

ANNUAL REPORT 1976





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

An Act

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

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

TITLE I—FEDERAL JUDICIAL CENTER

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

“Chapter 42.—FEDERAL JUDICIAL CENTER

“§ 620. Federal Judicial Center

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

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

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

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

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

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

* * * * *

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

FEDERAL JUDICIAL CENTER

ANNUAL REPORT

1976

Dolley Madison House

1520 H Street, N.W.

Washington, D.C. 20005

FEDERAL JUDICIAL CENTER

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JUDICIAL CONFERENCE
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THE FEDERAL JUDICIAL CENTER

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OFFICE OF
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August 23, 1976

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

SUBJ: Annual Report of the Federal Judicial Center

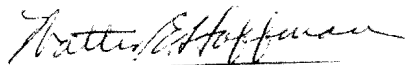
At the direction of the Board of the Federal Judicial Center and pursuant to the provisions of 28 USC 623, I am again honored to submit herewith the Center's Annual Report for Fiscal Year 1976 (through September 30, 1976).

This Report summarizes our activities and project work since the last submission. Specific details on any facet of our programs will, of course, be made available to you and your committees upon request.

The past year has been one of expanded activity at the Center which reflects both our attempt to provide greater service to the Federal Judiciary and an increase in the resources generously provided by the Congress for this purpose. I believe our stewardship of the funds provided is meeting the objectives set out for the Center. This has been possible because of the cooperation and assistance we have received from members of the Judicial Branch. We would like to express our special appreciation to Judge William J. Campbell who has continued to contribute so significantly to our educational programs.

During the year just past, we have attempted to refine and expand our relationship with your Conference and its committees. We are now working on several Conference requested projects. I wish to take this opportunity -- in this my last official report to your distinguished body -- to express our gratitude for your confidence and tell you that we will increase our efforts to support the Conference and the entire Federal Judiciary in any way that we can.

Faithfully yours,



Walter E. Hoffman
Director

Attachment

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INTRODUCTION

In this eighth year of the Center's existence, it is appropriate to pause and review where we have been, where we are now, and where we are going. The litigation explosion our nation has experienced is exemplified by the quantitative leap in the number of cases filed in federal courts. Further, the increasing complexity of our society is reflected in the vastly increased complexity of the issues now being brought to federal courts.

These demands on the federal court system have placed greater demands on the Center's services and have required increasing flexibility and timeliness of response. From a societal perspective this is merely another example of the acceleration in the rate of change and the growing consensus that change itself is one of the few certainties that modern man can depend on.

As a research and development and educational organization, the Center has had to develop adaptive structures and procedures effectively to fulfill its mission.

During its first five years the Center had a very small staff and grew at a slow pace. These first years were years of struggling to solve immediate problems while developing ideas and plans for the future. Planning and "brain-storming" sessions were the institutional norm for several years and then in 1974 and 1975, the plans and concepts assumed reality as the number of research and development projects mushroomed and the educational program surged ahead as seminars burgeoned and new correspondence courses and local training programs were instituted. The size of the projects changed dramatically at the same time as the success of earlier experiments led to funding for major development projects.

In the past two years, the major problem faced by the Center has been how to manage growth. During these two years the staff has doubled and the budget has tripled. Such growth usually results in chaos and inefficiency in an organization. But the unique blend of flexibility and responsiveness carefully built into the Center's organic structure, and a redoubling of staff efforts, have resulted in strengthening rather than weakening organizational effectiveness. The overwhelming problems of growth and development and the time consumed in solving them had its cost in fewer idea sessions and in less time devoted to planning for the future. This was recognized early in 1976 and efforts were made to return our emphasis to exploration of new ideas and design of new projects.

Ideas are projects in seminal form and one should not expect all of them to become reality. Some are infeasible, some are inadequately defined for research purposes, some do not accurately reflect problems, some turn out to be impractical, and some, although feasible, have to be put at the bottom of a priority list. Nonetheless, the path of the future is charted by such a process of idea generation,

scrutinizing, selecting, rejecting, and then implementing those that survive review by the Center Board. Some examples of questions which have been asked and ideas which have been discussed in planning sessions this year are:

1. Although solutions to the problems of federal courts must fall into one of three categories (reduce input, make procedures more efficient, or increase judges), the Center has begun to take a larger perspective in order to determine more precisely where a research or educational role is most appropriate. For example, it may be helpful to know more about the basic nature of the adversary system itself. Given that judges in the past ten to twenty years have been playing an increasingly inquisitorial role and given that this has resulted in settlement of many cases, we can begin to seek to determine those characteristics of disputes that lend themselves to settlement by the full machinery of the adversary system and those that can be settled more effectively by another method. Research in this area will have several objectives. First, it may help us to develop categories for recommending which types of cases should be handled elsewhere. Second, assuming the cases remain in the federal system, it can help us provide guidelines for a judge to use early in the life of a case to determine those cases most appropriately handled by each type of procedure. This will allow, in effect, the best treatment to be applied to each case.
2. Many judges, lawyers and scholars believe the use of juries in civil cases should be eliminated or at least limited. Several legal principles have been developed that can be used to decide which cases should be tried by juries. A contribution to this sensitive problem might be made by research aimed at establishing criteria for deciding which types of factual questions are most appropriate for lay-group decisionmaking and which types are better handled by individual judges. The objective here would be to develop some neutral principles or objective measures that could inform the debate on this topic.
3. Many practitioners and judges believe that discovery procedures are being overused and increase litigation costs, delay, and congestion. Although strong, well informed opinions have been formed on this subject, there is no recently developed empirical data that will show the exact extent of the usage of discovery devices and their costs. The vast growth in complex cases and other changes in litigation mean previous assumptions and previous research findings may no longer be valid.
4. What would be the probable role and functions of a federal court system thirty or forty years in the future if the trial caseload resulted in one million federal appeals per year? If the caseloads were that large, which cases should be given priority? Which should be diverted to other systems? Does looking at this extreme case provide a perspective that leads to solutions different than those being currently explored?
5. Eliminating diversity jurisdiction in the federal courts is often given as a solution to the burgeoning caseload. However, little or no research has gone into the question of whether diversity jurisdiction still serves to eliminate the problems of discrimination against out-of-state citizens in a state

court. It is not certain whether better information would have any effect on the eventual decision on this subject. Assuming *arguendo* that research is needed, several approaches to analyzing this question have been considered by the Center staff. A project might use both experimental and quasi-experimental research methods. First, by using matched pairs of cases in federal and state courts, it could be determined whether there is discrimination against out-of-state citizens in state courts and, if so, whether the same result might occur in federal courts! Second, by surveying the actual decisions of lawyers in cases where there is a choice between state and federal courts, whether the possibility of discrimination against out-of-state citizens is a factor in a lawyer's choice of forum can be determined. Such data would inform a decision on retaining or eliminating diversity jurisdiction.

6. Delay, of some magnitude, is inherent in judicial resolution of disputes. Like cost, it operates as a constraint on choosing litigation over alternative resolution devices. Evidence should be developed that would illuminate the relationships between speedy disposition and the choice of dispute resolution methods. The issue is not simply one of court convenience; it involves rather a consideration of how efforts to improve court processes may affect the social structure for problem solving of which the courts are only a part.
7. Evidence is mounting that a wide array of treatment programs forced upon convicted offenders has not achieved the desired turn-around in criminal careers. The result has been an increasing disaffection with the so-called medical model that has undergirded correctional philosophy for the last several decades. Legislators, judges and the public are turning to a correctional philosophy based on just deserts, but it is recognized that prison terms are generally unproductive burdens on the society. Sentences to perform community service or similar restitutive activity may offer an opportunity to combine retribution with restitution to the benefit of victims or society generally. Indeed, it may have salutary deterrent and rehabilitative effects that have eluded traditional programs. There is some experience abroad, and a tiny bit in the state systems, but almost nothing in the federal courts. The potential should be systematically explored.
8. Better measures of the burden imposed by each type of case can be developed by studying types of case events and determining the amount of time consumed by each type of event. A second step would be to determine the type and quantity of events by case type. If this approach is successful, it will result in a better method for determining judge-power needs without requiring a massive time keeping program for months by judges.

These examples suggest the types of subjects the Center will be studying in the coming year. During the past year there have been several significant trends at the Center which should be noted. A major shift has been made in the educational program as substantive topics have been added to seminars and workshops for both appellate and district judges. This trend will undoubtedly persist even though judicial administration and case management will continue to be the major thrust in seminars for newly appointed judges. Field studies, such as the district court studies

project, are moving toward evaluation of how well the federal rules of procedure are working out in practice, and the coming years should see more and more empirical data forthcoming on this long overdue review. Research efforts are now beginning to focus on predictions of the impact of pending legislation and on the use of controlled experiments to critically evaluate procedural alternatives. The success of interdisciplinary teams in the Center's computer system development projects is leading to an extension of the interdisciplinary team approach to research and education projects.

The pages which follow describe the work of the past year. We believe progress has been made in every area. We recognize our indebtedness to the judges and other personnel of the Federal Judiciary who are in very substantial measure responsible for this progress. As in the past, it is no longer adequate to merely express appreciation for this assistance. It is more accurate to acknowledge that this Report is a reflection of the partnership of the Federal courts and the Center working together in a joint program to achieve the very best of which the system is capable.

I. PROGRAM ON APPELLATE COURT LITIGATION

A. CIVIL APPEALS MANAGEMENT PROJECT (CAMP) EVALUATION

In 1974, the Second Circuit began a pilot project to determine the value of having a senior staff attorney assist the court in the preliminary stages of civil appeals. Through conferences and discussions with the attorneys, the staff counsel explores settlement possibilities, helps focus the issues on appeal, expedites the designation and preparation of the record and transcript, and obtains agreement on scheduling orders. The Center continued its funding of the senior attorney and his staff, as well as collecting data and other information as part of its evaluation of the pilot project.

This project provided a compelling opportunity for the initiation of the first controlled experiment in United States Courts. No other research method could satisfactorily deal with the manifold variations in cases that would move through the CAMP procedure. With the cooperation of the Second Circuit judges and the staff counsel, an evaluation procedure was established that randomly assigns cases eligible for the CAMP procedure to experimental and control groups. Cases in the treatment group receive the procedures designated by the staff attorney, while cases in the control group proceed from notice filing through disposition without services from the staff attorney. Comparison of the two groups of cases will be made in terms of all the objectives of the CAMP philosophy.

In addition to its specific value in assessing the effects of the CAMP procedures, the project provides the Center and the courts an invaluable opportunity to consider the strengths and problems of controlled experiments in a court setting. Experience here will significantly affect the design of evaluative studies on a wide array of court innovations.

As of the publication of this Report, all but a handful of cases in the two groups have been processed through the entire procedure. Court records have been reviewed on the completed files and attorney assessment of the procedures are being completed. Finally, the panels of judges will be queried in order to evaluate the impact of the CAMP procedure on the quality of the appeals that reached argument as compared with the cases in the control group. All this data will be coded and analyzed on Center computer equipment and a report on the results and conclusions published thereafter.

It is anticipated that the project will be completed by the end of calendar year 1976.

B. CONFERENCE OF CIRCUIT CHIEF JUDGES

During fiscal year 1976, the Federal Judicial Center continued its practice of hosting the Conference of Circuit Chief Judges immediately after each of the two sessions of the Judicial Conference of the United States.

At its September session, the Circuit Chiefs' Conference expressed general support for the continuation of seminars for appellate court judges, suggesting that future conferences be held at times when courts are not in session in order to reduce scheduling conflicts. Additional items considered included reports from the Administrative Office and Circuit Executives, the Bicentennial Committee, and special issues resulting from the Speedy Trial Act. The Chief Judges also agreed that computer produced transcripts with interlined corrections initialed by the reporter would be acceptable to all the courts of appeal. This will reduce the costs of transcripts produced in this manner.

The Chief Judges convened in St. Paul, Minnesota in April, following the Spring meeting of the Judicial Conference which was held the day before the "Pound Revisited Conference." The Circuit Chiefs approved optional invitations to Circuit Judges for the Center's circuit-wide District Court Judges' workshops, recognizing that a few might wish to attend for the discussions on the new Federal Rules of Evidence and class actions. The Chief Judges also approved a resolution supporting the concept of providing staff assistants to Circuit Executives. During the April session, the Conference elected Chief Judge Clement Haynsworth (CA-4) to serve as Chairman for the coming year.

C. EVALUATION OF COMPUTER ASSISTED LEGAL RESEARCH SYSTEMS

Two types of systems are being evaluated, each of which augments or supplements manual legal research.

1. **Computer Assisted Legal Retrieval Systems.** The Center's Computer Assisted Legal Retrieval Systems Evaluation project neared completion during Fiscal 1976 and a report on the results of the research is under preparation.

The Center undertook this evaluation project for several reasons. First, no CALR system has even been tested fully and rigorously in a field setting before a governmental unit or a private lawyer or law firm adopted it. To justify the potential expenditure of over a million dollars per year for providing CALR services to the federal courts, the Board of the FJC decided that an evaluation ought to precede any full-scale implementation of a system in the federal courts.

Second, various critics, users and vendors of such systems have made claims about one type of system or another which may or may not be true in the context of the federal courts. Furthermore, the needs of a federal court, where most research does not begin from a zero base, may be quite different from the needs of practicing attorneys and it is these attorney needs that probably shape the development and marketing of a CALR system. Among the issues which need to be resolved before the federal courts adopt a CALR system are: (1) what type of system best suits the courts'

needs, a full text system like LEXIS or a headnote system like WEST/LAW; (2) How many terminals are needed to meet the needs of the federal courts; (3) What is the value in having such systems, viz., do they save time or improve the quality of research or both?; (4) How can CALR services be provided to judges who do not reside at terminal sites; (5) What is the most efficient way to use a terminal: direct access by on-site users or access through a trained legal researcher who operates the terminal for all users?

To begin answering these questions, some of which were not even known to need answers at the project's inception, three LEXIS terminals were installed in the District of Columbia, Cincinnati and Denver Courthouses and were primarily assigned for Appellate Court use and evaluation. In addition, WEST/LAW terminal was installed in the D.C. Courthouse. In May, 1976 WEST/LAW terminals were also installed in the Fifth Circuit Court of Appeals in New Orleans and the U.S. Courthouse in Detroit for further evaluation. Also in May, 1976, a LEXIS terminal was put in the Ninth Circuit Courthouse in San Francisco. Two more research terminals will be installed before completion of the project.

The terminals were installed in the first three sites on the basis of an agreement by the judges to participate in the evaluation project. Participation meant the judges and their staffs would provide the Center with several types of data including (1) opinions about the system; (2) very brief reports on results of each usage of a system; (3) participation in the comparative memoranda project in which a judge would assign one law clerk to do a short research project on a computerized system and another to perform the same task using traditional manual tools. Later experimental installations have continued items (1) and (2) but revised the comparative part of the project and used a different technique for comparison between the two systems.

From the data collected so far, the first and most striking aspect is the wide variation in number of legal research projects done and hours per month used on the various CALR systems. Wide variations in usage existed both within and among courts.

This variation in usage might be due to the fact that potential users make a decision rather quickly on the usefulness of a CALR system and then use or do not use the system on the basis of that decision rather than using or not using the system on the basis of the results produced.

Two different types of data suggest that CALR systems can improve the quality of research in about one-third of the cases. The first type of data is derived from responses by Federal judges to a survey sent to them in April, 1976. There was near unanimous agreement that a CALR system can improve the quality of their legal research. A second type of data was derived by asking each user to send in a brief report with each use which described the results of their research with a CALR system. These reports indicated whether information retrieved could, in the opinion of the user, only be found with a CALR system. Again in approximately one-third of the uses of a CALR system the users reported that information that could not have been found manually was uncovered.

The data also indicates that a CALR system can save time although it is hard to pin down the exact quantity. The CALR system based memos in the comparative

memoranda project were faster in over 50% of the sets done, but this time-saving often amounted to less than 20% of the total time required to research and write the memo. The usage reports showed that some users felt that by using a CALR system they saved up to three hours per project, while others reported no time savings via CALR. Again, while it is clear some time is saved, it is also clear this is not so for every research project in the courts.

The reason that a CALR system may not appear to save time or improve quality in every research project is that in Federal courts judges and their staff usually start out with briefs or other papers which are supposed to have already exhaustively covered the various points of law.

Given that there is some time-saving and improvement in research quality with CALR systems, several other questions remain to be answered by the final phase of the project. The usage data indicates that the needs of the Federal courts could be met with far less terminals than there are U.S. Courthouses. One question to be answered then is not only which CALR system to adopt, but also how to provide access to a CALR to judges who are not located at a terminal site. Presently, the use of a trained legal researcher at a central site (to handle requests from non-resident judges) is being evaluated in the Fifth and Ninth Circuits. Also, ways to motivate law clerks to make fuller use of a CALR system will be considered in this last phase of the project.

2. Computerized Citation Verification System. This project has the objective of evaluating a computerized case citation verification system called Autocite (developed by Lawyers Cooperative Publishing Co.) for use in Federal Courts.

To use Autocite the user puts part of a case citation into the Autocite system via a terminal. Autocite then responds with a full citation and title of the case, all parallel citations and all subsequent case history. The terminal used for evaluation is located in the U.S. Courthouse in D.C.

During Fiscal 1976, four kinds of data were collected on Autocite to determine its usefulness and efficiency. First, Lawyers Cooperative Publishing Company provided data for each use of the system. Second, law clerk users were surveyed to determine their experience with the system and their feelings about its usefulness. Third, users were asked to fill out a brief report each time they used the system. This report described the number of cites checked and whether any error was found either in the Autocite data base or in the user's citations. Fourth, an independent analysis of the accuracy of the Autocite data base was made by Center staff.

The usage data showed that nearly every appellate judge and many district judges in the D.C. courthouse became regular users of Autocite. Most law clerks who used the system indicated that it saved them from one to three hours of time each time they used the system to check cites in draft opinions. They also estimated that Autocite was up to five times faster than manual cite-checking. The results contained in the usage reports submitted to the Center supported the timesaving aspect of Autocite. In addition, law clerks found Autocite improved the accuracy of their citations.

The study presently being completed by Center staff on the accuracy of Autocite seems to show a lower error rate in Autocite than would be the case with traditional manual research tools. Autocite is particularly helpful in checking subsequent case histories. Users have found many instances of having missed such things as "cert. denied" and "vacated and remanded" in subsequent case histories.

At this point, it appears that Autocite is potentially a very useful tool for appellate courts. However, another terminal is being installed in the Ninth Circuit to replicate the data collected in the D.C. Circuit.

Even if the results in the D.C. Circuit are replicated in the Ninth Circuit, several questions about Autocite remain to be answered. Despite the time savings, it is not cost effective in the sense that the timesaving translated into dollars equals the cost of making the system available. In view of this fact should the Federal courts acquire it anyway? What effect, if any, does the improved accuracy of citations have on the judicial system? What value to the courts is a system that improves citation accuracy? These questions will be covered in the final report on Autocite which will be completed by the Center during the coming fiscal year.

II. PROGRAM ON TRIAL COURT LITIGATION

A. DISTRICT COURT STUDIES PROJECT

An interim report on the Federal Judicial Center's District Court Studies Project was issued in June, 1976. Although several reports on individual courts have been published, this is the first which summarizes overall findings from the five metropolitan courts studied to date.

The project is designed to obtain an exact perspective on the factors which determine why some courts are more productive than others. The following factors primarily distinguished the fast and/or highly productive courts from the others visited:

1. They have an automatic procedure that assures in every civil case that discovery begins quickly, is completed within a reasonable time, and is followed by a prompt trial if necessary. These procedures are automatic because they are invoked at the start of every case, subject to only a small number of exceptions.

Although all of the courts visited have procedures which are designed to accomplish these goals, most do not achieve early and effective case control. In slow courts, much of the time during which a typical case is pending, either is unused or is in violation of the time limits set by the Federal Rules of Civil Procedure.

2. They utilized procedures which either minimize or eliminate judge time during the early stages of the case until discovery is completed. Docket control, contact with attorneys, and most conferences are delegated, generally to the courtroom deputy clerk or a magistrate. Judge time is used only when it is absolutely indispensable in resolving preliminary matters, handling dispositive motions, or planning the preparation of an exceptionally complex case.

3. The role of the courts in settlement is minimized. Judges are highly selective in initiating settlement negotiations and normally do so only when a case is ready for trial or almost ready.

4. A minimum of written opinions are prepared and published.

5. All proceedings that do not specifically require that they be held in chambers are held in open court.

During the visits to the five district courts, several judges expressed concern that efforts to improve the speed and efficiency of the federal courts might lead to diminution of the quality of justice rendered. Since this possibility is a matter of great concern to the Center, the Project's researchers attempted to determine as precisely as possible the dangers which the judges envisioned and the degree to which such undesirable effects were characteristic of the courts using procedures noted above.

Since it would be almost impossible, if not presumptuous, to comprehensively evaluate the quality of justice in these courts, the researchers addressed this issue narrowly. Lengthy meetings were held with the judges who seemed most concerned about the conflict implied on Rule 1 of the Federal Rules of Civil Procedures which calls for a "just, speedy and inexpensive determination of every action." The concerns expressed focused primarily on the latter stages of a case, especially on excessive pressure on the part of judges to rush a case to trial. The factors listed previously, by contrast, lead both to speed and efficiency in preparing cases for trial and are compatible with last-minute adjustments in calendaring for good cause.

Significantly, the researchers found many of the accepted ideas about what causes the productivity and time differences which exist from court to court and from judge to judge were either wrong or doubtful. Among these were:

- **Strong case management.** All of the courts visited are characterized by so-called "strong case management" in one form or another. However, the differences lie in the relative effectiveness of alternative forms of case management.

- **The personality of the individual judges.** Individual judges' rates of terminations per year correspond more with their own court than with the average for the federal judicial system. Judges who appear to be personally efficient are just as likely to be found sitting on one court as on another. While the personality, skill and attitude of a judge affects his own work greatly, it does not appear that personal differences between judges on a single court are sufficient to explain the variance between the efficiency of one court and that of another.

- **Differences in the local bar.** Of course, the practices of the lawyers who appeared before the courts in the five cities are clearly distinct from one another and these differences have an effect on the efficiency of the court. However, the differences are often not accidental since many courts have molded the practices of their local bar by changing their policies over the years. Other courts could probably do so as well.

- **The backlog of cases.** If this term is defined as cases in which the litigants are awaiting court action of some kind such as a pretrial conference, trial or ruling,

then none of these five courts was characterized by a heavy backlog at the time the researchers visited them.

- **Diligence on the part of the judges.** On the whole, judges in all the courts visited work extremely hard, as do most of the supporting personnel. The researchers observed relatively little variance from one court to another in this respect, and work weeks greatly in excess of 40 hours on the part of judges were routine. While long hours were especially common in certain courts, the differences were not great enough to explain the wide differences in termination rates among the courts.

- **Comprehensive pretrial orders.** In routine cases, none of the five courts enforces this requirement.

- **Frequent conferences.** The researchers observed that getting the parties in often is ordinarily a poor use of time.

- **Oral argument.** The researchers found that oral proceedings are normal in some courts with excellent records.

The study group is using indepth visits to district courts which have been chosen because of the maximum contrast in their statistical performance. The report is based primarily on visits to metropolitan courts in Maryland, Eastern Pennsylvania, Eastern Louisiana, Central California and Southern Florida. Extensive discussions with judges and supporting personnel and the observation of a wide variety of proceedings were an integral part of the methodology.

The Project is one of the first systematic attempts to relate alternative procedures to their statistical results. Like the practice of law generally, the federal court system is highly localized and few lawyers or judges regularly work on matters of daily procedure with their counterparts in other districts. As a result, many courts assume that presently used procedures are the best way of conducting their routine business. Although individual judges frequently visit other districts, they rarely have an opportunity to examine the approaches used in these districts in a comprehensive way, or to examine systematically the facts that may lead to statistical differences between their own districts and others. Indeed, in some courts there are few opportunities for judges to learn in detail the approaches used by other judges of the same court.

The Project is designed to identify the practices that appear to be most effective in assuring the speedy disposition of cases (both civil and criminal) as well as a high rate of case termination per judges, without any apparent diminution in the quality of justice rendered.

Work is well under way in the second phase of the Project which is designed to collect data on the precise effects of alternative docket management procedures and other issues developed during the Phase I observations. This Civil Case Flow sub-project now underway addresses a range of questions. Some are comprehensive: How much time is actually used during the "discovery phase" of the case? How disruptive an effect do Rule 12 motions have on the completion of the "pleading plan"? What are the effects on the timely disposition of civil matters of scheduling or settlement conferences, cut-off dates for discovery and motions? What are triggering

events to settlement? Specific issues are also being pursued: How long is service of processing taking? How soon are answers and cross pleadings filed? How quickly are answers to interrogatories received? How long does the process of moving to compel answers to interrogatories take when handled by a magistrate? When handled by a judge? How often are trial continuances granted? What is the time from the final pretrial conference to trial?

In addition to this sub-project, others are in a preliminary stage. These include a study of the effects on district court work of alternative bar practices; a docket analysis of criminal cases, and various alternative methods to refine the statistical system apart from case weighting.

B. IMPLEMENTATION OF THE SPEEDY TRIAL ACT

Immediately upon passage of the Speedy Trial Act of 1974, the Center assigned a senior research associate to work full time on assisting the courts to implement the Act, which directs the Center to "advise and consult with planning groups and the district courts in connection with their duties." To that end, the Center and the Administrative Office jointly developed a recommended outline for the required district court plans, and assisted the Judicial Conference Committee on the Administration of the Criminal Law in developing a Model Statement of Time Limits and Procedures to be incorporated in district plans.

In September 1975, another joint effort with the Administrative Office provided each district court with data detailing its performance in terminating criminal cases. These reports enabled the planning committees and their reporters to identify and evaluate problems the courts might have in meeting the standards set by the Act. In many cases, the planning committee assessments indicated that the courts could realistically adopt a schedule substantially faster than called for by the Act or by the model time limits.

In September and October 1975, the Center conducted a series of six regional orientation conferences for members of district planning groups. These conferences covered all district courts and provided (1) an overview of requirements imposed by the Act, (2) guidance in the use of statistical information in the planning process, (3) review of issues of interpretation, and (4) consideration of problems of compliance and possible solutions. Separate workshops were held for judges, magistrates, United States attorneys, clerks, and reporters. Plenary sessions enabled all five groups to consider jointly problems and solutions of general or over-lapping concern.

With the adoption of district court plans, Center activity will shift to a research effort analyzing plans, studying compliance, and responding to individual problems arising in the various courts.

C. COMPUTER-AIDED TRANSCRIPTION EVALUATION

Over one hundred reporters have been involved this past year in testing for or actual use of computer-aided transcription. The objective of the project is to both

evaluate computer-aided transcription systems and to stimulate their use in the federal courts. Questions being addressed by the project are:

1. What percentage of official stenotype reporters have a style which would allow them to use computer-aided transcription?;
2. What impact can computer-aided transcription have on transcript delays?;
3. Under what circumstances is computer-aided transcription economically feasible?;
4. What types of service options are best suited for federal court reporter use?;
5. Are the services provided by each computer-aided transcription company of acceptable quality?

The project was designed to consist of three distinct phases. The first, Phase A, was implemented in early 1975 and required participating reporters to transcribe their stenotype notes on an electronic transcribing machine provided by the Center and subsequently submit a cassette tape of the notes to the computer transcription vendor. The vendor then translates the notes with their computer and provides a final copy of the transcript to the reporter.

The second phase of the project, Phase B, was begun in October, 1975. In Phase B video display terminals were placed in selected courts which allowed the reporters to perform their own editing of the computer translated text.

We are nearing the end of our evaluation of the first two phases of the project and are about to commence the final phase which will examine other alternatives to providing computer transcription services to federal court reporters.

As noted, over 100 federal court reporters have been involved in the project to date. Forty-three of these reporters have actually submitted material for translation via computer and ten have experimented with terminal editing equipment.

Although our evaluation is not yet complete, tentative analysis indicates that neither Phase A nor Phase B are currently economically feasible given the marketing policies and prices of the commercial vendors. However the Center will continue to examine other alternatives to providing this service to federal reporters including utilizing existing COURTRAN II computers to supply the necessary processing power.

An interim report on the progress of the project to date was issued at the end of the fiscal year. The project will continue to collect data through 1976 and a final report on Phases A and B will be issued shortly thereafter.

D. EVALUATION OF PROCEDURES FOR PRISONER CIVIL RIGHTS PETITIONS

In 1973, the Federal Judicial Center created a special committee, now known as the §1983 Committee, under the Chairmanship of Third Circuit Judge Ruggero J. Aldisert. Other members are Judge Robert C. Belloni (District of Oregon), Judge Frank McGarr (Northern District of Illinois), Judge Robert J. Kelleher (Central District of California) and Griffin B. Bell (former Fifth Circuit judge). Professor Frank J. Remington, of the School of Law, University of Wisconsin, serves as reporter and consultant to the Committee.

The Committee was established to consider the problems associated with the rapid increase in prisoner cases filed in recent years. Their efforts culminated with the publication in January of *Recommended Procedures for Handling Prisoner Civil Rights Cases in the Federal Courts*. This tentative report contains standards for processing prisoner civil rights cases through the courts, model forms to expedite processing, and commentary on the current state of the law in this expanding and changing field. The report is labelled "tentative" because the Committee will continue to study the procedures and to monitor the impact of its recommendations.

In this regard, the Committee will analyze the results of a Center project in which staff law clerks were provided on an experimental basis in three district courts (W.D. Missouri, M.D. Florida, and M.D. Pennsylvania). These clerks review prisoner petitions for the court, prepare memoranda, and draft necessary documents. It is anticipated that this additional position will not only release judge and elbow law clerk time but will serve as a valuable resource of information and expertise for the court. The project will continue into the next fiscal year with data analysis to follow.

E. JUROR REPRESENTATIVENESS

Working with the Judicial Conference Committee on the Operation of the Jury System and the Administrative Office, the Center developed a new system for data gathering that will facilitate the courts' responsibility to assure that federal juries are representative of the communities in which the courts sit. A revised JS-12 form has been approved by the Judicial Conference and is being used throughout the country. In the coming year, the Center will prepare a computer program to analyze reported data in order to generate required statistics and to provide a data base for general research. The computer program will be designed for use on the COURT-RAN system, thus enhancing its utility for both administrator and researcher.

F. JURY PROJECTS

The Center continues to be involved in other projects that relate to the jury system in general and the work of the Judicial Conference Committee in particular.

A contract recently has been entered into for the development of a computerized jury selection, utilization, and payment system applicable to all United States District Courts. As proposed, the programs generated would ensure that the operational steps from jury selection to payroll and the managerial steps of direction and monitoring would be more efficiently accomplished than is now possible with

manual or limited automated operations. The new system will provide juror utilization data to the Administrative Office and will provide the Federal Judicial Center with an excellent research tool for further evaluation of the jury system. The project will be part of the COURTRAN system and will be operated in each court through their COURTRAN computer terminals.

The Center is assisting a National Science Foundation grantee in a project designed to analyze and improve the language of jury instructions. The study will identify the kinds of instruction language that fails to assist or tends to confuse jurors in the comprehension of their fact-finding tasks. Building on that information the NSF grantee will work with courts in constructing new instruction models that convey the same meanings but in language that is more readily understood and applied by the ordinary juror. Performance of jurors utilizing instructions formulated in accordance with these models will be tested and evaluated in simulated trials recorded on videotape.

G. CONFERENCE OF METROPOLITAN CHIEF JUDGES

The Fall session of the Conference of Metropolitan Chief Judges was designed with an informational updating format to provide the judges of the twenty-four largest Federal District Courts with the latest developments and findings from the Center's COURTRAN and District Court Studies Projects. The focus of the COURTRAN discussions was to advise these courts—the ones most immediately and extensively affected by the criminal case reporting requirements of the Speedy Trial Act—of the capabilities and implementation schedule of this important computerized case management information system. In addition, comments and suggestions from the Chief Judges were collected for use in further defining and refining the relevant needs of the particular courts so that the systems design work could accelerate in responsive fashion.

The Center also gave a presentation on interpretation of statistics which illustrated flaws in present court statistical measures used by both the Judicial Conference and the Congress. New ways to utilize and interpret presently available statistical measures were shown and some Center developed multivariate measures for judicial performance were presented. The Conference unanimously endorsed further Center work in this area.

The Spring session of the Conference had as its major theme a reassessment of the individual calendar system now used by almost all large district courts. The chief judges were asked to address individually, in oral reports, their responses to a set of staff-prepared questions which were formulated to address such issues as: problems with current case assignment and calendaring systems; acceptable levels of civil caseload disparity within districts; caseload equalizing approaches; and, possible modifications to the individual calendaring system to meet the demands of the Speedy Trial Act. All of the courts reported that the individual calendar system is working well and that they plan to continue with an individual calendaring system for criminal cases, but all recognized the need for some revised procedures particularly where there were illness or protracted cases.

H. PRIORITY LITIGATION

Acting on a request from Judge William C. O'Kelley of the Northern District of Georgia, the Center prepared an annotated listing of United States Code citations that require the expedited handling of certain types of cases. While Congress has designated certain subject matters for priority treatment by the trial courts, there exists no single compilation of such matters and, further, there existed no Congressional mandate or guidance for the ordering of priority litigation. The publication of *Priorities for the Handling of Litigation in the United States District Courts* is an attempt to remedy both situations.

The Center prepared this document in loose leaf form to facilitate changes and additions and will be updating the contents as necessary. A similar document for use by the appellate courts will be prepared during the next fiscal year.

I. VIDEOTAPE APPLICATIONS

The Center's guide for prerecording testimony via videotape, the first and only guide of its kind, continued to be requested by judges, attorneys, reporters, administrators, and technicians throughout the nation in both state and federal courts.

The Center's pilot project on the use of videotape equipment in federal courts was expanded to a fifth district (S.D. New York) during the past year with the study continuing in the other four (E.D. Michigan, N.D. Ohio, E.D. Pennsylvania, and W.D. Pennsylvania). The pilot courts use video equipment, supplied by the Center and operated by Center-trained deputy clerks, to prerecord testimony on videotape in studios constructed in the courthouses. The Center provides technical advice and training and maintains close contact with each operation, but leaves with them the responsibility to experiment with innovative application of the medium and to implement change through the use of local rules or policy.

This past year the Center began an effort to develop a uniform record-keeping system for use by the pilot courts. This system, together with a descriptive report of the operation recently submitted by a consultant, will enable the Center to evaluate the use of videotape and aid in suggested improvements for future projects.

The Center has also begun to consider expanding the scope of the videotape applications in the pilot courts to include the in-service training of court personnel. The Education and Training and Research Divisions of the Center will conduct a survey of training needs that can be accomplished through this medium. Existing programs and formats will be studied and the production of our own training tapes examined. It is anticipated that the use of videotapes as an educational tool will be incorporated in the overall evaluation of the pilot project operations.

J. ATTORNEY FEES IN CLASS ACTIONS

At the direction of the Board, the Center has initiated a descriptive study of attorney fees awarded in class action cases. While the literature contains several extensive lists of class action cases selected with regard to this question, the

information presented by these researchers is often meager; generally, just the size of the recovery and the amount of the fee is listed. Further, the reported cases tend to be the major, well-known cases and thus not representative of what is actually happening.

Using Administrative Office data and information developed through our CALR facility, the Center has identified a group of class action cases for study. With the aid of the Clerks' Offices in the various districts, the Center will assemble data on the methods of handling the award of fees. Once these data are assembled, the Center will be able to assess how the various methods confront the situation and what special or pervasive problems remain.

The results of this study will enable the development of model or alternative methods of determining appropriate fee awards.

K. UNIFORM AIR CRASH LEGISLATION

Upon request of a Judicial Conference Committee, the Center has undertaken to provide research and drafting support to the Subcommittee on Federal Jurisdiction on the subject of uniform air crash legislation. The supporting study will explore the need for legislation covering both procedural and substantive law problems. If the Subcommittee, after reviewing the study results, finds that legislation is needed, the Center will develop alternative approaches as may appear appropriate and, under the Subcommittee's guidance and in coordination with the General Counsel of the Administrative Office, prepare draft legislation for submission to the Judicial Conference. In studying the problems and preparing responses, it is the intention of the Subcommittee and the Center to ascertain the views of all interested parties including members of the bar, the judiciary, the airline industry and the insurance industry.

A prospectus outlining the problems for district courts that arise out of air disaster litigation has been prepared for the Subcommittee on Federal Jurisdiction. This report reviews the procedural and substantive (particularly conflict of laws) problems as well as the major proposals for legislative reforms.

L. BOARD OF EDITORS - MANUAL FOR COMPLEX LITIGATION

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

III. PROGRAM ON SENTENCING AND PROBATION

A. AID TO SENTENCING INSTITUTES

In November of this Fiscal Year, a Sentencing Institute was convened in Long Beach, California for the judges of the Sixth and Ninth Circuits. The agenda emphasized an examination of the programs and policies of the Bureau of Prisons, the Board of Parole, and the Probation Service; the discussion focused on the

consequences that alternative sentences had on the operation of those programs and policies. Participants spent a full day at the Federal Correctional Institution of Terminal Island with interaction with inmates, staff, and former inmates, of the facility.

Center staff played a major role in the planning for and presentations at this Institute. Working with a staff-level committee (established with representatives of the Bureau of Prisons, the Board of Parole, the Probation Service, Conference Probation Committee, and the Center), the details of the agenda, the format of the presentations, and the arrangements for the institutional visit were developed and coordinated. These planning efforts were aided further with advice and suggestions from representatives of the two circuits.

The institutes serve as a convenient method of examining sentencing activity with each presentation bringing refinements and innovation. The programs thus developed have an additional use for the Education and Training Division at the Center since the ideas and information about sentencing and sentencing activity can often be integrated into regularly-scheduled seminars and workshops.

While several circuits are considering convening institutes during the coming year, no programs have as yet been scheduled.

B. ASSISTANCE TO THE SECOND CIRCUIT COMMITTEE ON SENTENCING PRACTICES

Following their pioneering effort to quantify the variation in their own sentencing practices, the judges of the Second Circuit turned to exploration of ways in which the variation might be reduced. The Judicial Center continues to work with the Committee in its efforts to develop a set of benchmark sentences; *i.e.*, a set of recommended sentences for illustrative hypothetical cases. The program contemplates that once the benchmarks are promulgated, judges of the circuit will use them as reference points when sentencing in actual cases, elaborating on the features in the actual cases that distinguish them from the benchmarks and thereby warrant greater or lesser penalties than the benchmark model. As that occurs, the Center will assist the Committee in a continuing refinement and modification of the benchmark illustrations to reflect judicial pronouncements.

C. SENTENCING COUNCIL STUDY

Concern over sentencing disparity documented in our SECOND CIRCUIT SENTENCING STUDY (August 1974) continues to generate inquiries into potential responses to the observed problems. This year the Center commenced a study to determine whether sentencing variation is reduced through the use of sentencing councils.

Earlier studies of sentencing council activity by other researchers have dealt primarily with how much the consultation with council members affects the sentencing judge's preliminary sentencing decision. Studies have not addressed how much the variation in sentences for an entire court has been narrowed after

introduction of the council procedure. The Center's current study is directly addressed to that fundamental question.

Specifically, four courts with varying types of sentencing councils are being studied (Northern Illinois, Eastern New York, Eastern Michigan, and Oregon). The project utilizes interviews with judges and probation officers, observation of council meetings and data analysis. Data is being collected on selected offenses for the five years immediately preceding the introduction of sentencing councils and the five years immediately following. The data will be analyzed for each district to determine whether the range of variation in sentences for these offenses was significantly reduced in the period following adoption of council procedures. Time-series analysis will be utilized to clarify causal relationship between the events. Similar analysis is being conducted in the Eastern District of Pennsylvania, which does not use a sentencing council, to determine whether similar changes may have been occurring as a result of factors other than councils.

Initial court visits and descriptions of council operations have been completed for all courts. Following pre-tests of data collection methods, full data collection has been launched and substantially completed. Computer programs for data analysis are in preparation with further analysis and report writing to follow.

D. MANDATORY MINIMUM STUDY

Within recent years, a number of proposals have been introduced in the United States Congress calling for the imposition of mandatory minimum sentences upon conviction of certain federal offenses. During the Ninety-fourth Congress alone, at least 20 separate mandatory minimum proposals were introduced. While no mandatory minimum sentencing legislation is expected to pass during this session of Congress, a strong possibility exists that a significant amount of attention will be focused in that direction during the next session.

Proponents and opponents of such legislation remain divided in their assessment of the likely impact of such legislation. Statistical data on the current sentencing practices of judges in cases in which the mandatory minimums would apply is inadequate to form an assessment of impact. Recognizing this problem, the Center, with the cooperation of the Probation Division of the Administrative Office, has initiated a project aimed at generating such data. Regularly reported data of the Administrative Office, along with the appropriate presentence reports, will be analyzed to arrive at a determination of the frequency with which judges imposed sentences, during calendar 1975, that would conflict with the terms of the proposed legislation.

The first stage of the project, involving consultation with Congressional and Justice Department staffs on specific mandatory minimum proposals warranting inclusion in the project, has been completed. The appropriate data base is currently being generated, with analysis of the results to be completed early in the coming year. It is expected that the project will provide some empirical insights into the continuing debate over the need, desirability and possible impact of such legislation.

IV. PROGRAM ON IMPROVING GENERAL ADMINISTRATION OF THE JUDICIAL SYSTEM

A. COURTRAN PROJECT

During fiscal year 1976, the COURTRAN network was established, the first COURTRAN time-sharing computer system was installed in the D.C. Courthouse, the software for the criminal case application was developed and pilot operation started in six district courts. These significant accomplishments were highlights of a year of major progress. Two additional computer systems to support the expansion of the COURTRAN system beyond the pilot courts were selected, purchased and are scheduled for installation in February 1977. A number of video and printing terminals were selected, purchased and distributed to the pilot courts. The courts are now using these terminals not only to enter and retrieve data from the Courtran criminal system but also to make use of the Courtran statistical packages and text editing capabilities. Terminals have also been installed in the Judicial Center and in the Administrative Office for other COURTRAN applications.

The Center continued its accelerated development schedule for the Courtran criminal system during fiscal 1976 so the federal courts would have the necessary computational tools to successfully respond to the information processing and analysis demands of the Speedy Trial Act of 1974. A large number of software innovations have been designed, developed and implemented during the year including a Courtran data definition language, an interface between our Data Base Management System and the SAIL programming language, and a generalized report generation capability. These innovations will allow future COURTRAN development efforts to proceed far more rapidly than was possible prior to this time.

The first release of the Courtran Criminal System is in operation in Federal District Courts located in New York, the District of Columbia, Chicago, Detroit, Los Angeles and San Francisco. These courts are finding this system of immense value to their operations and have developed several ideas for increased use of the system to support additional facets of judicial administration. During the next fiscal year the Center plans to rapidly expand the number of District courts using the Courtran Criminal System so that approximately thirty-one courts will be using the system by the end of 1977. The rate of expansion is ambitious and will be primarily governed by the capability of the Center to train court personnel in the use of the system. We are confident that the computational and telecommunications resources needed to support this level of processing will be available.

The Courtran Civil System has been successfully operating in two District Courts for over one year utilizing mini-computers for the necessary processing. During the forthcoming fiscal year the Civil system will be redesigned and modified to operate on the larger Courtran computers and the existing mini-computer hardware will be utilized as communications controllers for the larger computers. Use of the system itself will be expanded to encompass a number of additional district courts.

The Center completed development of the Courtran on-line, interactive accounting system this past year. This powerful system, which immediately provides

detailed analysis of financial operations, is now being used by the Administrative Office Division of Financial Management for accounting of expenditures for the federal court system and by the Judicial Center to monitor current expenditures on a project and division basis. Financial Information which used to take months to process and analyze is now instantly available. The transfer of this function from commercial computers to the Courtran computer has resulted in a savings of approximately one hundred thousand dollars per year.

The Center commenced detailed definition work on the Courtran Appellate information system this year. Representatives of five Circuits have been working with Center staff members to design the information products to be produced and functions to be performed by such a system.

The Center has contracted with a private firm to commence development of a Courtran jury system. When completed this system will assist District Courts in the total range of administrative tasks associated with jury operations including juror selection from voter registration or other lists to final payment of individual jurors for service rendered. The system will also provide an analytical capability which will allow courts to monitor such factors as excuse patterns or percentages of non-response to qualification questionnaires and summonses. The system will additionally keep track of juror utilization and assume preparation of a large percentage of paperwork now prepared manually by the District Courts. It is not expected to be ready for operation until fiscal year 1978.

The National Archives and Records Service (NARS) is now completing an extensive paperwork survey in the Central and Northern California District Courts. The results of this effort will serve as the vehicle for identifying manually prepared documents which can better be prepared by the Courtran computer. Integration of the results of the NARS effort with the results of the Courtran Criminal and Civil system development efforts should greatly improve the ability of COURTRAN to assist clerks' office personnel and to relieve the burden of manual preparation of forms and reports.

In summary, work on a large number of COURTRAN functional systems is well underway, with several systems such as Criminal, Civil and financial accounting in operation. The next twelve months will see the construction of a second computer site, rapid expansion of the number of Courts using the COURTRAN system, and intense development efforts on new functional systems such as bankruptcy caseload management and jury management as well as the start of an economic analysis to assess the feasibility of utilizing the Courtran computers to support a Computer Assisted Transcription package for the federal courts.

B. FORECASTING DISTRICT COURT CASELOADS

Results of first exploratory efforts in the Center's program to enhance planning capability through development of improved devices for predicting changes in case filing volumes were reported in last year's Annual Report. The product of the historical analysis was sufficiently encouraging to warrant further work, but the accuracy of forecasts based on the historical correlations was sufficiently speculative to warrant cautious reservations about any immediate capability for accurate forecasting.

Work during the past year suggests that the reservations were well-founded. While our efforts to date suggest that changes in case filing volume are affected by many factors outside the judicial system, forecasts of future filings depend upon two premises: first, that the relationship will continue and, second, that the behavior of these external factors can be reliably predicted. Attempts to forecast 1975 filings for each district court on the basis of information available in 1970 proved erratic, some good and some bad. Our continuing effort is and will be directed at understanding this erratic result: is it because the previous relationships have changed; is it because some indicators like economic conditions could not be accurately predicted; or is it because various districts are so highly differentiated that every change in indicator behavior produces widely divergent impacts from district to district?

Despite the emergence of these anticipated difficulties in predicting specific changes district by district, the forecasting work has shown that the total workload of federal district courts is affected significantly by increases in the investigative, prosecutive and litigation resources of federal departments and agencies. When these resources are increased, the courts in short order will feel the impact of increased filings. Further analysis of this phenomenon is contemplated.

Follow-on studies based on the information generated in the basic study are directed at reducing the 160 indicators utilized into a smaller set of more generalized indicators that will be easier to manage and, it is hoped, more refined in predictive power. Another effort arising from the forecasting project is attempting to classify the 94 districts into ten or twelve groups reflecting their filing experience over the past twenty years. This study presumes that, while there are wide variations in district court experience, there are degrees of common experience that should be taken into account for planning and administrative purposes.

C. FORECASTING APPELLATE CASELOADS

Forecasting effort in the past has been primarily focused on the trial courts and on an attempt to understand the external factors that correlate with increased filings. Since the appellate caseload is overwhelmingly drawn from the terminations in district courts, the Center began a statistical exploration of the relationship between increased district court filings and appellate filings. This study will concern not only the district relationship of number of cases, but also timing: if the district courts experience a substantial surge in filings, what will be the precise effect on appeals and how long will it take for the effect to be felt in the appellate courts?

If the district court forecasting can be made to produce a reliable prediction of district filings, these results can be integrated with the statistical relationships to appellate filings to give an even earlier warning to courts of appeal that substantial increases lie ahead.

Related to these efforts is a Center effort to assess the varying burden associated with different types of appellate cases. This project sought to use systematically collected opinion of appellate judges as an alternative to onerous and problem-laden time studies. With the cooperation of the Courts of Appeal for the Sixth, Eighth and District of Columbia Circuits, data was assembled on judges' evaluations of the relative burden arising out of 21 classes of cases. The report from

this study indicates some promise from the method, but it raised anew the underlying necessity to first develop a method of classifying appellate cases into valid and useful categories.

D. STUDY OF CIRCUIT EXECUTIVE ACTIVITIES

Circuit executives are a relatively recent addition to the administrative and management resources of the Federal court system. General areas of appropriate responsibilities for executives are sketched in the enabling legislation, but the prescription of specific duties and authority was left to the circuit councils, which appoint the executives.

In order to develop a more complete understanding of the role of executives in the administration of the federal court system, the Center developed a series of questionnaires to identify the various activities for which executives have responsibility in the nine circuits where they are presently serving.

A report on the responses to the questionnaire has been prepared for consideration by the Center Board, circuit councils, and the executives themselves. The report discloses a strikingly large range of duties assigned to the executives and considerable variation from circuit to circuit in the configuration of duties.

The report recommends the immediate provision of staff assistance to circuit executives, creation of systematic interchange of information among the executives on problems and solutions, and field studies to explore the nature of executive responsibility for their many tasks, together with the reasons for the observed variation in the structure of the positions.

E. EXPERIMENTATION CONFERENCE

There are frequent occasions where the evaluation of innovations cannot be satisfactorily conducted except by the classical scientific method of the controlled experiment. That method, which contemplates establishing two groups, one to be subject to the innovation and one not, presents problems wherever human subjects or human activities are involved. Special problems arise in the conduct of controlled experiments in legal institutions. The alternative, however, involves the substantial risk that unevaluated innovations may produce waste of vital resources or even produce serious harm. Other disciplines, such as medicine and education, have dealt with these problems, though not with absolute success on all fronts. The legal field has, for the most part, avoided the issues by not considering them.

In the effort to find solutions and answers to these questions, the Center has begun a planning process that will culminate in a conference of judges, legal scholars, and commentators to explore the further application of research techniques in the legal system. It is anticipated that an advisory committee will be named to assist Center staff to further develop the project and to commence the study of the area. Papers will be commissioned and discussion topics planned leading to the conference. Publication of the papers and commentary will follow.

The Center expects that this conference will contribute significantly to the development of guidelines and standards for the researcher and add substantially to

the list of potential projects for future Center action as well as for other interested individuals and organizations.

F. FEDERAL COURTS LIBRARY STUDY

This project will produce recommendations for a model library system for the federal courts. Elimination of unnecessary duplication of holdings in circuit, district and in-chambers libraries is a specific goal as is a comprehensive inventory of federally owned books in custody of the courts. The possibility of establishing district court libraries will be explored as part of the study.

Recommendations will include suggested holdings for each type of library, standards for personnel to staff them, and the impact that use of new technologies equipment may have on court libraries.

The two principal phases of the project are (1) determining the existing situation relative to law research facilities of the federal courts, and (2) making specific recommendations for the improvement of those facilities consistent with efficiency and economy.

The project is scheduled for completion in January, 1977. The status shortly before the end of the fiscal year was as follows:

1. **Court Locations List.** A court locations list has been prepared. This major undertaking resulted in a master list of addresses of 440 buildings in 411 cities that house federal courtrooms and judges' chambers, as well as offices of full-time magistrates and bankruptcy judges, and federal public defenders. The court locations list will serve as a basis for determining what law books are in each building, the extent of duplication within the buildings, and exactly what law research facilities are needed in each building.

2. **Inventorying.** Inventorying of all law books in circuit and district courts has begun. Librarians of the eleven circuits and the major libraries in seven other cities have inventoried approximately 23,500 periodicals by use of a form prepared by the Study, and more than 450,000 other books by use of the Federal Supply Schedule. The inventory reports of those individual libraries have been combined to form a national holdings list. Ten major law book publishers have furnished copies of their records showing current law book holdings and subscriptions for federal court personnel. Those records will provide much valuable information not otherwise available. Additionally, a 57-page inventory form was prepared and sent to 956 offices for the inventorying of their law book collections (including judges, full-time bankruptcy judges, magistrates, and federal public defenders). This procedure was necessary because the information sought could not accurately be acquired through any other means. Based upon early returns of these forms and the earlier inventories of the principal libraries, it appears that the combined law book collections of the federal circuit and district courts probably exceed 2.5 million books. The end product of this part of the study will be tabulations of present and recommended law book holdings on a judge-by-judge, building-by-building, district-by-district and circuit-by-circuit basis.

3. **Library Contents Standards.** Standards for library holdings are being developed. Recommendations have been solicited from all federal judges and eleven publishers of law books have provided their own recommendations of library holdings for various categories of federal judicial officials. Studies are also being made to determine what materials the courts cite most frequently. Each of these measures was designed to help develop reasonable standards for contents of court libraries of different types, including central libraries that serve several officials and chambers libraries of individual judges. The Study has obtained data that discloses the number of times each volume of federal court reports has been cited by the federal courts. Among the findings of this phase of the project is that cases published in the 300-volume *Federal Reporter* (1880-1925) account for only one percent of U.S. Courts of Appeal cases cited by federal courts during the past five years. A computer assisted legal research system was used by the Center to determine the number of times courts have cited selected encyclopedia and treatises, especially publications that give parallel coverage, and a similar process is being used to determine the frequency of citations to major law reviews.

4. **Personnel Standards.** With the ultimate goal of determining appropriate duties, responsibilities, and qualifications standards that are appropriate for federal court library and law research personnel, several phases of the Study have concentrated upon this important area.

5. **Architectural Requirements.** Recognizing that adequate law research facilities can exist only where architectural design and construction of court buildings have taken these needs into consideration, an examination is being made in the light of opinions expressed by court personnel and standards suggested by *The American Courthouse* (1973) and other literature on judicial and library administration. Additionally, attention is being given to the architectural requirements of modern technology, especially with reference to environmental controls, temperature, and humidity.

6. **Improved Facilities, Services and Training.** Of major importance is the recommendation of ways that law research facilities for the federal courts can be improved. Many possibilities are being given careful study. Some examples are the following:

a. Maintaining a complete collection of legislative history materials for convenient availability to federal court personnel.

b. Providing additional expert law research personnel to assist judges and their law clerks who encounter particularly difficult or complex research.

c. Providing trained personnel to maintain law book collections, including such tasks as inserting pocket parts and loose-leaf pages, thereby leaving law clerks and secretaries free to render greater professional assistance to their judges.

d. Publishing frequently cited cases in separate sets that omit cases rarely needed and thereby conserve shelf space in judges' chambers.

e. Providing one nationwide telephone number for judges to use to obtain copies of specific cases, statutes, periodical articles, and other relevant material by facsimile transmission. Ten private firms are contributing to this aspect of the Study.

f. Producing a daily subject index of all opinions filed by federal courts on the preceding day, and making that index available to all judges on a daily basis, possibly via the COURTRAN network.

g. Making all federal court opinions available to judges nationwide within one day after filing.

h. Placing all federal appellate records and briefs on microform thereby making it available for the timely use of all federal judges.

i. Allocating limited funds to individual judges and libraries to enable them to make direct purchase of research materials not otherwise quickly available.

j. Establishing automated methods of lawbook acquisition and upkeep.

k. Providing a method of convenient access to all law periodicals for which federal court personnel might have a need.

l. Publishing a digest of law review articles and reprinting leading articles in condensed form for wide distribution among federal court personnel.

V. PROGRAM OF CONTINUING EDUCATION AND TRAINING

A. TRAINING POLICIES

The general objectives of the Education and Training Division are to “. . . stimulate, create, develop, and conduct programs of continuing education and training for personnel of the Judicial Branch of Government. . . .” The specific objectives are to: identify the type and scope of the training needs within the federal judicial community, and establish developmental priorities; design, develop and deliver training programs to address the higher priority training needs and develop implementation plans for future program activity. To accomplish these objectives, the Division performs the following functions:

1. Assessment of individual and organizational educational needs within the Federal Judiciary;
2. Establishment of an organizational structure for the effective development and operation of an educational program;
3. Formulation of objectives to meet the assessed needs;
4. Design of a program of activities to achieve these objectives;

5. Operation of the various programs; and
6. Assessment of the effectiveness of the programs.

In the main, assessment of individual and organizational needs is accomplished by court visits, questionnaires, interviews with members of the federal judicial system and by careful study of research and statistical reports.

Administrative Office statistics indicate there has been an increase in the productivity per judge (both district and appellate) in the federal system of approximately 30 percent in the past five years (1970-1975). It is believed our training programs contributed materially to this increased effectiveness.

Each part of the training program starts with the formulation of objectives. To enhance this part of the process, court personnel are being taught to ascertain their needs and specify goals and objectives. Once specified, the courts are assisted in meeting those goals and objectives through a variety of programs, including resident instruction (seminars, conferences, workshops and institutes), correspondence courses, audio and videotapes, publications and individualized instruction.

We continually monitor the effectiveness of our programs by evaluation reports from participants (made immediately following the seminar, conference, workshop or institute and from six months to a year following completion of the course), by personal interviews, and by reviewing statistical reports published by the Administrative Office of the United States Courts.

B. RESIDENT INSTRUCTION

1. **Appellate Judges.** Two Appellate Judges Conferences were held during 1975 under the leadership of Judge Ruggero J. Aldisert. Since these were deemed to have been so successful, a third conference has been scheduled for October 1976. The theme of the conference will be: "The Nature of the Judicial Process: Federal Appellate Courts." The faculty will be composed of some of the most outstanding jurists and law school professors in the country.

2. District Judges

a. **Metropolitan District Chief Judges.** The Center supported three conferences for Metropolitan Chief Judges this fiscal year.

b. **Workshops For District Judges.** Twelve workshops were held for Federal District Judges during the past year. Among the topics covered were: "Multiple Voir Dire"; "Juror Utilization Statistics"; "Juror Utilization for Multi-Judge Courts"; "JS-11 Reporting"; "New Federal Rules of Evidence"; "Amendments to Federal Rules of Criminal Procedure"; "Rule 23 - 'Class Actions' - 'Processing Complex Cases' - 'Use of the Manual on Complex Cases'"; "Class Actions in 1976"; "Class Actions Past, Present, and Future"; "Speedy Trial Act of 1974"; "Techniques of Trial Procedure"; "Civil Nonjury Trial"; "Federal Habeas Corpus Petitions"; and "State Prisoner Civil Rights Actions." These workshops have been recorded and the tapes are available.

c. **Seminars For Newly Appointed District Judges.** The Center continues to conduct seminars for newly appointed District Judges on an average of one each year. The next in the series was held in September 1976. The seminar program included discussions of: general principles of judicial administration; the use of supporting personnel; civil case management; civil cases; criminal cases; the rules of evidence; the judge's role; and, special cases.

3. **Bankruptcy Judges.** Newly appointed Bankruptcy Judges met at the Center for two seminars. A highlight was an "Illustrative Trial" session which focused consideration on the nature of issues that could be raised by complaints to determine dischargeability of indebtedness (Bankruptcy Rule 409).

Advanced seminars for experienced Bankruptcy Judges were conducted three times, emphasizing: "Experience Under the Bankruptcy Rules"; "The Chapter XI Rules"; "Dischargeability"; "Corporate Reorganizations Under Chapter X and the New Rules"; "Problems of Chapter X"; and "Problems of Chapter XIII." A free-wheeling exchange of ideas on the problems encountered and solutions developed by Bankruptcy Judges was generated during the small group sessions and the "Potpourri" session.

4. **Magistrates.** This year, the Division completed three orientation seminars for newly appointed full-time and part-time magistrates. Topics included in the sessions concerned technical skills and guidance designed to aid the new magistrate in the performance of his duties with the United States Courts.

Advanced seminars for experienced magistrates were deferred pending passage of Senate Bill 1283 which is designed to broaden and clarify the jurisdiction of United States magistrates. When the bill is passed, seminars will be held for all magistrates to define and discuss its impact.

5. **Public Defenders And Assistant Public Defenders.** Meeting in San Diego, California on January 26-29, 1976, Federal Public Defenders participated in a seminar designed to present procedural and administrative indoctrination. Two seminars were held this fiscal year for Assistant Public Defenders. These seminars combined lectures, panel discussions, small group sessions, a general question-and-answer session on problems encountered, and an indoctrination and orientation to the federal court system.

6. **Probation Officers**

a. **Orientation For New Probation Officers.** Six orientation seminars were conducted during the past fifteen months. The faculty for these seminars was comprised of members of the Division of Probation Office of the Administrative Office of the United States Courts, the Department of Justice, the United States Parole Commission, the Federal Bureau of Prisons, the academic community and experienced Probation Officers from throughout the federal court system.

b. **Advanced Seminars.** Six 'theme-oriented' advanced seminars were held this fiscal year. Two program options were offered at each of the seminars: "Narcotics/Alcohol Abuse and Treatment Programs" and "Treatment Strategies and Counseling." The seminars provided basic information on other topics, such as

“Organized Crime Offenders”; “Caseload Management”; “Current Developments in the Probation System”; “Legal Issues”; and “Philosophy of Corrections.”

c. **Probation Supervisors.** The improvement of managerial, supervisory, and administrative skills, and a review of group dynamics was the focus of six “Management Program” seminars offered for probation supervisors. These workshop-type seminars were designed to meet the immediate needs of officers recently promoted from line to supervisory positions who had little or no previous formal management training.

d. **Special Workshops.** A specially developed workshop titled “Correctional Crisis Intervention for United States Probation Officers” was conducted by the Division in conjunction with the Law Enforcement Training and Research Associates, Inc., of San Francisco, California. These sessions provided recommended psychological techniques for the probation officer in dealing with extreme emotional situations involving his client. Additional workshops of this type are planned for next year.

e. **Rational Behavior Therapy Workshops.** Two of these workshops were conducted this fiscal year to provide selected probation officers with an opportunity to study behavior methods and skills in order to enhance their capabilities in the probation and parole system.

f. **Women In The Criminal Justice System.** One workshop was conducted which explored two areas: the woman offender and the role of women in the criminal justice system. Six successful and outstanding women in the criminal justice field were invited to serve as thought-provoking leaders in these workshops. As a result of this workshop, we hope to select two or three topics of interest that can be presented during advanced seminars this coming fiscal year which could be attended on an optional basis by both male and female officers.

g. **Probation Training Officers.** Last year the Division published a manual - “Guide for Training Newly Appointed Federal Probation Officers” - which was sent to all chief probation officers, with the request that they appoint an officer specifically charged with conducting and evaluating local training in their districts for both experienced as well as new officers. Two Instructional Technology Workshops were conducted this past year. Workshop objectives were to refine and upgrade the training officers’ skills in setting training goals and applying instructional techniques.

Periodically, the Division publishes and distributes Training Officer memoranda. These are in the form of newsletters and provide a forum for the exchange of training information.

h. **Pretrial Services Officers.** In response to the enactment of the Speedy Trial Act, the Center, in conjunction with the Division of Probation of the Administrative Office, developed and conducted three programs for pretrial service officers. These officers were especially selected to perform the duties required by Title II of the Act. Eighty-seven Pretrial Service Agency Chiefs and Supervisors received an orientation in this new field of federal judiciary responsibility. One seminar is contemplated for the next fiscal year.

i. **Training Given By Other Organizations.** Under the sponsorship of the Center, twenty-five probation officers were afforded the opportunity to attend the annual meetings conducted by the American Correctional Association and the National Institute for Crime and Delinquency. These participants were selected from districts near the convention sites in order to minimize travel costs. The site locations change each year.

7. **Circuit Executives.** The Center hosted two meetings of Circuit Court Executives on September 26-27, 1975, and September 23-24, 1976.

8. **Court Clerks**

a. **Seminar For Clerks Of The United States Courts Of Appeals.** One seminar was held in Atlanta to provide the Clerk with the guidance needed to assist him to more effectively discharge his duties and responsibilities. This was done by means of technical presentations, small group discussions and workshops. It also provided a forum for the mutual exchange of information.

b. **District Court Clerks Seminar.** District Court Clerks of Metropolitan Courts met for the purpose of discussing the improvement and enhancement of management procedures, the implications of the Speedy Trial Act, the impact of computerization of information for the courts, and manpower needs. District Court Clerks of Non-Metropolitan Areas met in Atlanta, Georgia on November 3-6, 1975, and reviewed and discussed managerial, fiscal, statistical, and administrative developments and requirements.

c. **Orientation Seminar For District Court Clerks And Chief Deputy Clerks.** This course was conducted to satisfy the need for a seminar for the relatively new Clerks and Chief Deputy Clerks in the system. The program was designed to acquaint them with the functions of the Administrative Office of the U.S. Courts and the Federal Judicial Center and in what way they may assist the district courts.

d. **Financial Deputy Clerks.** With the cooperation of the Financial Management Division of the Administrative Office, three seminars for Financial Deputy Clerks were held on the maintenance of the financial records of federal courts.

e. **Criminal Justice Records Seminars.** Four of these seminars were held in July and August, two in Atlanta and two in Denver. These seminars were designed to help the courts deal with the administrative, recordkeeping and reporting changes imposed by the Speedy Trial Act.

f. **Bankruptcy Clerks.** Seminars were held for Chief Clerks of Bankruptcy Offices in Pittsburgh; Denver; and Fort Lauderdale to increase their supervisory, managerial and administrative skills, and to teach them to deal effectively with new changes in procedures, rules, and regulations.

9. **In-Court Management Training/Improving Supervisory Skills.** These seminars are designed to improve the understanding of court responsibilities and functions, coordination, and supervisory skills among supervisors and their subordinates. They meet and fill a definite need for equipping supervisory staff with enhanced competency in problem-solving and management practices as well as in

interpersonal relationships. Three hundred and sixteen court personnel attended In-Court Management Training sessions this year in their local courts. As needed, other programs will be conducted in the coming year.

10. **Video Training.** A video training session for ten deputy clerks was held on January 28-30, 1976 in the Southern District Court of New York to instruct them to operate video tape equipment, take video tape depositions, and understand the uses and limitations of video tape in court situations. This was the fifth and last training session in a pilot program to test the feasibility of taking depositions on video tape.

11. **Statistical Summary Of Seminars And Conferences.** During the year a total of eighty-three resident seminars and conferences were held. Summary data is as follows:

<u>No.</u>	<u>Category</u>	<u>Participants</u>	<u>Faculty</u>	<u>Total</u>
16	Federal Circuit and District Judges	461*	69	530
3	U.S. Magistrates	53	21	74
8	Bankruptcy Judges and Clerks	283	70	353
28	Probation Officers	849	245	1,094
12	Court Clerks and Deputies	229	61	290
2	Circuit Executives	9	0	9
3	Public Defenders and Assts.	87	59	146
11	In Court Training	226	24	250
83	TOTALS	2,932	619	3,551

*Some judges attended more than one workshop since two series of workshops were conducted during the fiscal year.

C. OTHER EDUCATION SERVICES

1. **Audio Cassette Program.** In order to provide those judicial personnel who were unable to attend the seminars and conferences with an opportunity to benefit from these presentations, the Center maintains a cassette lending library of seminar topics. Now in its fourth year of operation, the library continues to expand. The addition of new recordings to the various categories of presentations has brought increased numbers of requests to the Center each year. From its established date to the end of September 1976, a total of 4,712 requests were filled from the 1000

topics which are available in 28 categories. Among the listing of cassettes, those of the judges' category have been in greatest demand, with 1390 requests. These cassettes are available to all members of the federal judiciary on loan from the Education and Training Division for a period of two weeks. With the expansion of the library a new issue of the Catalog of Cassettes is being prepared for printing and distribution sometime in the fall of 1976.

2. **Film Library.** There are 27 films currently in the Center's film library. The films cover 11 topic areas including probation, parole, the courts, law enforcement, the juvenile offender, drug abuse, and management and supervision. Some films lend themselves to public relations work, helping probation officers define, discuss, and illustrate the work and goals of probation to lay audiences. Other films are especially designed to be used in staff meetings and training sessions.

3. **Tuition Assistance Program.** To meet the diverse and increasingly complex demands upon the personnel of the federal judiciary, they are encouraged to participate in job-related educational programs available through governmental and non-governmental sources. Once approved by the Division, the courses available through this program are funded from appropriations allocated for this purpose in the Center's annual budget. During this fiscal year there was a substantial increase in the funds available and utilized. In fiscal year 1975, a total of 369 persons attended job-related programs at a cost of \$56,025.00 or an average cost of \$151.83 per participant. This past fiscal year ending September 30, 1976, 910 persons received training by participating in this program at a cost of \$156,105.00, or an average per participant of \$171.54.

In addition to training and education courses at institutions of higher education and private training organizations, judicial personnel have attended programs offered by the Civil Service Commission, the Graduate School of the Department of Agriculture, and the Institute for Court Management (participating in the Court Executive Development Program).

4. **Correspondence Courses.** A correspondence course designed to reach court personnel interested in improving their supervisory skills through self-study was started in 1975. This program has demonstrated that such self-study programs designed to meet specific technical and professional training needs constitute potentially significant service by the Continuing Education and Training Division. The program has been continued this year, and 211 persons have completed the entire series. Nine hundred and thirty-nine persons have been enrolled since these courses began. A breakdown of the enrollees by office follows:

<u>Office</u>	<u>Total Enrollment</u>	<u>Active Participants</u>	<u>Completed</u>	<u>Withdrawn</u>
Clerks' Offices	420	334	74	12
Probation Officers	282	188	92	2
Probation Clerks	79	52	25	2

Office	Total Enrollment	Active Participants	Completed	Withdrawn
Bankruptcy Office	65	53	10	2
Judges' Offices	20	14	6	0
Magistrates' Offices	13	12	0	1
Administrative Office	48	43	4	1
Marshall's Office	<u>12</u>	<u>12</u>	<u>0</u>	<u>0</u>
TOTALS	<u>939</u>	<u>708</u>	<u>211</u>	<u>20</u>

The basic structure for a new correspondence course designed to improve counselling methods for United States probation officers is being developed and should be ready for release to the field early in the next fiscal year.

5. **Publications.** The following publications were produced as material for, or as a result of, training programs during FY 1976:

- a. The Federal Judicial Center Handbook (A Compilation of Reports from Seminars for Experienced District Court Judges)
- b. An Introduction to the Federal Probation System
- c. Guidelines for Videotaping Depositions - Second Edition
- d. The Parole Commission and Reorganization Act
- e. Addendum to the Catalog of Cassettes
- f. Forms of Oaths for Use in the U.S. District Courts
- g. Seminars for Newly Appointed U.S. District Judges (1973-1975)

D. NEW DIMENSIONS IN TRAINING FOR FISCAL YEAR 1977

The following are examples of some of the objectives and plans for education and training during the coming year.

1. Creation of a series of supervisory skills courses oriented to the differing levels of needs as personnel assume greater responsibility and exercise wider authority. These courses will consist of:
 - a. Basic Court Personnel Management: for line personnel.
 - b. Improving Supervisory Skills: presently available, the course is for newly appointed supervisors and selected potential supervisors.

- c. Advanced Supervisory Skills: for those supervisors who have completed the 'Improving Supervisory Skills' and the 'Supervisory Correspondence' courses.
 - d. Advanced Management: for those individuals completing the three courses listed above.
2. Based upon task analysis, creation of a series of specialized intensive programs oriented toward select groups on such topic areas as: Public Relations; Executive Skills; Goals and Career Development; and Team Building.
3. Assisting local courts in developing an in-house local training capability through preparing selected individuals to assume the role of training officer. Examples of the development resources envisaged for these personnel are 'Instructional Technology' workshops, instructional materials, periodic refresher seminars, guides and manuals.
4. Investigating the feasibility of using video tape cassette equipment to enhance the capabilities of local training in selected districts. Video tapes will be chosen from two sources: those prepared by commercial agencies and those prepared by the Judicial Center.
5. Development of an extensive library of training guides, manuals, operational guidelines, desk books, and both in-house and commercially produced training films.
6. Formulation of correspondence courses to augment the resident seminar educational experiences to service judicial personnel unable to attend Center-sponsored resident instruction sessions.
7. Establishment of a team of specialists, available upon call, to assist judicial personnel in analyzing personnel developmental needs and assisting in structuring educational programs to meet specific individual court and/or agency needs.

VI. PROGRAM ON INTER-JUDICIAL AFFAIRS AND INFORMATION SERVICES

A. LIAISON WITH OTHER ORGANIZATIONS

The Division maintains liaison with all major judicial administration-oriented organizations. Formal inter-organizational meetings are held at least twice a year. These meetings, usually a full day in duration, afford meaningful discussions aimed at bettering state and federal court procedures. Discussions permit an exchange of information on all planned or ongoing programs.

To keep abreast of activities, principal publications emanating from these organizations are monitored and pertinent information is made available to appropriate offices.

Other examples of liaison are meetings with representatives of the Association of American Law Schools, participation in Circuit Judicial Conferences, meetings of the Institute of Judicial Administration and the American Law Institute.

Endeavors continue in the state-federal area and all available information is assembled on the activities of the State-Federal Judicial Councils so that the Center can be responsive to inquiries from the Council members as to how they might function more effectively. The Center's Director attends and participates in Council meetings as time permits. The Division helps to defray the travel expenses of those federal judges attending council meetings.

Bar Association affiliation permits Center staff an opportunity to participate in programs of national significance and importance. Examples of these include membership in the American Bar Association's House of Delegates and on the Council of the Association's Judicial Administration Division; membership on the Council of the ABA Section of Science and Technology; on the ABA Committee on Facilities of the Law Library of Congress; on the ABA Committee to Implement the Standards for Court Organization; on the National Council of the Federal Bar Association; and participation in the ABA Conference on Selection of Federal Judges.

B. THE THIRD BRANCH

This official bulletin of the federal courts, now in its eighth year of publication, continues as a forum for an exchange of ideas, techniques and other information of value to the Judicial Branch.

Each month this eight-page publication reaches all personnel in the federal court system as well as numerous state court judges and administrators, law school deans, libraries, foreign officials and other interested parties. Copies are also regularly sent to the Congress, and occasionally excerpts from the bulletin appear in the Congressional Record (See, e.g., May 20, 1976).

THE THIRD BRANCH features summaries of key speeches, legislative activity, calendaring of events of interest, judicial personnel changes, interviews with outstanding individuals in areas embracing the judiciary, legal education, law enforcement, and corrections. The Center Divisions report on the progress of the projects through THE THIRD BRANCH, and occasionally inserts are included on topics of special or timely interest.

C. VISITOR SERVICE

This Division continues its response to the growing number of requests from foreign and domestic judges, lawyers, court administrators, and scholars to visit the Center.

Our visitors either contact us directly or are referred to us by the Department of State, the Asia Foundation, the International Legal Center at the United Nations, bar associations, law schools, or other organizations active in the judicial administration field.

They generally aspire to gain a better understanding of the framework and functions of our dual court system and to ascertain the goals and programs of the Center and its role in the overall judicial process

After a general orientation our visitors are encouraged to pursue areas of their particular interest with personnel at the Center, the Administrative Office and the courts.

To the extent possible the Division provides the latest published materials relating to the visitors' inquiries.

Visits to the Supreme Court, observations of daily court operations, and demonstrations of experimental technology are arranged when appropriate. When further travel within the United States is contemplated, appointments are scheduled with those judicial administration organizations with whom the Division maintains liaison in order to supplement the informational needs of the visitor.

Individuals from over thirty nations have been received in recent years. During the past year, the Division has hosted representatives from Italy, Australia, Canada, West Germany, Nigeria, Union of Soviet Socialist Republics, Nepal, Pakistan, Ghana, People's Democratic Republic of Yemen, Indonesia, Union of South Africa, India, and Bangladesh.

Highlighting the year were visits by the highest ranking judicial officials of Zambia, Uruguay and the Philippines.

D. INFORMATION SERVICES

Requests to the Information Service continue to increase, rising to a new high this year of 1,700. Those requesting information about the federal courts include federal court personnel, Center Staff, federal, state, and local agencies, law firms, students, and the general public.

Requests come to the Information Service in the form of letters, telephone calls or in person, and cover all aspects of the operation of the courts—their structure, their administration and personnel. Many requests were for Center publications, and some resulted in bibliographies as a final product of extensive research. All possible assistance in the way of procuring publications or information was provided to those working on the federal court library study.

An inventory of volumes in the collection completed as of June 30, 1975, showed a total of 3,009 volumes. During Fiscal Year 1976, 438 additional volumes were obtained, making a total of 3,447 volumes in the collection.

A need for additional shelf space necessitated purchase of movable shelving which was installed this summer.

The areas of statistics and social sciences were emphasized in the purchasing of new volumes this year. Nearly 900 Information Service items were borrowed by judicial personnel and other libraries and the Information Service borrowed over 100 volumes from the Library of Congress and other libraries.

Information Service projects have included: compiling legislative histories; maintaining a current list of publications which are available from the Information Service; and binding Center publications and periodicals.

The Center's Information Specialist continues to confer with other librarians and library organizations throughout the United States in order to improve service and share information. In June, the second meeting of the Council of Judicial Administration Librarians was held. This is an ongoing cooperative effort of these special libraries to exchange ideas and procedures.

E. OTHER RESOURCE SERVICES

This subsection is included in the Center's Annual Report for the first time in order to describe staff activities which, though not strictly project related, provide a wide range of resource support to institutions, agencies, and individuals concerned with improved court administration, both within the Judiciary and the Federal Government, and without.

1. Committees of the Judicial Conference of the United States

The Center's Director, at the invitation of the respective Committee chairmen, attended all meetings of the Committee of Court Administration, and the June sessions of its Subcommittees of Federal Jurisdiction and the Subcommittee on Judicial Improvements. Two substantive Center projects resulted from this participation.

The Research Division staff prepared a report to the Jury Committee analyzing recent law journal articles that discussed the effects of different rules for the exercise of peremptory challenges. The report summarized these studies and discussed implementation for the federal courts. Members of the staff also attended the meeting of the Jury Committee, at the invitation of its chairman.

The Center provided advice and support to the Judicial Conference Bicentennial Committee in the development of a biographical questionnaire. This document is being used to collect detailed biographical information on every federal judge ever appointed. The material—preserved in machine readable form to facilitate scholarly analysis—will serve as a comprehensive data base for use by the research community as well as a volume of general public interest.

2. The Board of Certification

Under the provisions of 28 U.S.C. 332, the Director of the Federal Judicial Center serves as a permanent member of the Board of Certification. During the year, the Board—with Judge Hoffman serving as Chairman—considered a number of applicants for certification. At a meeting in July 1976, it considered three requests for recertification, and interviewed twelve new applicants. Once certified by the Board, applicants are available for selection by the Circuit Councils for the position of circuit executive.

3. The Judicial Fellows Commission

The Judicial Fellows Program, patterned somewhat after the White House and Congressional Fellows Program, began in 1973. The Program is designed to attract young professionals of varied backgrounds who will make contributions to the resolution of Federal Court administrative problems and continue their interest in future years after their one-year participation. The Director of the Center serves on the Commission, which reviews applications, interviews applicants and selects Fellows.

One former and one current Fellow are on the Center's staff. The staff of the Center hosted the Fellows' finalists at a half-day briefing session during January.

4. National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice (The Pound Revisited Conference).

A number of the Center's senior staff attended the "Pound Revisited" Conference in St. Paul, Minnesota in April 1976, and supported the extensive planning prior to the Conference.

5. Circuit Courts

During the latter part of the year, the Director attended the Judicial Conferences of the First, Fourth, Fifth and Seventh Circuits. The Deputy Director attended the District of Columbia, Second, Third, and Ninth Circuit Conferences for the Director. Senior staff attended the Eighth and Tenth Circuit Conferences. Each had the opportunity to report on substantive project areas currently receiving attention at the Center.

The Director sat by designation in the Fifth Circuit Court of Appeals during the first week of April to relieve a former member of the Board who had resigned from the Federal Bench.

Various staff members of the Center have been working with Judge Clifford Wallace of the Ninth Circuit on a project to list and describe the various kinds of research presently being conducted in the federal courts. As part of his Woodrow Wilson Fellowship, the staff discussed the matter with Judge Wallace and have aided the Supreme Court intern who is assisting him.

In an effort to keep judges, circuit executives and senior officials of both the Center and the Administrative Office up to date on matters affecting the judiciary, a staff member monitors five daily newspapers, the Congressional Record and the Federal Register. Key articles are clipped and distributed.

The Innovations and Systems Development Division held a two-day conference at the Center on the design and development of an Appellate Information System—five Circuit Executives and representatives of three Appellate Courts attended.

A member of the Research Division staff conducted a training session for Second Circuit personnel on the uses of the Center's computer system in general, and

the Statistical Package for Social Science (SPSS) in particular. The session had been arranged by the Circuit Executive's office to aid in the production of various reports that will now be generated through the use of our machinery.

6. District Courts

On request of the Chief Judge for the District Court of the District of Columbia, the Center assisted that court in a study of its caseload. This brief survey attempted to determine if the cases in this one district were any more burdensome than similar case types in other districts.

The Research staff continued to monitor the progress of the Bilingual Courts legislation during the current session of Congress and forward reports to the Jury Committee and other interested parties. A recent study of the language needs of non-English speaking people prepared for the California courts has been reviewed and methods noted should a similar federal court study be implemented.

A Center staff member participated as a panel member at both the National Shorthand Reporters Association Annual Convention and the United States Court Reporters Association Convention.

7. The Administrative Office of the U.S. Courts

The Research Division provided data tabulation and analytical support to the Probation Division in a recent update of their probation office time study. The Center had conducted a similar project in 1973 and the new update reflected changes resulting from the increases in staff and responsibilities in the probation service.

Center staff have been working with the General Counsel's office of the Administrative Office on a report concerning the direct summoning method of juror selection. This report will be presented to the Jury Committee for comment and further analysis as necessary.

On request of the Probation Division, the Center reviewed a Bureau of Prisons research proposal for the evaluation of the Bureau's Community Treatment Center program. The research design was analyzed, comments made, and a meeting with the proponents of the project convened.

Several Center staff have assisted the Administrative Office in its yearly Court Visitation program by providing written reports of visits to various courts.

8. Intra-Organizational

Working with the Education and Training Division, members of the Research Division made presentations at a number of Probation Officer seminars discussing the consequences of alternative sentences. These remarks were similar to the speeches given at sentencing institutes and judge seminars and stress the role and functions of the Bureau of Prisons and the Board of Parole in the sentencing process.

Staff of the Inter-Judicial Affairs division have assisted on the Speedy Trial Implementation and District Court Studies projects.

Arrangements are being made to prepare a history of the Federal Judicial Center. The services of an historian will be obtained to detail the events that gave rise to the enactment of the Center's enabling statute, and to record centrally and permanently, the opening activities and growth.

9. Department of Justice

Under the authority of 18 USC 4351 as provided for by Public Law 93-415, the Director of The Federal Judicial Center serves as an ex-officio member of the Advisory Board for the National Institute of Corrections within the Department of Justice. This new government agency was established to assist federal, state, and local agencies to develop and implement improved correctional programs. The Advisory Board meets three times a year to set policy for staff operations. During the past year, Advisory Board meetings have established four thrust areas as primary funding targets for 1976-1977. They are: Staff Development; Classification/Screening; Jail Programs and Operations; and Restructuring of Field Services.

Two members of the Research Division have met with representatives from the Department of Justice, the Board of Parole, the Bureau of Prisons, and the Probation Division to discuss various proposals for the creation of a Sentencing Commission in general and the impact of such legislation on the future of parole in particular. This study group was convened by the Plans and Policy Office of the Department of Justice in an effort to get input and feedback from the various agencies involved in the criminal justice process.

A staff member served on a planning committee for the Search Group Project to evaluate Automated Legal Research Systems under an LEAA funding grant.

At various times throughout the year, senior staff have been called upon to review grant requests for LEAA.

10. American Bar Association/American Law Institute

The Center's Director served as a member of the ABA's Judicial Administration Section Committee on Oversight and Goals which produced a lengthy report in the Spring of 1976. He also served as a faculty member in two ABA-ALI seminars on Federal Criminal Practice, discussing pleas of guilty and plea bargaining.

The Director of the Inter-Judicial Affairs and Information Services Division is serving as a member of the House of Delegates of the ABA, representing the Judicial Administration Section.

The Director of the Research Division serves on the Council of the ABA's Section on Law and Technology. As a member of that Council, he assists in the formulation of responses by the legal community (including the courts) to the problems presented by technological development and aids in exploring ways to use the products of that development to enhance the performance of the entire legal community.

The Director of that Division also serves as a member of the ABA's Standing Committee on the Law Library of Congress. That committee explores ways in which the Law Library can be of greater assistance to the legal community. Among the items on a recent agenda was a discussion of the development of an archival collection of federal court documents.

11. Institute for Court Administration

In February, 1976, members of the Center's staff hosted the graduating class from ICM for a day-long briefing on their current projects activities.

Several staff members have served as visiting faculty for ICM Seminars on "Advanced Technology in the Courts" and "Modern Appellate Court Management."

12. National College of the State Judiciary

As part of our continuing responsibilities under the Speedy Trial Act of 1974, a member of the Research Division addressed a meeting of state trial court administrators to discuss various state applications of the speedy trial legislation. The session was convened under the auspices of the National College of State Trial Judges.

13. National Science Foundation

The Center provides comments on court related research proposals submitted to the National Science Foundation. Senior staff serve on advisory committees for some of these projects. Close coordination is maintained with the Foundation to obviate the possibility of duplication of research efforts.

14. Academic Community

Staff members participated in a broad range of academic programs throughout the year. Among the institutions and organizations visited were—The Center for Advanced Study of the Behavioral Sciences, Sloan School of Management at MIT, Harvard Business School, Stanford University, Wharton School of Management at the University of Pennsylvania, University of Maryland, and the law schools at Georgetown and Stanford Universities.

Staff also participated in several conferences as discussants or panel members, including: The American Political Science Convention, Conference of the Committee on Legal Indicators of the Social Science Research Council, and the American Society for Public Administration Annual Meeting.

Staff members have also hosted groups of students and faculty members for institutions around the country to give an overview of the courts and the work of the Center. Staff have also addressed bar associations, a state legislature, law fraternities and other civil groups to further an understanding of the Center's role in meeting judicial administration problems.

VII. ORGANIZATION AND ADMINISTRATION

A. THE CENTER BOARD

Two vacancies on the Board of the Federal Judicial Center were filled during the year. The Judicial Conference elected The Honorable John C. Godbold, Judge of the Fifth Circuit Court of Appeals, to fill the unexpired term of Judge Griffin B. Bell who resigned from the bench in March of 1976, and The Honorable Frank J. McGarr, Judge of the Northern District of Illinois, to replace Chief Judge Alfred A. Arraj whose term expired in April of 1976.

Early in the calendar year, Board approved amendments to the Federal Judicial Center Act (28 U.S.C. 620 *et seq*) were transmitted to Congress for consideration. The draft bill was printed and referred to a subcommittee of the House Judiciary Committee, but no action has been taken.

B. BUDGET

The Congress has enacted and the President signed the Judiciary Appropriations Bill for Fiscal Year 1977. The Federal Judicial Center received an amount of \$7,650,000, a reduction from the amount requested of \$70,000 but an increase over FY 1976 of \$1,085,000.

C. STAFF

During the fiscal year a number of staff additions and replacements were made at levels below the Division Directors. A substantial majority of these were to support the professional staff of the Systems Division in its COURTRAN development.

At the close of the fiscal year, with 73 authorized permanent positions available, there were 64 permanent staff and an additional 17 in part-time or temporary status with 13 more working on short-term project assignments.

During the fiscal year, the Center began to participate in the Merit Promotion Plan of the Administrative Office of the U.S. Courts thus expanding the pool of available candidates for the Competitive Service position vacancies which arise at the secretarial and clerical levels.

VIII. FJC PUBLICATIONS

The following formal publications were issued by the Center during Fiscal Year 1976 and are available from the Information Service:

Publication Number	Title
FJC-75-6	Sentencing Institute for the 6th & 9th Circuits;
FJC-75-7	District Court Caseload Forecasting—An Executive Summary;

Publication Number	Title
FJC-76-1	Introduction to the Federal Probation System (Second Edition);
FJC-76-2	Priorities for the Handling of Litigation in the U.S. District Courts;
FJC-76-3	Guidelines for Videotaping Depositions in the Federal Courts (Second Edition);
FJC-76-4	Forms of Oaths for Use in the U.S. District Courts;
FJC-76-5	Parole Commission Reorganization Act;
FJC-76-6	District Court Studies Project Interim Report;
FJC-76-7	COURTRAN Management Information System: Terminal Telecommunications Users Manual;
FJC-76-8	COURTRAN Management Information System: Judge-Attorney File Users Manual;
FJC-76-9	COURTRAN-Criminal Case Management Information System: Case Opening Users Manual.

IX. HISTORY AND ORGANIZATION OF THE FEDERAL JUDICIAL CENTER

Throughout its nine-year history, the Center has devoted its efforts to improving the Federal Judiciary and, by example and cooperation, to improving the judicial systems—both state and local—throughout the Nation.

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

Before the creation of the Federal Judicial Center in December 1967, five organizations within the judiciary were (and still are) involved in the administration of the Federal courts system—the Supreme Court of the United States, the Judicial

Conference of the United States, the Circuit Judicial Councils, Circuit Judicial Conferences, and the Administrative Office of the United States Courts:

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

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

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

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

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

Even with the important work of these five organizations, no agency up until 1967 had been charged with the responsibility, or given the necessary resources, to support the judicial branch through independent research, education and training, and through the development and application technology to court management.

The late Chief Justice Earl Warren and other members of the Judicial Conference recognized that all of the demands of the rapidly expanding federal caseload could not be met by *ad hoc* responses performed by individuals and organizations on a diffused, part-time basis. Accordingly, in 1966 the Conference

authorized the Chief Justice to appoint a special study committee to probe the possible need for Congressional authorization of a broad program of continuing education, research, training and technological adaption for the Federal courts. The resulting report of the committee, chaired by former Supreme Court Justice Stanley F. Reed, recommended the creation of a Federal Judicial Center to help the judiciary "...attain the dispensation of justice in the federal courts with maximum effectiveness and minimum waste." This recommendation was approved by the Conference and draft legislation submitted to Congress. After an extensive series of hearings, and with broad bipartisan support, the Congress enacted Public Law 90-219 on December 27, 1967, establishing the Federal Judicial Center. Shortly thereafter, under the leadership of its first Director, Associate Justice (Ret.) Tom C. Clark, the Federal Judicial Center began functioning as the Federal Judiciary's research, development and educational arm.

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

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

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

The Center's **Research Division** has as its two-fold mission the identification of those areas where lack of sufficient information hampers the formulation of

recommendations and programs to improve the operation of the federal courts and the development of needed information in those areas. As detailed in this Report, Research Division projects include: juror representativeness, sentencing studies, the Civil Appeals Management project, and the forecasting of federal court caseloads. In its aim to generate the best information to guide the development of policy, the Research Division has successfully employed the powerful tools of controlled experimental research in its projects.

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

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

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

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

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