study. The size of these councils and the procedures employed vary among the courts, but the basic council concept is that the sentencing judge confers with his colleagues in determining the appropriate sentence for a particular defendant. The judge does not have to accept his colleagues' views; he still bears the ultimate sentencing responsibility.

The process was designed to make the court's sentencing activity more consistent.

In earlier sentencing council studies, other researchers focused on the extent to which council consultation affects the sentencing judge's preliminary sentencing decision. The Center's research, however, addresses the amount of reduction of variation in sentencing on the part of an entire court, following introduction of the council procedures.

Effects on sentencing variation are measured by examining changes in three elements of the sentencing decision: the decision to incarcerate; the determination of length of imprisonment; and the determination of length of supervision.

Four courts with varying types of sentencing councils have been studied (the Northern District of Illinois, the Eastern District of New York, the Eastern District of Michigan, and Oregon). The research included not only interviews with judges and probation officers, but also observation of actual council meetings. The Center has collected data on selected offenses from the five years immediately preceding and the five years immediately following the introduction of sentencing councils. The data for each district have been analyzed to determine whether the range of variation in sentences for the selected offenses was significantly reduced in the period following adoption of council procedures.

The Eastern District of Pennsylvania, which does not use a sentencing council, was studied as a control, to determine whether factors other than councils might have caused sentencing changes.

A draft report based on the analysis has been completed, and a final report will be issued in fiscal 1978. Preliminary conclusions are that sentencing councils can reduce disparity to some extent, but their ability to do so varies with the court, the offense, and the type of sentencing decision being made.

## **E. Presentence Report Disclosure**

In 1969, the Center sponsored an empirical study of the use of presentence reports in the federal criminal process; the results were published by the *Georgetown Law Journal* in February, 1970. (Note, *The Presentence Report: An Empirical Study of Its Use in the Federal Criminal Process*, 58 *Geo. L. Rev.* 451 (1970).) The study results led the Probation Division of the Administrative Office and the Judicial Conference's Probation Committee to request further study emphasizing the implementation of Rule 32(c)(3), the presentence report disclosure provisions of the Federal Rules of Criminal Procedure.

Rule 32(c)(3) provides that prior to sentencing, the trial court shall permit a defendant or his counsel to read the presentence report and to comment upon any alleged factual inaccuracy. At the judge's discretion, certain information contained in the report may be withheld from the defendant and his attorney; however, the judge must summarize such information and provide it to the defendant for comment.

These disclosure procedures were provided for in a 1975 amendment to the rules. Little is known about how the provisions are operating, what problems, if any, have been encountered, and what methods the courts have developed to deal with any difficulties.

This year, the Center responded to the Administrative Office and Judicial Conference request and undertook such a study, again enlisting the aid of the *Georgetown Law Journal*. Two students on the *Journal* staff conducted a series of court visits to identify the various disclosure practices in use and to collect other data about the presentence report process. A questionnaire based on this information is being developed and pretested on selected courts; the final questionnaire will be sent to all federal courts in the fall. A report on the results of the study is to be published in a winter issue of the *Journal*.



## **IV. IMPROVING GENERAL ADMINISTRATION OF THE JUDICIAL SYSTEM**

### **A. Forecasting Federal Court Caseloads**

It has been recognized for some time that accurate forecasts are important for adequate planning. Further, better forecasting methodologies may help determine the impact selected legislative proposals will have on court case filings.

During the first stage of its work in this area, the Center developed a series of indicator-based prediction models, on the premise that case filings are related to changes in activity that can be measured by economic, demographic, or other types of indicators. For example, securities fraud cases might be related to trends in volume of stock exchange transactions; automobile injury cases might be related to annual automobile passenger miles.

As the study developed, more than 150 indicators were found to be useful in predicting civil and criminal case filings in federal courts. Regression models were built to identify the few variables most highly associated with changes in the rate of filings for each case category.

Although the Center has gained substantial experience and now has a large data base, the initial stages of the project did not produce sufficiently accurate forecasts for practical use. Further, the indicator-based models were determined to be inappropriate—or inadequate—for short-range forecasting. This, of course, is a serious concern even though other relatively reliable methods of predicting change in the short range do exist.

Much of the difficulty appears to have resulted from the type of model used in the research. The next stage of this project will be to develop long-range forecasting capability, using dynamic models instead of the static models that were used in the earlier stages. Static models can serve as excellent forecasting devices for systems in which change occurs at a uniform rate. The Center is finding, however, that in the federal court system, not only does change

occur, but the rate of change itself is changing and the limits of change are undergoing variation. Static models are not adequate for long-range forecasts in this situation.

During the closing months of fiscal 1977, three additional reports from the first two stages of the project were being prepared. One report will describe the forecasts developed in the first stage, in which a panel of experts predicted the effect of surprise events that were not part of the mathematical forecasting model. A second report will explore the collinearity phenomenon. That is, the first stage found a large number of different indicator variables were associated with general increases in filing volumes. This indicates that the societal process tends to increase the scale of operations of all parts of our life, and the courts reflect merely one aspect of this phenomenon. A third report will be a forecasting "primer" that will compile all that has been learned during the early stages of the forecasting program.

## **B. Courtran II**

In accordance with the Center's statutory mandate to "study and determine ways in which automatic data processing and systems procedures may be applied to the administration of the courts of the United States," the Courtran II computer system has been developed to automate court records and to help maintain effective control of pending litigation.

### **Criminal Case-Flow Management**

The federal courts must not only manage their burgeoning civil and criminal caseloads, but they must also meet the need for added record keeping resulting from the Speedy Trial Act of 1974. Implementation of Courtran II has been accelerated to provide immediate information on the status of each criminal defendant's case. The criminal case-flow management system now being used by eleven district courts will be operating in most federal district courts before 1979, when sanctions may be imposed for failure to meet the time limits specified in the Act.

As one example of the way Courtran II can assist district courts, the system has been designed to provide an immediate, up-to-date list of all active criminal cases. The computer calculates both the minimum and maximum amount of time remaining before the next Speedy Trial event, based upon whether the court allows potentially excludable delay. The Federal Rules of Criminal Procedure, pertinent statutes, and local procedural rules are contained as computer models in Courtran II. The system checks criminal case processing to determine whether or not an event being docketed is

appropriate to the current state of the case, and if not, why not. For example, the computer will not accept a decision on a motion that has not been docketed.

### **Civil Case-Flow Management**

It is anticipated that Courtran II will aid civil case processing in several ways. For example, once the names of the attorneys of record have been entered into the system, computer-prepared mailing labels will expedite notification of orders and notices from the court. Also, the system can provide complete schedules of individual judges.

The full prototype civil case-flow management system is operating successfully in the United States District Court for the Northern District of Illinois, where all aspects of system support are being tested and evaluated for nationwide use. The court's experience with the system to date has been highly positive, and current plans call for the expansion of this application to approximately ten additional federal courts in fiscal 1978.

### **Appellate Case-Flow Management**

The systems development team working on the design and definition of the appellate case-flow management system made significant progress during the past year. Representatives from ten of the circuit courts have been working as a team under the guidance of the circuit executives of the Second and Tenth Circuits, to develop a system that will ease statistical reporting burdens. Administrative Office personnel have been assisting the team members. The team plans to complete the basic design of the system in early 1978. It will remain for the Center to develop the system to the point where it can be implemented.

### **Word Processing**

At the request of the Third Circuit, the Center has begun a project to improve the speed of opinion preparation in the courts of appeals. Word processing units will be installed in the chambers of each judge in the circuit, and connected to the Courtran II computers in Washington by telephone lines. Each judge's secretary will be trained to use the equipment for both in-office work and electronically communicating the text of opinions to other judges.

Electronic document transmission is a new application of this kind of equipment. The Center's computer is being employed as a "store and forward" device that permits each judge to send documents to the central computer. The computer then retransmits copies of the documents to all recipients specified by the sending judge.

This procedure is expected to greatly reduce the delays caused by the mail. The Center will use questionnaires, usage logs, and

interviews to evaluate the project: a final report documenting the outcome of the study and providing guidance for other courts will be prepared.

This technology may have additional benefit for the Third Circuit—a modification of the procedures used to assign emergency matters to judges of that circuit. The new capability to transmit textual material at electronic speed will allow judges in different cities to participate in matters that previously might have been handled only by judges in close geographical proximity.

### **Security and Privacy**

The Center recently completed a comprehensive study of the security and privacy aspects of court information systems. Vulnerabilities of computer systems and possible security problems in administrative use of court data were identified. Practical methods for insuring data accuracy, security against unauthorized access, and privacy control are being implemented as a result of the study. The Center is working closely with the courts to assure proper use of the system.

### **Studies Generally Related to Courtran II**

The National Archives and Records Service completed an extensive survey on the integration of the present manual paperwork system with Courtran II. The survey, conducted in the Northern and Central Districts of California (which are two of the pilot Courtran II courts), identified many areas in which the system will eliminate the manual preparation of forms.

Courtran II can effectively perform many other functions for the court. For instance, the system can support the clerk's office in its role as an "information center." A single entry on the computer terminal when a case is opened not only establishes an electronic docket sheet, but also becomes a permanent entry in the court's alphabetical index.

### **Courtran II Facilities**

During the past year, a new computer facility was constructed in Washington, D. C. to support Courtran II use by federal courts across the country. This new facility provides needed processing power (prior to this time, a single computer had been supporting all Center research and development efforts, as well as all Courtran II applications in the courts).

The central computer center has been designed to satisfy court needs for reliable, comprehensive data-processing services. All major hardware components have sophisticated, fail-safe techniques. During

the next year, all Courtran II applications in the federal courts will be transferred to the new facility. The original computer will be devoted to research and development work.

### **Courtran II Network**

A commercial, value-added telecommunications network currently provides telecommunications service between the pilot Courtran II courts and the central computer facility. The charges for this service are based on the volume of data sent between the pilot courts and the central computer, rather than on the distances between the facilities. That is, transmitting equal amounts of data costs the same from San Diego to Washington as from Detroit. The Center is experimenting with the use of remote communications concentrators to transmit data at a higher speed and at a reduced cost.

### **Learning about Courtran II**

A videotape demonstrating the concepts and uses of the criminal case-flow management system was completed this year. This videotape, which also provides an overview of planned applications, will allow any interested group to view Courtran II capabilities, without the need for computer equipment. The videotape has already been shown to the Metropolitan Chief Judges Conference, participants in several Center seminars, and Administrative Office personnel. It is to be shown to members of Congress in the near future.

The Center is also considering the use of computer-aided instruction courses, home study programmed instruction courses, and exercise workbooks to more effectively teach the Courtran II system and its concepts to federal court personnel.

## **C. Study of the Federal Court Library System**

Responding to a request from the Judicial Conference, the Center launched a massive study of the federal court libraries in February, 1976. The final report of the study, to be completed this year, provides a comprehensive review of the federal judiciary's law book holdings. The study reveals that there are more than 2.8 million government-owned law books in the federal courts, making the entire system the largest law library in the world in terms of the number of volumes. The study also reveals, however, that there are only 2,500 different titles of law books available to all federal judges; that is only about one-third the number available to the United States Supreme Court and many state supreme courts.

The report, *Federal Court Library Study: Report and Recommendations*, details the current problems of acquisition, upkeep, and inventory control in a library system that spans 353 separate buildings

in 331 different cities, and serves 1,051 court officials and their staffs. The report describes the problems and costs associated with the duplication of titles necessary to serve such a dispersed administrative structure. Those problems are exacerbated by space limitations, poor architectural design, inadequate library support personnel, and the unmet law book needs of federal judges and other members of the judicial system.

Current methods of budgeting and fiscal control are criticized in the report. For example, most of the funds appropriated for federal judges' law books are lumped into appropriations for travel and miscellaneous expenses.

The Center commissioned a senior professional in the law library field to organize and to complete the study, and an advisory committee, chaired by a federal court of appeals judge, was appointed to advise the project team and review its reports. When the project director's work is completed, the Center will review the recommendations, then submit appropriate recommendations to the Judicial Conference.

Because the library study delved into virtually all aspects of the federal courts' library systems, the project team developed several related reports, separately published, on specific problems facing the federal courts. One such supplemental report, *Law Book and Law Research Problems as Stated by Judges and Other Officials of the Federal Courts*, revealed that the three problems most often experienced by members of the judiciary are the lack of major legal periodicals, the lack of legislative history materials, and the absence of local authority to purchase law books that federal judges deem essential.

#### **D. Research on Advocacy in the Federal Courts**

The Judicial Conference Committee to Consider Standards for Admission to Practice in the Federal Courts needs accurate data concerning the adequacy of advocacy, to determine the extent and the nature of the problems that exist. There are obvious difficulties in developing an objective rating system for lawyers' performances in court. Moreover, the question of whether a particular performance is adequate or not is partly a question of individual values, requiring a judgment with respect to the threshold of adequacy.

This year, at the request of the committee, the Center began a major research project to explore these issues. Its initial focus was to systematically determine whether, in the opinion of judges and lawyers, there is a substantial problem of inadequate advocacy in the

federal courts, and whether there is a substantial problem of inadequate performances by certain segments of the bar. The research also gathered opinions about the areas of advocacy most in need of improvement. These range from particular skills such as cross examination techniques, to knowledge of the rules of evidence, and the level of lawyer preparation.

In addition, the project examines consistency, or the lack of it, among different evaluators of an attorney's performance, to determine whether the reported assessments reflect some agreement about what constitutes an adequate performance. High reliability and consistency in performance ratings would provide a sound basis for decision making.

To accomplish these objectives, three major research tasks were undertaken. First, a questionnaire was sent to appellate judges, district judges, and lawyers, soliciting their views on the frequency of substandard lawyer performances in the federal courts. The questionnaire also asked which particular components of trial advocacy most need improvement. Second, each federal judge was asked to report on the performance of counsel in a relatively small number of cases that came before him or her during a designated period of time. A randomly selected sample of all judges were also asked to administer biographical questionnaires to the lawyers being rated. Third, videotapes of four actual trial performances by four attorneys were prepared. Groups of judges and lawyers viewed this standard set of trial segments, and were asked to rate the advocates' performances. This phase of the research will also help determine whether judges tend to agree not only on the relative quality of lawyers' performances but also on whether particular performances should be characterized as adequate or inadequate for federal courts.

Center staff has submitted interim reports at each meeting of the Judicial Conference committee. The final project report is scheduled for completion by February 1, 1978.

## **E. Study of Circuit Executives and Circuit Judicial Councils**

The Circuit Executive Act of 1971 provided for a significant addition to the administrative and management resources of the federal court system. The legislation describes general areas of appropriate responsibilities for circuit executives, but description of specific duties and authorities was left to each circuit's judicial council. The Center is now completing a study of the implementation of the Act. The study is intended, first, to describe specifically how the Circuit Executive Act has been implemented in the various

circuits, and second, to evaluate the alternative approaches that have been taken.

The study began with a questionnaire survey last year, followed this year by a series of visits to each circuit to explore in detail the assignments circuit executives have undertaken and the way their work serves the judicial councils' purposes.

This year, the Judicial Conference Subcommittee on Jurisdiction asked that the Center's inquiry be broadened to examine the work of the judicial councils themselves. The subcommittee particularly wanted guidance on the value of the March, 1974 definition of the powers, functions, and duties of circuit councils, promulgated by the Conference. The expanded study will thus evaluate the impact of the 1974 guidelines, to inform the councils, the circuit judicial conferences, the Judicial Conference, and the Congress of opportunities for improvement. This part of the study will emphasize the councils' responsibilities for expeditious administration of the courts in the circuits. The report is to be prepared by early 1978.

## **V. PROGRAM OF CONTINUING EDUCATION AND TRAINING**

The Center conducted 113 seminars, conferences, and workshops during the past fiscal year (30 more than were offered during fiscal 1976), fulfilling the Congressional mandate to create and conduct continuing education and training for federal judicial personnel. Participants included more than 3,500 judges, clerks, magistrates, circuit executives, probation officers, public defenders, and other professionals working in federal courts.

The methodology of the Center's education and training efforts is as varied as the range of subject matter and participants. In addition to seminars and workshops held across the country, the Center offers an array of educational materials, including more than 5,000 audio cassettes; films; and written catalogs, handbooks, and guides. The Center has also developed a correspondence course and a tuition assistance program for judicial personnel pursuing academic or technical training in specialized subject areas.

Members of the federal judiciary report the Center's programs have increased the effectiveness of supporting personnel and have contributed to the higher productivity rate of district and appellate judges. Many commendations from court personnel and an ever-increasing number of requests for additional programs tend to support the judgment that the Center is making a substantial contribution to improved judicial administration.

The Center's education and training programs are based on a careful, continuing evaluation of judicial needs and objectives. Planning committees composed of judicial personnel advise Center staff on program subjects, and suggestions from groups such as the National Conference of Federal Trial Judges provide additional assistance in this area. And, in addition to studying the detailed evaluation reports from program participants, Center staff visits courts, mails out questionnaires, and personally interviews court personnel.

These direct monitoring techniques are supplemented by analysis of statistics, research, technological advances, legislative trends, and changes in the patterns of litigation. Relevant periodicals and journals

are reviewed regularly, and Center staff confers with representatives of other organizations. All these sources aid the Center's effort to incorporate consideration of new techniques into current programs, and to assess future training requirements.

Reports from the Management Review Division of the Administrative Office have also helped determine the needs of program participants. During the past year, the Center began extensive use of these reports, which contain recommendations and observations directed to chief judges.

The Center's local training branch, established in fiscal 1977 to help courts determine their needs and to design and conduct programs responsive to local requirements, offers on-site Center services. This program, which brings Center resources and Center training to personnel at their regular work locations, adds an important new dimension to the Center's program.

As demonstrated by the statistics set forth below, the Center's education program has grown to the point where computerization is necessary. Accordingly, in fiscal 1978, the Education and Training Division's education, training, statistical, and fiscal data will be computerized to facilitate the Center's training programs and develop an education profile of federal court personnel.

The following statistical summary of fiscal 1977 conferences, seminars, and workshops shows the number of these programs held in each of thirteen categories. The number of participants and faculty in each program category is also listed, followed by an attendance total. Faculty for these programs include judges, law professors, criminologists, probation officers, and Parole Board members, and selected staff from the Administrative Office and the Center.

No.	Category	Participants	Faculty	Total
13	Federal Circuit and District Judges . . . . .	422	115	537
8	Bankruptcy Referees and Clerks . . . . .	313	69	382
4	Public Defenders, Assistant Public De- fenders, and Staff . . . . .	134	45	179
5	U.S. Magistrates and Clerks . . . . .	231	90	321
1	Circuit Executives . . . . .	10	-0-	10
1	Senior Staff Attorneys . . . . .	21	10	31
26	Probation Officers . . . . .	1,198	260	1,458
3	Court Reporters . . . . .	136	34	170
19	Court Clerks and Deputies . . . . .	810	199	1,009
8	In-Court Management Training . . . . .	120	10	130
5	Improving Supervisory Skills . . . . .	150	10	160
5	Local Training and Technical Assistance . . . . .	98	12	110
15	Video Training . . . . .	91	17	108
113	TOTALS . . . . .	3,734	871	4,605

The past fiscal year's education and training programs are briefly described below.

## **A. Workshops, Seminars, and Conferences**

### **Appellate Judges**

An appellate judges' conference, "The Nature of the Judicial Process," covered the following topics: Federal Appellate Courts; The Review Function; The October 1975 Term—Its Impact on Jurisdiction and Practice; Precedent; The Nature of Federal Judge-Made Law; Making and Justifying the Decision; and The Concept of Federalism—1976. The faculty included outstanding jurists and professors from across the country; this and most other Center conference proceedings are available on audio cassettes.

### **District Judges**

**Metropolitan District Chief Judges.** In spring, 1977, the Center supported a metropolitan chief judges' conference, featuring a videotape demonstration of the Courtran II project, a panel discussion on discovery, and the results of a survey of voir dire practice in federal courts.

**Workshops for District Judges.** Nine workshops were held for federal district court judges during the past fiscal year. The subjects discussed were Class Actions; Federal Rules of Evidence; Effective Utilization of United States Magistrates; and A Modern, Efficient Use of Supporting Personnel and the Bar.

A new, 25-minute, color film on juror orientation, "And Justice for All: The Jury," was shown at a number of these workshops.

The May, 1977 workshop presentations on class actions, by Judge William H. Becker of the Western District of Missouri and Professor Arthur R. Miller of Harvard Law School, are now available on color videotape.

The first of a new series of workshops for federal district judges was conducted in August, 1977 for Sixth, Seventh, and Eighth Circuit district court judges. The topics covered were Recent Developments in Jurisdiction and Practice, Effective Utilization of United States Magistrates, Title VII Cases and Problems, Plea Bargaining and Sentencing, Patent Cases, and Statistics.

**Seminars for Newly Appointed District Judges.** Once again, the Center conducted a seminar for newly appointed federal district court judges during the past fiscal year. The Center currently anticipates conducting four of these seminars in fiscal 1978, to

accommodate the new district judges Congress is expected to authorize.

The fiscal 1977 seminar covered General Principles of Judicial Administration, Management of Civil Case Flow from Filing to Trial, The Role of the Judge in the Settlement Process, The Civil Nonjury Trial, and The Trial of the Civil Jury Case.

Other topics included Post-Trial Proceedings in Civil Cases, Special Civil Cases, Management of the Criminal Case from Indictment to Trial, Guilty Pleas and Plea Bargaining, The Trial of the Criminal Jury Case, The Criminal Nonjury Trial, Post-Trial Proceedings in Criminal Cases, and Sentencing Alternatives and Principles of Sentencing.

In addition, seminar participants and faculty discussed Judicial Activities and Ethics, Patent and Copyright Cases, Administrative Office—How It Can Help You, Your Staff and How to Get More Out of Them, The Federal Rules of Evidence, The Role of the Federal Judicial Center and Its Relationship to the District Judge, and Management of Complex Cases.

### **Bankruptcy Referees and Chief Clerks**

Five seminars for federal bankruptcy referees included such topics as Jurisdiction of Litigation, Distribution of the Estate, The Trustee's Title and His Avoiding Powers Under the Act, The Chapter XII Rules, and a discussion of common problems.

Center workshops designed for clerks of bankruptcy offices were offered on three occasions.

### **Federal and Assistant Public Defenders, Defender Investigators, and Administrative Staff**

The federal public defenders' seminar held this year included sessions on parole, sentencing, defense of the mentally ill, defender ethics, and budgetary procedures. A workshop was held on the operation of the defender system.

An advanced seminar for assistant federal public defenders included workshop and seminar discussions, and presentations on subjects such as hearsay rules and trial advocacy techniques.

During fiscal 1977, the Center conducted the first workshop ever developed for investigators in public defender offices. The program topics were chosen to acquaint the investigators with new techniques, practices, and equipment used in investigations, and to update participants' professional skills and encourage professionalism.

A workshop for statistical and fiscal clerks of public defenders

provided detailed information on changed requirements and procedures of the Administrative Office.

### **Magistrates**

The Center conducted four seminars for full-time and those part-time magistrates with a full range of duties. The seminars addressed the problems of implementing the 1976 Jurisdictional Amendments to the Federal Magistrates Act.

Two special workshops were developed by the Center this year to train the staffs of full-time and selected part-time magistrates.

### **Circuit Executives**

Following the practice of the past several years, the Center hosted a meeting of the circuit executives in fiscal 1977.

### **Senior Staff Attorneys**

A workshop for senior staff attorneys, the first of its kind, was held by the Center this year. The three-day program emphasized review and analysis of circuit attorney offices, the uses and potential uses of staff attorneys in appellate courts, and effective utilization of resources.

### **Probation Officers**

**Orientation for New Probation Officers.** During the past year, the Center conducted five orientation seminars to train new probation officers during their first three months of federal duty. The faculty for these seminars was drawn from the Probation Division of the Administrative Office, the Department of Justice, the United States Parole Commission, the Federal Bureau of Prisons, the academic community, and experienced probation officers from the federal court system.

**Advanced Seminars.** Three "refresher" seminars were held this year. These programs are available to all probation officers every third year, to keep them abreast of the latest developments in criminal justice and recent legislation affecting probation and parole. This year's advanced seminars were conducted in a new way: each participant chose six topics from a list of thirty-two, and developed an individualized program to meet his or her professional needs. Three additional topics were mandatory for all participants: Current Developments in the United States Probation System, The Parole Commission, and The Federal Bureau of Prisons. Evaluation of the optional approach allowing individualized programs showed it was an effective training method; the technique will be used in future advanced seminars.

**Advanced Management Training for Chief Probation Officers.** During the past year, the Center designed two new seminars to meet the critical need of chief probation officers for training in advanced management, administration, and supervisory techniques and skills. These seminars were developed to meet the needs of rapidly expanding probation offices.

**Probation Supervisor Workshops.** Clerks of probation offices participated in three Center workshops this year. The program was developed to increase the trainees' knowledge and proficiency in administration, preparation of reports, and the roles and functions of the probation officer service.

**Rational Behavior Therapy Workshops.** The success of the two rational behavior therapy workshops held in fiscal 1976 prompted the Center to hold five workshops in this specialized counseling method in fiscal 1977. The workshops demonstrably enhanced probation officers' professional effectiveness with their probation and parole clients.

**Crisis Intervention Workshop.** In fiscal 1977, the Center offered a new workshop to a group of selected probation officers. The program was designed to help participants deal with their clients more effectively during the inevitable crisis periods that all probation officers encounter at some point.

**Probation Officer Assistants.** A Center seminar for probation officer assistants was designed to update participants on the goals and objectives of the probation officer assistant concept and current operational problems.

**Graduate Training Program for United States Probation Officers.** The first year of an experimental three-year Graduate Studies Program for United States Probation Officers, sponsored by the Center, was completed during fiscal 1977, in cooperation with Fordham University. The first-year course of study included: Introduction to Sociology, Crime and Delinquency, Caseload Management, Sociological Theory and Criminal Justice, The Law, and Probation and Parole.

**Chief Clerks of Probation Offices.** Two Center seminars for the chief clerks of probation offices were designed to give a broad overview of the probation system, analyze and describe procurement and records management policies and procedures, enhance communications between the field and the division, and provide a forum for discussion of mutual professional problems. A similar seminar will be held in fiscal 1978 for those chief clerks who did not attend this seminar.

**Pretrial Services Orientation Seminar.** One orientation semi-

nar was held for pretrial services officers entering federal service this year. The program explored the objectives and responsibilities imposed by Title II of the Speedy Trial Act.

**Communicative Skills Workshops.** During the past year, the Center designed and conducted four experimental workshops to improve probation officers' communication skills. The workshops covered report writing, effective use of the spoken and written word, dictation techniques, and systematic data collection methods.

### **Federal Court Reporters**

Three Center workshops for federal court reporters addressed such topics as: Recurrent Transcription Backlog Solutions, Techniques of Trial Reporting, Computer-Assisted Transcription, Technical Library Resources, and The Court Reporter and the Administrative Office. Workshops for federal court reporters had not been held since 1973.

### **Court Clerks**

**Clerks of the United States Courts of Appeals.** Clerks of appeals courts participated in a training seminar on management supervision, administration, and personnel development and problems. This program also included education sessions on Courtran II, the Appellate Information Management System (AIMS), and Federal Rules of Appellate Procedure.

**Clerks of United States District Courts.** The Center held two workshops this year for clerks of district courts. Faculty and participants discussed methods of improving managerial skills, supervisory techniques and procedures, and administrative practices.

**Jury Deputy Clerks.** Three workshops prepared jury clerks to implement the practices and procedures of district courts' jury plans, improve juror utilization, and understand and apply jury financial procedures and practices. The Center program also instructed participants in the computer processes of automatic jury selection techniques.

**Docketing Deputy Clerks Workshop.** The Center held a workshop for Tenth Circuit docketing clerks to discuss localized court forms, practices, problems, and solutions. Participants also covered specific facets of docketing for civil, criminal, and appeals dockets.

**Financial Deputy Clerks Workshops.** Two workshops for financial deputy clerks of district and appellate courts were held by the Center this year. The district courts' assumption of financial control and payment (formerly handled by the United States mar-

shals' offices) required intensive orientation and training in financial procedures, custody, control, and payment requirements. In addition, these workshops provided training in other funding procedures.

**Courtroom Deputy Clerks.** The Center conducted a workshop for the Second Circuit courtroom deputies, to provide training in the revised forms required by the Administrative Office for courtroom reports.

**Procurement, Property Management, and Records Deputy Clerks.** Two workshops were held for clerks and deputy clerks of district and appellate courts, covering procurement procedures, the General Services Administration, use of space and facilities, property management, law books and periodicals, records storage, and physical security of the courts and court personnel.

**Courtran Deputy Clerks.** The Center conducted seven intensive training sessions for deputy clerks from the courts selected as pilot participants in the Courtran II computer project. These programs provided initial training and refresher skills in criminal docketing for selected deputy clerks. During fiscal 1978, the Center will expand its development of programs, manuals, and training guides to supplement the Courtran II project.

### **In-Court Management Training; Improving Supervisory Skills**

Five in-court management training seminars were held during fiscal 1977. The Center designed these seminars to improve the understanding of court responsibilities and functions, coordination, and supervisory skills among supervisors and their subordinates.

The Center also conducted five additional supervisory management seminars intended to complement the management training described above. This program was designed and field tested, and instructors were trained; full implementation is planned for fiscal 1978.

### **In-Court Local Training and Technical Assistance**

The Center continued its program of furnishing judicial personnel with on-site (local) training and technical assistance. A one-day workshop reviewed case law governing probation officers in such areas as confidentiality of records, search and seizure, carrying of weapons, and legal liability.

Three instructional technology workshops were held for training coordinators in probation offices. These workshops are designed to prepare training coordinators to develop a program of local training, and thus produce a significant "multiplier effect."

Additionally, the Center conducted two on-site programs to

enhance the technical competency and professional knowledge of court personnel dealing with bankruptcy matters.

### **Video Training**

Following five successful sessions of a fiscal 1976 pilot program testing the feasibility of videotaped depositions, the Center conducted six videotape deposition workshops during the past year. Five of the six involved refresher and advanced techniques training. The sixth workshop trained participants to operate the equipment, take videotape depositions, and understand the uses and limitations of this equipment in court applications.

Four other workshops prepared court personnel to use video equipment in local courts. The Center also evaluated and purchased videotape cassette equipment for selected district courts to use in conducting local training.

An additional five workshops prepared local personnel to develop in-court videotapes for use in local training programs.

## **B. Other Educational Services**

### **Audio Cassette Program**

The Center maintains a lending library of audio cassettes on workshop, seminar, and conference topics. These tapes are available to all members of the federal judiciary for two-week loans. Now in its sixth year of operation, the library filled 6,145 requests during fiscal 1977, an increase of more than 2,500 over the previous year's requests. The cassette library covers 800 recorded topics in 18 categories; more than 5,000 cassettes are available. A revised catalog listing both the available cassettes, and, for the first time, other materials available from the Center such as films and videotapes, was published this year.

### **Film Library**

The Center's film library has been expanded during the past fiscal year. The collection offers approximately one hundred films, most of which are designed to improve managerial, supervisory, and administrative skills of court personnel. The films cover specific subjects, such as juror orientation, law enforcement, probation, parole, the juvenile offender, drug dependency, and the management role. Training guides are being written to assist local trainers using the films.

### **Specialized Training**

In some instances, it is to the courts' benefit to have personnel

participate in job-related educational programs available through other government and nongovernment sources. Judicial personnel under this program attend colleges, universities, and programs conducted by private training firms, the Civil Service Commission, the Graduate School of the Department of Agriculture, and the Institute for Court Management (participating in the Court Executive Development Program). Under this program, once approved by the Center, the courses and/or programs are funded from appropriations allocated for this purpose in the Center's annual budget.

During fiscal 1977, the Center approved such training courses for 711 participants, at an aggregate cost of \$105,840, or a per capita cost of \$148.86.

Financial assistance was distributed in the following percentages:

Offices of Clerks of Court .....	44.5%
Administrative Office of the U.S. Courts .....	21.8%
Probation Officers .....	15.4%
Federal Public Defenders .....	8.3%
Judges and Magistrates .....	3.0%
Secretaries .....	2.7%
Miscellaneous (Bankruptcy Offices, Federal Judicial Center, and Supreme Court) .....	4.3%

### Correspondence Course

In 1975, the Center began offering a correspondence course for court personnel interested in improving their supervisory skills through independent study. The program has generated continuing interest, as the 147 enrollees during the fiscal year demonstrate. The following chart shows participation in the course since its inception.

Office	Total Enrollment	Active Participants	Completed	Withdrawn
Clerks' Offices .....	473	374	87	12
Probation Officers .....	300	180	118	2
Probation Clerks .....	144	110	32	2
Bankruptcy Offices .....	77	63	11	3
Judges' Offices .....	22	16	6	-0-
Magistrates' Offices .....	14	13	-0-	1
Administrative Office .....	56	47	8	1
TOTALS .....	1,086	803	262	21

### Educational Assistance to Other Institutions

During fiscal 1977, the Center acted as a resource advisor during deliberations of the Judicial Education Study Group conference in Chicago. The group is part of a project funded by the Law

Enforcement Assistance Administration and designed to explore the future of judicial education at the state level.

The Center also assisted the National American Indian Court Judges Association in developing education and training programs for clerks and deputy clerks of American Indian tribal courts. This program, which has just begun, is expected to continue.



## **VI. INTER-JUDICIAL AFFAIRS AND INFORMATION SERVICES**

### **A. Information Services**

To provide Center staff, members of the judiciary, and the public with research on topics related to judicial administration, the Center's Information Service maintains a collection of 3,970 books and Center publications, an increase of 661 volumes over the previous year. Requests for information increased significantly during the past year, rising to 2,376 from 1,700 in fiscal 1976. Eight hundred and forty of these requests were for Center publications.

The information requests emanate from a variety of sources. Law schools, law firms, students, and members of the public often request Center publications. Center staff, judges, federal court personnel, and government agencies frequently need specific information on judicial administration. In responding to such requests, Center staff conducts substantial research. In addition, the Information Service this year loaned approximately one thousand volumes, nearly 300 of which were obtained from other libraries, primarily the Library of Congress. The Information Service often gathers material for judges preparing addresses, and for seminar presentations and other projects covering the entire spectrum of court management and judicial administration. Anticipating the needs of federal judicial personnel, staff members compile legislative histories on statutes of special concern. A substantial collection of Congressional committees' reports and hearings is maintained.

To serve court personnel, the Information Service also collects seminar and training session announcements from organizations such as the Civil Service Commission, the Institute for Court Management, the American Law Institute, the Practising Law Institute, the American Bar Association, and the Graduate School of the United States Department of Agriculture.

The Information Service is currently preparing indexes to certain specialized Center publications; this represents a new and expanding effort to increase their utility.

## **B. Library of Congress Project**

This year, the Library of Congress and the Center cooperated in offering, to one hundred circuit and district judges, expanded use of the research facilities provided by the American-British Law Division of the Library of Congress. Since preliminary response was affirmative, the Center broadened the program to include all federal judges, providing library materials not readily available in some jurisdictions. The Library's ninety-member staff, including reference librarians specializing in American legal research, can compile indexes to federal legislative histories, use computerized data bases of current legislative materials, and provide judges with rare treatises and the most extensive collections of American and foreign law periodicals in the United States.

Though Library personnel are not in a position to engage in protracted research projects, they will help federal judges locate special collections or furnish copies of materials, including briefs filed in the Supreme Court, bills and resolutions introduced in Congress, reports and opinions of state attorneys general, and administrative regulations of states and territories.

The Center will help defray costs incurred in delivering this expanded service during the pilot program.

This project is designed to determine whether the research needs of federal judges justify a permanent arrangement with the Library of Congress or development of a judicial research service to provide access to materials that judges do not currently have in their own collections.

## **C. The Third Branch**

The Center and the Administrative Office continue to publish *The Third Branch*, the official monthly bulletin of the federal courts. It reviews legislation affecting the federal courts, summarizes the meetings of state-federal judicial councils, announces publications of special interest to the judiciary, provides a schedule of official meetings, and lists changes in judicial personnel.

This bulletin is distributed to all judges and supporting personnel in the federal judiciary, all members of Congress, state chief justices, law school deans, law libraries, and a selected number of other organizations and individuals actively engaged in judicial administration programs.

*The Third Branch* periodically features interviews with nationally prominent individuals whose professional activities affect members of the federal judiciary. The chairmen of the Senate and House

Judiciary Committees and the chairmen of various Judicial Conference committees were among those interviewed this year.

### **D. Foreign Visitor Service**

The Center continues to assist foreign visitors interested in American judicial administration. This year, Center staff hosted judges, lawyers, and court administrators from Bangladesh, Turkey, Afghanistan, Japan, England, Italy, Guatemala, Colombia, Thailand, Chile, New Zealand, South Africa, and West Germany.

Foreign visitors are regularly referred to the Center by the Department of State, the International Legal Center of the United Nations, the American Bar Association, the Federal Bar Association, the Visitor Program Service, the Asia Foundation, and other organizations working in the judicial administration field. The Center also corresponds directly with individuals abroad who are planning to visit this country, and often arranges appointments at other organizations in Washington and throughout the country.

In addition to receiving and briefing guests, the Center arranges, on request, for foreign visitors to monitor or participate in Center seminars and conferences. This service, in addition to extending courtesies to visitors representing the legal profession in other countries, affords Center personnel the opportunity to learn more about solutions to problems common to all systems of judicial administration.

### **E. Interorganizational Liaison**

The Center's interorganizational liaison program is intended to help coordinate programs and to prevent wasteful duplication among the numerous organizations serving the judiciary. Center staff maintains direct liaison with the Institute for Court Management, the Institute of Judicial Administration, the National Center for State Courts, the American Judicature Society, the National College of the State Judiciary, the American Bar Association, and the American Bar Foundation.

A Center staff member serves as secretary-treasurer and sits with the board of the National Center for State Courts, and is chairman of the Federal Courts Committee of the American Bar Association Lawyers Conference. Center staff members have also served on the American Bar Association Task Force on Appellate Procedure, the American Bar Association Committee on Implementation of Standards for Judicial Administration, and the Committee on Resolutions to Be Considered by the Association's Assembly.

To keep the federal judiciary informed of developments in

judicial administration, the Center reviews the publications, programs, reports, and activities of other organizations devoted to judicial improvement, as well as the *Congressional Record*, the *Federal Register*, and other major periodicals.

## VII. PUBLICATIONS PROGRAM

The Center initiated a new publications program in 1977. In addition to reports describing major research projects, the Center now publishes staff papers, which are the products of short-term research efforts. For example, a district judge's inquiry on the order of summation in civil cases was answered following a telephone survey. The district was considering a change in its local rules and sought information on the practice of other courts. The memorandum that summarized the findings has appeared as a staff paper, which will be announced in *The Third Branch* to make the results of the research more widely available.

Manuals and handbooks are produced as reference materials for federal court personnel. For example, the Center is currently completing the revision of the *Benchbook for Judges*, and will complete the *Law Clerk Handbook* in fall, 1977. A Courtran II user's manual is scheduled for publication during fiscal 1978.

The Education and Training Series makes available the diverse materials resulting from seminars and conferences sponsored by the Center. Presentations by federal judges, law professors, and other distinguished speakers are transcribed, edited, and published. The series also includes educational materials in areas such as bankruptcy and probation, and a catalog of tapes, films, and other education aids available from the Center.

The following reports, staff papers, and education and training publications have been completed:

*Priorities for Handling Litigation in United States Courts of Appeals*  
(publication number FJC-R-77-1)

*An Evaluation of Computer Assisted Legal Research Systems for Federal Court Applications* (FJC-R-77-2)

*An Evaluation of the Probable Impact of Selected Proposals for Imposing Mandatory Minimum Sentences in the Federal Courts*  
(FJC-R-77-3)

*An Evaluation of the Civil Appeals Management Plan: An Experiment in Judicial Administration* (FJC-R-77-4)

*Recommended Procedures for Handling Prisoner Civil Rights Cases in Federal Courts* (FJC-R-77-5)

*Case Management and Court Management in United States District Courts* (FJC-R-77-6-1)

*Conduct of the Voir Dire Examination: Practices and Opinions of Federal District Judges* (FJC-R-77-7)

*The Impact of Video Use on Court Function: A Summary of Current Research and Practice* (FJC-R-77-9)

*Survey of Local Civil Discovery Procedures* (FJC-SP-77-1)

*Appellate Court Caseweights Project* (FJC-SP-77-3)

*Air Disaster Litigation: The Need for Legislative Reform* (FJC-SP-77-6)

*Order of Summation in Civil Cases* (FJC-SP-77-7)

*Educational Media Catalog: A Catalog of Audio Cassettes, Films and Video Cassettes* (FJC-ETS-77-2)

*Appellate Review of Trial Court Discretion* (FJC-ETS-77-3)

*Appellate Opinion Writing* (FJC-ETS-77-4)

*Consumers of Justice* (FJC-ETS-77-6)

*Stare Decisis* (FJC-ETS-77-5)

*The Role of the Judge in the Settlement Process* (FJC-ETS-77-13)

The following publications are scheduled for completion near the end of 1977:

*Judicial Controls and the Civil Litigative Process: Discovery* (FJC-R-77-6-3)

*Evaluation of Computer-Aided Transcription* (FJC-R-77-8)

*Federal Court Library Study: Report and Recommendations* (FJC-R-77-10-1)

*Books that Judges and Other Court Officials Have and Do Not Need* (FJC-R-77-10-2)

*Inventory of Periodicals in Federal Court Libraries* (FJC-R-77-10-3)

*Law Book and Law Research Problems as Stated by Judges and Other Officials of the Federal Courts* (FJC-R-77-10-4)

*Locations of Federal Court Facilities* (FJC-R-77-10-5)

*Law Book Collections at Unoccupied Federal Court Locations* (FJC-R-77-10-6)

*Procurement of Law Library Materials for the United States Courts* (FJC-R-77-10-7)

*Progress Report on Study of Facsimile Transceivers* (FJC-R-77-10-8)

*Architectural Design Standards for Federal Court Libraries: A Working Paper* (FJC-R-77-10-10)

*Library Personnel: Jobs, Qualifications, Recruitment, Salaries, and Training* (FJC-R-77-10-11)

*Proceedings of the Seminar for Newly Appointed United States  
District Judges (FJC-ETS-77-1)*

*Law Clerk Handbook (FJC-M-1)*

*An Evaluation of the Application of a Computerized Citation-Checking  
System in the Federal Courts (FJC-R-77-23)*



## VIII. HISTORY AND ORGANIZATION OF THE FEDERAL JUDICIAL CENTER

Throughout its 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 current Center activities are: studies of the effectiveness of court procedures; evaluation of the effectiveness of the application of technology to the problems of judicial administration; education and training of court personnel—via seminars, a correspondence course, audio cassettes, and videotapes; analysis of the impact of legislative changes on the courts; development of new techniques to improve the work of courts and court personnel; collection and dissemination of information to expedite case flow; and planning for the years ahead by developing forecasts that 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 courts system: the Supreme Court of the United States, the Judicial Conference of the United States, the circuit judicial councils, the circuit judicial conferences, and the Administrative Office of the United States.

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, established in 1922, is composed of twenty-five judges representing the circuit,

district, and special courts; it is chaired by the Chief Justice of the United States. Conference duties include: conducting comprehensive surveys of the condition of federal court business, 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 Conference operates through a number of standing and ad hoc committees.

The judicial councils of the eleven 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 court business within their circuits. Thus the circuit councils have the primary power and responsibility for the management of the federal judicial system.

The circuit judicial conferences are convened annually to consider the business of their courts and devise 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; providing fiscal services, especially those related 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, until 1967, had been charged with the responsibility, or given the necessary resources, to support the judicial branch through independent research, education and training, and the development and application of technology to court management.

The late Chief Justice Earl Warren and other members of the Judicial Conference recognized that all of the demands of the rapidly expanding federal caseload could not be met by ad hoc responses from individuals and organizations working on a diffused, 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, effective December 27, 1967, establishing the Federal Judicial Center. Shortly thereafter, under the leadership of its first director, the late Justice 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 require protracted research and unhurried analysis, while others are susceptible to solution by short-term study or development.

The Center’s organizational and management philosophy is the key to effective fulfillment of its Congressional mandate. As a professional organization, the Center attempts to select the most highly qualified individuals within each discipline involved in its unique work. 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 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 a two-fold mission: the identification of areas in which 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 in this report, Research Division projects include: sentencing studies, the civil appeals management project, voir dire studies, research on advocacy, and the

forecasting of federal court caseloads. In its aim to generate the best information to guide policy development, 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 to enhance 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 Courtran project, and evaluation of computer-aided transcription systems. 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 coordinates Center activities with those of other organizations working in judicial administration. This division, through its Information Service, also provides information on the federal judiciary and court administration. In addition, it supports and coordinates the important work of the state-federal judicial councils.

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

Although the programs of the Inter-Judicial Affairs and Information Services Division and the Continuing Education and Training Division more closely reflect strict division responsibilities, many projects do cross division 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 to combine optimal organizational efficiency with optimal organizational flexibility.

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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.

**FEDERAL JUDICIAL CENTER  
DOLLEY MADISON HOUSE  
1520 H STREET, N.W.  
WASHINGTON, D.C. 20005**

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