

FEDERAL JUDICIAL CENTER
Annual Report 2005

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A MESSAGE FROM THE DIRECTOR

I've heard it said that leverage can help a smaller athlete tackle a larger one, that leverage can help people move masses many times their weight, and leverage can help an investor turn a small nest egg into a substantial sum. That principle applies to education and training as well. The Center is a small agency—125 staff members at the end of 2005—but using multiple kinds of information technology gives us the leverage we need to provide timely, valuable, and diverse forms of education and information to judges and court staff throughout the federal judicial system.

The Center has been operating the Federal Judicial Television Network (FJTN) since 1998, broadcasting programs by satellite from the Center, Administrative Office of the U.S. Courts, and the U.S. Sentencing Commission to judges and court staff in more than 300 courthouses around the country. This year the FJTN proved particularly effective in helping us respond quickly to several major new developments, including the Supreme Court decision in *United States v. Booker*; the Class Action Fairness Act of 2005; and the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Now the Center is leveraging its video technology with web technology to make its educational video programs even more accessible. Streaming videos of the class action and bankruptcy programs (as well as several other programs originally broadcast on the FJTN) are available on our intranet site (cwn.fjc.dcn) for judges and staff to watch on their computers at their convenience. We'll continue to put more educational video programs on our site.

Our website also helps us leverage other types of educational programs, making them valuable not just to the original attendees, but to judges and court staff who need them later. This year we conducted a web-based seminar (a "webinar") for magistrate judges on surveillance of electronic communications. The webinar is now available on our intranet site, so judges and staff can hear the webinar and view the materials as they were presented in the original program. Audioconferences on the new bank-

ruptcy law can also be heard on our site, and we've created an ongoing discussion forum for judges to address changes in the bankruptcy law.

With so much new content and new technology on our site, it needs a new design. A team representing all of the Center's many disciplines is developing a new intranet site, which we will launch in 2006. We want the site to provide fast access to the programs, publications, and other types of resources the Center offers. We will seek guidance and advice from court users as part of the process of developing the site, and we will continue to enhance it even after it goes on line. Nothing gives us greater leverage than the support we've always received from judges and staff throughout the judicial system.

This year marked several transitions in the life of the Center, as noted in the report that follows. One bears particular mention. For 19 years, Chief Justice Rehnquist guided the Center as Chair of its Board. We recall the gentle good humor, grace, and efficiency with which he conducted our Board meetings. He was a strong advocate for an independent education and research agency for the judiciary and worked hard to ensure that the Center received sufficient resources to perform its mission. We will miss his leadership and his friendship. We welcome Chief Justice Roberts to the Chair and appreciate his interest in our many research and educational activities. We look forward to his guidance and support as we continue our service to the judicial branch.



BARBARA J. ROTHSTEIN

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 provides education and training for judges and employees of the federal courts and conducts empirical and exploratory research into different aspects of judicial administration, including case management and proposed changes to the federal rules of procedure. This annual report, mandated by statute, describes the Center’s activities in calendar year 2005.

Governance

The Chief Justice of the United States chairs the Center’s Board, which by statute also includes two circuit judges, three district judges, one bankruptcy judge, and one magistrate judge who are elected to four-year terms by the Judicial Conference of the United States, and the director of the Administrative Office of the U.S. Courts, who serves *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 (listed on page 13).

BOARD OF THE FEDERAL JUDICIAL CENTER

The Chief Justice of the United States, *Chair*

Judge Bernice B. Donald, U.S. District Court for the Western District of Tennessee

Judge Terence T. Evans, U.S. Court of Appeals for the Seventh Circuit

Magistrate Judge Karen Klein, U.S. District Court for the District of North Dakota

Judge Pierre N. Leval, U.S. Court of Appeals for the Second Circuit

Judge James A. Parker, U.S. District Court for the District of New Mexico

Judge Stephen Raslavich, U.S. Bankruptcy Court for the Eastern District of Pennsylvania

Judge Sarah S. Vance, U.S. District Court for the Eastern District of Louisiana

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

In March 2005, the Judicial Conference elected Magistrate Judge Karen Klein of the U.S. District Court for the District of North Dakota and Judge Stephen Raslavich of the U.S. Bankruptcy Court for the Eastern District of Pennsylvania to the Board, replacing Magistrate Judge Robert B. Collings of the U.S. District Court for the District of Massachusetts and Chief Judge Robert F. Hershner, Jr., of the U.S. Bankruptcy Court for the Middle District of Georgia, 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 nine directors have been federal judges, including its current director, Judge Barbara J. Rothstein of the U.S. District Court for the Western District of Washington.

In 2005 the Board appointed John S. Cooke as deputy director, succeeding Russell R. Wheeler. Also in 2005, Judge Rothstein appointed Bruce M. Clarke as director of the Education Division, succeeding Mr. Cooke.

Organization

The organization of the Center reflects its primary statutory mandates. The Education Division plans and produces education and training programs for judges and court staff, including in-person programs, satellite broadcasts, video programs, publications, curriculum packages for in-court training, and web-based programs and resources. The Research Division examines and evaluates current and alternative federal court practices and policies. This research assists Judicial Conference committees, who request most Center research, in developing policy recommendations. The Center’s research also contributes substantially to its educational programs. The two divisions work closely with two units of the Director’s Office—the Systems Innovations & Development Office and Communications Policy & Design Office—in using print, broadcast, and on-line media to deliver education and training and to disseminate the results of Center research. The Federal Judicial History Office helps courts and others study and preserve federal judicial history and provides curricula and information about the judiciary for presentation to members of the public. The International Judicial Relations Office provides information to judicial and legal officials from foreign countries and assesses how to inform federal judicial personnel of developments in international law and other court systems that may affect their work.

Coordination Within the Judicial Branch

Numerous programs and projects described in this annual report involve coordination, cooperation, and consultation with committees of the Judicial Conference, with the Administrative Office, and with the U.S. Sentencing Commission. Advisory committees of judges, court staff, and others help in planning and producing education programs and publications. These committees are listed on page 13.

Staffing and Appropriation

The Center had a fiscal 2005 appropriation of \$21,446,000, and it employed 125 people at the end of calendar year 2005. Its fiscal 2006 appropriation is \$22,127,000. Well over two-thirds of Center expenditures support its education and training activities, with the remainder devoted almost entirely to its research activities.

SENIOR STAFF OF THE FEDERAL JUDICIAL CENTER

Hon. Barbara J. Rothstein, Director

John S. Cooke, Deputy Director

Bruce M. Clarke, Director, Education Division

Ted E. Coleman, Director, Systems Innovations & Development Office

James B. Eaglin, Director, Research Division

Mira Gur-Arie, Director, International Judicial Relations Office

Bruce A. Ragsdale, Director, Federal Judicial History Office

Sylvan A. Sobel, Director, Communications Policy & Design Office

2005 AT A GLANCE

In 2005 the Center

- provided 377 in-person, in-court, and technology-based educational programs for some 15,400 federal judge and court staff participants
- broadcast 109 programs on the Federal Judicial Television Network (FJTN) from the Center, the Administrative Office, and the Sentencing Commission, 13 of which were live
- completed 21 major research and evaluation projects, continued work on 36 others, and responded to more than 200 other requests for short-term research assistance
- published or updated 11 reports, manuals, monographs, or reference guides
- completed 2 curriculum packages for in-court training of court staff and probation and pretrial services officers and staff
- distributed almost 16,000 copies of its publications, as well as more than 3,300 audio, video, and multimedia programs
- hosted 64 briefings for more than 500 foreign judges, court officials, scholars, and students from over 44 different countries

EDUCATION AND TRAINING

As described in the tables on page 7, more than 2,200 federal judge participants, 12,100 court staff participants, and 1,000 federal defender and staff participants received orientation and continuing education through traditional seminars, local education programs, and distance learning programs in 2005. Face-to-face conferences, seminars, and workshops continue to be the primary educational format for federal judges. Most court staff, however, participate in Center-produced distance education programs, such as local training events in their own courts using materials provided by the Center, audioconferences, videoconferences, and web-based on-line conferences.

The above figures do not take into account judges' and court staff's viewing of the Center's programs on the Federal Judicial Television Network (FJTN) or their use of the numerous resources available on the Center's site on the judicial branch's intranet, Center monographs and manuals, and video- and audiocassettes (see page 11).

In 2005, Center educational programs assisted judges and court staff in responding to several major new developments, including the Supreme Court decision in *United States v. Booker*, which made the federal Sentencing Guidelines advisory; the Class Action Fairness Act of 2005, which expanded federal courts' jurisdiction and responsibilities in class action cases; and the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, the most substantial change in U.S. bankruptcy law in over two decades. The Center also introduced its Professional Education Institute, which expands Center programs and resources for court leaders and managers to help them to deal with increasing workloads, new technology, and other changes in a time of limited resources.

Education Programs and Resources for Judges and for Legal Staff

Programs that judges attend in-person include orientation seminars for newly appointed judges, periodic national and circuit-based workshops, and small-group seminars devoted to specific topics.

A national symposium for court of appeals judges, held in November in Washington, D.C., included updates and analysis on recent Supreme Court decisions and trends, immigration law, the 2005 Bankruptcy Act, law and genetics, and electronic case filing. It was attended by over 150 circuit judges. Three Supreme Court justices participated in the symposium as speakers or moderators.

This year's circuit-based workshops brought together court of appeals and district judges to consider the impact of recent case law in sentencing, the Federal Rules of

Evidence, intellectual property, criminal procedure, and employment discrimination. Additional subjects included judicial ethics, effective use of information technology, electronic discovery, and the Class Action Fairness Act of 2005. Two national workshops for bankruptcy judges analyzed changes in consumer and business bankruptcy law, and covered consumer credit issues, judicial ethics, attorney misconduct, and the new bankruptcy law. Two national workshops for magistrate judges examined recent Supreme Court decisions, criminal case management, innovations in conducting civil jury trials, computer search warrants, and immigration issues.

To help magistrate judges understand the technological and statutory landscape concerning law enforcement requests for electronic monitoring, the Center hosted a web-audioconference (a "webinar") on surveillance of electronic communications. A digitized version of the webinar is available on the Center's site on the judiciary's intranet, along with supporting materials and links to the relevant statutes.

Special-topic seminars for small groups of judges in 2005 included programs on handling federal death penalty cases; mediation skills; employment law; law and terrorism; law and business; intellectual property; section 1983 litigation; law and science; and humanities and science (the Harold Medina Seminar). These programs are generally conducted in collaboration with law schools or other educational institutions.

The Center also sent faculty to several requesting districts to teach "in-court seminars" on the following topics: social issues presented by developments in biology; editing and writing opinions; intellectual property litigation; constitutional history; and law and literature.

Programs for defender personnel included a national seminar for experienced attorneys; an orientation seminar for assistant defenders; a conference for administrators; an appellate writing workshop; a sentencing seminar; a law and technology workshop; and a seminar for investigators and paralegal specialists.

New FJTN programs reviewed major bankruptcy decisions in the Fourth, Eighth, and Ninth Circuits; the Class Action Fairness Act of 2005; the Hague Convention on the Civil Aspects of Child Abduction; and the Supreme Court's 2004–2005 term.

The Center also completed five new video productions for use in orientation programs for judges: Criminal Pretrial Proceedings, Evidence Scenarios, Voir Dire and Jury Selection, and, for bankruptcy judges, Calendar Management and The Art of Judging.

The following judicial and legal education publications were released or in production in 2005 and are available on the Center's site on the judicial branch's intranet:

- *Awarding Attorneys' Fees and Managing Fee Litigation, Second Edition*
- *Judicial Management of Mass Tort Bankruptcy Cases*
- *Managing Class Action Litigation: A Pocket Guide for Judges*
- *Mediation & Conference Programs in the Federal Courts of Appeals.*

New resources for judges and legal staff on the Center's intranet site include an on-line summary of the Crime Victims' Rights Act of 2004 (CVRA), which contains an overview of the Act's key provisions and sections of the *Benchbook for U.S. District Court Judges* that may be affected by the Act; potential issues that may arise under the Act; summaries of cases applying it (which will be updated periodically); and the CVRA text. Another is a page that contains links to orientation and other information for law clerks, including a paper on chambers and case management.

Education Programs and Resources for Judges and Court Staff

The Center developed several educational products to help judges and court staff understand the implications of Supreme Court decisions and new legislation.

The Center's July National Sentencing Policy Institute, coordinated with the Criminal Law Committee of the Judicial Conference and the U.S. Sentencing Commission, was devoted to developments in the wake of the Supreme Court's decision in *United States v. Booker*. Over 100 judges, as well as representatives of the executive and legislative branches, attended the institute; the plenary sessions were videotaped for broadcast on the FJTN. In February, the Center broadcast an FJTN program on the January *Booker* decision to analyze its immediate impact on sentencing. *Booker* sessions were also added to the agendas for several circuit and district judge workshops.

The Center helped bankruptcy judges and clerks of court prepare for the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. It produced three FJTN programs for judges and one FJTN program and five audioconferences for clerks and bankruptcy administrators, and digitized most of these programs for desktop access from the Center's intranet site. That intranet site also contains several analyses of the Act, some for judges and others for clerks of court, as well as discussion exchanges for judges on changes raised by the Act and for court employees on resource sharing. Center staff also designed and facilitated the Conference for Bankruptcy Administrators

and Staff on the 2005 Bankruptcy Act sponsored by the Administrative Office of the U.S. Courts.

The Center offers several programs that judges and court staff attend together.

A national conference for chief district judges examined such topics as operating under budget constraints, post-*Booker* sentencing developments, and judicial security. Before the conference, ten teams of new chief judges and clerks of court participated in a two-day team building and strategic planning workshop.

District court teams of judges, clerks of court, and jury administrators from small courts met to analyze current issues and future trends and to develop action plans to improve juror management and utilization.

The Center continued its Program for Consultations in Dispute Resolution, which provides on-site assistance to district and bankruptcy courts that wish to begin or revise ADR programs. Judges and court staff that have substantial ADR expertise were part of the teams that provided the consultations, which were supported by a grant from the Hewlett Foundation (see page 12).

The Center also cosponsored and facilitated, with the Administrative Office and the circuit executive's office of the Tenth Circuit, a program to help the circuit plan for more effective use of technology to serve the appellate process by the year 2010.

To help district courts manage non-prisoner civil pro se litigation, the Center has collected and organized information from each of the district courts regarding their practices with pro se litigants and developed a resource page for this information on its intranet site.

Education Programs and Resources for Court Staff

Court Managers

The Center's Professional Education Institute (PEI) for court staff in leadership and management positions was introduced through several new programs for probation and pretrial services officers (see page 6). PEI, which includes separate tracks for staff in clerks and probation and pretrial services offices, provides training programs and other resources to help managers and leaders develop key competencies that they need in order to excel. The competencies were developed in consultation with advisory committees composed of experienced court unit executives in each group. A PEI page on the Center's intranet site, with numerous resources for all court staff, is under development.

Biennial national conferences—one for appellate clerks and chief deputies and one for bankruptcy clerks, chief deputies, bankruptcy administrators, and bankruptcy appellate panel clerks—included sessions on leadership,

fiscal responsibilities, and technology management. The latter conference also explored the new bankruptcy act's post-implementation issues and managing the courts affected by Hurricanes Katrina and Rita.

New court unit executives attended a leadership institute on techniques for improving productivity in the face of multiple challenges. A workshop for new supervisors and managers provided instruction on effective communication and coaching employees.

The Center conducts multiyear advanced leadership programs to help court employees prepare for positions of increasing responsibility. The Leadership Development Program (LDP) for probation and pretrial services officers runs for three years. The Federal Court Leadership Program (FCLP) for court staff in clerks' offices and in circuit executive, senior staff attorney, circuit librarian, and bankruptcy administrators' offices runs for two-and-a-half years. Class VII of the LDP for probation and pretrial services officers completed its three-year course requirements in June. Class VIII commenced this year. Class V of the FCLP attended a mid-program workshop this year.

Programs presented to managers in local districts examined such topics as strategic use of court websites and effective use of administrative services.

FJTN programs for supervisors focused on problem solving, decision making, and leading change. A video program on mentoring will be digitized for use on the new PEI website.

Center staff also conducted educational programs at several district and circuit conferences, as well as at association conferences for federal district and bankruptcy court clerks and for state appellate court clerks and technology officials.

District and Bankruptcy Courts

The Center facilitated the Administrative Office's CM/ECF operational practices workshops for district and bankruptcy courts in Washington, D.C., and web-audioconferences on related issues that enabled staff to participate nationwide.

Probation and Pretrial Services

Three new Professional Education Institute programs were introduced this year:

- Executive team seminars for chiefs and deputy chief probation and pretrial services officers helped each team analyze its district's operations and create a strategic plan for post-seminar implementation.

- Regional symposia for experienced supervising U.S. probation and pretrial services officers explored management issues.
- The first class in the two-year program for probation and pretrial services supervisors with less than six months of experience began its studies. Participants undertake a Center self-study program, attend three web-audioconferences and an in-person seminar, and complete an applied learning project.

Two five-day national orientation seminars provided training for 118 new officers.

FJTN programs on document analysis and organizations concluded the financial investigation series for officers. Each program was followed by a 90-minute web-audioconference that facilitated conversations with the program faculty and technique-sharing with colleagues. A safety series program on mental health issues aired early in the year.

Court Trainers

A multisession videoconference for new court trainers (court employees with responsibility for arranging and conducting local training programs) was held in April.

Other Programs for Court Staff

Two curriculum packages were released in 2005. The packages are designed for Center-trained court staff to deliver in-court and include instructor and participant guides, overhead slides, and, in some instances, video components. A program for probation and pretrial services officers presents techniques for building and applying critical thinking skills. New individual development plans for staff development programs can help managers and staff develop customized education plans to ensure that each employee has the requisite skills to support the goals and objectives of the court unit. The Center conducted train-the-trainer workshops to prepare court staff to deliver these and several other curriculum packages.

FJTN programs for all court staff included three new editions of the *Court to Court* television magazine and a video that describes the important role court employees play in the administration of justice. The director of the U.S. Trustee Program distributed copies of the January 2005 *Court to Court* to every regional office as a resource for the agency's financial literacy outreach efforts.

SEMINARS AND WORKSHOPS FOR JUDGES, JANUARY 1 – DECEMBER 31, 2005

	Number of Programs	Number of Participants
Orientations for newly appointed district judges	2	35
Orientations for newly appointed bankruptcy judges	2	21
Orientations for newly appointed magistrate judges	3	58
National symposium for circuit judges	1	156
Conference for chief district judges	1	93
Workshops for district and circuit judges	6	571
National Sentencing Policy Institute	1	122
National workshops for bankruptcy judges	2	240
National workshops for magistrate judges	2	333
Special-focus seminars	12	415
In-court seminars	20	236
TOTAL	52	2,280

The Center also held six programs for 1,023 federal defenders and staff.

COURT STAFF EDUCATION AND TRAINING PROGRAMS, JANUARY 1 – DECEMBER 31, 2005

	Number of Programs	Number of Participants
<i>Seminars and Workshops (national and regional)</i>		
Clerks of court and clerk's office personnel	8	687
Probation and pretrial services officers and personnel	14	484
Personnel in several categories*	6	265
TOTAL	28	1,436
<i>In-Court Programs (programs using Center curriculum packages, training guides, and computer-assisted instructional programs)</i>		
Clerks of court and clerk's office personnel	77	2,254
Probation and pretrial services officers and personnel	161	3,535
Personnel in several categories	39	1,002
TOTAL	277	6,791
<i>Technology-based Programs (videoconferences, audioconferences, on-line conferences, but not including FJTN broadcasts)</i>		
Clerks of court and clerk's office personnel	8	3,783
Probation and pretrial services officers and personnel	5	82
Personnel in several categories	1	38
TOTAL	14	3,903
GRAND TOTAL	319	12,130

*Includes team management workshops for judges and court unit executives.

RESEARCH

The Center conducts empirical and evaluative research on all aspects of federal judicial administration and case management, with most projects being done at the request of committees of the Judicial Conference. The results of most of the Center's research are available in print, on its websites, or both. In 2005, the Center completed 21 major research projects, continued work on 36 others, and responded to more than 200 informational requests for research-related assistance from the courts, Judicial Conference committees, state and federal agencies, individuals from academic institutions and associations, and others. Major research activities are described below.

Appellate Courts

The Center prepared a report for the Advisory Committee on Appellate Rules on the probable effects of a proposed rule change permitting the citation of unpublished appellate opinions in briefs filed in the courts of appeals. The advisory committee and the Standing Committee on Rules of Practice and Procedure considered the findings in *Citations to Unpublished Opinions in the Federal Courts of Appeals* and voted to send the proposed rule change forward to the Judicial Conference, which approved the rule change at its September 2005 meeting.

As part of the Center's ongoing research on the use of technology in the federal courts, Center staff examined the use of videoconferencing for oral arguments in the courts of appeals. Information gathered from interviews with clerks and a sample of judges in the circuits that use or have used videoconferencing for oral argument will be used to supplement the Center's handbook *Effective Use of Courtroom Technology: A Judge's Guide to Pretrial and Trial* (2001), which was co-published with the National Institute for Trial Advocacy (NITA).

The Center is updating its 1997 publication on mediation and conferencing programs in the courts of appeals, in response to requests from federal courts of appeals for a detailed description of the mediation and conference programs in each of the circuits.

Civil Litigation

The Advisory Committee on Civil Rules asked the Center to survey federal district court judges concerning a legislative proposal to modify Rule 11 of the Federal Rules of Civil Procedure. A total of 278 of a sample of 400 federal district judges (70 percent) completed the survey. Overall, the judges expressed a strong preference for Rule 11 in its current form.

Two Center research projects are analyzing effects of the Class Action Fairness Act of 2005 (CAFA). One study, mandated by CAFA, calls on the Judicial Conference, with the assistance of the directors of the Center and the Administrative Office, to study settlements and attorney fee awards in class actions. Center and Administrative Office staff are working with the Advisory Committee on Civil Rules to meet this mandate.

The chair of the civil rules committee also asked the Center, in cooperation with the Administrative Office, to examine CAFA's impact on the federal judiciary. The research might identify whether there is a need for amendments to correct unanticipated side effects of the Act and may also provide data for the courts and Congress to use to determine federal court resource needs.

Consistent with its mandate to stimulate research by others in the area of judicial administration, the Center conducted a conference to develop a research agenda on alternative dispute resolution (ADR) that included a small number of federal judges and court administrators, and participants from academic institutions and not-for-profit organizations involved in ADR efforts. The cost of the research conference was funded by two small grants to the FJC Foundation from the JAMS Foundation and the William and Flora Hewlett Foundation (see page 12).

Courtroom and Litigation Technology

The Center has developed a resource page for its intranet and Internet websites to help judges assess the admissibility of electronic evidence and to help Judicial Conference committees and others evaluate needs for rule and policy changes. The resources include *Effective Use of Courtroom Technology: A Judge's Guide to Pretrial and Trial*, which describes the substantive and procedural considerations that may arise when lawyers use electronic equipment in the courtroom. The resource page also contains descriptions of other Center projects on courtroom technology, including a project to study the use of videoconferencing in criminal proceedings and a project on the use of animations, simulations, and immersive virtual environment technology.

The Judicial Conference's Court Administration and Case Management Committee asked the Center to conduct a follow-up to its 2003 study of eleven pilot courts' experiences with providing remote public access to electronic criminal case records. The follow-up research included an assessment of remote public access to criminal, civil, and bankruptcy electronic records. The research also sought to determine whether certain prohibited information is being properly redacted in documents that are filed in the federal courts.

Criminal Litigation

Center staff participated in an ongoing interagency task force appointed by the Administrative Office to coordinate efforts to assist the courts with a wide range of sentencing-related matters following the Supreme Court's decision in *United States v. Booker* in January. Center research also contributed to the educational programming the Center provided in response to *Booker* (described on page 5).

The Center continued research to assess the on-going validity of the Risk Prediction Index (RPI) developed earlier by the Center to assist federal pretrial and probation officers with their caseload supervision responsibilities. Center staff also served on an expert panel on assessing results-based outcomes that provides on-going technical assistance to the Office of Probation and Pretrial Services of the Administrative Office.

Building on prior Center work, researchers are collecting and analyzing information on cost budgeting and planning in federal capital habeas cases to assist federal district court judges in managing and monitoring the costs of capital habeas cases. The Center is working closely on this project with Defender Services staff of the Administrative Office.

The Center completed a comprehensive study for the Judicial Conference's Advisory Committee on Criminal Rules of federal and state local rules and practices governing prosecutorial disclosure of information in criminal cases under *Brady v. Maryland*.

Bankruptcy Courts

At the request of the Committee on the Administration of the Bankruptcy System and in coordination with the National Conference of Bankruptcy Judges, the Center developed a resource page with materials for bankruptcy judges who want to obtain performance feedback for the purpose of self-evaluation. The page includes information about developing a questionnaire, selecting the sample of attorneys to receive the survey, administering the survey, and analyzing and interpreting the results. It also includes a sample judicial performance questionnaire, which judges can use verbatim or adapt to better suit their needs, and a corresponding data analysis.

Following the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, a Center staff member is serving on an interagency task force appointed by the Administrative Office to coordinate efforts to assist the bankruptcy courts with a wide range of matters related to the Act.

The Ninth Circuit Bankruptcy Appellate Panel (BAP) asked for the Center's help in assessing the BAP's performance. The Center surveyed attorneys and pro se litigants who have participated in bankruptcy appeals before the Ninth Circuit BAP or before a district court in the Ninth Circuit, to determine why litigants choose to proceed in the BAP or to opt out of it. The survey also assessed the performance of the BAP in four areas: general practice and procedures, motions practice, oral arguments, and decisions and written opinions.

The Center is updating and revising its publication, *A Guide to the Judicial Management of Bankruptcy Mega Cases*, and will publish the new edition in 2006.

Estimating Judgeship Needs

Center staff consulted with the Statistics Subcommittee of the Judicial Conference's Judicial Resources Committee and staff of the Administrative Office regarding the new district court case weights that the Center developed in 2004 for the committee's use in assessing judgeship needs. The Center published its final report on the 2003–2004 case-weighting study.

In light of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, the Center and the bankruptcy committee decided to suspend the bankruptcy case weights study that had begun in January 2005. The data collected before the project was suspended will be compared to data collected when the study resumes, in order to examine the Act's impact on the work of bankruptcy judges.

Judicial Conduct and Disability

In 2004, Chief Justice Rehnquist appointed a committee to evaluate how the federal courts are dealing with complaints about judicial misconduct and disability. This was in response to suggestions from some members of Congress that the judicial branch has not effectively used the authority delegated to it in the Judicial Conduct and Disability Act of 1980. Associate Justice Breyer chairs the committee. The Administrative Office and Center staffs are providing research support to the committee, including review of a sample of complaints filed in each circuit under 28 U.S.C. § 351 and disposed of in 2001–2003.

PROGRAMS FOR FOREIGN JUDICIAL OFFICIALS

The Center's statute directs it to work with other organizations to provide information about judicial administration to representatives of foreign judiciaries and to gather information about the administration of justice in other countries that may assist the Center's education and research functions. The Center coordinates briefings and workshops for visiting delegations, makes available its publications, and, on occasion, provides technical assistance to foreign judiciaries. The Center does not pay travel or other direct costs of foreign judicial education programs. In 2005, the Center

- coordinated 64 briefings for more than 500 foreign judges, court officials, scholars, and students from over 44 different countries
- developed programs on judicial branch education for delegations from Georgia, Israel, Nepal, Serbia, and Ukraine
- met with information technology experts from the Egyptian Judicial Information Center to discuss the Center's work in the fields of automation and distance education
- delivered a program on judicial administration for Kosovar judges, legislators, and members of a presidential commission studying judicial reform
- hosted a judicial delegation from Kazakhstan as part of a U.S. Department of Justice program on the jury trial system
- provided assistance to the judiciary of Trinidad & Tobago in support of its efforts to develop new case-management procedures along with case weights
- participated in a series of regional workshops on alternative dispute resolution held in Nigeria and coordinated by the National Center for State Courts
- assisted the Judicial Training Center of Costa Rica with the development of an orientation program for newly appointed judges.

Each year the Center hosts visiting foreign judicial fellows, for whom it provides office space, use of a computer, access to Center resources and staff, and guidance in preparing research projects. In 2005, the Center hosted an official from the Japanese Ministry of Justice who researched judicial review of administrative law decisions.

FEDERAL JUDICIAL HISTORY

The Center's statute directs it to conduct, coordinate, and encourage programs related to the history of the federal judicial branch. It does so by making available the results of its own historical research, by preparing guides to judicial historical resources, and by advising judges and the courts on court history projects.

The Center has presented on its Internet site the first five units of its project designed to help educators teach about the history of the federal courts. A total of twelve units will focus on famous federal trials related to significant public debates from throughout U.S. history. The units were prepared by Center staff and by scholars hired by the Center using FJC Foundation funds (see page 12).

The Center has prepared and made available on-line materials for learning about the constitutional origins of

the judiciary. The talking points, PowerPoint presentation, and historical documents provide judges and court staff with the tools to make presentations to students or other public groups. Additional units will explore the history of judicial independence and the historical development of the federal court system.

The Center has completed research on the history of more than 800 historic federal courthouses and collected photographic images of each for presentation on the Center's homepage.

The Center expanded its widely used Federal Judges Biographical Database to allow searches on sitting judges as well as all judges who have served since 1789.

RESOURCES

Publications

Center manuals, monographs, and research reports are described throughout this report. Most of its publications are available in print and electronically on the Center's sites on the courts' intranet (cwn.fjc.dcn) and on the Internet (www.fjc.gov). To save costs, some Center publications that were formerly distributed in print are now available on-line only, and other publications that were distributed widely throughout the judiciary are now distributed to targeted audiences. In 2005, the Center distributed almost 16,000 printed copies of its publications. By comparison, in 2003 it distributed more than 42,000 printed publications, and in 2002 almost 75,000.

The following publications were printed or in production in 2005, and are also available on line:

- *2003–2004 District Court Case-Weighting Study*
- *Awarding Attorneys' Fees and Managing Fee Litigation, Second Edition*
- *Citing Unpublished Opinions in Federal Appeals*
- *Creating the Federal Judicial System, Third Edition*
- *An Empirical Examination of Attorneys' Choice of Forum in Class Action Litigation*
- *Judicial Management of Mass Tort Bankruptcy Cases*
- *Managing Class Action Litigation: A Pocket Guide for Judges*
- *Mediation & Conference Programs in the Federal Courts of Appeals: A Sourcebook for Judges and Lawyers, Second Edition*
- *Report of a Survey of United States District Judges' Experiences and Views Concerning Rule 11, Federal Rules of Civil Procedure*

The following publications were released on line only in 2005:

- *Chambers and Case Management*
- *The Crime Victims' Rights Act of 2004 and the Federal Courts*

Commercial publishers reprint several Center publications for sale to the public, including the *Reference Manual on Scientific Evidence, Second Edition*; *Manual for Complex Litigation, Fourth*; and *Guide to Judicial Management of Cases in ADR*. 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 (NITA), which has published a version for attorneys. The Government Printing Office also carries several Center titles in its public sales program.

Federal Judicial Television Network

The Center operates the Federal Judicial Television Network (FJTN), a satellite broadcast network with viewing sites in more than 300 federal court locations, making it the second largest nonmilitary television network in the federal government. In addition to broadcasting its own educational programs, the Center transmits educational and informational programming from the Administrative Office and the U.S. Sentencing Commission to judges and court staff over the FJTN. Some FJTN programs are broadcast live from studios in the Thurgood Marshall Federal Judiciary Building, allowing judges and staff at courthouses around the country to interact directly with faculty. Others are educational video programs produced in the studios, videotaped portions of educational conferences, and programs produced by other organizations that the Center or Administrative Office arranges to broadcast on the FJTN. Most programs are rebroadcast regularly. In 2005, the FJTN broadcast 109 programs, 13 of which were live. The Center produced 64 of these programs, including 24 new programs, 8 of which were live. The *FJTN Bulletin*, a program guide produced by the Center every other month, provides broadcast schedules, program descriptions, and other news about the network. As part of an effort to reduce mass mailings to the courts, the *Bulletin* is available only on the courts' intranet.

Media Library

The media library contains some 4,000 audio and video programs, including Center-produced video programs, videotapes of Center broadcasts on the FJTN, audiotapes of seminars and workshops, and more than 700 commercially produced video programs. In 2005, the media library loaned more than 750 programs to federal judges and court personnel and sent some 2,600 media programs to the courts for them to keep and use in local education and training. Many Center media programs are available to the public through the National Technical Information Service of the Department of Commerce.

Information Services

Drawing from a specialized collection of books, journals, and published and unpublished documents on the federal courts, the Center serves as a clearinghouse for information on federal judicial administration. It annually answers hundreds of requests for information from judges and court staff, congressional staff, other government agencies, academics, researchers, the media, and others.

FEDERAL JUDICIAL CENTER FOUNDATION

The Federal Judicial Center Foundation is a private, non-profit corporation that Congress established to receive gifts to support the work of the Center. The Foundation has sole authority to decide whether to accept gifts, 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 activities 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. No Foundation Board member may be a judge. Foundation Board members at the close of 2005 were

Marna S. Tucker, Washington, D.C., *Chair*
Richard D. Casey, Sioux Falls, S.D.
Charles A. Legge, San Francisco, Cal.
Laurie L. Michel, Washington, D.C.
Sam C. Pointer, Birmingham, Ala.
John B. White, Jr., Spartanburg, S.C.
Benjamin L. Zelenko, Washington, D.C.

In creating the Foundation, Congress directed that this annual report describe the purposes for which Foundation gifts were used in the relevant year. The Center used the following Foundation gifts in 2005:

- A multiyear grant from the William and Flora Hewlett Foundation to support a project (described on page 5) that provides on-site consultation to courts seeking assistance in developing or refining their alterna-

tive dispute resolution (ADR) programs. In 2005, the grant funded travel expenses for several consultations with courts and staff salaries for development and support of the project.

- Another Hewlett Foundation grant and a grant from the JAMS Foundation supported a research conference on ADR (described on page 8) that included a small number of federal judges and court administrators, and participants from academic institutions and not-for-profit organizations involved in ADR.
- A grant from the Ford Foundation to support the travel expenses of the Center director and one other staff member to present a comparative perspective on the role of court staff in supporting the work of judges at an international judicial conference in China.
- Funds provided by Professor Margaret Berger of Brooklyn Law School from a grant she received from a trust fund created by the settlement of silicone gel breast implant litigation; the funds supported federal judges' attendance at two law and science seminars coordinated by Professor Berger in cooperation with the Center.
- Non-earmarked grants to provide partial support of a judicial seminar on the humanities and science at Princeton University (the Harold Medina Seminar described on page 4).

Foundation funds were used in previous years to hire scholars to prepare curriculum units for the Center's project designed to provide materials to help educators teach about the history of the federal courts (described on page 10).

JOHN R. BROWN AWARD

Judge John R. Brown, who served on the U.S. Court of Appeals for the Fifth Circuit from 1955 until his death in 1993, and as chief judge from 1967 until 1979, was a strong proponent of improved judicial administration and procedure. To recognize Judge Brown's appreciation of the Federal Judicial Center and his commitment to research and education about and for the federal judiciary, the Board of the Judge John R. Brown Scholarship Foundation, led by Mrs. Vera Brown, established the Judge John R. Brown Judicial Scholarship and Education Award. The award recognizes Center employees and those out-

side the Center who contribute to its judicial education and research missions. Previous recipients are Professors Margaret Berger (Brooklyn Law School), Karen Blum (Suffolk University Law School), Erwin Chemerinsky (Duke Law School), Laurie Levenson (Loyola Law School Los Angeles), Ira Robbins (Washington College of Law, American University), George C. Treister (Stanford University Law School), and Elizabeth Warren (Harvard Law School), and Center staff members Bruce Clarke, Denise Neary, Donna Stienstra, Marilyn Vernon, and Elizabeth Wiggins.

ADVISORY COMMITTEES

Advisory committees provide guidance on education programs and publications. The Chief Justice appoints the members of the advisory committees on appellate, bankruptcy, district, and magistrate judge education and the *Benchbook* committee, and Center Board members serve on each of these committees. The committees, which typically meet by telephone conference or during other Center programs, had the following membership at the close of 2005.

Committee on Appellate Judge Education

Judge Bobby R. Baldock (10th Cir.), *Chair*
Judge Terence T. Evans (7th Cir.), *Center Board Representative*
Judge Pierre N. Leval (2d Cir.), *Center Board Representative*
Judge Diarmuid F. O'Scannlain (9th Cir.)
Judge Karen J. Williams (4th Cir.)
Margaret A. Irving (Administrative Office of the U.S. Courts)

Committee on Bankruptcy Judge Education

Chief Bankruptcy Judge James B. Haines, Jr. (D. Me.), *Chair*
Bankruptcy Judge Nancy C. Dreher (D. Minn.)
Bankruptcy Judge Jeffery P. Hopkins (S.D. Ohio)
Chief Bankruptcy Judge Jim D. Pappas (D. Idaho)
Bankruptcy Judge Stephen Raslavich (E.D. Pa.),
Center Board Representative
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)

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

Judge Loretta A. Preska (S.D.N.Y.), *Chair*
Chief Judge Joseph F. Anderson, Jr. (D.S.C.)
Judge Paul L. Friedman (D.D.C.)
Judge Irma E. Gonzalez (S.D. Cal.)
Judge James A. Parker (D.N.M.), *Center Board Representative*
Hon. John R. Steer (U.S. Sentencing Commission)

Committee on District Judge Education

Judge Charles N. Clevert, Jr. (E.D. Wis.), *Chair*
Judge Deborah K. Chasanow (D. Md.)
Judge Bernice B. Donald (W.D. Tenn.),
Center Board Representative
Judge W. Royal Furgeson, Jr. (W.D. Tex.)
Judge Philip M. Pro (D. Nev.)
Judge Sarah S. Vance (E.D. La.), *Center Board Representative*
Judge Kathryn H. Vratil (D. Kan.)
Robert T. Haar, Esq., St. Louis, Mo.
George F. Pappas, Esq., Washington, D.C.
Margaret A. Irving (Administrative Office of the U.S. Courts)

Committee on Magistrate Judge Education

Magistrate Judge Jonathan W. Feldman (W.D.N.Y.), *Chair*
Magistrate Judge Dennis L. Beck (E.D. Cal.)
Magistrate Judge Jerry A. Davis (N.D. Miss.)
Magistrate Judge Karen K. Klein (D.N.D.),
Center Board Representative
Magistrate Judge Keith A. Pesto (W.D. Pa.)
Magistrate Judge Mary E. Stanley (S.D. W. Va.)
Carol E. Heckman, Esq. (Buffalo, N.Y.)
Frank H. Reynolds, Esq. (Lansing, Mich.)
Thomas C. Hnatowski (Administrative Office
of the U.S. Courts)

Defender Services Advisory Group Panel on Defender Education

Jon M. Sands (Federal Public Defender, D. Ariz.), *Chair*
Henry J. Bemporad (Deputy Federal Public Defender,
W.D. Tex.)
David Beneman (Panel Attorney, D. Me.)
Thomas W. Hillier II (Federal Public Defender, W.D. Wash.)
Henry A. Martin (Federal Public Defender, M.D. Tenn.)

Advisory Committee on Appellate Court Staff Education

Gino J. Agnello (Clerk of Court, 7th Cir.), *Chair*
Kathleen Brouwer (Chief Deputy Clerk, 3d Cir.)
Julie A. Fenton (Senior Staff Attorney, 7th Cir.)
J. Terry Hemming (Circuit Librarian, 10th Cir.)
Robert L. Phelps (Chief Deputy Clerk, 11th Cir.)
Gregory B. Walters (Circuit Executive, 9th Cir.)
Gary A. Bowden (Administrative Office of the U.S. Courts)

Advisory Committee on Bankruptcy Court Staff Education

Dana McWay (Clerk of Court, Bankr. E.D. Mo.), *Chair*
Jeannette J. Clack (Chief Deputy Clerk, Bankr. N.D. Tex.)
Eva L. Culwell (Chief Deputy Clerk, Bankr. W.D. Wash.)
Gary J. Drake (Chief Deputy Clerk, Bankr. N.D. Ga.)
Valrey W. Early III (Bankruptcy Administrator,
Bankr. N.D. Ala.)
Kathleen Farrell (Clerk of Court, Bankr. S.D.N.Y.)
Kenneth J. Hirz (Clerk of Court, Bankr. N.D. Ohio)
William C. Stillgebauer (Clerk of Court, Bankr. Utah)
Glen K. Palman (Administrative Office of the U.S. Courts)

Advisory Committee on District Court Staff Education

Cameron S. Burke (Clerk of Court, D. Idaho), *Chair*
Pat Brune (Clerk of Court, W.D. Mo.)
John M. Domurad (Chief Deputy Clerk, N.D.N.Y.)
Matthew J. Dykman (Clerk of Court, D.N.M.)
Leandra Kelleher (Chief Deputy Clerk, D. Mont.)
Sheryl L. Loesch (Clerk of Court, M.D. Fla.)
Karen Mitchell (Clerk of Court, N.D. Tex.)
Robin D. Tabora (Chief Deputy Clerk, D.D.C.)
Robert Lowney (Administrative Office of the U.S. Courts)

Advisory Committee on Probation and Pretrial Services Education

Stephen M. Donnelly (Chief U.S. Probation Officer,
W.D. Mo.), *Chair*
George Johnson (Chief U.S. Probation Officer, M.D.N.C.)
David D. Keeler (Chief U.S. Probation Officer, E.D. Mich.)
Bonnie Phillips-Williams (Deputy Chief U.S. Probation Officer,
S.D. Fla.)
George M. Walker (Chief U.S. Pretrial Services Officer,
C.D. Cal.)
Barry J. Weiner (Chief U.S. Probation Officer, D.R.I.)
Kenneth O. Young (Chief U.S. Probation Officer, S.D. Cal.)
Nancy Beatty Gregoire (Administrative Office
of the U.S. Courts)