

1990 Annual Report Federal Judicial Center



132273

1990 ANNUAL REPORT
FEDERAL JUDICIAL CENTER
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20540
1990

Board of the Federal Judicial Center

Honorable William H. Rehnquist, *Chairman*
Chief Justice of the United States

Honorable J. Clifford Wallace
Judge, U.S. Court of Appeals for the Ninth Circuit

Honorable Monroe G. McKay
Judge, U.S. Court of Appeals for the Tenth Circuit

Honorable William C. O'Kelley
Chief Judge, U.S. District Court for the Northern District of Georgia

Honorable David D. Dowd, Jr.
Judge, U.S. District Court for the Northern District of Ohio

Honorable Diana E. Murphy
Judge, U.S. District Court for the District of Minnesota

Honorable Robert E. Ginsberg
Judge, U.S. Bankruptcy Court for the Northern District of Illinois

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

1990 Annual Report Federal Judicial Center



132273

**U.S. Department of Justice
National Institute of Justice**

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this ~~copyrighted~~ material has been granted by

Federal Judicial Center

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the ~~copyright~~ owner.

Table of Contents

- Introduction 1
- About the Federal Judicial Center 3
- 1990 Activities 7
 - Education and Training 8
 - Judicial and Legal Officer Programs 9
 - Clerks' Office and Support Staff Programs 13
 - Local Training Related to Case Management 14
 - Probation and Pretrial Programs 14
 - Automation Training 15
 - Media Programs 15
 - Research 16
 - The Pretrial Stage 17
 - Trial and Post-Trial Stages 18
 - Sentencing 18
 - The Appellate Stage 19
 - Bankruptcy Courts and Procedures 19
 - Quantifying Judgeship Needs 19
 - Automated Case and Court Management 20
 - The Integrated Case Management Systems 21
 - Refinements to the Integrated Case Management Systems 22
 - Re-engineering of the Integrated Case Management Systems 22
 - Other Automation-Related Activities 23
 - Information Resources and Service Activities 24
 - Information Resources 25
 - Service Activities 25
 - Publications 27
- FJC Advisory Committees 29
- Personnel 30

Introduction

This was the year of case management. The Federal Courts Study Committee endorsed "the trend toward more vigorous case management by district judges" and encouraged "additional training of judges in appropriate techniques of case management." The Judicial Conference of the United States reaffirmed its support of active judicial case management by adopting a statement of principles in its "Program to Address the Problems of Costs and Delay in Civil Litigation and to Improve Case Management." And there was legislative interest in case management, spurred in part by the Brookings Institution study *Justice for All*, leading to the introduction of the Civil Justice Reform Act of 1990, intended to mandate case management procedures in the federal courts to reduce litigation costs and delays.

Yet case management is nothing new to the federal judiciary or the Center. Case management has been at the heart of the Center's mission since its creation in 1967. The years preceding that event had seen caseloads burgeon and their complexity increase. Voluminous antitrust litigation spurred the development of effective pretrial procedures by committees of the Judicial Conference, culminating in the preparation in 1960 of the *Handbook of Recommended Procedures for the Trial of Protracted Cases*, and demonstrated the need to prepare the judiciary for more active intervention in the management of cases. To respond to that need, the Judicial Conference initiated a series of ad hoc seminars for new judges.

Recognizing the need for a more systematic and comprehensive approach to education and research on judicial administration, Chief Justice Earl Warren, as chairman of the Judicial Conference, asked President Johnson to propose legislation creating the Federal Judicial Center. The legislation, as endorsed by the Conference, was adopted in 1967. Chief Justice Warren's motivation is reflected in his observation, made shortly after the Center's creation, that "the most important job of the courts today is not to decide what the substantive law is, but to work out ways to move the cases along and relieve court congestion."

The federal courts have done that job. As the Federal Courts Study Committee concluded: "The past two decades have seen a virtual revolution in the role of federal district judges. Their early involvement and active role in the management of litigation . . . helps explain the federal district courts' ability to keep abreast of their increased workload." The Federal Judicial Center has played a major role in stimulating that revolution.

The Center helped the federal judiciary develop the conceptual basis of case management and regularize its practice. Its seminars for newly appointed district judges—taking their cue from the call in Rule 1 of the Federal Rules of Civil Procedure for the "just, speedy, and inexpensive determination of every action"—taught that lawsuits were the business of the courts and the public as much as that of the parties and their lawyers. Center workshops introduced successive waves of judges, old and new, to such essential and now well-established management techniques as the individual assignment calendar and the setting of firm dates for cut-off of discovery and for trial.

Center research analyzed the effect of case management, providing empirical validation of such practices as early and active judicial intervention. Its research contributed to revisions of the Federal Rules of Civil Procedure intended to invigorate judicial case management. The Center was the catalyst

in the preparation of the *Manual for Complex Litigation*. And the Center played a major role in harnessing technological innovation and systems development to increase productivity in the courts.

As the federal courts enter the 1990s, case management is no longer an option. It is a necessity. Faced with an unprecedented and growing volume of increasingly complex litigation—civil and criminal—the judiciary needs to employ management as never before to make the most of its limited human and material resources. That need exists not only for judicial officers at all levels but for supporting personnel throughout the system.

To meet that need, the Center has made a renewed commitment to offer case management education and support; to provide programs and information that will assist judges and supporting personnel to meet growing responsibilities and perform increasingly complex and demanding tasks; to ensure that automation keeps pace with new technology; to pursue research that will provide information needed for effective reform and fairly assess the impact of innovation on the operation of the courts; and to further understanding of case management as the path to the “just, speedy, and inexpensive determination” of litigation.

A handwritten signature in cursive script, reading "William W. Swartz". The signature is written in black ink and features a long, sweeping horizontal line extending to the right from the end of the name.

About the Federal Judicial Center

The Federal Judicial Center is the federal courts' agency for research, systems development, and continuing education. Congress established it by statute in 1967 as a separate organization within the federal judicial system at the request of the Judicial Conference of the United States (see 28 U.S.C. §§ 620-629). Its basic policies are determined by an eight-member Board, chaired ex officio by the Chief Justice of the United States. For fiscal 1990, it was funded by a congressional appropriation of \$12,485,000 and had a permanent staff of ninety-eight employees.

Responsibilities

The Center's mandate is "to further the development and adoption of improved judicial administration" in the courts of the United States (28 U.S.C. § 620(a)). The many specific statutory duties of the Center and its Board fall into a few broad categories.

Conducting and promoting research on federal court organization, operations, and history

The Center has specific statutory charters to "conduct research and study of the operation of the courts of the United States," including "ways in which automatic data processing and systems procedures may be applied to the administration of the courts." In addition, the statute directs the Center to "stimulate and coordinate such research and study on the part of other public and private persons and agencies," including a specific mandate to "cooperate with the State Justice Institute in the establishment and coordination of research and programs concerning the administration of justice." In 1988, Congress added to these duties the responsibility to "conduct, coordinate, and encourage programs relating to the history of the judicial branch."

Conducting and promoting orientation and continuing education and training programs for federal judges, court employees, and others

The statute directs the Center to develop and conduct—and stimulate—educational programs for all judicial branch employees and for "other persons whose participation in such programs would improve the operation of the judicial branch." The statute mentions "persons serving as mediators and arbitrators" as an example of such "other persons."

Developing recommendations about the operation and study of the federal courts

The statute provides that the Center will present recommendations

- to the Judicial Conference and the courts for improvements in the administration of the federal courts in the training of their personnel, and in the management of their resources;
- to other public agencies whose programs relate to federal judicial administration on ways they can improve their programs;
- to public and private agencies for research on federal court operations.

Providing staff assistance to the Judicial Conference

The statute directs the Center to "provide staff, research, and planning assistance for the Judicial Conference of the United States and its committees."

Reporting requirements

The Center must make an annual report to the Judicial Conference. Copies of all reports and recommendations submitted to the Conference must also be sent to Congress and the Attorney General. The Center is also required to keep the judiciary committees of the House and Senate fully informed of its work.

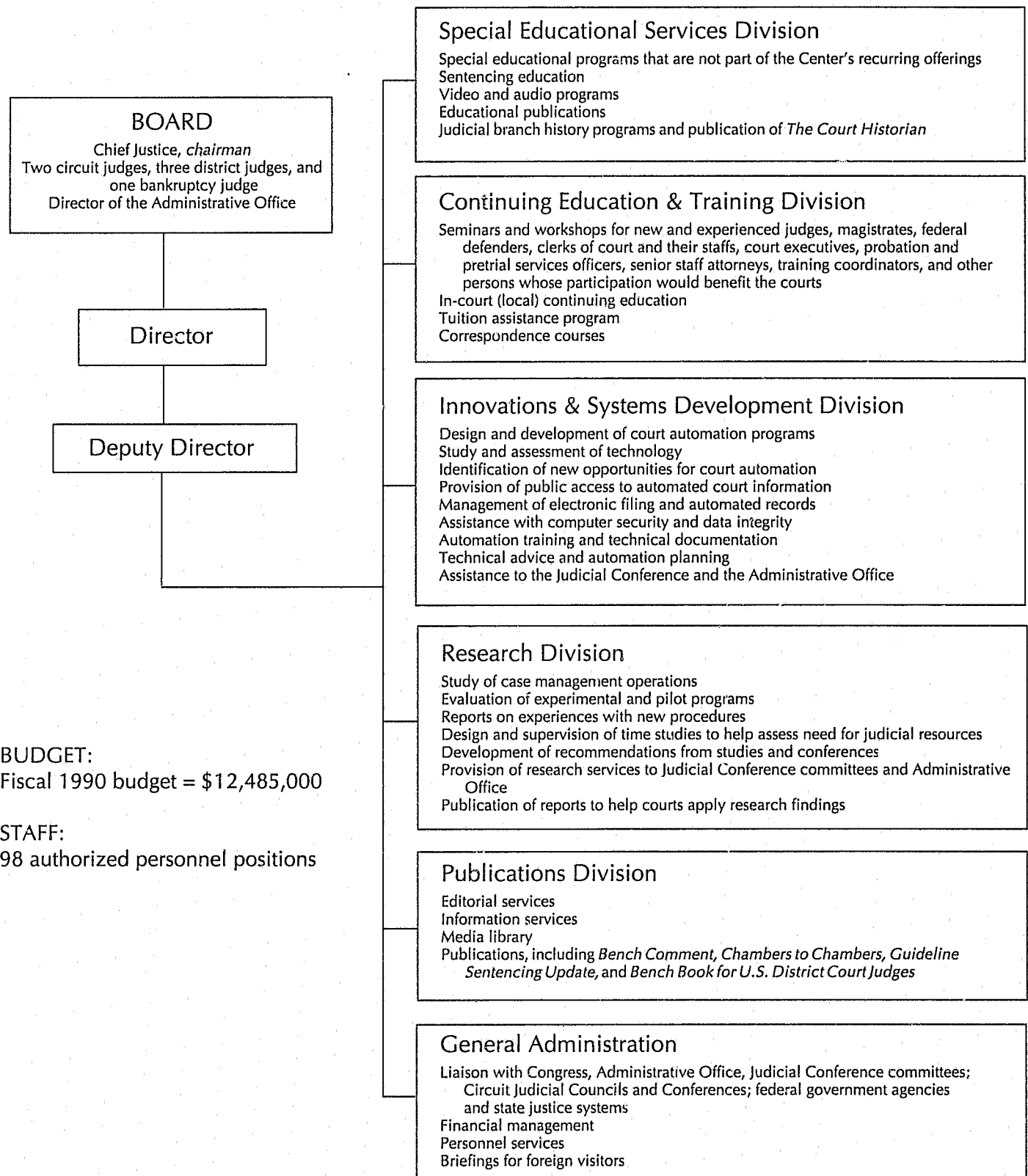
Organization

By statute, the Judicial Conference elects members of the Board of the Center for four-year, nonrenewable terms. The Chief Justice serves as permanent chair and the director of the Administrative Office of the U.S. Courts as a permanent member. In March 1990, Judge Diana E. Murphy (D. Minn.) was elected to the Board, succeeding Judge José A. Cabranes (D. Conn.), whose term expired.

The Board appoints the Center's director and deputy director; the director appoints the Center's staff. Senior Judge John C. Godbold (11th Cir.) retired as director on March 24, 1990, on reaching the statutory retirement age. Judge William W. Schwarzer (N.D. Cal.) was appointed by the Board as the sixth director of the Federal Judicial Center. Alice L. O'Donnell, director of one of the Center's divisions, retired in April after having completed fifty-three years of service to the federal government.

The internal organization of the Center is shown on page 5.

Organization of the Federal Judicial Center



Location

The Center has its headquarters in Washington, D.C., in the Dolley Madison House, which borders on Lafayette Park across from the White House. Because of the need for additional space, the Innovations and Systems Development Division, the Research Division, and parts of the Center's administrative staff and Continuing Education and Training Division are located in a separate building. Personnel of the Continuing Education and Training Division may soon move to yet another location.

The entire Center operation will be consolidated when the new judiciary office building is completed in the fall of 1992. Extensive planning is under way internally, as well as with the Administrative Office and the building architects, to coordinate the Center's space and facilities requirements in the new building.

The building that is now called Dolley Madison House was built in 1820 and purchased by President James Madison in 1828. After his death in 1836, Mrs. Madison left Montpelier, their estate in Virginia, and returned to Washington and the house. After her death in 1849, the house was in private hands until it was purchased by the government in 1940. When the Federal Judicial Center was created by statute in 1967, Dolley Madison House was selected as its location. The building was formally dedicated as Center headquarters on November 1, 1968, by Chief Justice Earl Warren.



1990 Activities

EDUCATION & TRAINING

The Center designed and conducted eighty-five workshops and seminars for over 4,000 judicial officers, court managers, and other court personnel during fiscal 1990. In addition, 300 programs were conducted in local court settings by Center-trained instructional teams and by court training coordinators working with Center support and consultation. A summary of 1990 educational programs is shown on the following page.

The Center's educational programs for judicial officers include reviews in substantive legal areas and updates on recent developments; programs for support-staff managers, supervisors, and line officers concentrate on improvement of job skills and knowledge. This year's seminars and workshops also focused on the management of litigation and judges' workloads by examining the problems created by increasing workload pressures and emphasizing the need for innovative and effective responses. Planning committees and court personnel helped the Center design programs to meet the needs of participants.

Judicial and Legal Officer Programs

Article III judges

In fiscal 1990, the Center conducted a full round of circuit workshops for judges, programs for chief district judges, orientation seminars for new appointees, and special seminars at academic and other locations. In addition to covering a wide range of subject matter, these programs examined several aspects of case management. For example,

- The second National Conference for Chief District Judges included an orientation for chief judges-to-be in addition to addressing a variety of federal judicial administration and district court management issues. The National Conference for Chief District Judges replaces the Metropolitan District Chief Judges Conference, which had its final meeting in October 1989.
- A pilot seminar on mediation skills for fifteen chief district judges, presented with the American Arbitration Association, dealt both with mediation skills and with how to implement a mediation program in a district court. Participants' assessments suggest that the program had a practical impact on their work and that more training of this kind can help the judiciary.

Seminars & Workshops

		number of seminars or workshops	number of participants	number of faculty	total of participants & faculty
Circuit and district judges	18	935	266	1,201	
Bankruptcy judges	6	383	58	441	
Magistrates	5	310	73	383	
Clerks of court and clerk's office personnel (circuit, district, bankruptcy)	18	987	210	1,197	
Probation and pretrial officers	24	861	192	1,053	
Federal public and community defender personnel	3	315	54	369	
Appellate staff attorneys	1	23	7	30	
Training coordinators	4	92	12	104	
Programs for personnel in several categories	6	168	32	200	
Total	85	4,074	904	4,978	

In-Court Training Programs

		number of seminars or workshops	number of participants	number of faculty	total of participants & faculty
Bankruptcy judges	2	35	0	35	
Clerks of court and clerk's office personnel (circuit, district, bankruptcy)	98	2,260	95	2,355	
Probation and pretrial officers and clerks	156	3,347	176	3,523	
Programs for personnel in several categories	44	1,731	43	1,774	
Total	300	7,373	314	7,687	

Total Seminars/Workshops and In-Court Training Programs 385
 Total Number of Participants in All Categories 11,447
 Total Number of Faculty 1,218

Figures are estimated through the end of the fiscal year.

- A one-week pilot skills development seminar for twenty-eight district judges with from three to five years of experience on the federal bench used Center-developed hypothetical cases and video scenarios to identify effective techniques for managing civil and criminal cases and for dealing with related problems of judicial ethics and bias in the courtroom and courthouse. A faculty of more experienced judges led the seminar. Members of the bar also participated to provide their perspectives. The success of this pilot program has laid the basis for more advanced case management education for judges beyond the orientation stage.

Judge A. David Mazzone during a discussion of criminal case management at the July 8–13 seminar in Breckenridge, Colorado



- At the workshop for judges of the Seventh Circuit, a panel consisting of a district judge, a magistrate, and a law professor led a discussion of the special procedural and practical problems involved in handling pro se litigation. A second session, led by a district judge, discussed the case- and calendar-management tools afforded a judge through automation.
- The workshop for judges of the Ninth Circuit included a segment on managing discovery. Four judicial officers and four practicing attorneys led a panel discussion on problems presented by the discovery process and effective methods of dealing with them. Participants considered these issues further in small group sessions. An optional session examined use of in-chambers computers for legal research and software designed to keep judges up to date on such matters as guideline sentencing, Ninth Circuit opinions, and docket entries.
- At the Tenth Circuit workshop, a panel of three district judges from three circuits led a discussion on abuse of the litigation process, including the judge's role in reducing and controlling the problems of counterproductive attorney behavior.

- The Center's orientation programs for new district judges emphasized the importance of effective case management in the context of introducing judges to practices and procedures they would employ from the bench. As in past offerings, case-handling skills were a primary focus of video lectures and discussion at the Center's three regional, initial orientation seminars for new appointees to the district court. At the week-long orientation seminar in Washington for newly appointed district judges, a faculty of experienced judges discussed a range of practices and techniques that they had found helpful in managing the civil and criminal litigation process. Experienced attorneys, a magistrate, and supporting court personnel participated to add their perspectives.

Newly appointed district judges considered the problems of managing civil cases at a June 1990 orientation seminar held in Washington, D.C.



- A Center program for Article III judges, held with Case Western Reserve University School of Law, included seminars on cutting-edge legal issues and panel discussions led by participating judges for law school faculty, students, and local judges and attorneys. Two sessions treated case-handling issues—the federal judge as a mediator in settlement discussions and managing complex litigation.
- At a week-long seminar for thirty Article III judges that the Center sponsored with the University of Chicago Law School, more than a dozen members of the faculty presented short courses on such subjects as the savings and loan crisis, bio-medical ethics, religion and the state, and free speech. The Center also provided funds for fifty circuit, district, and bankruptcy judges, and U.S. magistrates to attend the Harvard Law School Summer Program of Instruction for Lawyers, which presents short courses on topics drawn from the entire law school curriculum.

Bankruptcy judges

Each of the three fiscal 1990 regional workshops for bankruptcy judges included optional case-management presentations led by panels of four judges. The sessions focused on abuse of discovery and other types of litigation abuse and recommended specific solutions.

In August 1990, the Center conducted a workshop in which twenty bankruptcy judges examined the proper handling of a bankruptcy "mega case" (a large-business reorganization under Chapter 11). Participants worked with a reporter

from a law school to produce a case-management handbook to aid other judges assigned to large-business bankruptcies.

Programs on how to conduct a jury trial attracted a large number of bankruptcy judges at each of the year's regional workshops.

Magistrates

One of the year's regional workshops for magistrates included a panel of three magistrates from three different circuits who led a discussion on criminal process and procedure. The discussion focused on such topics as the Bail Reform Act, techniques for processing motions under the Speedy Trial Act, and handling discovery problems and evidentiary issues.

Another regional workshop featured a discussion on effective case-management practices in civil and criminal cases, led by a district judge who was formerly a magistrate.

At the Center's August 1990 week-long orientation seminar for newly appointed magistrates, experienced magistrates on the faculty discussed case-management practices that they had found successful.

Appellate staff attorneys

The Center's November 1989 seminar for the senior staff attorney and a supervisory staff attorney from each circuit concentrated on effective management of caseloads and staff. Topics included staff-case assignment methods, work evaluation, and review of staff attorney memoranda; handling the paper flow (i.e., memos, orders, motions, and jurisdiction, bankruptcy and sentencing appeals); and communication with judge panels.

Senior court administrators

The Center's two-week pilot Summer Institute for Senior Court Administrators concentrated on methods of enhancing leadership and organizational performance. Thirty clerks of court, chief probation and pretrial officers, and Administrative Office senior administrators—randomly selected from a pool of applicants—attended. The institute used a case-study approach, for both individual and organizational analysis.

Clerks' Office and Support Staff Programs

Effective case-management techniques, processing practices, and procedures that were drawn from the experiences of participants were reviewed and evaluated in small-group sessions at Center workshops for clerks, chief deputies, deputies-in-charge, docketing supervisors, and financial deputies. In addition, skills sessions treated subjects such as team building, effective supervision, motivation, dealing with the media, and managing change to enhance office performance, and technical sessions covered such internal matters as controls, records management, docketing procedures, and pro se litigation.

A separate "special focus" workshop on appellate court case-closing procedures helped court personnel to understand their role in the case-management

process and the relationship between the different work units, to identify and share effective case administration policies and procedures with other court personnel, and to develop better communication among court personnel for sharing technical skills, solutions to problems, and supervisory and management concerns. This in-depth review of the case-closing phase of case management provided training to clerks office staff, statisticians, and administrative analysts in their areas of specialization.

Local Training Related to Case Management

The Center provides funding and other support for local training programs developed by court training coordinators for groups of local court personnel. A number of the Center-supported training programs conducted during the fiscal year were related to case-management issues. Examples include

- an innovative program conducted by the Ninth Circuit that brought together bankruptcy judges and their courtroom deputies to share information and concerns about bankruptcy case management and procedures;
- a program to help district judges in the District of Columbia screen cases suitable for particular alternative dispute resolution techniques;
- a circuit-wide educational program for bankruptcy judges of the Seventh Circuit that included discussion of jury trials, dischargeability, and reaffirmations.

Probation and Pretrial Programs

New chief probation officers participated in a seminar on how to organize, manage, and lead their offices. It included presentations on probation's traditional investigative and offender-supervision functions, preparing for expanded automation capabilities, and developing strategic plans. Four additional seminars were offered for new and experienced supervisors. These provided skills training and suggested management tools for maximizing officers' case-handling performance.

Nearly 400 newly appointed probation and pretrial services officers, organized into ten separate classes, each received two weeks of orientation training that covered such tasks as investigating, classifying, and supervising various types of convicted offenders and defendants. Two in-service seminars concentrated on the officers' central role in the administration of the federal drug aftercare program; another seminar focused on the special management needs of pretrial cases.

The Center assisted in launching pilot programs on innovative methods for supervising offenders. Three seminars were delivered on a supervision program that provides new ways to evaluate, plan, and monitor cases. In addition, with "house arrest" being extended to more districts, a special seminar was offered on the use of electronic monitoring.

Automation Training

The Center conducted four workshops for court managers in courts implementing the Center-developed Integrated Case Management System (ICMS). ICMS, which has become an indispensable case management tool for the federal judiciary, maintains a database of all information pertaining to a case as it progresses through the court. The system has appellate, district, and bankruptcy applications.

All of the workshops were conducted in San Antonio, Texas, or Phoenix, Arizona, to allow students to use the facilities of the Computer Training Centers in those locations. The workshops were planned in conjunction with the staff of the Administrative Office and the Computer Training Centers. All workshops combined an overview of the technical aspects of automation with consideration of management concerns and issues. Topics covered included review of the significant functions of major computer components and capabilities; explanation of the background and basic features of ICMS; demonstration of the specific capabilities of ICMS; review of Administrative Office procedures and recommendations for increasing computer security; development of leadership and supervisory skills in a technical work environment; and implementation of effective strategies for maintaining employee satisfaction in an automated environment.

Media Programs

Making a wide array of media programs available to court personnel furthers the educational objectives of the Center and augments local training efforts. Media programs prepared in the Center's in-house production studio form a part of the curricula for formal workshops and in-court training programs; others provide self-education.

Center-produced video programs for use in the federal courts in fiscal 1990 include, in addition to those cited elsewhere in this report:

- a video series that can be used as (or as part of) orientation programs in the courts to introduce clerk's office personnel to the operation of the Federal Rules of Criminal Procedure as those rules affect the processing of criminal cases (this series complements the heavily used video orientation series on civil case processing produced by the Center in 1985). Similar video series for the orientation of bankruptcy and appellate court personnel, and a new civil series, are scheduled for production in fiscal 1991;
- three pilot video programs on procurement in the federal judicial branch;
- a training coordinator video program for Center use in its initial training of court training coordinators;
- a two-part BANCAP video orientation series for clerical personnel scheduled to attend the BANCAP training center in San Antonio. The video, produced at the request of the San Antonio automation training center, took the place of site visits by training center personnel.

The Center also produces occasional audio programs, such as "talking book" versions of Center publications. One such program was produced this year.

RESEARCH

Center research provides empirical analyses and descriptive reports of many aspects of the federal trial and appellate litigation process. Other Center studies assist the Judicial Conference in estimating the judiciary's resource needs.

The Pretrial Stage

Court-annexed arbitration

Many judges and lawyers believe court-annexed arbitration offers great promise for effective case management in the trial courts. The Center has completed an evaluation of mandatory programs in ten district courts. The evaluation demonstrated strong positive responses from participating judges, lawyers, arbitrators, and parties. Pursuant to 1988 legislation, ten additional courts will institute voluntary programs, which will also be studied by the Center.

Sanctioning practices

Last year, the Center reported its generally positive findings on the effects of the sanctioning provisions of Federal Rule of Civil Procedure 11, but noted continuing substantial concerns. At the request of the Advisory Committee on the Federal Rules of Civil Procedure, the Center has undertaken further study to clarify questions underlying those concerns.

Rule 12 motions

In a study undertaken for the Advisory Committee on the Federal Rules of Civil Procedure, the Center reported that use of Rule 12 to terminate cases, while not common, was frequent enough to produce observable effects.

Summary judgment

A recently completed study in six federal district courts has found that the frequency of summary judgment use in federal courts has not been affected by Supreme Court decisions that clarified standards for use of the procedure.

Litigation flow

To learn more about what factors explain why cases follow different paths and terminate at different stages of the litigative process, the Center has assembled archival data from Administrative Office records on more than 100,000 civil cases terminated during the years 1977-1987. The data will allow researchers to follow these cases from filing to disposition in the district and on through disposition of any appeals.

Mass tort litigation

The Center has for several years conducted research and conferences to gather and disseminate information on case-management methods found effective by

trial judges in asbestos cases. That work continued in fiscal 1990 in a study of the trial plans for class action treatment of personal injury asbestos litigation in the Eastern District of Texas and nationwide property damage asbestos litigation in the Eastern District of Pennsylvania.

In June 1990, the Center brought together a group of federal judges, attorneys, academicians, special masters, and state court judges to discuss future directions in handling asbestos litigation.

In June 1990, judges with heavy asbestos dockets discussed strategies to resolve these cases.



Trial and Post-Trial Stages

Court-appointed experts

Center interviews with judges suggest that they view the appointment of an expert as an unusual procedure, appropriate only when other means of addressing difficult technical issues have failed. Judges report difficulties in finding qualified experts and arranging for compensation. A forthcoming report will discuss the problems and possible solutions.

Deskbook on litigation management

The Center is working with the Administrative Office to develop a deskbook that will describe methods and techniques judges use to manage litigation, including the resolution of cases other than through adjudication. Material will be published in loose-leaf form, organized and cross-referenced for ready access, to provide judges with practical assistance in confronting management problems.

Sentencing

Pilot sentencing institute

In previous years, in cooperation with the Judicial Conference and the Department of Justice, the Center conducted the sentencing institutes authorized by 28 U.S.C. § 334. These activities were suspended in 1987 pending full implementation of guideline sentencing. In September 1990, the Center again held a pilot institute for the Fifth and Eleventh Circuits. In addition to serving the

usual goals, the Center used this institute to assess the usefulness of institutes in an era of limited judicial discretion and diminished confidence in rehabilitation programs.

"Old law" sentencing

A substantial number of defendants continue to be sentenced for offenses committed before November 1987, to which the sentencing guidelines do not apply. A revised version of *The Sentencing Options of Federal Judges*, last published in 1985, will provide an update on changes in the law applicable to those cases.

The Appellate Stage

The Sixth Circuit's pre-argument conference program and the Tenth Circuit's screening program, designed to expedite appeals, have been studied by the Center and reports on them have been completed.

Bankruptcy Courts and Procedures

Field studies on the operation of bankruptcy estate administration in the six districts exempted from the U.S. Trustee Program have been completed, and a report will be issued during 1990.

Quantifying Judgeship Needs

District court time study

This project is being conducted for the Judicial Conference Committee on Judicial Resources in order to develop "case weights," a fundamental element in determining judgeship needs. At the Committee's request, the study is being extended to provide information on death-penalty cases and on sentencing under guidelines and mandatory penalty statutes.

The Center is also designing a parallel study to survey a sample of lawyers on case-management applications in time-study cases. Among other variables, the study will examine lawyers' perceptions of the costs and benefits, and other effects associated with civil case management activity.

Bankruptcy court time study

A bankruptcy time study with goals similar to those of the district court study has been undertaken at the request of the Judicial Conference Committee on the Administration of the Bankruptcy System. Data collection in all bankruptcy courts has been completed, and a preliminary report has been delivered to the committee.

AUTOMATED CASE & COURT MANAGEMENT

Case management has always been a major goal of the Center's technological innovations and development of automated systems. In the mid-1970s, as part of the judicial branch's effort to implement the Speedy Trial Act of 1974, the Center developed a comprehensive automated system for the management of criminal cases. This system completely replaced the manual (typewritten) docketing system with an electronic docketing system, and enabled users to produce a variety of case management reports from the information entered during the docketing process.

The Integrated Case Management Systems

In the mid-1980s the Center developed a new generation of automated case management systems, the Integrated Case Management Systems (ICMS). These systems expanded the capabilities of the earlier systems and extended the scope of automated docketing to civil cases, bankruptcy cases, and cases on appeal. The systems lead deputy clerks through the docketing process, reduce clerical errors, and help to ensure the integrity of the information in the court's database. The systems collect and save important filing, scheduling, and case-status information, and can quickly produce reports that facilitate case management, such as

- reports that list all pending cases or pending motions assigned to a particular judge;
- exception reports that call attention to cases that require some action (for example, a *No Answer Report* of cases in which the defendant has failed to submit a responsive pleading, or a *Motion Aging Report* to highlight motions that have been pending beyond a specified number of days);
- statistical reports to aid in making decisions regarding case management practices (for example, reports on filing and granting of motions for extension of time, or motions to dismiss for lack of prosecution);
- ad hoc reports designed to meet the specific needs of a court (for example, a case management review report to assist a chief judge in monitoring court-wide progress toward case management goals).

ICMS also provides

- automatic production of calendars, notices, and address labels for case participants;
- quick access to all case information, enabling case managers to spend less time assembling data and more time analyzing it, dealing with problem cases, and refining case management procedures;
- public access capabilities that enable attorneys and other interested observers to track the progress of a case;
- flexibility to identify new criteria for case management and to produce case management reports keyed to these criteria.

After successfully pilot-testing ICMS, the Center transferred responsibility for implementation and support of the systems to the Administrative Office. The ICMS systems have received wide acceptance and are currently installed in more than seventy courts. Current plans call for ICMS to be made available to almost every court by the end of 1992.

Refinements to the Integrated Case Management Systems

- *PC-Based ICMS.* The original development of ICMS was undertaken using computers suitable for meeting the computation needs of mid-sized courts. To address the needs of smaller courts in a cost-effective manner, the Center converted the full-featured ICMS software to run on personal computers. Two systems, (PC)BANCAP and (PC)CIVIL, have been successfully pilot-tested in several smaller districts. These PC-based systems are now operational and have been transferred to the Administrative Office for implementation and support.
- *Public Access to Court Electronic Records (PACER).* The Center developed PACER to enable members of the public to use their own computers to view or print case information from the court's computer. The bar, the media, and other interested individuals can use standard dial-in telephone lines to access official case dockets, party indexes, and other case information. Originally available only to district courts, PACER has now been extended to bankruptcy and appellate courts.
- *Chambers Access to Selected Electronic Records (CHASER).* CHASER was developed by the Center to provide enhanced access to ICMS from in-chambers PCs. Currently operating in three pilot courts, CHASER provides in-chambers personnel with quick access to case dockets and reports residing on the clerk's office ICMS computer. Further work is now under way to improve CHASER's capability to support in-chambers case management.

Re-engineering of the Integrated Case Management Systems

As full nationwide implementation of ICMS approaches, the Center and the Administrative Office have begun development of the next generation of case management systems. Recent developments in computer technology have increased the capabilities and availability of PCs and other small but powerful microcomputers and have produced significant advances in data communications, database management systems, and system development tools. A new system, to be called the Distributed Case Management System (DCMS), is being designed to incorporate those technological advances while replicating the functions provided by the current ICMS.

This re-engineering effort was approved by the Judicial Conference Committee on Judicial Improvements and is a joint effort of the Center and the Administrative Office. The Center has completed the initial research phase of the project and is now working with the Administrative Office to re-engineer the bankruptcy (BANCAP) system. In-court pilot-testing is scheduled for completion by July 1992. The re-engineering of New AIMS and CIVIL/CRIMINAL will follow, and will be undertaken by the Administrative Office.

Other Automation-Related Activities

- *Appellate Court Electronic Services (ACES)*. ACES, currently in use in the Fourth and Ninth Circuits, allows electronic dissemination of court information (such as recently published opinions, court calendars, local rules and procedures, press releases, and general notices) to the media, bar, legal publishers, and other interested parties.
- *Electronic Submission of Case Pleadings*. An experimental system allows parties to file pleadings and other documents electronically by transmitting them directly to the court's computer in machine-readable form. While still in prototype stage, this experiment should provide information that will be useful in designing an automated records management system.
- *Automated Records Management*. Experiments are under way to evaluate two automated records management technologies: a pilot test using microfilm-jacketing equipment to film case records, and an in-house evaluation of optical disk technologies for the storage of active and archival documents. As optical-disk-based electronic storage and retrieval technologies mature, the Center will conduct in-court pilot tests to evaluate the applicability of these technologies to the court environment.
- *Bar-Coded Case File Tracking*. A bar-coded case file tracking system was developed in cooperation with the Administrative Office and installed for pilot testing in a bankruptcy court.

INFORMATION RESOURCES & SERVICE ACTIVITIES

Information Resources

As the primary source for Center publications and audiovisual programs, the Information Services Office (ISO) disseminates research reports, staff papers, audiotapes, and videotapes. During fiscal 1990, nearly 35,000 publications were sent in response to judicial and non-judicial requests from across the country and abroad. Publications relating to district or appellate court case management accounted for a substantial portion of this total. In addition, the Center responded to more than 3,500 audiovisual loan requests from federal judges, magistrates, and judicial support personnel.

The ISO maintains a specialized collection of books and journals and published and unpublished documents relating to the work of the federal courts. Drawing from these, it serves as a national clearinghouse for information on federal judicial administration and provides reference and research assistance to other components of the Center. This year, the Center answered over 500 written or telephone requests for information from libraries, government agencies, academic institutions, research organizations, bar groups, and the media.

Fiscal 1990 saw the increased application of computer technology to achieve more effective management of ISO operations. The Center's participation in the Online Center for Library Cataloging has expedited cataloging and bibliographic searching and made possible electronic transmission of inter-library loan requests. Use of computers and related software has resulted in more efficient indexing and document retrieval and an improved inventory control system for Center publications.

Service Activities

Briefings for foreign visitors

Center staff conducted briefings on the work of the Center for individuals and groups of visitors from more than twenty countries during fiscal 1990. In May, a group of judges and judicial administrators from the Soviet Union heard presentations from the director of the Center and from senior staff on the Center's education and training, automation, and information services activities.

State-federal judicial councils

The Center provides funding to enable federal judges to attend state-federal judicial councils. Advice on the creation and operation of judicial councils is also available on request.

Supreme Court Opinion Network Technical Committee

Center staff members served as technical advisers to the advisory committee considering the electronic dissemination of Supreme Court opinions in machine-readable form.

Anglo-American Exchange

At the request of Justice Sandra Day O'Connor, the Center arranged the United States portion of the Anglo-American Exchange on Civil Case Management, a week-long seminar for a group of American and British lawyers and judges.

Judicial Conference of the United States

Center staff provide research and information assistance to Judicial Conference committees. Major assistance in 1990 was provided to

- the Criminal Law and Probation Administration Committee in developing proposed revisions to guidelines to meet concerns expressed by federal judges;
- the Judicial Improvements Committee in evaluating videotape as the medium for creating trial records and on techniques for providing court interpreter services by telephone from remote locations; and by participating in the Ad Hoc Committee on Automation Staffing, a body created by the Committee on Judicial Improvements to recommend organizational structures and staffing guidelines necessary to support decentralized automation;
- the Bicentennial Committee by preparing a pamphlet on the 1789 Judiciary Act for distribution to the courts through the Administrative Office and by providing assistance for its history research grant program;
- the Federal Courts Study Committee by providing assistance on various research inquiries as well as substantial assistance in the preparation of the Committee's final report;
- the Committee on Judicial Resources by developing an improved case weighting system;
- the Committee on the Operation of the Bankruptcy System by conducting the bankruptcy time study;
- the Advisory Committee on Civil Rules by conducting the study of Rule 11 sanctions procedures and effects.

Administrative Office of the U.S. Courts

The Center produced a video program for the Administrative Office on development of staffing formulas. The video program, released in the summer of 1990, was designed to explain the current project to personnel in the field as well as to policy makers.

Federal Judicial History Program

Started in 1989, the Center's Federal Judicial History Program developed a newsletter and "starter kits" for courts wishing to launch court history programs. The program has also been developing catalogs of federal judicial history resources such as court records, manuscript collections, and oral histories.

Federal Judicial Center Foundation

The Federal Judicial Center Foundation is a private, non-profit corporation established by Congress in 1988 to receive gifts made to support the work of the Center. The Foundation is governed by a seven-person Board, whose members are appointed by the Chief Justice of the United States, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives. No member of the Board may be a judge. The Center provides staff assistance to the Foundation, as authorized by statute.

The following persons compose the Foundation's Board:

Philip W. Tone, Esq., *Chair*

Robert S. Banks, Esq.

E. William Crotty, Esq.

Erwin N. Griswold, Esq.

Laurie L. Michel, Esq.

Richard M. Rosenbaum, Esq.

Benjamin L. Zelenko, Esq.

The Center has identified several projects that would be advanced through the availability of non-appropriated funds received by the Foundation. The Foundation expects to contact private foundations to inform them of the Foundation's existence and purpose and to describe uses that the Center could make of non-appropriated funds.

At the request of the Center Board, the Foundation has agreed to accept a gift from the Judicial Fellows Commission to be used for the support of the Judicial Fellows Program. The Program provides one-year fellowships with the Supreme Court, the Administrative Office, and the Center to individuals selected for their potential to contribute to judicial administration. Funds donated by the Commission will be deposited in a separate Treasury account and disbursed by the Center's director for the support of the Program.

Publications

The Center publishes a variety of educational and research reports. The following publications were either in production or released in fiscal 1990.

Copyright Law by Professor Robert A. Gorman (1990)

Court-Annexed Arbitration in Ten District Courts by Barbara Meierhoefer (1990)

Creating the Federal Judicial System by Russell R. Wheeler and Cynthia Harrison (1989)

Empirical Research and the Politics of Judicial Administration: Creating the Federal Judicial Center by Russell R. Wheeler (1990)

The Federal Appellate Judiciary in the 21st Century edited by Cynthia Harrison and Russell R. Wheeler (1990)

The Pre-Argument Conference Program in the Sixth Circuit Court of Appeals by James B. Eaglin (1990)

A Primer on the Jurisdiction of the U.S. Courts of Appeals by Professor Thomas E. Baker (1990)

The Role of Staff Attorneys and Face-to-Face Conferencing in Non-Argument Decisionmaking by Donna Stienstra and Joe Cecil (1990)

Updated sections of the *Bench Book for United States District Court Judges*

The second revision of the *Deskbook for Chief Judges of the United States District Courts* is currently in production and will be published at the end of calendar 1990. The *Deskbook* provides chief judges with basic information on their management roles and responsibilities.

Judicial writing manual

The Center is working with a distinguished board of editors to prepare a manual that will identify elements of good opinion writing and present them in a way that will be helpful to judges and law clerks. The manual embodies suggestions from a number of experienced judges on their approaches to writing.

Legal monographs

The Center has produced a series of monographs with bibliographies designed specifically to provide federal judges with quick overviews on federal legal subjects. Publications on securities and bankruptcy law are scheduled for release in fiscal 1991, joining existing titles on copyright, employment discrimination, immigration, and patent law.

Periodicals

On a periodic basis, the Center distributes the following publications to various audiences in the judiciary.

Bench Comment—advisories on recent appellate trends in civil and criminal procedure

Chambers to Chambers—descriptions of case or chambers management techniques (these are being incorporated into the deskbook on litigation management described on p. 18 of this report)

The Court Historian—an occasional newsletter providing information on judicial history resources and programs in the district and circuit courts

Guideline Sentencing Update—summaries of recent decisions interpreting the Sentencing Reform Acts and Sentencing Guidelines

What's Happening—a newsletter for the Center's local training coordinators in all circuits and districts

The Third Branch—formerly published by the Center, this monthly newsletter is now being published by the Office of Legislative and Public Affairs of the Administrative Office.

FJC Advisory Committees

The Center calls on advisory committees for advice and guidance when preparing educational programs and publications and gratefully acknowledges the assistance they provided during fiscal 1990.

COMMITTEE ON APPELLATE EDUCATIONAL PROGRAMS

Judge James C. Hill (11th Cir.), *Chair*
Judge Richard D. Cudahy (7th Cir.)
Judge David A. Nelson (6th Cir.)
Judge Dorothy W. Nelson (9th Cir.)

COMMITTEE ON BANKRUPTCY EDUCATION

Bankruptcy Judge Robert E. Ginsberg (N.D. Ill.), *Chair*
District Judge Alice M. Batchelder (N.D. Ohio)
Chief Bankruptcy Judge Glen E. Clark (D. Utah)
Chief Bankruptcy Judge Robert F. Hershner, Jr. (M.D. Ga.)
Chief Bankruptcy Judge Lloyd King (N.D. Cal.)
Professor Elizabeth Warren (University of Pennsylvania Law School)
Mr. Francis F. Szczebak (Administrative Office of the U.S. Courts) *ex officio*

COMMITTEE ON THE BENCH BOOK FOR U.S. DISTRICT COURT JUDGES

Judge Wm. Terrell Hodges (M.D. Fla.), *Chair*
Judge William B. Enright (S.D. Cal.)
Chief Judge John F. Grady (N.D. Ill.)
Judge A. David Mazzone (D. Mass.)
Judge Aubrey E. Robinson, Jr. (D.D.C.)

COMMITTEE ON DISTRICT JUDGE EDUCATION

Judge Roger G. Strand (D. Ariz.), *Chair*
Chief Judge Alexander Harvey II (D. Md.)
Judge Maryanne Trump Barry (D.N.J.)
Judge J. Owen Forrester (N.D. Ga.)
Judge Frank J. Polozola (M.D. La.)

ADVISORY COMMITTEE FOR FJC HISTORY PROGRAM

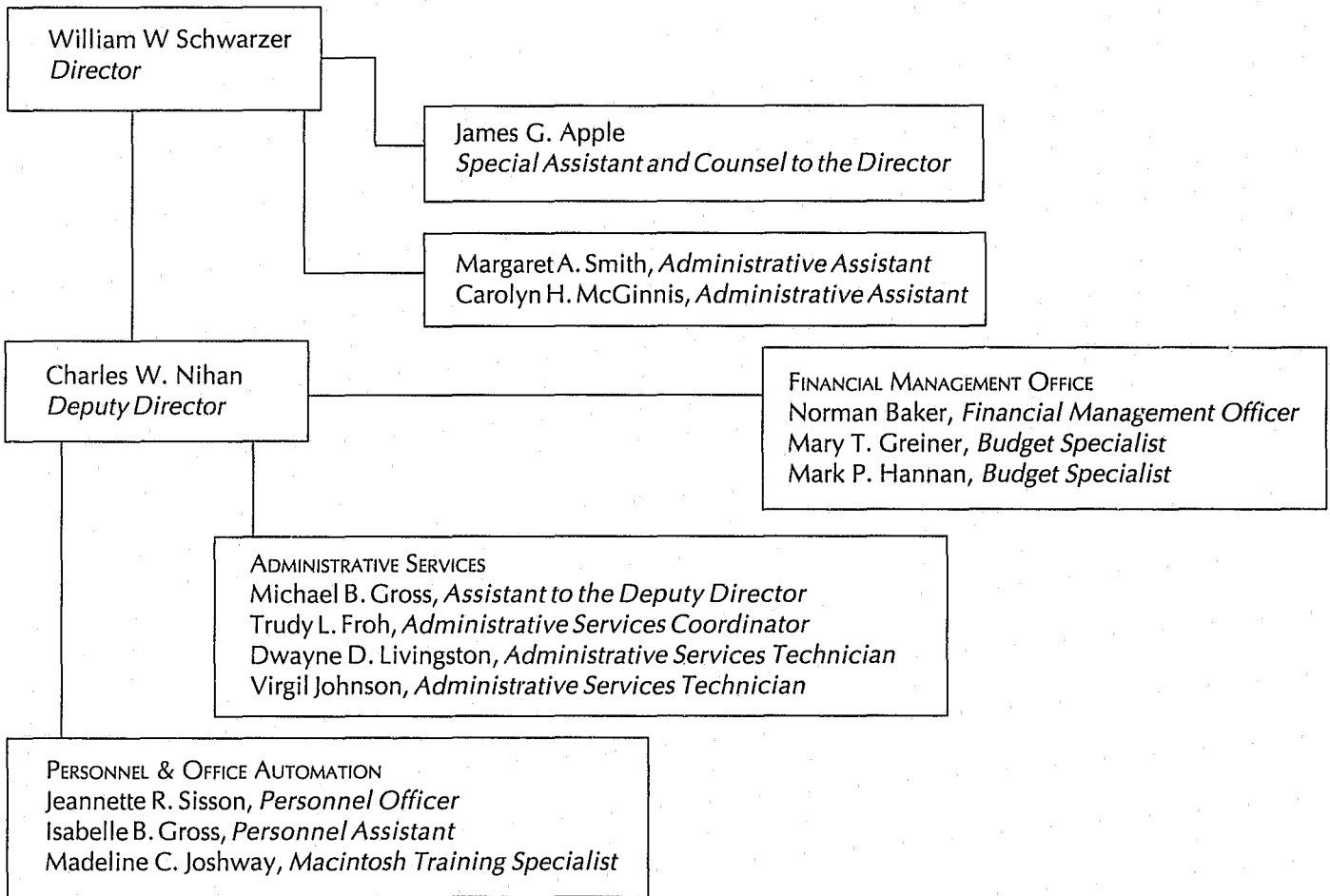
Chief Judge William C. O'Kelley (N.D. Ga.)
Judge Pierre N. Leval (S.D.N.Y.)
Dr. Richard A. Baker (Historian of the Senate)
Professor Peter Fish (Duke University)
Professor Kermit L. Hall (University of Florida)
Professor J. Woodford Howard (Johns Hopkins University)
Mr. Michael Kunz (E.D. Pa.)
Mr. R. Michael McReynolds (National Archives)
Mr. Chet Orloff (9th Cir. Judicial History Society)
Professor Mary K. B. Tachau (University of Louisville)

JUDICIAL WRITING MANUAL BOARD OF EDITORS

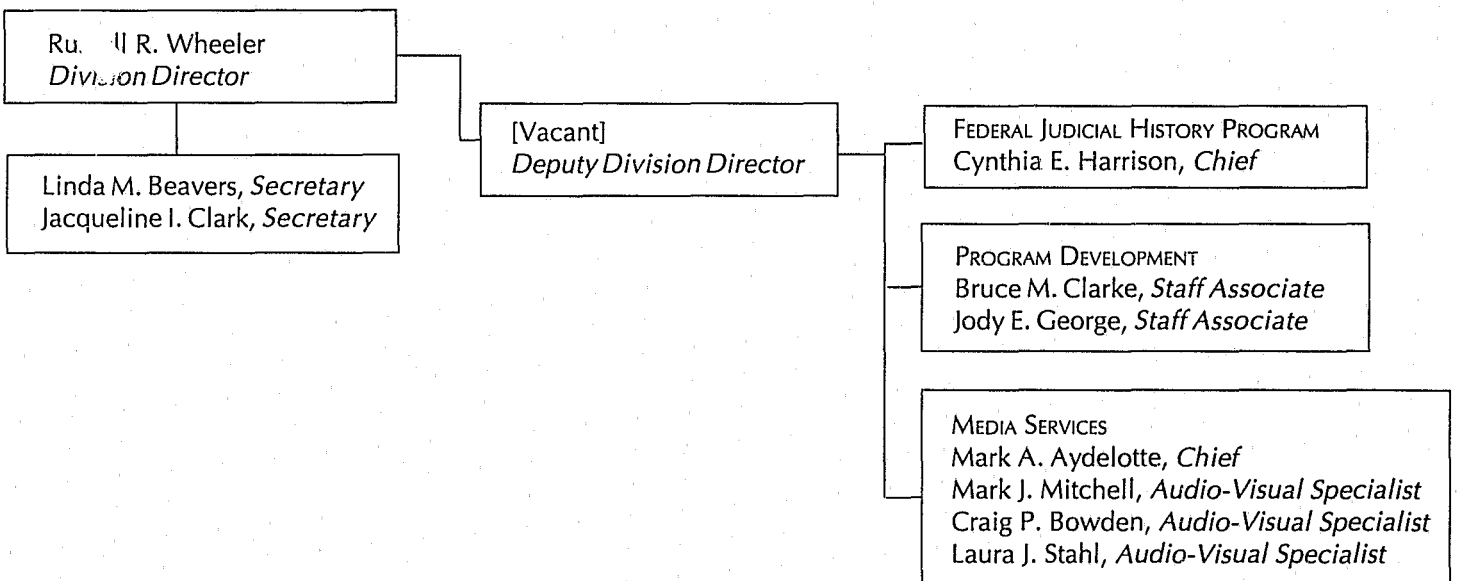
Judge Alvin B. Rubin (5th Cir.), *Chair*
Judge Wilfred Feinberg (2d Cir.)
Judge John C. Godbold (11th Cir.)
Judge J. Dickson Phillips, Jr. (4th Cir.)
Judge J. Clifford Wallace (9th Cir.)
Chief Judge Patricia M. Wald (D.C. Cir.)
Judge Louis H. Pollak (E.D. Pa.)
Professor A. Leo Levin (University of Pennsylvania Law School)
Professor Paul J. Mishkin (University of California at Berkeley School of Law)
Mr. Stephen J. Wermiel (The Wall Street Journal)

Personnel

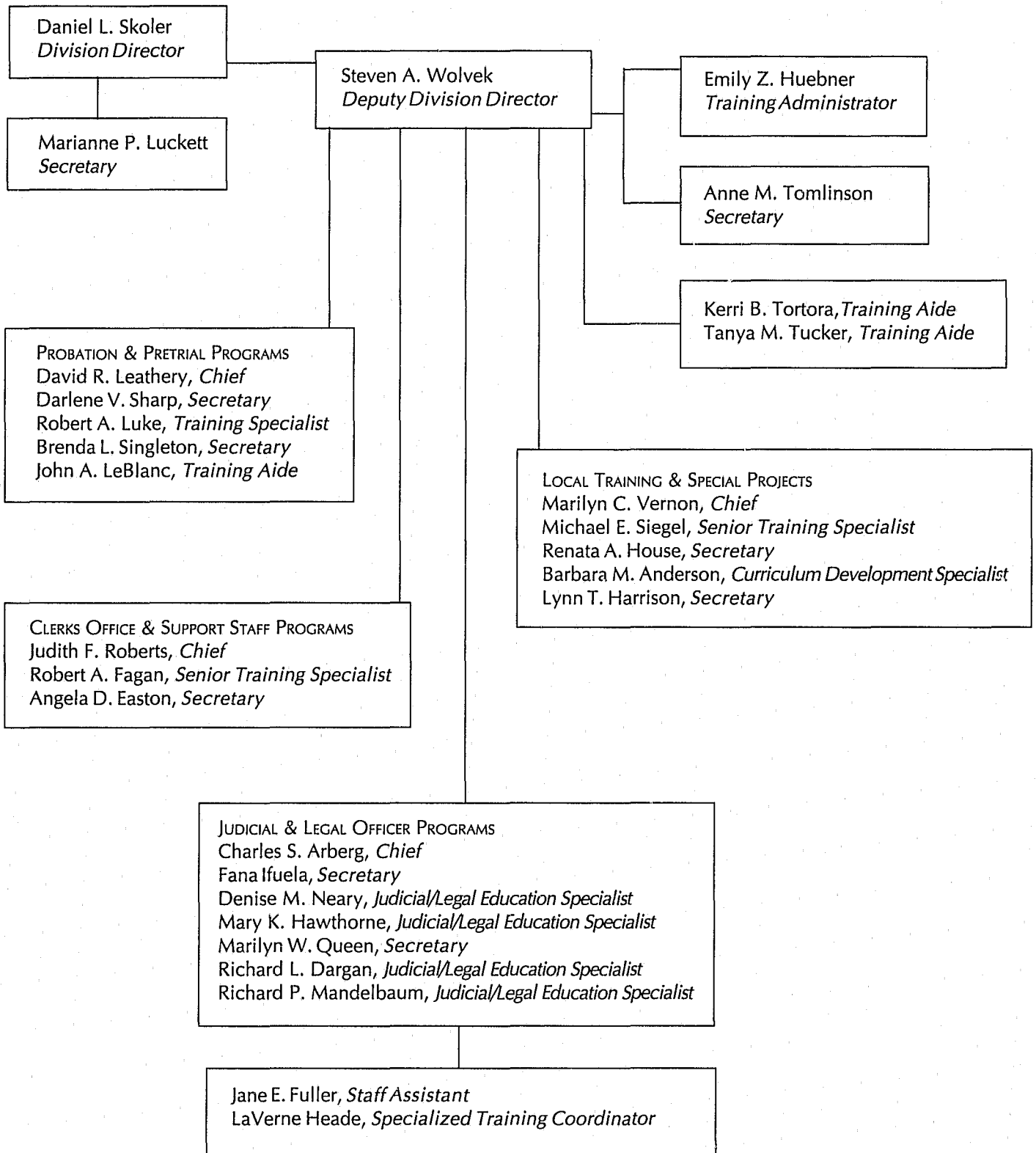
General Administration



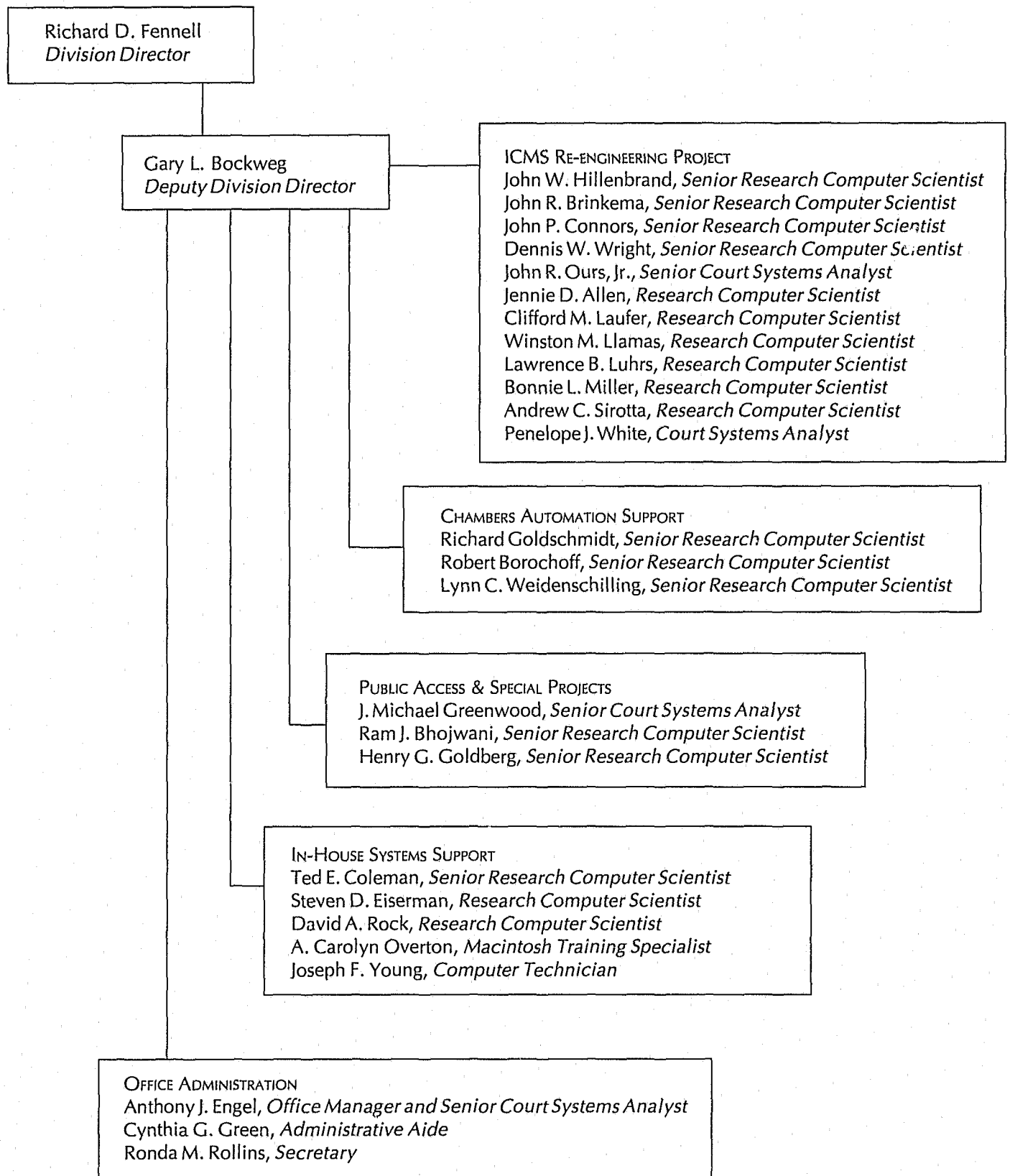
Division of Special Educational Services



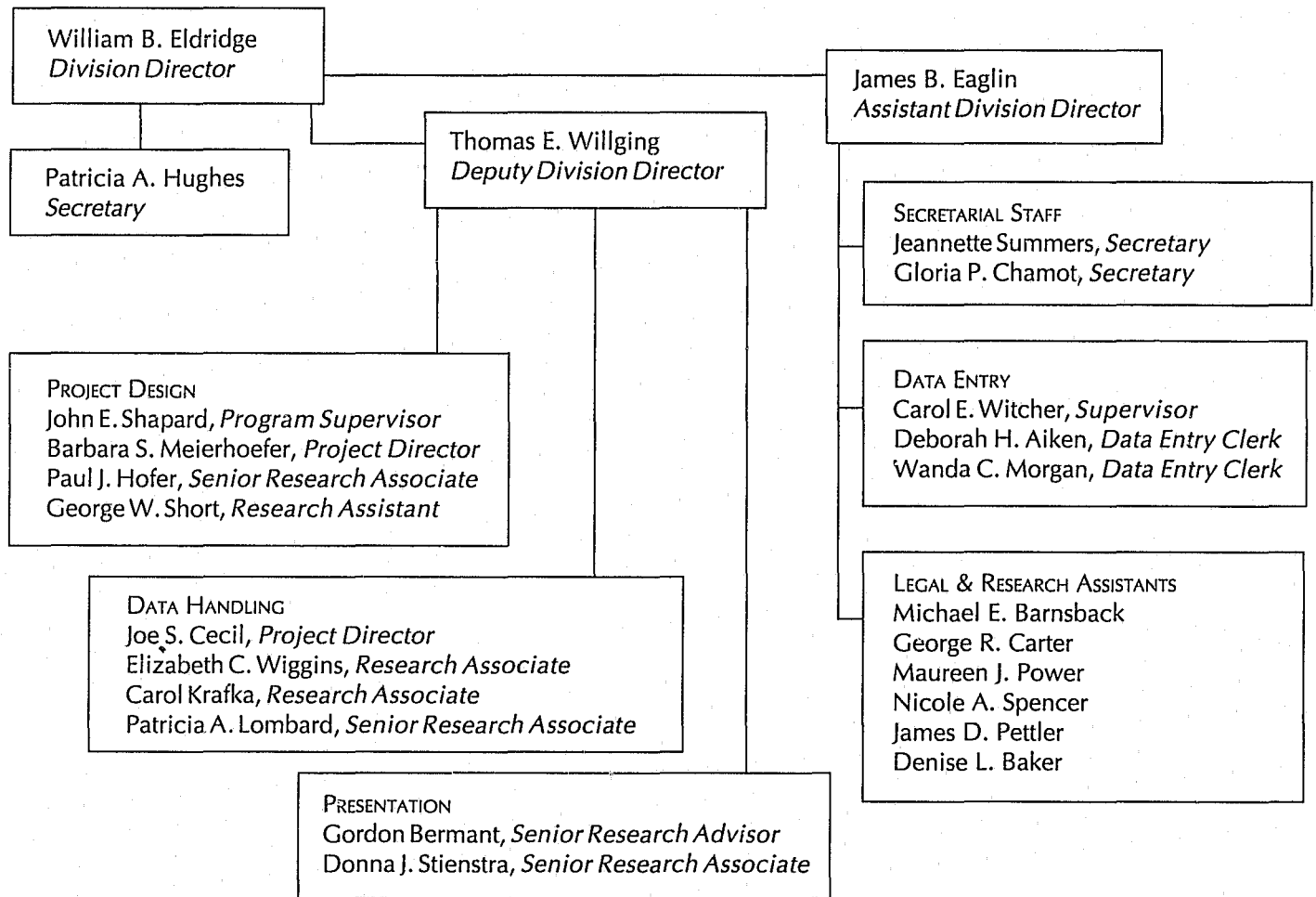
Division of Continuing Education & Training



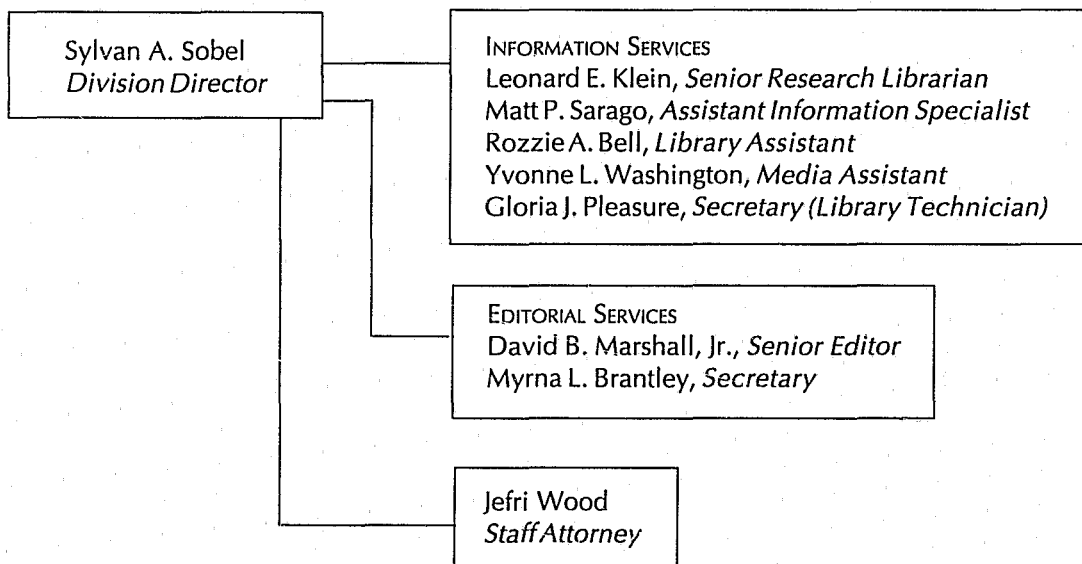
Division of Innovations & Systems Development

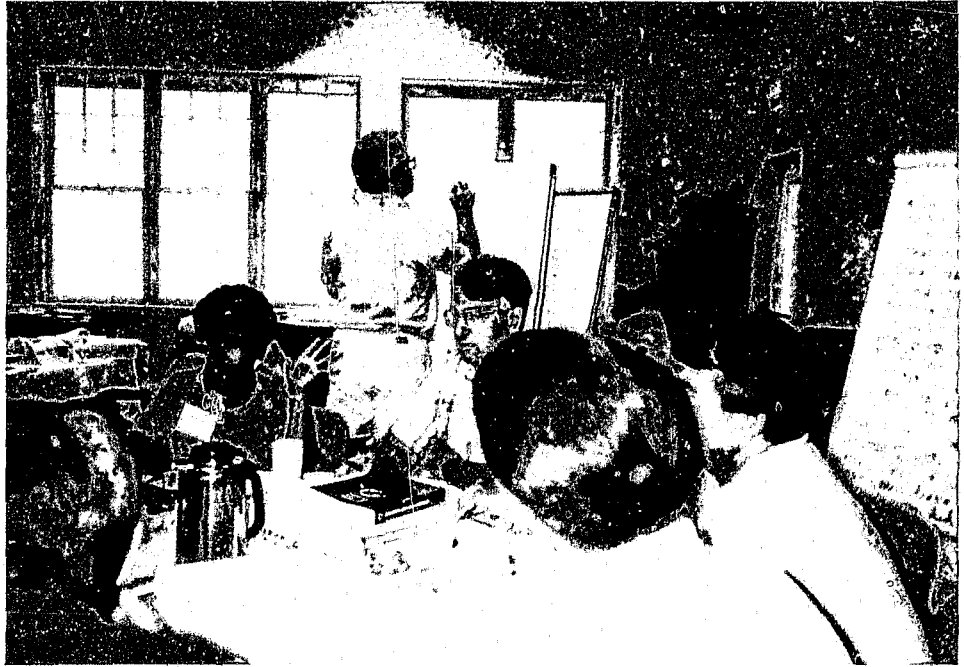


Research Division



Publications Division





The Federal Judicial Center is directed by statute to develop and conduct (and to stimulate) educational programs for all judicial branch employees and for "other persons whose participation in such programs would improve the operation of the judicial branch." In fiscal 1990 the Center conducted 85 seminars and workshops for over 4,000 judicial personnel (see page 10).





Judge William W Schwarzer, FJC Director (left) and Judge John C. Godbold, FJC Director Emeritus, congratulate Ms. Alice L. O'Donnell at a ceremony honoring her years of service to the judiciary and the Federal Judicial Center.

Past Directors of the Federal Judicial Center

Honorable Tom C. Clark
Associate Justice (retired), U.S. Supreme Court
March 27, 1968, to September 23, 1969

Honorable Alfred P. Murrah
Senior Judge, U.S. Court of Appeals for the Tenth Circuit
May 1, 1970, to October 27, 1974

Honorable Walter E. Hoffman, Director Emeritus
Senior Judge, U.S. District Court for the Eastern District of Virginia
October 27, 1974, to July 17, 1977

Honorable A. Leo Levin, Director Emeritus
Meltzer Professor, University of Pennsylvania Law School
July 18, 1977, to July 31, 1987

Honorable John C. Godbold, Director Emeritus
Senior Judge, U.S. Court of Appeals for the Eleventh Circuit
August 1, 1987, to March 24, 1990