

Federal Judicial Center 2001 Annual Report

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A MESSAGE FROM THE DIRECTOR

Distance learning—it's been generating a lot of "buzz." But what exactly does the term mean? In general, "distance learning" refers to the delivery of education to a geographically dispersed audience. Typically, the term connotes the use of modern information technologies, such as Web-based training conducted over computer networks, computer-based training using CD-ROMs, satellite broadcasting, and video teleconferencing. While face-to-face seminars are still the main component of Center educational programs for judges, we also use all of these distance learning technologies to provide education, training, and information to larger numbers of judges and court staff than we can reach through in-person programs alone.

But distance learning is not by definition "high-tech." Sometimes, the same old reliable "low" technology that has been around for centuries—specifically, the printed word—is the most effective and cost-efficient way to give judges and court staff the tools they need to help them do their jobs. Over the past year the Center has updated and expanded its collection of manuals, monographs, training guides, and reports with several timely, new publications on emerging issues. It has also issued revised versions of some of its most popular reference works for judges. (A complete list of the Center's 2001 publications is on page 16.)

For example, the Center unveiled two new desk references in 2001. *Guide to Judicial Management of Cases in ADR* helps federal trial and bankruptcy courts decide when and how to refer cases to ADR and how to manage cases so referred. *Effective Use of Courtroom Technology: A Judge's Guide to Pretrial and Trial*, a joint effort of the Center and the National Institute for Trial Advocacy, describes the substantive and procedural considerations affecting counsel's use of their own or the court's electronic equipment to present evidentiary exhibits or illustrative aids during trial.

Along with the Center's *Reference Manual on Scientific Evidence*, a second edition of which was published in 2000, these manuals represent a new generation of Center

reference guides responding to new developments in litigation and case management. They are worthy additions to the Center's core collection of desk references, including the *Manual on Recurring Problems in Criminal Trials*, *Guideline Sentencing: An Outline of Appellate Case Law on Selected Issues*, and *Deskbook for Chief Judges of U.S. District Courts*, new editions of which were produced in 2001 or are forthcoming in 2002.

The Center also worked with the Judicial Conference Committee on Court Administration and Case Management and with the Administrative Office of the U.S. Courts to produce the *Civil Litigation Management Manual*, which Congress directed the Conference to prepare in the Civil Justice Reform Act of 1990. The Conference's manual builds on the Center's 1992 publication, *Manual for Litigation Management and Cost and Delay Reduction*.

In addition to its reference manuals, the Center produces a series of monographs that offer judges quick studies in substantive areas of law in which they may not have had recent experience. This past year the Center made the third edition of *Patent Law & Practice* available to the judiciary through an arrangement with the Bureau of National Affairs and the author. New monographs on international insolvency, on the statutory and case law governing recusal, and on redistricting litigation will be published early in 2002.

Many of the Center's research reports help educate courts on case management techniques that are being used in other courts. *The Use of Visiting Judges in the Federal District Courts: A Guide for Judges and Court Personnel*, produced last year at the request of the Judicial Conference's Judicial Officers Resources Working Group, explains how courts can create visiting judge programs and provides practical suggestions to visiting judges. Another 2001 report, *Neutral Science Panels: Two Examples of Panels of Court-Appointed Experts in the Breast Implants Product Liability Litigation*, explains how the experts were selected, describes panel procedures, and summarizes other issues affecting the appointment of independent panels of experts.

Center educational publications are not for judges and legal staff alone. Using Center-produced training guides, self-study courses, and other "packaged" curriculum materials produced by the Center, almost 22,000 court staff participants received education and training without leaving their own courts last year. New training materials released in 2001 included bulletins on white-collar crime and on women offenders and their children (both part of the Special Needs Offenders series for probation and pretrial services officers), an updated guide for in-district training and development of new probation and pretrial services supervisors, and *Expert Customer Service*, a curriculum packaged program that is taught in-court by Center-trained court employees.

All of the above is not to say that we don't look for opportunities to use new technologies to make our publications more accessible and more valuable. Many of the titles mentioned above are available to judicial branch personnel on the courts' intranet (jnet.fjc.dcn) and to the public on the Internet (www.fjc.gov). Indeed, some publications are available only on our Web sites and are not published in hard copy. One example is our *Resource Guide for Managing Capital Cases, Vol. 1: Federal Death Penalty Trials*, which describes the statutes, case law, and policies applicable to federal capital case management, with examples of orders, jury questionnaires,

instructions, verdict forms, and other materials developed by judges who have handled death penalty cases. Issuing the guide exclusively in electronic form enables the Center to update it and add material as new cases emerge. A volume on managing capital habeas cases will be issued in 2002.

The Center's *Guide to In-district Training of New Probation and Pretrial Services Officers*, which features a comprehensive list of information new officers need to know during their first year on the job, is also only available electronically. Districts can download the guide and customize it to meet their unique training needs. Similarly flexible is the Center's deskbook template for chief circuit judges. Available on the courts' intranet and on the Web, the template provides a fairly comprehensive list of activities that chief circuit judges and others undertake. Circuits can use it in preparing their own deskbooks.

We will continue to use all of the means available to us to deliver education, training, and timely information. But even as the technologies become more sophisticated and our resources become ever more easy to access, it's still a good idea to check your bookshelves and your court library, and see what the FJC has in print.

FERN M. SMITH

ABOUT THE FEDERAL JUDICIAL CENTER

Statutory Mission

Congress created the Federal Judicial Center in 1967 “to further the development and adoption of improved judicial administration” in the courts of the United States. The Center’s statutory duties are codified at 28 U.S.C. §§ 620–629. They include providing orientation and continuing education for the judges and staff of the federal judicial system, performing research on court operations and procedures (particularly in support of committees of the Judicial Conference of the United States), and conducting programs to promote judicial federalism, assist foreign judicial systems, and study the federal courts’ history. This annual report, mandated by statute, describes the Center’s activities in furtherance of its statutory duties in calendar year 2001.

Governance

The Chief Justice of the United States chairs the Center’s Board, which also includes two circuit judges, three district judges, one bankruptcy judge, and one magistrate judge who are elected by the Judicial Conference of the United States, and the director of the Administrative Office of the U.S. Courts who serves on the Board *ex officio*. The Board oversees the Center’s activities, and its members serve on standing committees on education and research and on advisory committees on judicial education programs.

In March 2001, the Judicial Conference elected Chief Judge Robert F. Hershner, Jr. of the U.S. Bankruptcy Court for the Middle District of Georgia and Magistrate Judge Robert B. Collings of the U.S. District Court for the District of Massachusetts to membership on the Board. They replaced Judge A. Thomas Small of the U.S. Bankruptcy Court for the Eastern District of North Carolina and Magistrate Judge

Board of the Federal Judicial Center, 2001

The Chief Justice of the United States, *Chair*

Judge Stanley Marcus, U.S. Court of Appeals for the Eleventh Circuit

Judge Pauline Newman, U.S. Court of Appeals for the Federal Circuit

Chief Judge Jean C. Hamilton, U.S. District Court for the Eastern District of Missouri

Judge Robert J. Bryan, U.S. District Court for the Western District of Washington

Judge William H. Yohn, Jr., U.S. District Court for the Eastern District of Pennsylvania

Chief Judge Robert F. Hershner, Jr., U.S. Bankruptcy Court for the Middle District of Georgia

Magistrate Judge Robert B. Collings, U.S. District Court for the District of Massachusetts

Leonidas Ralph Mecham, Director of the Administrative Office of the U.S. Courts

Virginia M. Morgan of the U.S. District Court for the Eastern District of Michigan, whose terms expired.

The Board appoints the Center's director and deputy director; the director appoints the Center's staff. All but one of the Center's eight directors have been federal judges, including the current director, Judge Fern M. Smith of the U.S. District Court for the Northern District of California.

Organization

The organizational structure of the Center reflects its primary statutory mandates and direction provided in the Board's 1997 strategic plan. The Judicial Education and Court Education divisions are responsible for planning and producing education and training programs for judges and court staff, including satellite broadcasts, video programs, educational publications, and Web resources. The Research Division examines and evaluates current and alternative federal court practices and policies. This division not only assists committees of the Judicial Conference in developing policy recommendations but also contributes substantially to educational programs and products for the judiciary. The three divisions work closely with two units of the Director's office—the Systems Innovation & Development Office and Communications Policy & Design—in using print, broadcast, and on-line media to deliver timely education and training and to disseminate the results of Center research. The Federal Judicial History Office, a part of the Research Division, develops innovative ways to help courts and scholars study and preserve federal judicial history. The Interjudicial Affairs Office, part of the Judicial Education Division, provides information to judicial and legal officials from foreign countries and assesses how developments in international law should be included in the Center's educational programs for federal judges.

Senior Staff of the Federal Judicial Center

Hon. Fern M. Smith, Director

Russell R. Wheeler, Deputy Director

John S. Cooke, Director, Judicial Education Division

James B. Eaglin, Director, Research Division

Emily Z. Huebner, Director, Court Education Division

Sylvan A. Sobel, Director, Communications Policy & Design

Ted E. Coleman, Chief, Systems Innovation & Development

Mira Gur-Arie, Senior Attorney for Interjudicial Affairs

Bruce A. Ragsdale, Chief, Federal Judicial History Office

Coordination Within the Judicial Branch

Numerous programs and projects described in this annual report involve coordination, cooperation, and consultation with the Judicial Conference and its committees, with the Administrative Office, and with the U.S. Sentencing Commission. At the request of the Center's Board and the Judicial Conference and pursuant to the Center's strategic plan, the Center and the Administrative Office have developed

formal and informal interagency mechanisms to promote appropriate coordination of educational activities.

Advisory committees of judges, court staff, and others help the Center in planning and producing education programs and publications. These committees are listed on pages 20-21.

Staffing and Appropriation

The Center had a fiscal 2001 appropriation of \$18,736,000, and it employed 142 people at the end of calendar year 2001. Its fiscal 2002 appropriation is \$20,135,000.

2001 at a Glance

In 2001 the Center

- provided 985 educational programs (including educational programs broadcast on the Federal Judicial Television Network) for more than 48,000 federal judge and court staff participants
- completed 17 major research and evaluation projects, continued work on 21 others, and responded to many other requests for short-term research assistance
- published or updated 12 reports, manuals, monographs, or reference guides
- broadcast almost 2,000 hours of educational and informational programming from the Center, the Sentencing Commission, and the Administrative Office on the Federal Judicial Television Network
- completed nine curriculum packages and training guides
- released three computer-based instructional programs
- distributed more than 213,000 copies of its publications, including periodicals and catalogs of books, programs, and other services, as well as almost 3,000 audio, video, and multimedia programs
- answered some 2,000 information requests from judges, court staff, and others
- hosted seminars or briefings for 422 foreign judges and officials representing 34 countries

EDUCATION & TRAINING

Judges and court staff receive education and training from the Center through a variety of methods. Face-to-face conferences, seminars, and workshops continue to be the primary vehicle for orientation and continuing education for judges. Such programs are often the best way to enable participants from throughout the judicial system to learn from one another.

Most court staff who participate in Center education programs do so in local training events or through other distance education methods. These methods include satellite broadcasts over the Federal Judicial Television Network (FJTN) (see box), on-line conferences and other forms of computer- and Web-based training programs, audioconferences over the telephone, and videoconferences with two-way audio and video. The Center also produces curriculum packaged programs, which are taught by court staff who are trained by the Center and who receive instructor guides, participant handouts, overhead slides, and, on occasion, videotapes to deliver the training in their districts and in other districts nearby. Center-developed training guides enable courts to design customized programs that meet their staffs' unique needs.

The Center's 2001 education and training programs reached more than 48,000 participants. (Each instance of participation by a judge or court employee is included in this total, so some individuals are counted more than once.) Included in these participant figures are estimated FJTN viewings, which are based on monthly surveys conducted by the Center that use statistical sampling to estimate viewership. The Center estimates that some 21,000 viewers watched live and videotaped educational and informational programs broadcast by the Center during 2001; the large majority of these viewers were court staff. In all, at least 90% of the participants in Center educational programs in 2001 watched FJTN broadcasts or received some other form of distance education in their own courts.

The Center also publishes manuals, monographs, and other job aids and produces audiotapes, videotapes, and computer-based educational media. Many of these resources are available on the Center's site on the courts' intranet at jnet.fjc.dcn; some are also available on its site on the World Wide Web at www.fjc.gov.

Federal Judicial Television Network

The Center operates the Federal Judicial Television Network (FJTN) to provide educational and informational programming from the Center, the Administrative Office, and the Sentencing Commission to judges and court staff at satellite viewing sites in 300 federal court locations. In 2001, the FJTN broadcast almost 2,000 hours of programming, including rebroadcasts. Sixty-four programs aired live. Center educational programming on the FJTN consisted of 267 programs, accounting for more than 875 broadcast hours. Of these, 24 were live, interactive programs in which judges and court staff at courthouses around the country could speak directly with faculty in the broadcast studio.

Seminars & Workshops for Judges, Jan. 1–Dec. 31, 2001

	Number of Programs	Number of Participants
Orientations for newly appointed circuit judges	1	2
Orientations for newly appointed bankruptcy judges	2	24
Orientations for newly appointed magistrate judges	3	69
Conference for chief district judges	1	90
Conference for chief bankruptcy judges	1	80
* Workshops for district and circuit judges	3	358
* National workshops for bankruptcy judges	1	83
* National workshops for magistrate judges	1	119
Special-focus workshops	16	423
In-court seminars	17	207
TOTAL	46	1,455

* The Center offers these programs on an 18-month cycle. Judges may attend one workshop each cycle.

The Center also conducted six programs for 770 federal defenders and staff.

Court Staff Education & Training Programs, January 1—December 31, 2001

Seminars and Workshops	Number of Programs	Number of Participants
Clerks of court and clerk's office personnel	13	1,230
Probation and pretrial services officers and personnel	17	954
Appellate conference attorneys	1	40
Personnel in several categories	14	539
TOTAL	45	2,763
In-Court Programs (programs using Center curriculum packages, training guides, and computer-assisted instructional programs)	Number of Programs	Number of Participants
Clerks of court and clerk's office personnel	241	11,520
Probation and pretrial services officers and personnel	335	9,406
Personnel in several categories	40	1,029
TOTAL	616	21,955
Technology-based Programs (videoconferences, audioconferences, on-line conferences, but not including FJTN broadcasts)	Number of Programs	Number of Participants
Probation and pretrial services officers	1	32
Personnel in several categories	4	68
TOTAL	5	100
GRAND TOTAL	666	24,818

Note: These figures do not include an estimated 21,000 judge and court staff viewers of Center programs broadcast on the FJTN. The Center also provides Web-based education and training programs on its site on the judiciary's intranet, but it does not maintain figures for their usage. Because some court staff may visit the site but not participate in the program, and others may download educational programs for use by multiple staff members, discerning the actual number of users of these programs is impracticable.

Education Programs for Judges and Legal Staff

The Center provides orientation and continuing education programs and materials for judges on many subjects and in a variety of formats. Six advisory committees composed mostly of judges help plan and develop these programs and some educational publications. In 2001 the Center's Board decided to add attorneys to most of these advisory committees.

Programs that judges attend in person include orientation seminars for newly appointed judges, periodic national and circuit-based workshops that provide updates and analysis on a number of topics, and small group seminars devoted to specific topics. National continuing education workshops for district judges in 2001 examined recent developments in subjects such as jurisdiction, evidence, sentencing, and employment law. They also included sessions on genetic research, international litigation, and the drafting of the U.S. Constitution. Many of the participants at the National Workshop for District Judges in Arlington, Virginia, spent a day at a special educational program for judges at the National Holocaust Memorial Museum in Washington, D.C.

Seminars for small groups of judges usually last two or three days and concentrate on a particular subject. Special-topic seminars in 2001 explored employment law, intellectual property, civil rights litigation, basic issues of science, mediation techniques, federalism, and bankruptcy. (Seminars on environmental law and on law and the Internet were postponed in the aftermath of September 11.) In addition, one member of the Center's project team on courtroom technology spoke by invitation at more than 20 conferences and seminars for federal judges, bar groups, and other researchers on the issues surrounding discovery of electronic documents and evidence.

Continuing its long-standing emphasis on leadership and management matters, the Center conducted conferences in 2001 for chief district judges and chief bankruptcy judges. With the cooperation of the Administrative Office, these conferences emphasized effective stewardship and technology in the courts. For the first time, the Center offered its acclaimed executive management seminar to a group of chief district judges, along with unit executives from their courts. Held in Gettysburg, Pa., the program explored lessons of leadership derived from President Lincoln's experiences during the Civil War and drew parallels to contemporary management.

Satellite broadcasts on the FJTN augment the Center's judicial and legal education programming. Continuing its recent focus on science and technology in litigation, the Center produced the six-part series *Science in the Courtroom*. Stephen Breyer, Associate Justice of the Supreme Court, introduced the series, which examined the principles of microbiology, epidemiology, and toxicology and analyzed evidentiary and case management problems related to scientific evidence. Other FJTN programs for judges and legal staff included the fifth annual review of the Supreme Court's term, two bankruptcy law updates, an orientation for new judicial law clerks, and a program on employment law for law clerks.

Educational Publications for Judges and Legal Staff

To help judges manage federal death penalty trials, the Center produced the *Resource Guide for Managing Capital Cases, Vol. 1: Federal Death Penalty Trials*, which describes the statutes, case law, and policies applicable to federal capital case management. The guide also contains examples of orders, jury questionnaires, instructions, verdict forms, and other materials developed by judges who have handled death penalty cases. These materials, along with other Center products on death penalty litigation, are available electronically on the Center's sites on the courts' intranet and on the Web. The Center will revise the materials as needed as the courts' experience with federal death penalty litigation expands. Work continued on a related manual to assist judges with managing capital habeas cases.

In response to judges' requests for practical advice on selecting and managing cases referred to alternative dispute resolution (ADR), the Center published *Guide to Judicial Management of Cases in ADR*.

The guide covers such matters as referring appropriate cases to ADR, avoiding ethical problems in the ADR process, and techniques for maintaining control over cases referred.

Working with the National Institute of Trial Advocacy and an advisory group of judges and lawyers, the Center prepared a handbook entitled *Effective Use of Courtroom Technology: A Judge's Guide to Pretrial and Trial* to help trial judges understand and manage procedural issues that arise from electronic and digital presentation of evidence.

Media Library

The Center's media library contains almost 3,000 audio and video programs, including audiotapes of workshops and seminars, Center-produced educational video programs, videotapes of Center broadcasts on the FJTN, and some 600 commercially produced video programs. In 2001, the Center loaned more than 900 copies of programs from its media library to federal judges and judicial branch personnel on request and sent more than 2,000 copies of its media programs directly to the courts for them to keep and use in local education and training programs. Many Center-produced media programs are available to the public through the National Technical Information Service of the Department of Commerce.

Center staff worked with the Administrative Office under the direction of the Committee on Court Administration and Case Management to develop the *Civil Litigation Management Manual* for district court judges. The Judicial Conference approved the manual at its March 2001 meeting. The Center also published a handbook on effective use of visiting judges, which evolved from work performed for the Conference's Judicial Officers Resources Working Group. The handbook explains how chief judges can find a visiting judge and provides information for judges who serve in that capacity.

In response to requests from chief judges, the Center followed-up on a 2000 conference for appellate chief judges by developing a template that each circuit could use to create its own deskbook for chief judges. The template provides a fairly comprehensive list of activities that chief circuit judges and others undertake pursuant to statute, Judicial Conference policies, or simply because of the imperatives of administering the circuit. The template has been posted on the Center's sites on the courts' intranet and on the Web.

Also published in 2001 were a new edition of the Center's *Manual on Recurring Problems in Criminal Trials* and several editions of its periodical, *Guideline Sentencing Update*. In March the Center convened a meeting of district and bankruptcy judges to help prepare a monograph on case management in mass tort bankruptcy cases. Monographs on redistricting litigation, international insolvency, and recusal and a new edition of the *Deskbook for Chief Judges of U.S. District Courts* will be published in 2002.

Education and Training Programs for Court Staff

Management and Supervision Programs

Center programs provide practical education and training on court management and leadership for executives and managers in the federal court system. For example, in one 2001 workshop, six district court teams comprising the chief judge, two or three additional judges, the clerk of court, jury administrator, and manager of the jury section learned techniques for using jurors efficiently and reducing the number of citizens summoned for jury service. The teams developed jury management and utilization action plans to implement in their districts. Another workshop, for chief judges and clerks from U.S. bankruptcy courts, taught methods for building effective management teams. The Center also conducted an executive institute for senior court managers, in addition to the one described earlier for district court chief judges and court unit executives, on case studies of President Lincoln's leadership during the Civil War.

Three workshops produced in collaboration with the Administrative Office and the General Services Administration helped teams of judges, clerks of court, court project managers, and architects prepare for managing capital construction projects. A bankruptcy administrators' conference coordinated by the Administrative Office and the Center included sessions on debtor counseling programs, ethics, and the federal courts' new case management/electronic case filing (CM/ECF) system. Leadership and management strategies were the primary topics at the Center's national conference for clerks and chief deputies of the courts of appeals and clerks of bankruptcy appellate panels, and at its biennial conference for clerks and chief deputies of the bankruptcy courts, bankruptcy administrators, and bankruptcy appellate panel clerks.

The Center's multiyear advanced leadership programs help prepare court managers and probation and pretrial services officers for positions of increasing responsibility. Although completion of the programs does not guarantee promotion, former participants have reported that the programs helped them when they sought positions with more management responsibilities. Participants are also eligible for graduate and undergraduate college credit. The third class in the two-and-a-half-year Federal Court Leadership Program for court managers and technical specialists in appellate, district, and bankruptcy courts, court libraries, and staff attorneys' offices will complete the program in 2002. The 70 participants in the sixth class of the Leadership Development Program for Probation and Pretrial Services Officers are midway in the three-year course requirements.

The Center introduced two new series on the FJTN this year. The first *Court Forum* program described how to manage performance problems, and the initial *Public Information and Outreach* broadcast, produced with the Administrative Office, examined the role of the district clerk of court in educating the public about the work of the courts. Other Center broadcasts on the FJTN included programs on managerial decisionmaking (a live PBS/NTU broadcast), developing courtroom technology training, managing change, and building a collaborative workplace.

Court staff who completed the Supervisor's Survival Kit program were invited to participate in a follow-up audioconference on supervisory skills. The Center also produced a new curriculum packaged program for training supervisors at multidistrict or circuit-wide training events. In addition, Center staff were invited to deliver training programs at more than 20 federal circuit, multidistrict, and association conferences on such topics as critical incident stress management and leadership skills.

Sentencing and Probation and Pretrial Service Programs

New probation and pretrial services officers are invited to attend national orientation workshops at the Center's training facilities in Washington, D.C., after completing a checklist of activities in their home districts. In 2001, the Center updated the checklist and made it available in electronic format on its site on the federal courts' intranet. The Center also conducted eight five-day orientation workshops to accommodate the influx of new officers into the federal system.

Most continuing education programs for probation and pretrial services officers use distance learning. The Sentencing Commission and the Center produced four FJTN broadcasts in their joint series on sentencing and the sentencing guidelines. The programs covered basic guidelines application principles, guidelines provisions and case-law decisions involving multiple-count convictions, criminal history, and guidelines amendments. The audience for these programs included judges, law clerks, and other legal staff, in addition to probation and pretrial services officers.

Two FJTN broadcasts examined issues unique to women offenders. In September the Center rebroadcast an August 2001 National Institute of Corrections (NIC) program, *Female Offenders in the Community*. In October, Ruth Bader Ginsberg, Associate Justice of the Supreme Court, introduced a live broadcast on women offenders and their children, part of the Center's Special Needs Offenders series to help officers investigate and supervise particular offender and defendant populations. A prior broadcast in the series examined the intricacies of white-collar crime and supervision of individuals and corporations. The program's panel of experts included representatives from a U.S. attorney's office, the FBI, and the Sentencing Commission, as well as a federal district court judge, experienced probation and pretrial services officers, and a criminal defense lawyer. An on-line conference and a training bulletin complement each Special Needs Offender program.

Another Center series on the FJTN helps courts deal with offenders with substance abuse problems. Additions to this series in 2001 were *The Officer and the Treatment Process* and a rebroadcast of an NIC program, *Critical Knowledge About 12-*

Step Programs. Part two of the Center's broadcast on the Federal Correctional Institute's Sex Offenders Treatment Program aired in March. The Center also launched a new FJTN series on officer safety with *Personal Mindset: The Internal Threat to Officer Safety* and introduced a curriculum packaged program on dealing with noncompliant behavior in pretrial services supervision.

Other Court Education Programs

In 2001 the Center conducted two five-session videoconferences to orient newly appointed court training specialists. An interactive FJTN broadcast co-produced by the Center and the Administrative Office helped district court clerks improve the Criminal Justice Act voucher payment process. FJTN educational broadcasts for all court staff included Center courses on proofreading and structured on-the-job training and a PBS/NTU program on creativity and innovation in the workplace. The *Court to Court* television magazine featured lessons learned by the first courts to convert to new national procedures, such as CM/ECF, and examined innovations in other courts.

The Center is preparing a handbook that bankruptcy clerks can give to individuals considering whether to file for consumer bankruptcy. (The handbook will explain how to file and the consequences of filing but will not offer legal advice on whether or not to file.) To be issued in English and several other languages, the handbook will be complemented by a multilanguage video currently under development and, possibly, by a computer-based program.

Training tools, downloadable publications, program schedules, information, and application forms are available on the Center's Web page on the courts' intranet at jnet.fjc.dcn. Two "exchange" sites for court staff serve as information clearinghouses and facilitate discussion and resource sharing on court operations and training. Computer-based programs added to the site this year are:

- A Web-based tutorial developed by the Center and court staff to show bankruptcy attorneys and law firm staff how to file court documents electronically using the CM/ECF system. Systems administrators can customize the tutorial to conform to the ECF procedures in their courts. A similar program on civil CM/ECF was released to district courts last year.
- *Manage Your Desktop*, which demonstrates ways computer users can access information more easily and efficiently.
- A Web-based version of the *Computer-assisted Instructional Program on the Federal Rules of Bankruptcy Procedure*, which the Center first released on CD-ROM in September 2000. In addition to instructional components on the application of the bankruptcy rules, the program contains the full text of the rules as of December 2001.

The Center also introduced new curriculum packaged programs to teach deputy clerks how to provide expert customer service and help court staff improve workplace communication.

Programs for Foreign Judicial Officials

As mandated by statute, the Center responds to requests from representatives of foreign judiciaries seeking information on the U.S. judicial system and on various topics related to judicial administration. It does so by organizing seminars and briefings for foreign visitors, usually at the request of other government and private agencies. Although Center personnel conduct these occasional briefings and seminars as part of their regular duties and make written materials available free of charge in response to foreign and domestic requests, the Center pays none of the direct costs of its foreign programs, such as transportation, lodging, or interpreting services. The participants, their governments, or public and private U.S. organizations pay these costs.

In 2001, the Center conducted 56 briefings for 329 foreign judges and officials, representing 34 countries. It also held eight more specialized programs for 93 visitors, usually lasting half a day and covering such topics as case management

strategies and the use of distance learning technology for judicial and court staff education. A judge from the Shanghai High People's Court of the People's Republic of China participated in the Center's Foreign Judicial Fellows Program and studied the role of judicial law clerks. Under this program, which began in 1992, over 30 foreign judges have been scholars-in-residence at the Center, conducting research in a variety of areas, including judicial independence and various aspects of federal judicial administration.

Center personnel also provided technical and other assistance in 10 foreign countries at the request of government or private organizations.

Information Services

Drawing from a specialized collection of books, journals, and published and unpublished documents on the work of the federal courts, the Center serves as a national clearinghouse for information on federal judicial administration. Last year, it answered nearly 2,000 requests for information from judges and court staff, libraries, government agencies, academic institutions, research organizations, bar groups, and the media.

RESEARCH

The Center conducts empirical and exploratory research on federal judicial processes and court management, mostly at the request of the Judicial Conference and its committees. Center research reports are made available within and outside the federal judiciary and, when appropriate, transmitted to various committees of the House and the Senate. Some unpublished reports, memoranda, and other work produced for Judicial Conference committees are also made available either by the committees themselves or by the Center after it consults with the committees for whom the information was originally prepared.

In 2001, the Center completed 17 research and evaluation projects, continued work on 21 others, completed 14 reports, and responded to more than 100 informal requests for research assistance from the courts, Judicial Conference committees, federal and state agencies, individuals from academic institutions and associations, and others. Major research activities are described below.

Civil Litigation

The Judicial Conference's Advisory Committee on the Federal Rules of Civil Procedure has proposed an amendment to Rule 23, which would require that class action notices be written in plain, easily understood language. The advisory committee's Class Action Subcommittee asked the Center to develop illustrative, plain-language forms as examples for attorneys to use in drafting class action notices. Center staff prepared and tested sample notices for securities and products liability cases and posted them on a "Class action notices page" on the Center's Web site (www.fjc.gov).

A Center report published in 2001 describes and evaluates the work of two panels of scientific experts appointed by the courts to help assess conflicting scientific evidence in the silicone gel breast implants litigation. The report describes the circumstances that gave rise to the appointments, the procedures used in making the appointments, reactions of the participants, and suggestions for improving the use of panels of scientific experts.

As a follow-up to its 1995 study of summary judgment practices, the Center analyzed a large sample of civil cases terminated by dispositive motions and is preparing a report on changes in the nature and extent of such motions, the degree to which motions practice in the federal courts has changed, and the types of cases that are typically resolved by motions. At the request of the chief judge of the Third Circuit, the Center analyzed a number of class action cases in which judges used competitive bidding in selecting or attempting to select class counsel. Results of the study were submitted to a circuit task force.

Criminal Litigation

At the request of the Criminal Law Committee, the Center undertook research to determine whether the Risk Prediction Index (RPI), a statistical instrument that the Center developed for predicting an offender's risk of recidivism, is a valid tool for supervision of defendants on pretrial release. (The Judicial Conference approved the RPI for post-sentence supervision in 1997.) Last year, following the Center's report

Publications

A number of Center manuals, monographs, and research reports are described throughout this report. Here is a list of publications that were either released or in production in 2001.

- *Class Action Notices* (available on-line only at www.fjc.gov)
- *Effective Use of Courtroom Technology: A Judge's Guide to Pretrial and Trial*
- *Guide to Judicial Management of Cases in ADR*
- *International Insolvency*
- *Manual on Recurring Problems in Criminal Trials, Fifth Edition*
- *Neutral Science Panels: Two Examples of Panels of Court-Appointed Experts in the Breast Implants Product Liability Litigation*
- *Patent Law & Practice, Third Edition*
- *Recusal: An Analysis of Case Law Under 28 U.S.C. §§ 455 and 144*
- *Redistricting Litigation: An Overview of Legal, Statistical, and Case Management Issues*
- *Resource Guide for Managing Capital Cases, Vol. 1: Federal Death Penalty Trials* (available on-line only at jnet.fjc.dcn and www.fjc.gov)
- *Template for Chief Circuit Judges Deskbooks*
- *The Use of Visiting Judges in the Federal District Courts: A Guide for Judges and Court Personnel*

The Center also produces two periodicals which, as part of an effort to reduce mass mailings to the courts, are now available only in electronic form on the Center's Web sites.

- The *FJTN Bulletin* describes programs broadcast by the Center, the Sentencing Commission, and the Administrative Office and provides broadcast schedules and other news about the Federal Judicial Television Network.
- *Guideline Sentencing Update* summarizes recent decisions interpreting the Sentencing Reform Act and Sentencing Guidelines. A companion publication, *Guideline Sentencing: An Outline of Appellate Case Law on Selected Issues*, is a periodic cumulative outline that synthesizes the cases reported in *Guideline Sentencing Update*.

In 2001, the Center distributed more than 213,000 copies of its publications. Of this number, some 170,000 were catalogs of Center publications, media programs, and course offerings, and copies of the *FJTN Bulletin*. Many publications are also available on the Center's site on the courts' intranet (jnet.fjc.dcn) and on the Web (www.fjc.gov).

More than 50 Center publications are available on the WESTLAW legal research service. Several publications are reprinted by commercial publishers for sale to the public, including the *Reference Manual on Scientific Evidence, Second Edition*; *Manual for Complex Litigation, Third*; *Guide to Judicial Management of Cases in ADR*; and *Chambers Handbook for Judges' Law Clerks and Secretaries*. The manual *Effective Use of Courtroom Technology: A Judge's Guide to Pretrial and Trial* was a joint project of the Center and the National Institute of Trial Advocacy, which has published a version for attorneys. The Government Printing Office also carries several Center titles in its public sales program.

to the Criminal Law Committee and upon the Committee's recommendation, the Conference approved the RPI's use for pretrial supervision. The Center also analyzed empirical data to assist the Administrative Office with its review of the home confinement program and completed an evaluation of the Judicial Conference-authorized pilot of supervisory CJA Attorney positions in three district courts.

Evidence

The courtroom technology handbook described on page 10 of this report is part of a larger Center research project on the impact of technology on the adversary process. Another part of this project was a research conference on courtroom technology, which the Center conducted in collaboration with the Courtroom 21 Project of the William & Mary Law School. The conference identified the most pressing empirical issues related to courtroom technology and digital and electronic evidence and how these issues might be studied by social and behavioral scientists. Center staff also worked with the chair and reporter of the Discovery Subcommittee of the Advisory Committee on Civil Rules to prepare a report on discovery of information and evidence that exist in digital form. Staff continue to perform research for the Committee as it considers new or amended rules on the subject.

Appellate Litigation

The Advisory Committee on Appellate Rules is considering an amendment to Federal Rule of Appellate Procedure 35(a) to clarify how to calculate a majority for en banc rehearing purposes, a matter over which the courts of appeals are now split. The Committee asked the Center to research the positions of the appellate courts and analyze the pros and cons of each position as a matter of policy and the merits of having a rule that will require a uniform practice among the circuits.

Judicial Resources

Over the past three decades, the Center has conducted extensive research to formulate the statistical case weights for district and bankruptcy courts that the Judicial Conference uses for a variety of purposes. Throughout much of the past year, Center staff provided substantial assistance to the Statistics Subcommittee of the Judicial Resources Committee as it examined possible approaches for updating the current district court case weights. Staff members also reviewed and analyzed proposals for developing appellate case weights.

Federal Judicial History

The Center initiated an educational program that will provide the courts and high school teachers with accessible information on the history of the federal judiciary and facilitate the use of such materials in school curricula as well as in the federal courts' public information programs. The program will feature 15 interconnected units examining notable cases in the history of the federal courts. The collection of

historical documents, readings, and images will be made available on the Internet and will constitute the first educational program at the high school level to explore the history of the judicial branch of government.

The Center produced a 30-minute video on the *Amistad* case and the story of the enslaved Africans who won their freedom through a decision of the Supreme Court. Featuring rare historical images and documents, the video will be broadcast on the FJTN in February 2002 and made available for use in educational programs in the federal courts. The video and the accompanying materials on the Center's Web site will help viewers understand the organization and responsibilities of the federal courts in the first half of the nineteenth century.

The History of the Federal Judiciary site on the Center's intranet and Internet home pages was updated and expanded. Judges' biographies are regularly updated to reflect changes in service status and new appointments. New features of the site explain the history of judicial administration and the historical role of court officers and staff. Site revisions also enable the Center to post regular notices regarding the activities of various historical programs in the federal courts.

Center staff completed a research report on the history of the position of clerk of court. The published report will provide an institutional history of the office since its establishment in 1789 and of the role of the clerks in judicial administration. The Center also completed a directory of oral histories and a bibliography of historical publications related to federal judges. These will be included in the judges' biography section of the judicial history Web site. Judges and their staffs continue to consult with the Center regarding the disposition of historically important records among judges' chambers papers and the organization of court historical programs.

FEDERAL JUDICIAL CENTER FOUNDATION

The Federal Judicial Center Foundation is a private, nonprofit corporation established by Congress to receive gifts to support the work of the Center. By statute, the foundation has sole authority to decide whether to accept gifts to support the work of the Center and thereby to determine the suitability of would-be donors. The foundation may not accept gifts earmarked for projects that have not previously been approved by the Center's Board, and the Center has sole control over the design and conduct of research or education programs supported by donations.

The foundation is governed by a seven-person board appointed by the Chief Justice, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives. The members of the foundation's board during 2001 were

Dianne M. Nast, Esq., Lancaster, Pa., *chair*
Richard D. Casey, Esq., Sioux Falls, S.D.
Laurie L. Michel, Esq., Washington, D.C.
Charles B. Renfrew, Esq., San Francisco, Cal.
Marna S. Tucker, Esq., Washington, D.C.
John B. White, Jr., Esq., Spartanburg, S.C.
Benjamin L. Zelenko, Esq., Washington, D.C.

Grants to the foundation have enabled the Center to plan and present educational programs in specialized areas. Foundation gifts were used for the following purposes in 2001:

- A grant from the New York University School of Law's Institute for Judicial Administration supported judges' attendance at a seminar on federalism that the Center presented in cooperation with the NYU School of Law.
- Funds left over from a class action suit supported the meeting of an advisory group on mass torts and production of the monograph described on page 11 on case management in mass tort bankruptcy cases.
- Undesignated funds were used to support several judicial seminars on special topics, such as basic issues of science, intellectual property, employment, mediation, and bankruptcy law; a program for senior court managers; a program for chief district judges and clerks; and in-court judicial education programs.
- A grant from the American Institute of Certified Public Accountants supported seminars to help judges analyze financial statements presented as evidence.

Foundation funds were also used in 2001 to support the publication and distribution of a book, *Liberty E Liberdade: Citizens and Justice in Brazil and the United States*, edited by Professor Mortimer Sellers. The foundation received these funds under an agreement through which the foundation receives gifts designated for the use of the Judicial Conference and the Center to assist foreign judges and other legal officials in improving the administration of justice in their countries.

ADVISORY COMMITTEES

Advisory committees provide guidance to the Center on education programs and publications. Center Board members serve on each of the judicial education advisory committees as well as on the *Benchbook* committee and on the board of editors for the *Manual for Complex Litigation*. These groups, which typically meet by telephone conference or during other Center programs, had the following membership during 2001.

Committee on Appellate Judge Education

Judge Kenneth F. Ripple (7th Cir.), *Chair*
Judge Bobby R. Baldock (10th Cir.)
Judge Stanley Marcus (11th Cir.), *Center Board Representative*
Judge Pauline Newman (Fed. Cir.), *Center Board Representative*
Judge Karen J. Williams (4th Cir.)

Committee on Bankruptcy Judge Education

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Bankruptcy Judge Mary Davies Scott (E. & W.D. Ark.)
Stephen H. Case, Esq., New York, N.Y.
Professor S. Elizabeth Gibson (University of North Carolina Law School)
David A. Lander, Esq., St. Louis, Mo.
Francis F. Szczebak (Administrative Office of the U.S. Courts), *ex officio*

Committee on the *Benchbook for U.S. District Court Judges*

Judge A. David Mazzone (D. Mass.), *Chair*
Judge Wayne E. Alley (W.D. Okla.)
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Committee on District Judge Education

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Judge Garrett E. Brown, Jr. (D.N.J.)
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David Beneman (Panel Attorney, D. Me.)
Thomas W. Hillier II (Federal Public Defender, W.D. Wash.)
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Federal Judicial Center
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Washington DC 20002-8003
www.fjc.gov