

FEDERAL JUDICIAL CENTER
Annual Report 2006

CONTENTS

- 1 A Message from the Director
- 2 About the Federal Judicial Center
 - Statutory Mission
 - Governance
 - Board
 - Organization
 - Coordination Within the Judicial Branch
 - Staffing and Appropriation
 - Senior Staff
- 3 2006 at a Glance
- 4 Education and Training
 - Education Programs and Resources for Judges and Legal Staff
 - Education Programs and Resources for Judges and Court Staff
 - Education Programs and Resources for Court Staff
- 9 Research
 - Appellate Courts
 - Civil Litigation
 - Criminal and Capital Case Litigation
 - Bankruptcy Courts
 - Courtroom Use
 - Research Collaboration with Others
- 11 Programs for Foreign Judicial Officials
- 11 Federal Judicial History
- 12 Resources
 - Publications
 - Federal Judicial Television Network
 - Media Library
 - Information Services
- 13 Federal Judicial Center Foundation
- 13 John R. Brown Award
- 14 Advisory Committees

A MESSAGE FROM THE DIRECTOR

This Annual Report sets forth the broad range of programs, materials, and services the Federal Judicial Center produces for the courts and the public, and the variety of ways we deliver them. All of our projects and activities are carefully planned to get the most benefit from our limited resources. Without diminishing the importance of any of our activities, I would like to mention here several projects in which the Center was asked to help the judiciary respond to matters affecting the judicial branch.

Courtroom use. Because of concerns about court construction costs, the Chair of the Subcommittee on Economic Development, Public Buildings and Emergency Management of the House Committee on Transportation and Infrastructure asked the judiciary to do a study on the use of courtrooms. The Judicial Conference of the United States referred that request to its Committee on Court Administration and Case Management (CACM), and that committee asked the Center to conduct the study.

This is one of the largest and most complex studies that the Center has ever undertaken. Working closely with staff in twenty-seven sample courts, we will collect comprehensive data about all activity that occurs, or is scheduled to occur, in federal district courtrooms. In addition to collecting data in the sample courts, the Center will survey all district and magistrate judges concerning courtroom use. Upon completion of data collection in mid-2007, the Center will compile the data and, next fall, will submit a report to the CACM Committee, which will, in turn, report to the Judicial Conference. The Center's data will also be made available to Congress. The study is very important for the judiciary and its efforts to be fiscally responsible, and it will help the judiciary determine, and justify, legitimate courtroom needs.

Habeas corpus. In response to proposed habeas corpus reform legislation pending in the 109th Congress, a task force composed of chairs of seven Judicial Conference committees asked the Center and the Administrative Office to conduct research on the processing of state capital habeas corpus appeals in the federal courts. Center staff are examining cases filed in the federal courts by state prisoners and will analyze the effect of certain case-related events and issues on disposition times.

Ethics training. The Center is undertaking several ethics-related education efforts in coordination with the Administrative Office, in response to recent actions by the Judicial Conference and the report of the Judicial Conduct and Disability Act Study Committee chaired by Justice Breyer (to which the Center provided substantial assistance). The Center will increase the already substantial amount of time we devote to instruction on judicial ethics at our orientations for new district, magistrate, and

bankruptcy judges. At these sessions we will explain new policies requiring judges to use software that helps screen cases for potential conflicts and to disclose their attendance at certain privately funded seminars. We will also provide new judges with a brief explanation of the Judicial Conduct and Disability Act and how it works. The Center produced a video program, which we broadcast on the Federal Judicial Television Network and made available in streaming video on the Center's intranet site, that explains the new ethics requirements and demonstrates how to use the conflicts-screening software.

Teaching about the courts. To help improve the public's understanding of the federal courts, the Center's Teaching Judicial History project provides educators with extensive background on famous federal trials and related public debates. Last year the Center joined with the ABA Division for Public Education to conduct an institute that brought together federal judges, scholars, and high school history teachers from across the country to develop curricula on federal judicial history for high school classes. The participants examined three notable cases in the history of the federal courts and ways that teachers can incorporate these cases in their classroom study of significant public policy debates in U.S. history. The Center and the ABA are conducting another such teachers' institute in 2007.

All of these projects originated from requests or suggestions from outside the Center. The projects respond to issues and concerns arising outside the judicial branch and affect how the courts are perceived by the other branches of government and by the public. These requests reflect the Center's reputation for sound, accurate, and independent research and for timely and effective education and training.

Of course, these are just a few of our many programs and services for the judicial branch. We continue to provide a complete schedule of orientation and continuing education conferences, seminars, and workshops, as well as print and online publications; satellite television broadcasts; video and audio programs in tape, disk, and streaming formats; web-based training; and other resources. Judges and court staff can find all of our programs and resources on our website on the judiciary's intranet, which is undergoing a redesign that will be completed in 2007.



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 various 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 2006.

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 14).

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 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

Judge Karen J. Williams, U.S. Court of Appeals for the Fourth Circuit

James C. Duff, Director of the Administrative Office of the U.S. Courts

In March 2006, the Judicial Conference elected Judge Karen J. Williams of the U.S. Court of Appeals for the Fourth Circuit to the Board, replacing Judge Pierre N. Leval of the U.S. Court of Appeals for the Second Circuit, whose term expired. James C. Duff, Director of the Administrative Office, became a member of the Board in July 2006, when he succeeded Leonidas Ralph Mecham, who retired.

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.

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 the Communications Policy & Design Office—in using print, broadcast, and online 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 14.

Staffing and Appropriation

The Center had a fiscal 2006 appropriation of \$22,127,000, and it employed 124 people at the end of calendar year 2006. Well over two-thirds of Center expenditures support its education and training activities, and the remainder are 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

2006 AT A GLANCE

In 2006 the Center

- provided 374 in-person, in-court, and technology-based educational programs for more than 13,000 federal judge, defender, and court staff participants;
- broadcast 98 programs on the Federal Judicial Television Network (FJTN) from the Center, the Administrative Office, and the Sentencing Commission, 8 of which were live, and produced 62 of these programs;
- completed 10 major research and evaluation projects, continued work on 33 others, and responded to more than 60 other requests for short-term research assistance;
- published or updated 12 reports, manuals, monographs, or reference guides;
- completed 2 curriculum packages and 1 training guide for in-court training of court staff and probation and pretrial services officers and staff;
- distributed more than 20,000 copies of its publications, as well as some 2,600 audio, video, and multimedia programs;
- hosted 43 briefings for more than 226 foreign judges, court officials, scholars, and students from some 68 different countries.

EDUCATION AND TRAINING

More than 2,100 federal judge participants, 10,100 court staff participants, 40 circuit mediators, and 1,100 federal defenders and their staff attended Center educational programs in 2006 (see tables on page 8). Those programs included orientation and continuing education programs delivered by a variety of methods. Programs for judges, circuit mediators, federal defenders, and court unit executives are traditionally in-person presentations, affording interaction on court- and case-management issues, as well as on substantive and procedural matters. Court staff programs, designed for larger audiences, are typically non-travel-based and include audio, video, and on-line conferences, as well as local training programs that are taught in the court units by Center-trained court staff or individuals with training experience using Center curriculum materials.

The Center also produced twenty-one new Federal Judicial Television Network (FJTN) programs and updated several existing video orientation programs to reflect changes in law or policies. (FJTN viewership is not included in the participant figures above, nor is the use of educational publications, media programs, and other resources on the Center's site on the judiciary's intranet (see page 12)).

The Center's Professional Education Institute (PEI) became fully operational in 2006. PEI enhances court staff development by identifying key leadership practices used by court unit executives and managers at all levels, and providing a curriculum and various resources to help staff learn and hone those practices. PEI includes separate supervision and management tracks for staff in clerks' offices and staff in probation and pretrial services offices, as well as a discrete component for line officers. The Center conducted several new PEI programs and launched a webpage that serves as the portal for PEI.

Education Programs and Resources for Judges and Legal Staff

Programs for judges in 2006 included orientation seminars for newly appointed judges, circuit and national workshops, small-group seminars on special topics, in-court programs conducted by faculty who travel to the participants' district or circuit, FJTN broadcasts, and web-based materials.

The Center's 2006 national workshops for district, bankruptcy, and magistrate judges, and most of its circuit workshops, featured sessions on judicial ethics and recent Supreme Court decisions. Attendees at five national con-

ferences for district and magistrate judges and a circuit workshop participated in the Judges' Information Technology (IT) Awareness Program, developed by the Center and the Administrative Office at the request of the Judicial Conference Committee on Information Technology's IT Training Subcommittee. The program includes a series of web-based tutorials, which was made available to judges on the judiciary's intranet.

Three national workshops for district judges included sessions on sentencing; management of patent and complex criminal cases; federal habeas corpus cases brought by state and federal prisoners; federal jurisdiction (including the Class Action Fairness Act); major federal pollution control laws; prosecution of terrorists in federal courts; the science of drug addiction; and qualified immunity in section 1983 litigation.

The two national workshops for bankruptcy judges focused on new developments resulting from the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, case and court management, and other emerging issues affecting the bankruptcy courts.

Magistrate judges at two national workshops learned about recent developments in electronic surveillance, electronic discovery, and filing; patent law and case management; media and the law; and evidence and habeas corpus issues.

Two circuit-based workshops for appellate and district judges examined sentencing; case management; employment discrimination; judicial independence and ethics; mediation; the handling of high-profile cases; the USA PATRIOT Act; issues raised in terrorism cases; and topics of particular interest to judges in their respective circuits.

In collaboration with the American Society of International Law, the Center held a conference on international law and litigation for U.S. judges. This program featured sessions on treaty law, transnational litigation, and the work of international tribunals, as well as comparative practice sessions that included jurists from other countries. Other 2006 special-topic seminars explored employment law; case management; environmental law; humanities and science (the Harold Medina Seminar); immigration law; intellectual property; law and genetics; law and science; law and society; law and terrorism; mediation; and emerging issues in neuroscience.

The Center also offers several programs for judges that are available on request for delivery "in court" by faculty provided by the Center. The 2006 program selections were improving the writing and editing of opinions; intellectual property cases (with an emphasis on patent law);

trying patent cases; law and literature; law and the Holocaust; origins of the Bill of Rights; and the Declaration of Independence and the Preamble.

The Center initiated several training projects this year. In January, the Attorney General directed Department of Justice officials to undertake a comprehensive review of the immigration courts and the Board of Immigration Appeal (BIA). The review was sparked in part by criticism of immigration judges in several court of appeals opinions in cases reviewing asylum decisions. To assist the DOJ in its review, and in consideration of the growing number of immigration cases on court of appeals dockets, the Center began meeting with members of the Attorney General's review team, officials of the Executive Office of Immigration Review (EOIR), immigration judges, and members of the BIA. Following these initial consultations, the Attorney General directed EOIR to consult with the Center on several training-related matters. By providing expertise and technical advice, the Center will help EOIR develop additional training programs and resources for its judges and board members.

The Center also conducted an immigration law seminar for court of appeals judges in cooperation with Georgetown University Law Center. Topics covered included judicial and administrative review of immigration decisions, measures to improve the immigration courts and the BIA, and case-management techniques developed by the courts of appeals to handle their immigration caseloads. Immigration judges and members of the BIA attended a roundtable discussion of these issues during the seminar, affording all participants the opportunity to share insights and experiences from their different perspectives.

In response to actions taken by the Judicial Conference at its September 2006 meeting and the report of the Judicial Conduct and Disability Act Study Committee chaired by Justice Breyer, the Center, in coordination with the Administrative Office, undertook several ethics-related education efforts. The already substantial judicial ethics curriculum that was part of the Center's orientation programs for new district, magistrate, and bankruptcy judges was expanded to explain new policies requiring all judges to use software that helps screen cases for possible conflicts and to disclose their attendance at certain privately funded seminars. For district and magistrate judges, the Center produced an FJTN broadcast introduced by the Chief Justice that stresses the importance of the new ethics requirements and demonstrates how to use the conflicts-screening software developed by the Administrative Office. The program is also available in streaming video format on the Center's site on the judiciary's intranet.

At the request of the Judicial Conference Committee on Information Technology, the Center convened a planning committee of judges, including representatives from several Judicial Conference committees, to develop the agenda for an early 2007 program on identifying, evaluating, and supporting new information technology resources for judges. The Center will host the program in coordination with the Administrative Office.

In-person programs for over 1,100 federal defenders and staff included national and sentencing seminars and an appellate writing workshop for federal defenders; an orientation for assistant federal defenders; a seminar for federal defender investigators and paralegals; and a law and technology workshop for federal defender staff. There were forty-three participants at a workshop for circuit mediators.

In addition to the program on conflicts-screening software described above, the Center produced new FJTN programs on the Supreme Court's 2005–2006 Term; the Sentencing Guidelines Statement of Reasons Form; selected 2005 bankruptcy decisions in the Fourth, Eighth, and Ninth Circuits (three separate programs); and early experiences in implementing the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. In addition, *Fundamentals of Criminal Pretrial Practice in the Federal Courts*, an orientation video developed for newly appointed magistrate judges, aired in August along with an updated edition of *Basics of Employment Discrimination Law for Law Clerks*. Additional new orientation videos included *Trying Criminal Cases* for district judges; *Settlement Techniques* for bankruptcy judges; *Criminal Pretrial Scenarios* for magistrate judges; and *A Word of Welcome* for all Article III judges.

The Center published monographs on bail, copyright law, and patent law and practice, as well as "pocket guides" on case management and on discovery of electronic information (which helps judges implement new rules on electronic discovery that went into effect in late 2006). The Center also released a new edition of its book describing the mediation and conference programs in the federal courts of appeals. The books are available in printed form and on the Center's site on the judiciary's intranet.

Other new postings to the Center's site included an interactive e-learning program on ethics for law clerks; a page of materials on electronic discovery in cases involving electronic surveillance and a page on pen/trap orders for cellular and Internet communications and cell site data; and an outline of selected appellate decisions on sentencing post-*Booker*. The site also contains streaming videos of recent FJTN broadcasts and streaming audio recordings of selected sessions from in-person programs for judges.

Education Programs and Resources for Judges and Court Staff

The Center conducted several programs to instruct judges and court staff on recent legislation and Supreme Court decisions, changes in judicial policies, and management strategies.

In July, under the direction of the Judicial Conference Committee on Criminal Law and in cooperation with the U.S. Sentencing Commission and the Administrative Office, the Center conducted a National Sentencing Policy Institute in Washington, D.C. Participants included more than 150 district and appellate judges, U.S. attorneys, federal defenders, and chief probation officers. All the federal circuits were represented at this event.

The Center's national conferences for chief district judges and for chief bankruptcy judges were each preceded by team building workshops for chief judges and their clerks of court. Other programs for judges and court managers included a leadership seminar and four strategic planning workshops (two for district courts, two for bankruptcy courts). Participants in the strategic planning workshops may request a subsequent in-court program at which Center facilitators help individual court teams complete the strategic plans they drafted during the national workshop; three such in-court programs were conducted in 2006.

At the request of the Fifth Circuit, the Center and the Administrative Office developed and presented an in-court program, *Using Technology to Serve the Appellate Process*, for judges, court unit executives and their staff, federal defenders, and members of the bar.

A workshop produced in collaboration with the Administrative Office and the General Services Administration helped teams comprising judges, clerks of court, court project managers, and architects plan for capital construction projects.

Education Programs and Resources for Court Staff

Court Managers

Succession planning, strategic planning, and maximizing the use of technology were among the agenda topics at the Center's two biennial national conferences—one for district court clerks, district court executives, and chief deputy clerks and one for chief probation and pretrial services officers. A highlight of each conference was a panel presentation on the current and future direction of the courts by representatives of several Judicial Conference committees. A videotape of the clerks' conference panel presentation was broadcast on the FJTN.

Eleven districts participated in an executive team workshop for chief probation and pretrial services officers and their deputy chiefs.

The Center conducted leadership institutes for circuit executives and their chief deputies in October and for chief deputy clerks of district courts, deputy chief probation and pretrial services officers, and circuit court staff in comparable positions in April and August. The four and one-half day institute delves into such issues as implementing a leader's vision and goals, team building, and change management.

The Center's leadership development programs, conducted over two and one-half to three years, teach and develop leadership skills through a combination of formal instruction, project-based learning, and interaction with faculty mentors. Class V of the Federal Court Leadership Program (FCLP) completed their studies this year; Class VI began the program in April. Eligible FCLP participants include staff from the offices of clerks of court, circuit executives, senior staff attorneys, and circuit librarians. Class VIII of the Leadership Development Program for Probation and Pretrial Services Officers attended a phase two workshop.

Supervisors and managers in appellate, district, and bankruptcy courts were invited to attend one of two management training workshops conducted by the Center: one for those new to the position and one for those with three or more years of experience.

District and Bankruptcy Courts

Center staff facilitated three Case Management/Electronic Case Files (CM/ECF) programs at the request of the Administrative Office—one for district court staff and two for bankruptcy court staff—as well as two bankruptcy CM/ECF web-audio conferences. Statistical reporting changes in CM/ECF Release 3.1 and their impact on court operations was the topic of two audioconferences facilitated by Center staff and hosted by the CM/ECF Working Group and the Administrative Office. Over 300 bankruptcy court staff participated in each audioconference.

Jury administrators learned communication strategies for dealing with internal and external customers during an online conference that was conducted over several months; a subsequent web-audio conference focused on jury administrator issues and best practices.

Probation and Pretrial Services

The Center conducted five regional symposia for experienced supervising probation and pretrial services officers. Two in-person workshops were held for officers in the two-year New Supervisors Program (NSP), which also requires completion of a forty-hour self-study course, a

series of three web-audio conferences, and an in-district learning project. The Center also hosted five NSP web-audio conferences this year. (Also see the court managers section at page 6.)

New FJTN broadcasts for officers and staff included *Substance Abuse: Methamphetamine*, the fourteenth program in the Center's *Substance Abuse* series, and *Cyber Crime Investigation and Supervision*. The latter program was supplemented with five web-audio conferences. The Center rebroadcast its FJTN series *Financial Investigations* and supplemented it with web-audio conferences following each rebroadcast.

Other Programs for Court Staff

An instructional design workshop consisting of videoconferences and two in-person workshops taught small teams of court staff to convert existing training materials into interactive e-learning programs. A Center e-learning program is now available on its intranet site: *Maintaining the Public Trust*, a program on ethics for federal law clerks.

New court training specialists participated in a four-session videoconference workshop. A train-the-trainers workshop prepared selected court staff to deliver a management excellence assessment and related training programs available from the Center.

Recent additions to the Center's in-court programs include *Planning for Fiscal Management* and *Planning for Strategic Workforce Management*. A new training guide, *Mentoring in the Courts*, was published electronically on the PEI webpage (see page 4).

New FJTN programs intended primarily for court personnel included four editions of *Court to Court*, the Center's video magazine that reports innovative court practices; an orientation program on the Federal Court Leadership Program; three commercially produced management programs; a program on challenges and possibilities facing the courts; and a program on mentoring relationships.

Additions to the Center's intranet site in 2006 included streaming audio recordings of two audioconferences on CM/ECF Release 3.1 (see page 6); updates to the U.S. Probation and Pretrial Services Charter for Excellence resources and the timeline depicting the history of probation and pretrial services in the federal system; a new timeline on the evolution of bankruptcy law; and reviews of books on leadership and management.

Seminars & Workshops for Judges, Jan. 1–Dec. 31, 2006

	Number of Programs	Number of Participants
Orientations for newly appointed district judges	3	31
Orientations for newly appointed bankruptcy judges	3	73
Orientations for newly appointed magistrate judges	3	54
Conference for chief district judges	1	94
Conference for chief bankruptcy judges	1	69
Workshops for district and circuit judges	2	90
National workshops for district judges	3	377
National workshops for bankruptcy judges	2	262
National workshops for magistrate judges	2	368
National sentencing policy institute	1	72
Special-focus workshops	17	416
In-court seminars	15	199
TOTAL	53	2,105

The Center also held six programs for 1,107 federal defenders and staff and one program for 43 circuit mediators.

Education & Training Programs for Court Staff, Jan. 1–Dec. 31, 2006

	Number of Programs	Number of Participants
Seminars and Workshops (national and regional)		
Clerks of court, clerk's office personnel, circuit executives, bankruptcy administrators, senior staff attorneys, court librarians	7	893
Probation and pretrial services officers and personnel	11	508
Personnel in several categories*	15	598
TOTAL	33	1,999
In-Court Programs (programs using curriculum packages, training guides, and computer-assisted instructional programs)		
Clerks of court, clerk's office personnel, circuit executives, bankruptcy administrators, senior staff attorneys, court librarians	76	1,876
Probation and pretrial services officers and personnel	100	2,967
Personnel in several categories	90	1,205
TOTAL	266	6,048
Technology-Based Programs (videoconferences, audioconferences, online conferences, but not including FJTN broadcasts)		
Clerks of court, clerk's office personnel, circuit executives, bankruptcy administrators, senior staff attorneys, court librarians	6	1,881
Probation and pretrial services officers	8	186
Personnel in several categories	1	33
TOTAL	15	2,100
GRAND TOTAL	314	10,147

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

RESEARCH

The Center conducts empirical studies in the areas of judicial administration, case management, and the impact of proposed changes to the federal rules of procedure. Nearly all Center research is undertaken in response to requests from committees of the Judicial Conference. As an integral aspect of its applied research program, the Center collaborates with academic and nonprofit organizations on various court-related research activities. In 2006, the Center completed ten major research and evaluation projects, continued work on thirty-three others, and responded to more than sixty other requests for short-term research assistance from the courts, Judicial Conference committees, state and federal agencies, and others.

Appellate Courts

As a follow-up to its 2004 report to the Advisory Committee on Appellate Rules on the probable impact of Federal Rule of Appellate Procedure 32.1's permitting citation of unpublished appellate opinions in briefs filed in the courts of appeals, the Center monitored the progress of the circuits as some of them amended their rules to accommodate the new provision. Center staff prepared a detailed table listing the actions of the circuits in response to the new rule, published it on the Center's websites, and made it available to law-related publishers and others.

Civil Litigation

The Center is conducting a multiyear study of the impact of the Class Action Fairness Act of 2005 on federal judiciary resources, as requested by the Advisory Committee on Civil Rules. The study found that the number of class action cases filed in or removed to the federal courts under the new law had a substantial impact on the caseloads of the federal courts.

Also at the request of the Civil Rules Committee, the Center continued research to assist the committee as it considers possible amendments to the Federal Rules of Civil Procedure, including Rule 26(a)(2) regarding disclosure of expert reports and the data an expert witness considers in forming opinions; summary judgment practices under Rule 56; and the incidence of motions for a more definite statement filed under Rule 12(e).

To present a more comprehensive description of the patent claims construction process, the Center conducted a survey of a sample of district court judges and attorneys involved in recently terminated patent cases. The survey sought to identify case-management techniques that judges used to strengthen the claims construction process and to develop a proper record for appellate review.

The Court Administration and Case Management (CACM) Committee asked the Center to conduct follow-up research 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 examined related issues, such as redacting prohibited information in documents that are filed in the federal courts.

Criminal and Capital Case Litigation

The chairs of seven Judicial Conference committees with jurisdiction relating to habeas corpus issues asked the Center and the Administrative Office to conduct research on the processing of habeas corpus appeals of state capital convictions in the federal courts. The request was partially in response to the Streamlined Procedures Act (S. 1088 and H.R. 3035), introduced in the 109th Congress. Center staff are examining cases filed in the federal courts by state prisoners and will analyze the effect of certain case-related events and issues on disposition times. The study concentrates on a sample of nearly 800 appeals and will be completed in 2007. The Center is also updating Volume I of its *Resource Guide for Managing Capital Cases* to include information for judges on cost-management issues.

Bankruptcy Courts

At the request of the Committee on Administration of the Bankruptcy System, the Center analyzed data from the initial phases of its bankruptcy court case-weighting project. The case-weighting study has been interrupted to allow the courts to implement the bankruptcy reforms that Congress enacted in 2005. The Center developed some preliminary updates to the current case weights, using the data collected during the initial phases of the study, to inform the committee of possible bankruptcy judgeship needs.

The Center is updating its 1992 publication *A Guide to the Judicial Management of Bankruptcy Mega-Cases*.

Courtroom Use

In response to a request from the Chair of the House Subcommittee on Economic Development, Public Buildings and Emergency Management, the CACM Committee asked the Center to design and conduct a study of federal courtroom use. The study will collect comprehensive information about all activity that occurs, or is scheduled to occur, in federal district courtrooms. The study will also collect information about judges' perspectives on

the use and role of courtrooms. Twenty-four courts were randomly selected to participate in the study, and another three courts were selected because of their experience with sharing courtrooms. The Center has trained almost 500 court staff on data collection for the study, including the use of a software application developed by the Center for reporting data. The Center will submit its initial report of the study to the CACM Committee in the fall of 2007.

Research Collaboration with Others

In furtherance of its statutory mission “to stimulate and coordinate . . . research and study on the part of other public and private persons and agencies” (28 U.S.C. § 620(b)(1)), the Center has continued to develop working relationships with a number of institutions and individuals in order to pursue projects of interest to the federal judiciary. Several recent collaborative projects relating to scientific evidence have been planned with the National Academies (NAS, formerly the National Academy of Sciences). The NAS and the Center plan to produce a new edition of the Center’s *Reference Manual on Scientific Evidence* as a joint project. The Center has worked with the American Association for the Advancement of Science and the Dana Foundation to develop new judicial education programs on emerging issues in neurobiology and law. The Center continued its work with the Sedona Conference to draft reports on judicial case-management strategies in patent claims construction proceedings and the use of economic experts in antitrust litigation. Center staff also have worked with academic scholars to estimate the number of claims construction orders in patent cases and to assess the effects of summary judgment and settlement rates on employment discrimination litigation.

PROGRAMS FOR FOREIGN JUDICIAL OFFICIALS

The Center's governing 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 participates in a limited number of technical assistance projects with foreign judiciaries. The Center does not pay travel or other direct costs of foreign judicial education programs.

In 2006, the Center coordinated forty-three briefings for 226 foreign judges, court officials, scholars, and students from sixty-eight countries. These programs included

- sessions on court-annexed mediation for delegations from Algeria, Croatia, Iraq, Israel, and Jordan;
- briefings about judicial education for judges from China, France, Morocco, Nepal, New Zealand, Russia, South Korea, and Turkey; and
- a program on pretrial detention for a delegation of Supreme Court Justices from Ukraine.

Center staff also participated in technical assistance programs abroad, including

- workshops on complex litigation, scientific evidence, and curriculum development in Argentina;
- a program for the Kazakh judiciary to support its efforts to create an independent research institution for the study of court administration and judicial practice;
- judicial reform projects in Kosovo and Serbia; and
- workshops in the Russian Federation that addressed training for court personnel and distance education.

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 2006, the Center hosted four visiting fellows: two judges from Brazil and two legal scholars from the Russian Federation. The Brazilian fellows conducted research on case management and intellectual property; the Russian fellows wrote papers on judicial independence and treaty law.

FEDERAL JUDICIAL HISTORY

In June 2006, the Federal Judicial Center joined with the ABA Division for Public Education to conduct an institute that brought together federal judges, scholars, and high school history teachers from across the country. The participants examined three historic cases in the federal trial courts and developed curricula that teachers will use to incorporate the history of our judicial system in their teaching of U.S. history and that will support judges who meet with public audiences to discuss the history of an independent judiciary. The Center and the ABA will offer a second teachers' institute in Chicago in July 2007.

The institutes are based on the Center's Teaching Judicial History project, which provides educators with extensive background on famous federal trials and related public debates. Six of the projected ten units of the project are available on the Center's websites.

The Center has prepared and made available online educational materials on the history of judicial indepen-

dence and the development of the federal court system. The talking points, presentation materials, and historical documents provide judges and court staff with the tools to organize discussions with students or other public groups.

The Center's websites also contain photographic images of nearly 600 historic federal courthouses. The images were compiled from various federal repositories and may be downloaded for use in court exhibits and publications.

Among other historical projects, the Center coordinated the annual meeting of a consortium of federal and state court historical societies; initiated research for a monograph examining historical debates on judicial tenure; and continued to maintain historical reference materials online, including a new chart surveying judicial salaries for all federal courts since 1789.

RESOURCES

Publications

Center manuals, monographs, and research reports are described throughout this report. Most of the Center's publications are available in print and electronically on the its sites on the judiciary's intranet (cwn.fjc.dcn) and on the Internet (www.fjc.gov). In 2006, the Center distributed more than 20,000 printed copies of its publications.

The following publications were printed or in production in 2006, and are also available online.

- *The Bail Reform Act of 1984, Third Edition*
- *Copyright Law, Second Edition*
- *The Elements of Case Management: A Pocket Guide for Judges, Second Edition*
- *Managing Discovery of Electronic Information: A Pocket Guide for Judges*
- *Mediation & Conference Programs in the Federal Courts of Appeals: A Sourcebook for Judges and Lawyers, Second Edition*
- *Patent Law and Practice, Fifth Edition*
- *Roundtable on the Use of Technology to Facilitate Appearances in Bankruptcy Proceedings*

The following publications were released online only in 2006.

- *The Impact of the Class Action Fairness Act of 2005: Second Interim Report to the Judicial Conference Advisory Committee on Civil Rules*
- *Interim Progress Report on Class Action Fairness Act Study*
- *Post-Booker Sentencing—Selected Issues from Appellate Case Law*
- *Research on Appeals of Attorney-Fee and Merits Decisions (Fed. R. Civ. P. 58(c)(2)) As Presented to the Advisory Committee on Civil Rules in May 2006*
- *The Use of Visiting Judges in the Federal District Courts: A Guide for Judges and Court Personnel (updated 2006)*

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, 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. The FJTN is the second largest nonmilitary television network in the federal government. In addition to broadcasting its own educational programs to the courts over the FJTN, the Center transmits educational and informational programming from the Administrative Office and the U.S. Sentencing Commission to judges and court staff.

Some FJTN programs are broadcast live from the Center-operated 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 to reach wider audiences and new judges and court employees.

In 2006, the FJTN broadcast 98 programs, 8 of which were live. The Center produced 62 of these programs, including 21 new programs, 4 of which were live. The *FJTN Bulletin*, a program guide produced by the Center every other month and published on the judiciary's intranet, provides broadcast schedules, program descriptions, and other news about the network.

Media Library

The media library contains some 4,000 audio and video programs, including Center-produced educational video programs, videotapes of Center broadcasts on the FJTN, audiotapes of seminars and workshops, and almost 800 commercially produced video programs. In 2006, the media library loaned more than 600 programs to federal judges and judicial branch personnel on request and sent some 2,000 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.

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. During the year it answered 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. The Foundation Board members at the close of 2006 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.; and
- Benjamin L. Zelenko, Washington, D.C.

In creating the Foundation, Congress directed that the Center's Annual Report describe the purposes for which Foundation gifts were used in the relevant year. The Center used the following Foundation gifts in 2006.

- A multiyear grant from the William and Flora Hewlett Foundation to support a project that pro-

vides on-site consultation to courts seeking assistance in developing or refining their alternative dispute resolution (ADR) programs funded travel expenses for consultations with one court in 2006.

- Funds provided by the Duke University Law School paid the travel expenses for federal judges to attend a program on advanced mediation strategies.
- Funds provided by the Northwestern School of Law at Lewis and Clark College paid the travel expenses for federal judges to attend a program on environmental and natural resources law.
- Funds provided by the American Association for the Advancement of Science paid the travel expenses for federal judges to attend two programs on emerging issues in neuroscience.
- 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 supported federal judges' attendance at two law and science seminars coordinated by Professor Berger in cooperation with the Center.
- Non-earmarked grants provided partial support of a judicial seminar on the humanities and science at Princeton University (the Harold Medina Seminar).

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 outside the

Center who contribute to its judicial education and research missions. Previous recipients are Professors Margaret Berger, Karen Blum, Erwin Chemerinsky, Laurie Levenson, Ira Robbins, George C. Treister, and Elizabeth Warren, and Center staff members Bruce Clarke, Denise Neary, Donna Stienstra, Marilyn Vernon, and Elizabeth Wiggins. The recipients of the Judge John R. Brown award for 2006 were Professor Joel W. Friedman of Tulane Law School and James Buchanan of the Federal Judicial Center.

ADVISORY COMMITTEES

Advisory committees provide the Center with 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 *Benchmark* 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 2006.

Committee on Appellate Judge Education

Judge Diarmuid F. O'Scannlain (9th Cir.), *Chair*
Judge Terence T. Evans (7th Cir.), *Center Board Representative*
Judge Emilio M. Garza (5th Cir.)
Judge Michael J. Melloy (8th Cir.)
Judge Karen J. Williams (4th Cir.), *Center Board Representative*
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 District Judge Education

Judge Kathryn H. Vratil (D. Kan.), *Chair*
Judge Carol Bagley Amon (E.D.N.Y.)
Judge Deborah K. Chasanow (D. Md.)
Judge David H. Coar (N.D. Ill.)
Judge Bernice B. Donald (W.D. Tenn.), *Center Board Representative*
Judge Philip M. Pro (D. Nev.)
Judge Sarah S. Vance (E.D. La.), *Center Board Representative*
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.)
Frank H. Reynolds, Esq. (Lansing, Mich.)
Thomas C. Hnatowski (Administrative Office of the U.S. Courts)

Committee on the Benchmark 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)

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 (Federal Public Defender, D. Me.)
Thomas W. Hillier II (Federal Public Defender, W.D. Wash.)
Henry A. Martin (Federal Public Defender, M.D. Tenn.)

Committee on Appellate Court Staff Education

Gino J. Agnello (Clerk of Court, 7th Cir.), *Chair*
Richard Donovan (Clerk of Court, 1st Cir.)
Len Green (Clerk of Court, 6th Cir.)
J. Terry Hemming (Circuit Librarian, 10th Cir.)
Marilyn Sargent (Chief Deputy Clerk, D.C. Cir.)
Pam Twiford (Chief Deputy Clerk, Fed. Cir.)
Gregory B. Walters (Circuit Executive, 9th Cir.)
Marisa Watson (Senior Staff Attorney, 3d Cir.)
Gary A. Bowden (Administrative Office of the U.S. Courts)

Committee on Bankruptcy Court Staff Education

Jeanne Brennan (Chief Deputy Clerk, Bankr. D. Md.), *Chair*
Jeannette J. Clack (Chief Deputy Clerk, Bankr. N.D. Tex.)
Valrey W. Early III (Bankruptcy Administrator, Bankr. N.D. Ala.)
Yvonne Evans (Clerk of Court, Bankr. N.D. Ga.)
Gloria Franklin (Clerk of Court, Bankr. N.D. Cal.)
Kenneth J. Hirz (Clerk of Court, Bankr. N.D. Ohio)
Sean McAvoy (Clerk of Court, Bankr. N.D. Iowa)
Pamela Sherry (Chief Deputy Clerk, Bankr. C.D. Ill.)
Mary Louise Mitterhoff (Administrative Office of the U.S. Courts)
Glen K. Palman (Administrative Office of the U.S. Courts)

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.)
Matt Dykman (Clerk, D.N.M.)
Leandra Kelleher (Chief Deputy Clerk of Court, D. Mont.)
Sheryl Loesche (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)

Committee on Probation and Pretrial Services Education

Karen Gilman (Chief U.S. Pretrial Services Officer, D. Minn.), *Chair*
Ann Marie Carey (Chief U.S. Pretrial Services Officer, N.D. Ill.)
George Johnson (Chief U.S. Probation Officer, M.D.N.C.)
David D. Keeler (Chief U.S. Probation Officer, E.D. Mich.)
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)