

FJC Staff Paper

In-Court Orientation Programs in the Federal District Courts

Federal Judicial Center



IN-COURT ORIENTATION PROGRAMS IN THE FEDERAL DISTRICT COURTS

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This paper is a product of a study undertaken in furtherance of the Center's statutory mission to conduct and stimulate research and development on matters of judicial administration. The analyses, conclusions, and points of view are those of the author. This work has been subjected to staff review within the Center, and publication signifies that it is regarded as responsible and valuable. It should be emphasized, however, that on matters of policy the Center speaks only through its Board.

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This paper, based on a survey of new judges, describes some of the orientation methods that have been used by various district courts to provide new judges with a good introduction to both judicial tasks and local court practice.¹ It is hoped that the ideas presented here will prove valuable for the development of in-court orientation programs as the need for them arises in other courts.

Background and Procedure

New federal judges come from diverse backgrounds and face a wide variety of judicial and administrative responsibilities. The development of programs to familiarize judges with their new tasks is, therefore, a complex undertaking. The Federal Judicial Center has traditionally conducted week-long "New Judges Seminars" in Washington, D.C., that convene when the number of new appointees reaches thirty to thirty-five.² To meet increasing concerns about the timeliness of this program for some new

1. The information reported here is not necessarily representative of the orientation experiences provided to all new judges. The survey of new judges was not developed as an evaluation tool, but rather as a way to identify interesting and effective orientation techniques and solicit suggestions from some of those who have recently been through the process. Further, other districts may have developed programs after the time period considered in this survey.

2. Using this criterion, the New Judges Seminars are generally held about once a year. When there is an unusual influx of new appointees, as occurs when Congress passes bills to create large numbers of new judgeships, the seminars are held more frequently.

judges, in 1981 the Center began holding regional orientation seminars. These sessions feature videotape versions of presentations from previous New Judges Seminars and are staffed by one or two experienced judges and a senior staff member from the Center's Education and Training Division. Originally designed as three-day programs, this year the video seminars were expanded to include a day at a federal prison facility to enhance training in criminal sentencing.

These Center programs are necessarily general because of their need to address issues of common importance to new judges from all districts. A vital supplement to these efforts is a timely in-court orientation program that addresses the individual needs and questions of a new judge in the context of local practice.

Recognizing the importance of these district programs, the Federal Judicial Center previously developed an "orientation checklist" (see appendix A) as an aid to their implementation. The present research was undertaken to provide more information to those responsible for program development by describing the in-court orientation experiences that new judges have found helpful.

To this end, a survey requesting information about local orientation programs (see appendix B) was sent to seventy-four judges who had been appointed between January 1980 and January 1982.³ Responses to the questionnaire identified twenty-one

3. Of the seventy-four surveys, fifty-seven were returned and used to choose the districts whose programs are described. Three judges who did not respond are no longer district court

districts that had implemented effective orientation efforts. Telephone interviews with the chief judges of these districts provided more detail on the operation of their programs.⁴

Orientation Programs

District-based orientation programs judged effective by the recently appointed judges range from a highly structured learning experience to the informal incorporation of the new judge into the ongoing collegiality of the court. The most common program falls in the middle range of formality. It is structured only in that the chief judge sets aside a period of time, generally two or three days, for the new judge to come to his court. The content of the orientation, however, remains flexible. Though chief judges generally take responsibility for orientation, in a number of districts much of this responsibility is delegated to the clerk of court.

Introductory Material

At an initial meeting with the chief judge, the discussion usually focuses on local rules, case assignment systems, and how

judges. A number of the remaining fourteen nonrespondents were later interviewed briefly by phone, and some of their comments are included in this report.

4. The interview in the Northern District of Illinois was conducted in person as a pretest of the interview protocol. Additionally, one of the districts had prepared material on its orientation program and sent this in lieu of the interview. In three districts, the interviews were not conducted with the chief judge, but with others who were involved in preparing for new-judge orientation (one judge, one clerk/magistrate, and one secretary). It should be noted that the chief judges who were interviewed were not necessarily those in that position when a new judge went through the orientation period.

to set up chambers. Various reading materials are also given to the new judge. Those noted as most useful by our respondents were various benchbook inserts such as forms and checklists for frequently recurring proceedings, sample orders, and "scripts" developed by other judges.

In the Southern District of Ohio, the chief judge has prepared a "Pamphlet for New Judges," which compiles some of the procedures and policies that have worked well for other judges, presented in a straightforward narrative style. Some of the topics included in the pamphlet are docket control, jury instructions, plea bargains and guilty pleas, progress of a lawsuit, sentencing, and dealing with attorneys and the media.

Sitting With or Observing Experienced Judges

During the initial meeting with the chief judge, an invitation to sit with or observe an experienced judge is extended and usually accepted. The particular arrangements differ among districts. For example, in two districts, the new judge accompanies an experienced judge for at least one normal day, thereby getting exposure to case flow, office management, and staff utilization techniques, as well as observing formal and informal judicial proceedings. In two other districts, the new judge is encouraged to view more than one experienced judge conduct motion calendars and criminal arraignments so as to compare particular courtroom and case management methods.

In other districts, specific types of proceedings are selected for observation. The choice of a particular proceeding

usually depends on the prior experience of the new judge, though some districts emphasize general proceedings, such as criminal or civil trials, while others focus on more specific areas, such as naturalization proceedings. In one district, the new judge is encouraged to check with the clerk to learn what proceedings are calendared and choose what appears most useful. Voir dire is a proceeding that new judges are commonly advised to observe; one court has made a videotape to ensure that all new judges have this opportunity.

A word of caution regarding observation from the bench was expressed by one judge. He had encountered an attorney who objected to two judges sitting in a criminal trial. The attorney was apparently concerned that the presence of two judges could give the jury the impression that the case was somehow out of the ordinary. This same judge, however, noted that he found observing from the courtroom to be as beneficial as actually sitting on the bench.

In the survey of new judges, the opportunity to observe or sit with experienced judges was commonly noted as the most valuable orientation experience, with a number of the respondents suggesting that more time, perhaps a full week, for observation would have been useful. A few of the new judges, however, listed this experience as least helpful.

The value of observing others likely depends on the preferences of the new judge, as well as on how familiar he or she is with the substance and procedures being observed. For example, a judge coming to the bench after years of practice before the fed-

eral courts has already "observed" many such proceedings. Two such judges noted, however, that it was still helpful to view trials and conferences with an eye toward the observed judge's method of presiding over the courtroom, something to which they had paid little attention in their role as counsel.

Meetings with Support Staff and Court-Related Agencies

It is also common for districts to arrange for the new judge to spend time with personnel from the court-related agencies he or she will be dealing with. These include clerks, magistrates, probation officers, marshals, U.S. attorneys, and public defenders.⁵ In the District of Oregon, an agency reference manual was prepared that outlines the services performed by each agency and provides the names of key personnel.

The purpose of providing for interaction with staff of related agencies is not only to introduce the new judges to the people involved but also to acquaint them with the specific functions and local operating procedures of the offices. Respondents noted that time spent with clerks is particularly useful to new judges, as this office can assist with some very practical and imminent concerns such as procuring furniture and equipment. In one district, the clerk of court pays visits to each of the new judges prior to their swearing in to give a brief introduction to local practices, ascertain preferences for office furniture,

5. In the past, some districts also arranged visits to Bureau of Prisons facilities. We anticipate that most new judges now will have this orientation experience in conjunction with the newly expanded Center video seminars mentioned earlier.

and generally answer any questions they might have.

All districts, regardless of the size of their criminal caseloads, also stressed the importance of the new judge's early introduction to the probation and prison systems. One new judge mentioned that he felt visits to probation offices and a variety of types of prison facilities (e.g., correctional institutions and community treatment centers as well as traditional prisons) were crucial to a new judge's understanding of sentencing options and responsibilities.

Local practice and the nature of caseloads may increase the importance of orientation time spent with other support personnel. For example, districts in which magistrates maintain cases through the pretrial process stressed familiarity with magistrates' functions.

Staff Training

One interesting approach to orientation is to extend the program to members of the new judge's staff. Even when new judges must travel to an orientation, as may occur when the chief judge sits in another city, they are often accompanied by their secretaries, law clerks, or both. The staff members then have the opportunity to spend some time with their counterparts in the chief judge's court. In this way, the new judge has the benefit of a better-informed staff as well as a personal orientation.

A number of districts make it a point to have experienced staff available to their new judges. One new judge noted as his most valuable "orientation experience" the fact that his staff

was familiar with the operating procedures of the court.

Case Assignment

Though not an orientation experience per se, some districts have tried to ease the transition to the federal bench through a gradual phase-in to a full caseload. Where this is done, the new judge is initially assigned from one-half to two-thirds of a full caseload from the existing cases of the other judges. These cases are either chosen randomly or selected by the other judges. The new judge then enters the case assignment rotation under a formula that assures an equal share of the cases after approximately six months.

Other Approaches to In-Court Orientation

In the Western District of Texas, the orientation program is of a more traditional kind. There, the chief judge conducts an orientation seminar prior to the new judge's swearing in. It is a one-day program held on a Saturday so as not to interfere with the day-to-day operation of the court. The format of the seminar essentially follows the topics included on the Federal Judicial Center's orientation checklist (see appendix A). This approach provides the new judge with an intensive learning experience that, though draining, has been found effective by those involved.

On the opposite end of the structure spectrum, there are a number of courts that have no formal program, but are willing to provide whatever orientation information the new judges request. Aside from providing certain written materials, the only planned orientation consists of an initial meeting with the chief judge.

At this meeting, the new judge is told of the various available opportunities and that the other judges are willing to assist in whatever way they can.

This loose type of structure relies on the new judges to recognize their needs and to call on other judges for aid. Success depends in part on the initiative and confidence of the new judge and the attitude of other judges on the court. It seems to be an effective method in courts that already provide frequent opportunities for informal interchange among the judges. Indeed, this type of collegiality is common among the districts identified as having successful programs. In this atmosphere, the new judge, even if initially reluctant to ask frequent questions, can enter naturally into conversations during which matters of concern can be discussed.

In a more formal version of this technique, two courts use a "buddy" system. Though no specific orientation activities are planned, the new judge is assigned a buddy who is a volunteer from among the judges on the court. The advantage to this approach is that the new judge has a specific person to contact with any questions and is assured that this contact is expected.

If there is a key to successful orientation, it appears to be the new judge's ability to consult easily with other judges as problems arise. The most common response to the survey question concerning the most valuable orientation experience was the general availability of experienced judges. This access to other judges is not limited by physical proximity. One recently appointed judge said his most valuable orientation experience was

gaining the knowledge that other judges are just as close as the telephone.

Suggestions

The orientation systems described above are those that were judged successful. A number of respondents to the survey, however, did not feel that they had been given enough orientation, and they had general suggestions for how local programs could be improved.

Some of the suggestions address the structure of orientation programs. One idea was to have the chief judge introduce the orientation checklist (see appendix A) to the new judge during their initial meeting to help target the areas to be addressed during the rest of the orientation period.

Another suggestion was that a buddy system be devised that would match buddies on the basis of complementary skills. The example given was of a former state court judge who was quite comfortable running a courtroom, but was unfamiliar with the court's particular docket control system. In this case, a strong case manager might be the most helpful "buddy."

A number of recently appointed judges pointed out that some type of follow-up to the initial orientation is necessary. One judge noted that, during the first few weeks, the new judge might not know the right questions to ask and that no orientation can replace ongoing access to more experienced judges as questions arise. This opinion was seconded by one of the chief judges, who noted that whatever experiences are made available to new judges

before they take the bench, you "don't start learning until you start doing."

The buddy system already described is one way to ensure continuing orientation. Another suggested method is to set aside one or two hours a week for informal sessions during which experienced judges could be available to the new judge (and one another) for discussion of problems.

One judge noted that six- and twelve-month analyses of the new judge's statistics should be a routine undertaking. This would help in the early diagnosis of potential backlog problems, which could then be addressed and perhaps avoided.

Other suggestions for improving in-court orientation programs focused on particular content areas that should be given more emphasis. Case management was mentioned frequently in this context, with one judge suggesting the development of more introductory material on docket control. Other areas specified were of an extremely practical nature, including how to set up chambers, deal with procurement, conduct pretrial conferences, assign matters to magistrates, and avoid bench conferences.

Conclusion

These thoughtful suggestions are an indication of the interest in local orientation programs. The need for very practical types of information, particularly in the areas of case management and court administration, is a thread that runs through many of the comments.

Of importance to those planning orientation programs is that

the respondents to the survey did not complain about too much orientation. Though the survey contained a place for noting least helpful orientation experiences, few of these experiences were listed. Most who responded said that all opportunities were helpful, with one judge adding, "[A]s a new judge, I was grateful for anything I could get."

Most of the orientation programs concentrate on familiarizing new judges with basic procedures, encouraging questions, and letting judges and their staffs know where to go to deal with particular problems. Timely and comfortable access to the experience of fellow judges and to administrative information concerning staff and case management can help prevent small problems from becoming large ones. For the court that is looking forward to having a new judge, those chief judges who were interviewed felt that their investment in orientation has been time well spent.

APPENDIX A

ORIENTATION CHECKLIST

I. GENERAL

A. Management of Litigation

1. before trial
2. during trial

B. Calendaring

1. cases
2. pending motions

C. Compiling Statistical Reports as Required

1. utilization of clerk and staff resources

D. Relationship to Administrative Office and Federal Judicial Center

E. Utilization of Supporting Personnel

1. judge's immediate staff and law clerks
2. probation officers, bailiffs, minute clerks, magistrates, court reporters, etc.

F. Case Records

1. control of case files
2. maintenance of chambers records

G. Familiarization with Local Juror Selection System

1. screening questionnaires
2. issuing summonses
3. granting deferral requests
4. granting requests for excuse
5. maintaining statistics

II. CRIMINAL

A. Arraignment HearingsB. Bail HearingsC. Initial AppearancesD. Assignment of Counsel

1. Criminal Justice Act appointments and vouchers
2. bar associations and other local resources for the representation of indigent defendants

E. Waiver of IndictmentF. Accepting Pleas

1. not guilty
2. guilty
3. nolo contendere
4. pleas under rule 20, Fed. R. Crim. P.

G. Criminal Calendar Management

1. participation in plea discussions (cf. rule 11, Fed. R. Crim. P.)
2. Speedy Trial Act of 1974 (18 U.S.C. §§ 3161 et seq. (1976))

H. Pretrial Conferences

1. sending notices
2. setting dates
3. hearing motions
4. preparing pretrial orders
5. preparing lists of witnesses, documents
6. preparation for voir dire
7. preparation of jury instructions

I. Methods of Jury Selection and Voir Dire

- J. Administering Oaths
- K. Pretrial Marking of Exhibits
- L. Jury Instruction Conference
- M. Findings of Fact and Conclusions of Law after Bench Trials (Rule 23(c), Fed. R. Crim. P.)
- N. Verdict Forms
- O. Sentencing and Sentencing Alternatives
 - 1. utilization of presentence investigations
 - 2. availability of presentence reports to counsel (rule 32(c)(3)(A), (C))
- P. Hearings on Competence to Stand Trial
 - 1. insanity defenses
 - 2. other incapacities
- Q. Stay of Execution and Relief Pending Review
- R. Probation Revocation Hearings
- S. Taxing Costs

III. CIVIL

- A. Early Determination of Jurisdiction over Parties and Subject Matter
- B. Status Conferences and Status Calls
- C. Settlement Conferences
- D. Discovery Management
- E. Pretrial Conferences
 - 1. sending notices
 - 2. setting trial dates
 - 3. hearing motions
 - 4. drafting pretrial orders
 - 5. approving stipulations

6. pretrial rulings on evidence, marking of exhibits
7. requiring lists of witnesses, documents, etc.
8. submission of voir dire questions
9. submission of proposed jury instructions
10. submission of proposed findings of fact and conclusions of law

F. Methods of Jury Selection and Voir Dire

G. Administering Oaths

H. Pretrial Jury Orientation

I. Court's Findings of Fact and Conclusions of Law in Bench Trial (Rule 52, Fed. R. Civ. P.)

J. Preparation of Verdict Forms

K. Preparing and Entering Judgment Order

L. Taxing Costs

IV. SPECIAL PROBLEMS AND PROCEEDINGS

A. Review in Social Security Cases and Other Administrative Decisions

B. Prisoner Petitions

1. habeas corpus petitions
2. title 28, section 2255 relief
3. civil rights complaints

C. Naturalization Proceedings

D. Assignments to Magistrates

E. Handling Appeals from Magistrates and Bankruptcy Judges

F. Relationship of the Judges to Investigative Agencies, U.S. Attorney, Federal Defender, General Services Administration, and the Media

G. Multidistrict and Complex Litigation

1. multidistrict panel

- H. Interpreters
- I. Effecting Economy in Jury Utilization
- J. Admission to Practice before the Federal Courts and Discipline of Attorneys
- K. Misconduct during Trial
- L. Recusal (28 U.S.C. § 144)
- M. Handling of Pro Se Litigation

V. MISCELLANEOUS

- A. Logistics of Opening Chambers
 - 1. selection of staff and law clerks
 - 2. pay grades and position descriptions
 - 3. mechanics of furnishing an office
 - 4. minimum library requirements
 - 5. ordering supplies
- B. Travel Policies and Authorizations
- C. Computer-Assisted Research
- D. Judicial Ethics and Appearances of Impropriety

APPENDIX B

IN-COURT ORIENTATION QUESTIONNAIRE

Background Information

Name _____ Sex: M F

Age _____ Background _____

District _____ Office _____ # Judges _____

When Nominated _____ When Confirmed _____

I. General Orientation Information

A. Prior to assuming your full workload, did your court provide you with an orientation period to acquaint you with your judicial responsibilities and the practices of the court? NO YES (please circle)

If yes:

1. How long was your orientation period? _____

2. Was this period before (_____) or after (_____) you were sworn in?

B. Did you attend a "New Judges Seminar"? NO YES

If yes: Approximately how long had you been on the bench before attending? _____

C. Did you view or listen to any tapes (video or audio) from previous "New Judges Seminars" prior to attending in person? NO YES

If yes: Did you request these yourself (_____) or were they provided by the court (_____)?

II. Written Materials

A. Of the written materials you received from the court, which do you recall as being particularly helpful?

- B. Did you consider any of the written materials redundant or unnecessary? NO YES If yes: Please note:

- C. Do you feel that you received these materials early enough? YES NO If no: What should you have received earlier? _____

- D. In retrospect, were there other materials or types of information you did not receive which also would have been helpful? _____

III. Interaction with Experienced Judges and Other Key Officials

- A. During your first few weeks in the district, did you have any conferences or meetings with your fellow judges which you found particularly helpful in defining your role? NO YES If yes: Were these formal (____) or informal (____) (e.g., breakfasts, luncheons, etc.)?

- B. Were you able to observe other judges presiding over cases during this period? NO YES If yes: How many days or proceedings? _____

- C. Did you sit with an experienced judge during this period? NO YES If yes: What type of proceeding(s)? _____

- D. Did you observe experienced judges from other courts? NO YES If yes: Who and what? _____

- E. Based on your previous experience, were you generally familiar (____) or unfamiliar (____) with the substance of the proceedings you observed or sat on?

With the procedures involved? (familiar ____
unfamiliar ____) Other comment: _____

F. Did you visit any prison or community-based correc-
tional facilities? NO YES

G. Was a general schedule of meetings, visits, and obser-
vations planned for you (NO YES) or were most of
your orientation experiences initiated at your request?
(_____) Comment: _____

If yes: Were you given any indication of what your
schedule would be before you arrived in the
district? YES NO

H. Other orientation experiences: _____

I. Which experiences mentioned in this section did you
find the most helpful? _____

Which were the least helpful? _____

In retrospect, what other orientation experiences do
you think would have been useful? _____

IV. The Content of the Orientation

A. Did your orientation focus on particular areas? NO
YES If yes: Describe briefly: _____

B. In your opinion should anything have been given more emphasis during orientation? _____

Less emphasis? _____

C. Are you familiar with the attached checklist? NO YES

If yes:

1. Did you use the checklist? NO YES If yes:
Was it for your own reference only (_____) or did
you discuss it with other judges (_____)?

2. Did you find it helpful? YES NO

3. Do you have any suggestions for improving the
checklist? _____

V. Postorientation

A. Case Assignment:

1. Were the cases you were first assigned given on a
random basis? YES NO If no: How were they
assigned? _____

2. Were you first assigned a less-than-average work-
load? YES NO

B. Had any members of your support staff previously worked
in a federal district court? YES NO

C. NOTE: In the next question, we are interested in find-
ing out if the time required for your various duties

when you first came to the bench was essentially as you expected, or whether some took more or less time than you expected. Please place a check along the line next to each to indicate whether, during the first few months, it required more time than you expected, about the same amount of time as you expected, or less time than you expected. If any major category has been left out, please indicate it in the space marked "other."

More Time As Expected Less Time

Voir Dire: _____

Civil Jury Trials: _____

Civil Nonjury Trials: _____

Criminal Jury Trials: _____

Criminal Nonjury Trials: _____

Sentencing: _____

Discovery Matters: _____

Case Management Matters (e.g., status calls, scheduling): _____

Settlement: _____

Other Pretrial Motions: _____

Other Pretrial Conferences: _____

Court Administration: _____

Other: _____

D. Has the allocation of your personal time remained relatively constant since that time? YES NO
If no: How has it changed? _____

VI. Evaluation/Suggestions

A. Overall, do you feel that your in-court orientation was an effective supplement to your previous experience in preparing you for your judicial duties? YES NO

B. What suggestions would you have for improving the orientation program? _____



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