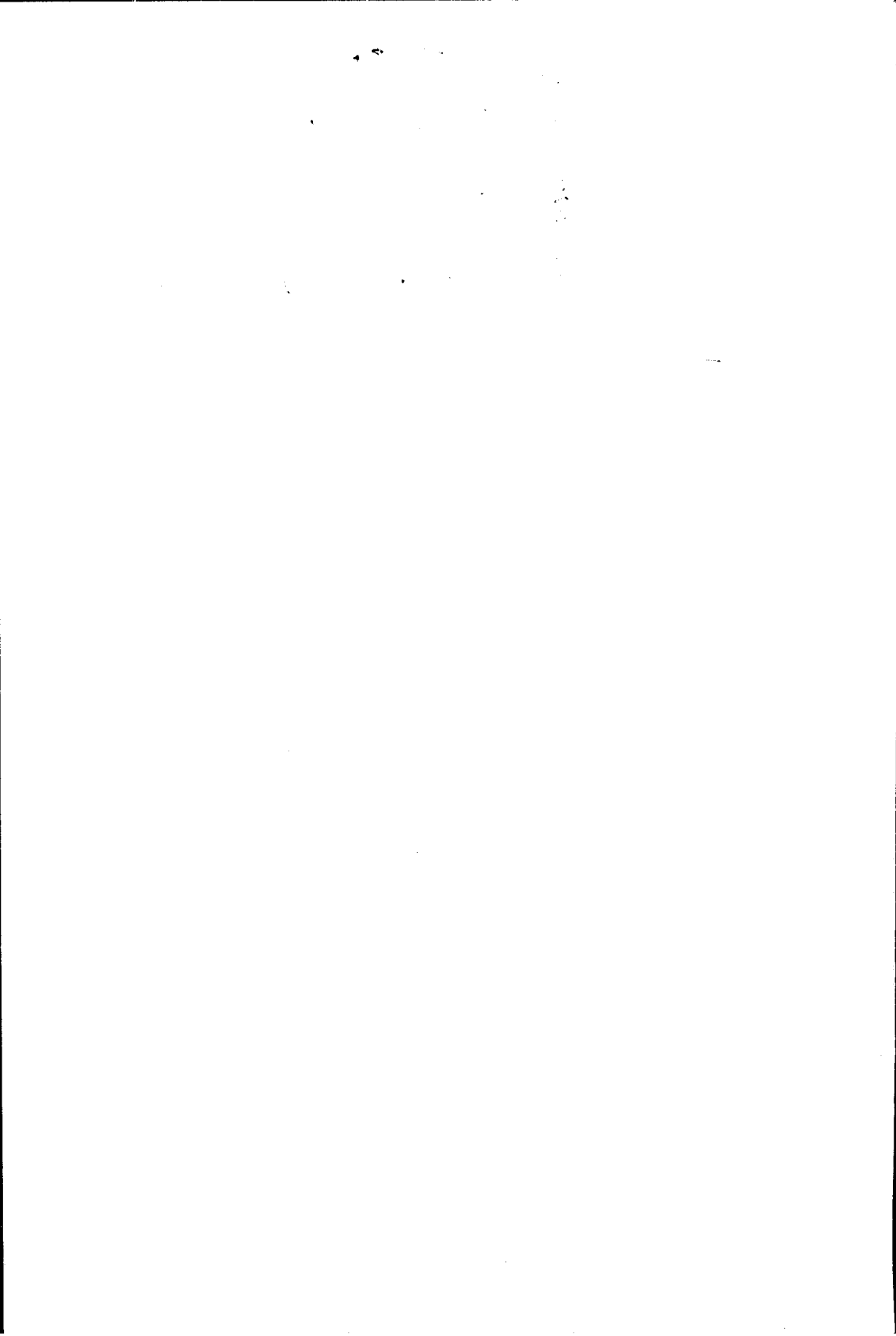


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# Judicial Center Annual Report

# 178



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**FEDERAL JUDICIAL CENTER**



# FEDERAL JUDICIAL CENTER

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THE FEDERAL JUDICIAL CENTER

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August 21, 1978

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

RE: 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 U.S.C. § 623, I am again honored to submit herewith the Center's annual report for fiscal year 1978.

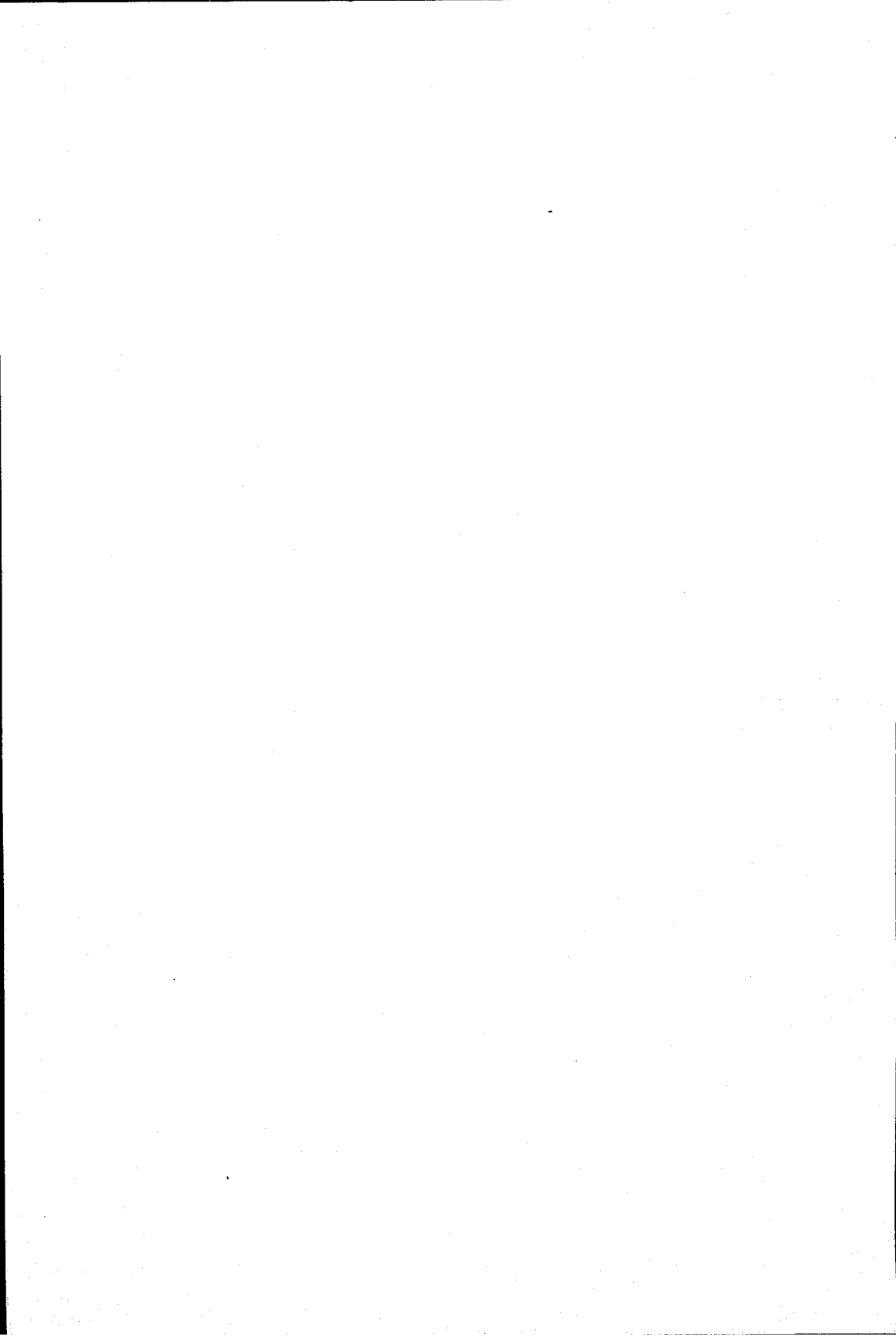
This report summarizes our activities since the last annual report and describes the work projected through September 30, 1978, the formal end of the fiscal year. Further details on any facet of our programs will, of course, be made available to you on request.

The submission of this report provides a fitting occasion to acknowledge the debt of gratitude that the Center owes to the Congress for its interest in and support of our work. We are particularly indebted to the Judicial Conference and its committees for stimulus, guidance, and sustained interest in the programs of the Center. Without the active participation of the Conference, and indeed of federal judges generally, we could not fulfill our mission. Finally, we would be remiss if we did not record the gratitude of the entire Center staff to the Center's Board. We are the beneficiaries of the active participation of the Chief Justice, chairman of that Board, in every phase of the Center's activities and of the contribution of the other members of the Board, each of whom has participated actively in various aspects of our work.

We count it a privilege to be of service to the federal judiciary. Be assured that in the next year we will continue our efforts with no less dedication.

Respectfully submitted,

  
A. Leo Levin





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## INTRODUCTION

This annual report, submitted as directed by statute, describes the work of the Federal Judicial Center in fiscal 1978, the Center's tenth year as the research, development, and training arm of the federal courts. The individual projects described herein may appear to be concerned with detail, with the efficacy of techniques and the evaluation of mechanisms, with incremental change in our educational program, and with the laborious development of management information systems, many in their preliminary phases. All this is appropriate, indeed inevitable, in an annual report designed to focus on the events of a single fiscal year. None of this, however, should cause us to lose sight of the larger ends that the Center was created to serve. We remain firm in our conviction that the Center's statutory mission of "improved judicial administration in the courts of the United States" reflects a concern for both actual and would-be litigants and for the public, for whom the courts exist. However much the discrete activities of the Center's divisions may appear to be concerned with the mundane, we remain mindful of and dedicated to that basic mission. Each of the Center's projects described in this report should be viewed not only in terms of its specific objective, but as a contribution to fulfilling the congressional mandate and the larger concern it reflects.

Some themes are persevering. When the Center began operations ten years ago, there was widespread and genuine concern that without sophisticated techniques of court management and a better understanding of the dynamics of the federal judicial process, the federal courts would be unable to do justice without delay. That concern has not abated. The amount and complexity of federal judicial business continues to outstrip available resources. Federal judges have responded to the decade's staggering increase in case load with a dramatic and selfless increase in productivity. It can be persuasively argued—and we would like to believe—that the Center's programs of education, research, and systems development have helped the

judges; but no one would deny that primary credit for increased judicial productivity must go to the judges themselves.

Unfortunately, the imbalance between the courts' resources and the past decade's demands on them cannot be regarded as a temporary aberration that, once rectified, will never return. (This is not to deny, as last year's annual report observed, that the "Omnibus Judgeship Bill, currently pending in the Congress, promises long-needed relief through a substantial increase in the number of federal judges. . . .") Unfilled vacancies, and new tasks that are assigned to and assumed by the judiciary before additional resources are provided, are persevering patterns.

In light of these conditions, some might be tempted to view the major task of a research and development agency within a court system as simply to focus on ways for courts to meet their minimal obligations with whatever resources are at hand. In our view, this is too narrow a perception. Whatever the available resources, the ultimate test of an effective judicial system is not the number of cases terminated, but instead, whether the courts serve the litigants and the country in such a way that justice in fullest measure is not only done, but is seen to be done. At the same time, we cannot fault an understandable emphasis on case dispositions, for a court cannot be regarded as doing justice of any kind in a case that remains on its docket, unresolved. These propositions may be self-evident, but at times there is value in reiterating the obvious.

Many of the projects described in this report continue work reported in earlier years, but there is also much new activity, undertaken to meet new and newly perceived needs and conditions in the federal judiciary. Moreover, just as what is reported here builds, to a degree, on the work of previous years, so too this report is in some sense merely prefatory to next year's activity.

Courtran, the multipurpose computerized system the Center is developing for both court and case management and research, serves as an example. This report describes fiscal 1978's efforts to refine the automated Criminal Case-Flow Management System now operating experimentally in ten district courts, as well as the steps taken to build the civil case-flow system into the national network, and to complete the functional description and design of the Appellate Information Management

System. During the next year, major expansion of the system's pilot operations in all of these applications is planned. The test of Courtran is its value in the administration of justice, and the comments of judges convince us that Courtran is passing the test.

A matter of intense current public and professional concern is the cost and complexity of federal civil litigation; moreover, these are costs that are typically absorbed, in the ultimate, by the general public. The Center's report on discovery activity, issued this year, analyzed a sample of more than three thousand terminated cases with more than seven thousand docketed discovery requests. The researchers did not find that concern over discovery was necessarily unfounded or understated, but simply that the object of this concern is more complex than some might have believed solely on the basis of personal experience. The report's major finding—that discovery activity is not extensive in more than 95 percent of the cases—suggests the focus that reform efforts might take, and calls for further analysis to understand the nature of the activity that is taking place. Indeed, the Center has already begun, through a series of case studies, to focus on the “pathology”: situations in which the system is not working well. On further examination spurred by the Center's findings, lawyers are confirming the relatively low incidence of cases with massive discovery. This phenomenon illustrates that the purpose of empirical research is not to validate common impressions of what is happening in the world but to inform, and if the data so indicate, to challenge, that sense.

The Center's research in support of the Judicial Conference Committee to Consider Standards for Admission to Practice in the Federal Courts explored judges' and lawyers' perceptions of the extent of inadequate trial and appellate advocacy, the seriousness of the problem, and its likely consequences. At the trial level, as the judges see it, the major consequences of inadequate courtroom performance by lawyers is the failure to fully protect the clients' interests. The report to the Devitt committee also illustrates a critical ingredient of Center research: the splendid cooperation of the federal judges themselves. Judges returned questionnaires evaluating lawyers' performances at rates of more than 80 percent, well above what is considered highly acceptable in much survey research.

At the request of the courts involved and of the Department of Justice, the Center is evaluating experimental civil arbitration rules in three district courts. The value of this study will be in the analysis it can offer to those who seek an honest appraisal of the dynamics and the effects of this widely praised alternative to litigation. In at least one of the three courts, the Center will conduct a controlled experiment. Indeed, the Center's research this year and in the future will emphasize the use of controlled experimentation as the most powerful analytical tool for assessing the effect of innovations. The evaluation of the Seventh Circuit's experiment with a variety of appellate preargument case management devices will yield similarly helpful data. The Center's newly appointed Advisory Committee on Experimentation in the Law is studying the legal and moral implications of controlled experimentation in the judicial environment.

The Center's educational services range from its well-known orientation seminars for newly appointed district judges to a rich variety of local training activities, correspondence courses, and other opportunities for specialized education. In this fiscal year, more than six thousand persons—over half the individuals in the federal judicial system—were served by one or more of these programs of continuing education.

It bears some repetition that we recognize that the Center's programs—some quite modest, others of relatively major proportions—must ultimately be judged against a single standard: their contribution to a court system that is not only efficient and economical, but true to the basic mission of the third branch of government.

## **I. TRIAL COURT PROJECTS**

In terms of volume and in terms of direct impact on litigants, the district courts are the heart of the federal judicial system. The broad framework for the conduct of litigation in these courts is set at the national level, and within that framework, there are wide variations among courts. How litigation is conducted in the federal trial courts can have a substantial impact on the costs of litigation, the time required to dispose of cases and, indeed, the quality of justice. For these reasons, much of the Center's work has been concerned with analyzing precisely how litigation is conducted and with what consequences. In the past year, the Center published two major volumes in its continuing District Court Studies Project and undertook a wide-ranging set of additional projects that focus on complex civil litigation and its escalating costs. These, as well as other major Center trial court projects, are described below. Work on sentencing and probation are treated in the next section.

### **A. District Court Studies Project**

The multifaceted District Court Studies Project, undertaken several years ago, represents a comprehensive effort to determine the case and court management practices characterizing courts that dispose of their dockets in a particularly expeditious and productive fashion. Six metropolitan courts were visited, their procedures observed, and the judges and most supporting personnel were interviewed. To the information gathered on these visits was added a massive data base obtained from civil docket files, and the project visits were extended to four smaller courts. All these elements of the project have provided a broad-based analysis of federal practice and procedure, analyzed through new empirical information on the actual results of alternative approaches.

The first of the project's three major reports was published

in December 1977. *Case Management and Court Management in United States District Courts* deals with the management of civil and criminal cases and makes dozens of specific recommendations on case management, the effective use of supporting staff, the governance of trial courts, and other related topics.

*Judicial Controls and the Civil Litigative Process: Discovery*, published and distributed in the summer of 1978, focuses primarily on the need for and influence of discovery time controls. It reports that the discovery provisions in the Federal Rules of Civil Procedure, in and of themselves, ensure neither the prompt initiation nor the completion of discovery. To determine whether discovery delay can be minimized by the judicial imposition of time control procedures, particularly discovery cutoff dates, the authors compared the elapsed time for discovery and case disposition in those courts using strong control procedures with that in courts using partial or no controls. Judges and courts using strong control procedures obtained substantially shorter discovery and disposition times with no perceptible diminution in the amount of discovery. Based on this empirical information, the report proposes a model discovery control system and offers alternative methods of implementing controls over the civil docket.

*Judicial Controls and the Civil Litigative Process: Motions* is currently being completed. It presents empirical information on civil motions practice in the six metropolitan courts. Several aspects of motions were studied, including incidence, purpose, outcome, and processing time. This descriptive information should be useful to judges and court administrators in establishing the most effective procedures for handling motions.

A report on civil litigation in smaller federal district courts complements the original project report with a summary of data gathered from four courts of four judges or fewer. In the course of the work, several additional reports on the operation of individual courts were prepared and submitted to these courts for their internal use.

## **B. Further Research on Complex Civil Litigation**

Civil litigation remains a subject of substantial concern to the federal judiciary and, consequently, remains a high priority on the research agenda of the Center. Prior work has examined



various management strategies employed in district courts to improve and expedite case processing. These overview studies are now being supplemented by a number of discrete inquiries focusing on various facets of civil litigation in which additional information promises to aid the courts through clearer definition of problem areas, assessment of available means to deal with problems, and identification of areas in which new or expanded procedures are needed.

This work is of particular importance, since the costs of federal civil litigation and the time consumed by it—perennial objects of concern—have recently come to dominate a good deal of bench, bar, and public attention. Dissatisfaction with current pretrial practices was a major theme, for example, at the so-called Pound Revisited Conference in 1976; since then, various groups have proposed changes in the federal rules designed to reduce excessive costs and simplify complex litigation.

The current projects fall roughly into four categories. First are two series of case studies of actual lawsuits in which discovery activity was relatively extensive or onerous. Second, the Center has undertaken a series of studies to learn more about attorneys' fees and costs of litigation. These include a fairly extensive analysis of factors controlling attorneys' fees awarded in class actions, a systematic review of state and federal laws governing attorneys' fees, and research to gain baseline data on the so-called national practice phenomenon. Third, the Center has undertaken several projects to learn more about the use of sanctions, suggested by many as the key to curbing abuse. Finally, surveys of the professional and semipopular literature have provided useful information on the specific complaints lodged against the operation of discovery activity in the federal courts. Taken together, these projects should shed light on what is actually happening in federal civil litigation: where the procedures seem to be working to general satisfaction, where they are not, and where there may be a need for further research in support of policy reconsideration.

### **C. Evaluation of Local Arbitration Rules**

Local rules requiring nonbinding arbitration in certain types of civil cases were adopted this year in the Eastern District of

Pennsylvania, the Northern District of California, and the District of Connecticut. The stated objectives are to speed the disposition of those civil cases and to reduce the burden on the courts. Under the rules, cases are submitted to lawyer arbitrators (usually panels of three) for decision, although decision does not prevent the parties from seeking a trial de novo in district court. The Center, at the request of the Department of Justice and of the three courts, has undertaken an evaluation of the effects of these rules.

The two-year evaluation will examine the processing and disposition of all cases subject to the arbitration rules in the three courts, as well as the attitudes and opinions of judges, arbitrators, attorneys, and litigants on issues relevant to the success of the rules. Data will be collected from brief questionnaires addressed to those involved in the cases, court records, and surveys of the bar in each district. These data will help measure: whether or not the arbitration rules reduce the number of trials in the courts, the effects of the rules on the efficient processing of cases, and the satisfaction with the rules on the part of participants in the subject litigation. During the course of the evaluation, the Center will prepare interim reports assessing the existing rules. A final report on the effects of the rules in each of the three courts will be prepared as soon as the evaluation in each is completed.

Legislation currently pending before Congress would mandate a test of arbitration rules in five to eight additional trial courts, with the Center responsible for evaluating this larger test. The study of the three rules now in operation should serve to inform congressional debate and discussion and provide a tested structure for the expanded evaluation.

## **D. Manual for Complex Litigation**

As in past years, the Center has sponsored and supported the work of the Board of Editors of the *Manual for Complex Litigation*. The fourth edition of that document, prepared in fiscal 1977, was published and widely distributed early in fiscal 1978. The *Manual* is a collection of suggested procedures for handling complex cases; it is written by judges for judges, but is prepared only after receiving comments and criticism from associations and individual members of the bench and bar. As

the Board of Editors state in the foreword, the *Manual* represents "the mutual distillation of the best judgment of lawyers and judges experienced in the handling of complex cases." It contains, as Chief Judge Alfred P. Murrah of the Tenth Circuit Court of Appeals noted in 1960 and as the Board of Editors reiterate, "neither a simplified outline for the easy disposition of complex litigation nor an inflexible formula or mold into which all trial and pre-trial procedure must be cast." On the contrary, the present edition emphasizes that "flexibility should be the keynote in applying the suggestions contained in this Manual."

The board members met several times this year to review the latest edition of the *Manual* in light of current practices and developments and to consider relevant revisions and additions.

## E. Jury Projects

The Center continues to work closely with the Judicial Conference Committee on the Operation of the Jury System and with the Administrative Office of the United States Courts to assure that federal juries are representative of the communities in which the courts sit. The Center's primary contribution to this effort has been the development of a form (JS-12) to record relevant data concerning prospective jurors and a computer program to analyze these data. The program is now in operation on the Courtran computer system. Although its primary emphasis to date has been on prospective jurors' race and sex, the program is capable of analyzing various other demographic characteristics.

The program is currently undergoing modification to enhance its utility to both the Committee on the Operation of the Jury System and the district courts. After careful evaluation by the committee, operation of the program will be transferred to the Administrative Office, which has ongoing jury-monitoring responsibility. The transfer is expected to take place during fiscal 1979.

The Center completed a study analyzing the feasibility of a comprehensive system of computerized selection, management, and payment of jurors. The analysis suggests that for such a system to be cost-effective, certain modifications in existing

juror selection procedures are required in order to simplify those procedures without affecting the intent and spirit of the law. These modifications may entail amending the juror selection statute. This matter has been presented to the committee for its consideration.

The Center is also completing a comparative study of several methods the courts use to select, qualify, and summon prospective jurors. Some of these methods combine the juror qualification questionnaire and the summons in one mailing; others use the mail simply to summon the prospective jurors. Extensive data have been collected in eight of nine districts. These data, which provide detailed information on the costs associated with each step of the jury selection process, should be a valuable basis for future studies and improvements of the district courts' juror selection operations. The final report on this project is scheduled for completion in early fiscal 1979.

## **F. The Voir Dire Examination and Juror Challenges**

It is generally recognized that the "struck jury" method allows the most effective exercise of counsel's peremptory challenges. Under this method, counsel is not required to exercise any peremptory until the judge has ruled on all challenges for cause and seated a panel of prospective jurors large enough to ensure that, however the peremptories are exercised, there will be no need to call any more prospective jurors. Depending on the size of the jury and whether the case is civil or criminal, this involves selecting a panel of up to twenty-eight prospective jurors. Alternatives to the struck jury method require counsel to exercise challenges at an earlier stage, sometimes immediately after the selection of the first prospective juror, with the risk that counsel may find a replacement juror less desirable than one he has already rejected.

Although the struck jury method may afford counsel optimal effectiveness, it incurs some loss of efficiency, and it is not clear whether this method is so superior to other methods as to warrant unqualified endorsement. Members of the Center staff have developed a mathematical model for testing hypotheses concerning the effectiveness of peremptory challenges under various conditions.

The model and accompanying analysis are designed to assess the effectiveness, efficiency, and superiority of the struck jury method in a manner that will provide practical guidance for policy decisions. The results of this work and related research will be published by the Center.

A prior Center study shows widespread use of judge-conducted voir dire. Having the judge conduct the examination increases the importance of the judge's role in the jury selection process, and several judges have expressed interest in the Center's developing a program to help judges improve their voir dire skills. The Center is currently exploring the development of such a program.

The role of the voir dire, and challenges exercised by attorneys, raise issues important to advocacy in our adversary process. These issues are the subject of an analysis, recently updated by two members of the Center staff, which is to be published later this year.

## **G. Prisoner Civil Rights**

In 1973, a special Center committee was formed to suggest improvements in the handling of prisoner civil rights cases. At that time, inmates brought forty-two hundred suits annually under 42 U.S.C. § 1983. By 1977, nearly seventy-eight hundred of these "conditions of confinement" cases were filed. They pose qualitative as well as quantitative problems for the courts; 90 percent of them are brought pro se, and the general consensus has been that the overwhelming majority are trivial, frivolous, or malicious. The trial judge has had the difficult task of insuring that the meritorious cases are not overlooked while the volume is managed expeditiously.

To assist district judges in this task, the committee has published two tentative reports that include standards for processing prisoner civil rights cases from filing through pretrial, model forms to expedite processing, and commentary on the current state of the law in this expanding field. A third and final version of *Recommended Procedures for Handling Prisoner Civil Rights Cases in the Federal Courts* is now being developed and will be published in fiscal 1979. Additional standards are being considered, recent developments in the case and statutory law

are being researched, and the results of a survey on the use and utility of the two prior reports are being incorporated.

In addition to improving and expanding the report, the committee members have sought in other ways to help solve the complex problems of prisoner civil rights litigation. They participated in a series of regional seminars, convened by the National Association of Attorneys General, that were designed for state assistant attorneys general and corrections department officials involved in this type of suit. Further, testimony was prepared for a congressional committee considering federal litigation that affects state prisoner civil rights complaints.

In related committee projects, the Center is supporting development of a volume analyzing the substantive law of prisoner civil rights and habeas corpus. The document stresses the role of magistrates in the process, but is designed for use by all judicial personnel involved in prisoner litigation. It will be published and distributed early in fiscal 1979. Further, Center staff continue to assist the growing number of court law clerks who help process prisoner cases: recent cases, interesting articles, and information on innovative procedures are distributed to personnel in the field.

The Center's special committee is chaired by Circuit Judge Ruggero J. Aldisert (United States Court of Appeals for the Third Circuit). Other members of the committee are District Judges Robert C. Belloni (Oregon), Robert J. Kelleher (Central District of California), Frank J. McGarr (Northern District of Illinois), John H. Wood, Jr. (Southern District of Texas); and Magistrate Ila Jeanne Sensenich (Western District of Pennsylvania); and Professor Bruce Rogow (Nova University Center for the Study of Law). Professor Frank J. Remington of the University of Wisconsin Law School has served as reporter and consultant to the committee from its inception. The Center provides staff support to the committee.

## **H. Implementation of Judicial Orders in Institutional Reform**

In recent years, the courts have found it necessary to issue orders for broad reform in institutions such as prisons and mental hospitals. Special masters have proved a significant aid in

such cases, but the use of such masters involves procedures as unusual as the cases themselves. The Center has been studying the role of the special master in one such case, at the suggestion of the judge. The Center's work has concentrated on observing the special master as he monitors the development of state compliance with court orders specifying changes in living conditions, classification procedures, training opportunities, and other central aspects of prison life.

This project, conducted under guidelines approved by the court, may allow the Center to develop tentative hypotheses that could be explored through discussions and interviews with others who have worked as special masters, and with other district judges who have participated in institutional reform litigation. The project is also expected to provide information that will be helpful to the master in organizing effective procedures for monitoring the court-ordered changes.

## **I. Implementation of the Speedy Trial Act**

Center staff continues to provide technical advice about implementing the Speedy Trial Act of 1974, in fulfillment of its statutory obligation to "advise and consult with the planning groups and the district courts in connection with their duties" under the act. In addition, Center and Administrative Office staff members have continued to advise the Judicial Conference Committee on the Administration of the Criminal Law, including developing the standard format for the plans adopted by district courts in 1978.





## **II. SENTENCING AND PROBATION**

The Center has long been active in the analysis of sentencing and its consequences, and related areas such as probation. This year, it continued to examine procedures and devices that are or might be part of the sentencing process. The Center continues to play an active role in the sentencing institutes that Congress has authorized for federal judges. These institutes provide a useful forum for the Center to share its findings and their implications with the judges.

### **A. Evaluation of Observation and Study Procedures**

To determine an appropriate sentence under 18 U.S.C. §§ 4205 and 5010(e), a district judge may commit a defendant, for a brief period, to undergo a series of tests and evaluations (presentence studies). These tests may be performed at a local facility or diagnostic center, but the defendant is usually sent to a federal correctional institution, where he functions as a regular inmate during the course of the evaluation. A summary of evaluation findings, known as an observation and study report, is prepared for the judge at the conclusion of the testing period.

This procedure often provides the sentencing judge with critical information that might not otherwise be available. Some judges, though, have complained that the presentence studies contain no information not already in presentence reports and, further, that the diagnostic conclusions are often too general to be useful. The institutions, on the other hand, express frustration that the courts often fail to state why a presentence study is requested, making it difficult for the institution to provide specific, useful answers.

At the request of the Judicial Conference Committee on the Administration of the Probation System, the Center undertook

to evaluate these presentence studies. Its report, including a series of recommendations, was sent to all federal judges and probation officers. In addition to providing help in individual cases, the project has proved especially timely in view of major legislative programs to reform federal criminal law and the corrections process.

The report concludes that presentence studies can be effective sentencing aids for judges, but that in most instances, these studies fall far short of their promise. The report recommends several changes that should improve service to the courts while allowing more effective use of often scarce psychiatric and psychological resources. Increased oversight by the judiciary, special training for probation personnel, and expanded use of local resources are key elements in a proposed model for obtaining optimum benefit from presentence studies.

It is anticipated that the Probation Committee will seek Center assistance in studying some or all of the elements in the model. Further research, pilot programs, and training seminars or workshops will be undertaken.

## **B. Sentencing Recommendations and Probation Case Load Classification Study**

The Center is currently studying the validity and feasibility of a standard statistical instrument to assist probation officers in making case load classification decisions. Because the factors involved in classifying probationers are also relevant to sentencing recommendations, the resulting instrument will assist probation officers in the latter function as well. The study, undertaken at the request of the Judicial Conference Committee on the Administration of the Probation System and with the cooperation and assistance of the Probation Division of the Administrative Office, is scheduled for completion by the end of calendar 1978.

The need for an objective case load classification tool was clearly documented in the summary data collected by the Probation Division in 1974 and by the Center in 1977. Those data revealed that the various districts use classification techniques ranging from individual probation officers' purely subjective assessments to sophisticated statistical predictive devices.

The current study will begin by evaluating and comparing predictive devices currently used to make case load classification decisions in both the federal and state probation systems. If no existing device meets federal needs, a new device—specially tailored to the federal system—will be developed and evaluated. The comparative analysis will help determine which device or devices the Probation Committee should recommend for use by all federal probation officers. Moreover, these predictive devices may assist probation officers in making sentencing recommendations. The Center intends to explore these prospects.

One device that appears to hold special promise is a “base expectancy scale” that projects, on the basis of past experience, the services a probationer is likely to need. The current study finds the scale has considerable prospects not only for improving relationships between probation officers and clients, but also for increasing the overall effectiveness of a district’s probation staff.

Evaluating the amount and type of probation or parole supervision that a particular category of offenders should receive is a complex research task. Both quantity and quality of contact between the officer and the client must be measured. After a thorough examination of prior research in this area, the Center collected and coded extensive data on offenses and offender characteristics (including data on the identified needs of offenders) from a sample of approximately three thousand supervision cases that had been received in 1974. These data will be analyzed retrospectively to test the validity of the predictive devices. After similar analysis of any new statistical device that may be constructed for probation officers’ use, the Center will generate detailed instructions and suggestions for training officers to apply and use the statistical devices.

## **C. Study of Presentence Report Disclosure**

Our criminal laws generally allow a sentencing judge broad discretion regarding the type and length of sentence imposed upon an offender. The presentence report is the primary instrument for conveying the information needed to fit the sentence to the individual. The offender’s character, social

history, and potential for recidivism are all important factors in the judge's decision.

The defendant's interest in assuring the accuracy, and in some cases the completeness, of the report is obvious. Sensitivity to that interest resulted in a revision of rule 32 (c)(3) of the Federal Rules of Criminal Procedure to provide that prior to sentencing, the trial court shall, with certain exceptions, permit a defendant or his counsel to read the presentence report and to comment upon any alleged factual inaccuracy. Little was known, however, about how this provision was operating, what problems—if any—had been encountered, and what methods the courts had developed to deal with them.

Last year, responding to a request from the Judicial Conference Probation Committee and the Probation Division of the Administrative Office, the Center, working with staff of the *Georgetown Law Journal*, began a study of the operation of rule 32(c)(3). Extensive field studies were undertaken, and a questionnaire was distributed to federal district judges and probation officers, in order to examine the implementation of the disclosure rule, and the methods to insure accuracy and due process in sentencing decisions. The report on the project is to be published in the *Georgetown Law Journal*.

## D. Sentencing Institutes

Sentencing disparity has been a central issue in much of the recent attention to sentencing reform. Although pending legislation may provide some new solutions to this problem, there are already mechanisms to reduce disparity. These include the establishment of sentencing institutes for judges under the auspices of the Judicial Conference, authorized by 28 U.S.C. § 334. The institutes are for "studying, discussing, and formulating the objectives, policies, standards, and criteria for sentencing those convicted of crimes and offenses in the courts of the United States." The Center, at the request of the Judicial Conference, has been involved in the planning and development of such institutes since 1974.

During the past fiscal year, an institute for the judges of the Second and Seventh Circuits was convened at Morgantown, West Virginia. Center staff described the relationship between

the formal sentence imposed by the judge and the subsequent treatment of the offender by the Parole Commission, the Bureau of Prisons, and probation officers. The agenda included a tour of the Robert F. Kennedy Correctional Institution and discussion of current correctional philosophy for juvenile and young-adult offenders.

Working with the Probation Committee of the Judicial Conference and representatives of the circuits involved, the Center has helped develop agendas for a Ninth Circuit institute—scheduled for September 1978—and for a joint meeting of the Eighth and Tenth Circuits, scheduled for October 1978. Both institutes will focus on pending changes in the federal criminal code and sentencing procedures. Representatives of the Bureau of Prisons, the Parole Commission, and the Administrative Office's Probation Division will discuss the new legislation's implications for their agencies and their practices.

## **E. Sentencing Council Study**

Another response to sentencing disparity is the sentencing council, a device now in use in several district courts. The councils are intended to provide a means for the sentencing judge to confer with other judges in determining the appropriate sentence for a particular defendant. The councils' size and the procedures used vary from court to court, but their main purpose is the same: to reduce the differences in sentences for similarly situated defendants.

Although research by others has examined the effects of council deliberations on tentative sentencing decisions in individual cases, the Center sought to determine whether the councils in fact reduce disparity. The Center's research method has been to compare sentences actually imposed in a period before the introduction of councils with sentences imposed after adoption of the council procedure.

The study found that the councils' effects on disparity varied considerably among courts and among types of offenses. Differences in how the councils operate are crucial to their effectiveness. Indeed, unless councils engage in wide-ranging, "give and take" discussions, their effect may be to increase, rather than reduce, disparity. Varying attitudes towards the

importance of developing a consensus appear to be crucial. The study concludes that sentencing councils do reduce disparity if they are indeed structured to emphasize development of a consensus; but without such emphasis, they are unlikely to achieve that result.

The report based upon this study is to be published early next year.

### **III. APPELLATE COURT PROJECTS**

#### **A. Preargument Appellate Conference Experiment**

As the pressures on the courts of appeals have intensified, there has been increased interest in the development and evaluation of new techniques for handling the appellate case load. In fiscal 1977, the Center completed an evaluation of the Second Circuit's Civil Appeals Management Plan (CAMP). This year, at the request of the United States Court of Appeals for the Seventh Circuit, the Center began an evaluation of another appellate court procedure, one differing from CAMP in important particulars, but designed to achieve the same basic goals.

Before the experiment, the court was scheduling predocketing conferences in all civil cases except pro se appeals. Although many attorneys appeared to have benefited from the procedural information discussed at the conferences, it had been noted that some cases were being settled prior to the conferences, apparently as the result of letters sent to counsel to schedule the conferences. If appropriate letters from the court could stimulate settlement without conferences, at least in certain types of cases, the number of conferences could be reduced. This procedure would produce substantial economies, yet still accomplish the ultimate ends of the conference: reduction of case load and judicial and administrative workload, as well as speedier disposition for litigants and reduction in the total amount of time required of the attorneys.

The Center has been asked to compare the costs and benefits of various types of conferences with the costs and benefits of a form letter covering issues that would ordinarily be discussed at the conferences. The research has been designed to yield additional information: one facet of the project is aimed at comparing the effects of conferences conducted by both a

senior staff attorney and a circuit judge with those conducted by a senior staff attorney alone; another experiment compares the effects of the informational form letter with those of a similar letter that also invites counsel to request a conference.

The data generated by each of these comparisons, plus the views of attorneys and judges collected through questionnaires and interviews, will be analyzed and prepared for the court. The final project report is scheduled for completion in September 1979.

## **B. Ninth Circuit Calendaring Project**

The vast majority of federal appellate business is disposed of by three-judge panels; only a handful of cases are heard by a court of appeals sitting en banc, and the Supreme Court reviews comparatively few cases decided by the courts of appeals. Thus, which judges should sit together, and what cases should be assigned to these panels, are important questions. The courts themselves decide the criteria governing panel selection and case assignments. Techniques of panel appointment and case assignment typically attempt to balance the workload among panels, provide comparable mixes of simple and complex cases, concentrate cases of like subject matter, minimize judge travel time, and equalize the frequency with which any two judges sit on the same panel.

As the courts grow in size and the volume of cases increases, the process of implementing established criteria can become quite complex. Last year, the Court of Appeals for the Ninth Circuit requested the Center's assistance in preparing a computer program to provide systematic control of panel assignment. Working with the circuit's criteria, Center staff designed, tested, and delivered a calendaring program to meet the court's needs. Center staff continue to make occasional minor modifications to the program to conform to changes in the court's rules and procedures.

The program is designed to group cases into calendars based primarily on their difficulty and subject matter, and, secondarily, according to the district from which they originated. A system for assembling judges into panels to hear the cases as



calendared was also completed and delivered, although the court is currently using only the case calendaring program.

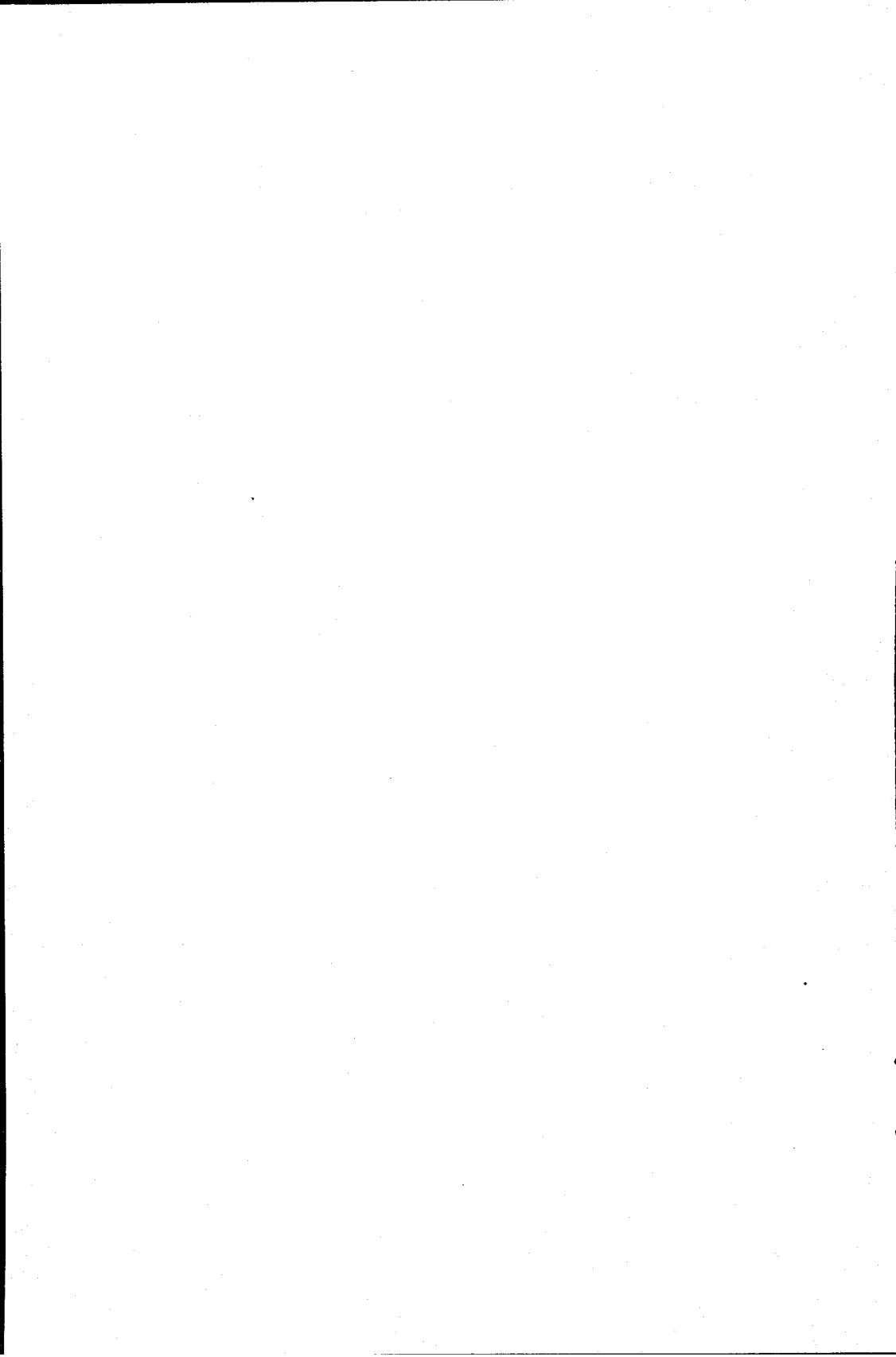
The program generates other types of case data as well. For example, the computer summarizes and tabulates the frequency of cases with certain characteristics, such as subject matter, difficulty, or district of origin.

As described in section five, below, the Center is now using Courtran to develop an Appellate Information Management System (AIMS), which will provide a more sophisticated method of managing data generated by and for the courts of appeals. Further development of the calendaring program will take place within the AIMS framework.

### **C. Computer-Assisted Legal Research Systems**

The results of the Center's study of computer-assisted legal research (CALR) systems were published in September 1977 as *An Evaluation of Computer Assisted Legal Research Systems for Federal Court Applications*. The report's recommendations have been implemented by the Administrative Office, which assumed operational responsibility for this program in fiscal 1978.

The CALR systems now in operation are being used by personnel with legal training. The Center is currently analyzing the CALR systems' potential for use by paralegals and other support personnel.



## IV. OTHER PROJECTS TO IMPROVE THE OPERATION OF THE FEDERAL COURTS

A variety of other projects that are not included in any one of the categories listed above also respond to the Center's basic statutory mission "to further the development . . . of improved judicial administration in the courts of the United States." These additional activities are described below.

### A. Research on Advocacy in the Federal Courts

In December 1976, the Judicial Conference Committee to Consider Standards for Admission to Practice in the Federal Courts asked the Center to study the extent and nature of inadequate advocacy by lawyers appearing in federal courts. The report of this study, *The Quality of Advocacy in the Federal Courts*, was published in March 1978. The committee, chaired by Chief Judge Edward J. Devitt of Minnesota and known informally as the Devitt committee, has used the report in formulating recommended requirements for attorneys seeking to practice in federal courts.

The study involved the coordinated use of twelve separate research instruments. Federal judges evaluated 1,969 actual trial performances by lawyers in district courts and 840 appellate performances in cases reaching oral argument in the courts of appeals. Also, 485 judges and approximately one thousand lawyers completed questionnaires about their perceptions of problems of advocacy in the courts. Finally, 89 district judges and 84 lawyers were asked to evaluate videotaped segments of trial performances, in an experiment to examine the extent to which different evaluators of an attorney's performance are consistent in their judgment.

The district court judges regarded about 8.6 percent of

lawyers' trial performances as inadequate, and an additional 17 percent as "adequate but no better." At the other end of the spectrum, they regarded almost 21 percent of the performances as "first rate" and another 26 percent as "very good." More than two-fifths of the district judges (though not a majority) said they believe that inadequacy is a "serious problem" in their courts. The views of practicing lawyers seem generally consistent with those of the judges. There was not much consistency among either judges or lawyers, however, in the evaluations of the four performances recorded on videotape.

Majorities of both judges and lawyers agreed that the most frequent consequence of inadequate advocacy at the trial level is a failure to fully protect clients' interests. Trial lawyers are most in need of improvement, according to pluralities of the judges and lawyers surveyed, in technique in examining witnesses and in the planning and management of litigation.

In the courts of appeals, about 4 percent of the lawyers' performances were regarded as inadequate by a majority of the three-judge panel, and fewer than 2 percent were regarded as inadequate by all three judges. About two-thirds of the appellate judges said they believe that inadequate advocacy is not a serious problem in their courts; about one-third said that it is. Once again, the views of practicing lawyers are generally consistent with those of the judges.

At the appellate level, in contrast to the trial level, majorities of both judges and lawyers said they believe the most frequent consequence of inadequate advocacy is that additional burdens are imposed on the judges and their staffs. There was not a strong consensus among judges and lawyers about areas of appellate advocacy that most need improvement.

In addition to its major study, the Center assisted the Devitt committee by commissioning a modest study of peer review systems in other professions.

The completion of these efforts fulfilled the committee's request of the Center. Center staff members are continuing to assist the committee in the development of its recommendations, however, and are prepared to perform additional analyses of the research data in response to questions raised by committee members.

## **B. Study of Circuit Executives and Circuit Judicial Councils**

The Center is currently completing a dual project that includes evaluating the implementation of the Circuit Executive Act of 1971 and the operation of circuit judicial councils. The circuit executives, by statute, serve as staff to the judicial councils and assist them in their many responsibilities. Two reports are planned: the first will focus on the impact of guidelines for council action promulgated in March 1974 by the Judicial Conference; the second will analyze the role of the circuit executives in the total administration of the federal court system.

This project began in 1976 with a questionnaire survey and was extended to include interviews with each circuit executive and chief judge, as well as many circuit and district judges and supporting staff. In addition, records and reports were examined to evaluate with some care the actual impact of circuit executive activities.

While this work was under way, the Judicial Conference Subcommittee on Jurisdiction requested that the inquiry be broadened to examine the work of the judicial councils themselves. Because of the close interrelationship of the office of circuit executive and judicial councils, the subcommittee reasoned that the dual project would be appropriate and informative.

## **C. Experimentation and the Law**

It is often impossible to evaluate satisfactorily the effectiveness of a new procedure, or of other types of innovations, except by the classic scientific method of the controlled experiment, in which one group is subject to the innovation and an otherwise identical group is not. The controlled experiment presents problems wherever human subjects or human activities are involved, and these problems are compounded in the conduct of controlled experiments in legal institutions. Forsaking experimentation, however, involves the substantial risk that "reforms" may lead to waste of vital resources or even serious harm. Other professions, such as medicine and education, have

dealt with the problems of experimentation involving human activities, though not with absolute success on all fronts. The legal community has, for the most part, avoided the issues by not considering them.

To deal with these problems, the Chief Justice, as chairman of the Center's board, this year appointed the Federal Judicial Center Advisory Committee on Experimentation in the Law, composed of thirteen distinguished scholars, judges, and lawyers. The committee's mission is to provide guidance to the judges and researchers who must ultimately decide whether a controlled experiment may and should be employed in the context of a particular evaluation.

The Center expects that the committee will contribute significantly to the development of guidelines and standards for the researcher and chart a clear course for the wisest application of evaluation methods to the court system and to the system of justice in general.

## **D. Federal Court Library Study**

The Center completed its eighteen-month study of the federal court library system in early 1978. The report and recommendations based on the findings were submitted to the Judicial Conference, which adopted all nineteen recommendations at its March 1978 meeting. The report, *Improving the Federal Court Library System: Report and Recommendations Submitted to the Judicial Conference of the United States by the Board of the Federal Judicial Center*, has been published and is available.

The study was the first comprehensive survey of the legal research facilities and library services used by the federal judiciary. It describes current methods of procuring law books for central and chambers libraries, the techniques used to inventory those books, and the procedures involved in maintaining the collections.

The library study also included a computerized inventory, classified by court, building, and judge, of law books held by the federal courts, thus providing helpful information on the extent and causes of duplication of holdings. The study made

specific proposals for reducing needless duplication, while recognizing that the nature of the federal judicial system makes some duplication of holdings inevitable.

Chief among the recommendations to the Judicial Conference was the creation of a new office within the Administrative Office to oversee law book procurement, inventory, and services development. The Administrative Office has already taken steps to obtain the services of a qualified professional to oversee the library facilities of the federal courts. Another major recommendation was to establish procedures for periodic review by the Judicial Conference of recommended law book holdings in chambers and central libraries.

## **E. Code of Judicial Conduct**

At the request of the Judicial Conference Joint Committee on the Code of Judicial Conduct, the Center undertook to identify and annotate recent cases interpreting the judicial disqualification statute (28 U.S.C. § 455). The resulting staff paper provides an analysis of section 455 by subsections, a brief statement of the opinions interpreting the statute, and an index of the decisional law. That paper, *Decisions Construing the Judicial Disqualification Statute*, was published during this fiscal year and distributed to all judges, magistrates, and bankruptcy judges.

Again at the request of the joint committee, the Center is now condensing the staff paper into a form suitable for insertion in benchbooks and other reference binders, including that maintained for the Code by the Administrative Office. This second document, primarily an index of decisions, will also include cases decided since the basic research on the staff paper was conducted. A loose-leaf format will facilitate the occasional addition of future material.

## **F. Forecasting Federal Court Case Loads**

The ability to forecast changes in case filings can be a very useful tool in planning. Sophisticated forecasting techniques can also prove valuable in predicting the likely impact of proposed

legislation or of changes in procedural rules. For some years, the Center has been doing pioneer work in this area with the hope of developing improved methodologies that might contribute to the state of the art.

During the first stage of its work, the Center developed a series of models based on the premise that case filings are related to changes in society that can be measured by economic, demographic, or other types of indicators. As the study progressed, more than 150 indicators were used in predicting different categories of civil and criminal case filings in nearly all federal courts. Although the research experience in forecasting techniques and the large data base collected were quite useful, the forecasts themselves were of little practical value; they proved to be somewhat inaccurate. The problem appears to have been in the modeling techniques used in the analysis.

This year, more concise, well-directed forecasts were made in two areas: aggregate civil, criminal, and appellate case filings (using Courtran); and aggregate bankruptcy filings (in cooperation with the Bankruptcy Division of the Administrative Office). Each of the forecasts was made at the national (rather than district) level, and each attempted to develop short-range models (one to five years in the future). The accuracy of these forecasts will be evaluated during the coming year. Future modeling efforts will be significantly aided by Courtran developments, particularly the acquisition of a Data Base Management System that is readily accessible to researchers who are not skilled in programming. The Center will soon begin systematic organization of the data collected by previous forecasting projects. This project will provide the foundation for the development of additional models.

## **G. Case Load Weight Revisions**

It is a familiar phenomenon that the workload of the federal judicial system is distributed unevenly, in terms of both courts and judges. Some accurate measure of the workload borne by a particular court is of critical importance in assessing the need for supporting personnel, and indeed, in assessing the need for additional judges.

The number of cases filed is the most commonly used



measure of workload; it is the simplest measure, yet it is the most misleading. A complex antitrust case that may consume most of a judge's time for years counts no more than a Fair Labor Standards Act case that only requires recording an agreement the parties have reached on their own. A more accurate measure is a system that "weights" case types according to the judicial resources they consume. Virtually all efforts to derive these weights require the judges, one way or another, to keep records of the time devoted to various cases. Past efforts at developing federal case weights, although an improvement over simply counting raw filings, have not accurately reflected the time consumed by various cases and thus have been of little help to policy makers who must allocate judicial resources. These past efforts have also been quite burdensome to the judges.

The Center, working under the direction of the Subcommittee on Judicial Statistics of the Judicial Conference Court Administration Committee, has developed a form of case weighting that is simpler, less burdensome on the judges, and at the same time promises greater predictive power and accuracy.

With the help of the Institute for Law and Social Research, the Center examined a wide variety of alternative methods, including all those used in the various states that have undertaken weighted case load studies. Two approaches that will be useful for the future have been refined. The one currently being implemented is a relatively simple method that may require fairly frequent restudies involving judge diaries. However, this approach would use only a relatively small sample of judges, so that, over a period of years, the burden on any individual would not be onerous. Still under consideration is a more complex proposal that may permit computerized revision, with no need to return to the judges for diary information except at very long intervals.



## V. COURTRAN

In compliance with its congressional mandate to study the application of automatic data processing and systems procedures in federal court administration (28 U.S.C. § 623(a)(5)), the Center is in the process of developing a wide-ranging computer capability called Courtran. Specifically, the term "Courtran" encompasses the Center's computer hardware facilities, its transmission network, and the numerous software applications designed for both research and court and case management.

Current Courtran activity, under the aegis of the Center's Division of Innovations and Systems Development, is intended primarily to devise and test basic case-flow management systems for criminal and civil dockets in the district courts and the courts of appeals. A management information system cannot be considered completed until it has been tested through use in the daily activities of the organizations it is designed to serve. The process is long and complex, requiring frequent adjustments in software. Once in operation, the Courtran systems will enable participating courts, by using computer terminals, to store their case load data in Courtran timesharing computers located in Washington. This will allow instant docket monitoring by the courts themselves, as well as provide a centrally located data base for planning and research. The Center has given first priority to developing the Criminal Case-Flow Management System to facilitate the courts' compliance with the Speedy Trial Act of 1974.

This section describes the principal elements of Courtran development in fiscal 1978. In addition to these major applications, Courtran provides a wide variety of auxiliary services, e.g., electronic transmission of memoranda. Such memoranda can be transmitted either between users or between users and the Courtran staff.

## **A. The Criminal Case-Flow Management System**

The Criminal Case-Flow Management System is now in various stages of operation in ten pilot district courts, which account for 37 percent of the national criminal case load. The Center has completed all of the system's initial software development; current activities primarily involve maintaining the existing software while making improvements to meet pilot court needs. In addition, the Center is seeking to improve the software's capacity to accommodate changing usage patterns as the system becomes part of the courts' daily activities.

The ten pilot courts are now entering all pending criminal cases into the system, thus concluding the initial phases of data base construction. They have begun extensive validation of the data and the reports produced from the system. Increasingly, the pilot courts are using the criminal case-flow system for monitoring cases to assure compliance with the Speedy Trial Act. They are also actively integrating the system's other products (such as INDEX and report generation) into their daily office procedures.

## **B. The Civil Case-Flow Management System**

The next step in the Civil Case-Flow Management System's development is to transfer the data and software from mini-computers presently in use in two courthouses, to the central Courtran timesharing computers. The initial survey of system requirements for this transfer has been completed. The Center's objective in developing this system is a single software package to handle both civil and other case types, thus greatly reducing the number of unique software requirements for the case-flow management systems and, in turn, reducing the systems' maintenance costs.

## **C. The Appellate Case-Flow Management System**

The functional description of the Appellate Information Management System (AIMS) was completed in May 1978, after

eighteen months of effort. It defines the system's purpose, scope, content, and capabilities, and was produced by personnel from the courts, working with Center staff in analyzing and defining the information management needs of the appellate courts.

By the end of fiscal 1978, the Center intends to complete an AIMS development and implementation plan, which will contain specific dates for each phase of the system. Current plans are to field-test the AIMS software in one circuit and, thereafter, to install it in three pilot courts, where it is to operate parallel to the manual systems. Once it is successfully operating, AIMS will be available to the other appellate courts. As with other Courtran case-flow management systems, the information in the computer will replace the manual docket and be available to clerks' office personnel through terminals. This information will also be used to generate a wide variety of different reports and other material necessary for the operation of courts, thus effecting economies while promoting efficiency.

## **D. Central Violations Bureau Support**

Although they are not typically considered federal cases, more than 450,000 relatively minor offenses, such as traffic violations on federal land, were processed in the federal courts last year. Responding to requests from several districts, the Center has begun a pilot project to automate the Central Violations Bureau (CVB) operation in four districts—Eastern Virginia, Maryland, Colorado, and Central California.

In cooperation with these districts and the original Courtran pilot districts, a CVB system has been developed to monitor minor offense citations issued by federal agencies, from the time the citations are received in the clerk's office until they are disposed of by payment of a fine or other judicial action. Where payment of a fine is not received within ten days of issuance, the system automatically generates a warning letter to the violator and any other follow-up action that may be required. This eliminates the need for monitoring citations manually and drastically reduces the amount of typing and clerical effort required to deal with citations ignored by violators.

As a by-product of this system, the clerk's office can more easily prepare statistical information for the Administrative Office and for its own management of the CVB operation.

## **E. The INDEX System**

The automated District Court Index System (INDEX) has been developed to replace the manually prepared card indexes that most courts use to record basic information such as the defendant's name, the date the case was filed, and the number of defendants in the case. INDEX includes all civil, criminal, magistrate, and bankruptcy cases filed in a given district.

Additional information on each party and case, such as termination data, judge assignments and reassignments, and case reopening data, can also be entered into the system. This information might be used to prepare monthly statistical reports on case activity and judges' pending cases.

The system is presently operating in five pilot districts: Northern Illinois; Northern, Central, and Southern California; and the District of Columbia.

## **F. The Courtran Appellate Index System (CAIS)**

The automated index system for appellate courts (CAIS), which is similar to the District Court Index System, provides an alphabetized listing service tailored for use within the appellate court environment. Information about parties and cases on both the general and miscellaneous dockets is used to provide monthly updated reports.

The system can also receive data on judge and panel assignments, case terminations, and case reopenings. Reports provided by the system include the monthly JS-30 summary report for the Administrative Office and a monthly statistical report that groups case types according to their origin within CAIS.

The Center plans to begin test operation of the system in two pilot circuits in September 1978.

## **G. Courtran Facilities, Equipment, and Security**

The Center has submitted to the General Services Administration plans to enlarge the Courtran computer facility located in the United States Courthouse in the District of Columbia. This expansion will accommodate the installation of a fourth computer system to support the increased use of Courtran and provide the processing power needed for additional users. Construction and installation of the computer system are scheduled for completion early in fiscal 1979.

Regulating and distributing the workloads of the several Courtran systems is a major part of day-to-day computer management. In order to make the most effective decisions regarding computer utilization—an urgent need as usage increases—the Center is developing means to provide information indicating the amount and distribution of load on the computers. This requires computer programs to extract and analyze the raw data concerning current computer use, in an easily interpreted graphic form. The data must also be presented in a manner that allows identification of long-range trends in computer usage and provides early warning of potential overloads.

During fiscal 1978, the Center continued its efforts to insure security and privacy, implementing various recommendations made in its fiscal 1977 study. In early fiscal 1979, the Center plans to implement an automatic terminal-user identification procedure.

## **H. The Courtran Network**

During fiscal 1978, the Center conducted a telecommunications study to determine the traffic requirements of Courtran data communication through 1983. The study was based on an analysis of the communication requirements of the current Courtran criminal docketing and INDEX systems, projecting these results on a per-docket-event basis to the various Courtran software systems—both current and yet-to-be-developed software—scheduled for operation over the next several years. These projections rested on the Center Research Division's short-range forecast of federal court case loads, a project undertaken

specifically for the Courtran systems. The results of the study show that the Center's present telecommunications network will adequately meet data communication needs for the near future.

## **I. The Word-Processing Project**

The Center has installed thirteen word-processing systems in the chambers of each active and one senior judge in the Third Circuit, and in the offices of the clerk, pool secretaries, and circuit executive. All word processors communicate electronically by telephone lines to the Courtran computer in Washington. Judges' secretaries and other court personnel began electronic communications in late spring, 1978 after completing a training program.

The Center is evaluating this installation to assess the word-processing equipment's ability to improve secretarial productivity and to determine whether electronic communications are an efficient method to distribute draft opinions for review by judges who are on the same panel but sit in different cities.

## **J. Local Programming Applications**

Several of the pilot districts using the Courtran facilities have been able to develop local systems to answer their specific needs or to provide service to units of the court other than the clerk's office. The Courtran staff provides assistance to these projects when doing so does not interfere with the development of Courtran applications intended for nationwide use.

One example of such a local system is the arbitration system used in the Northern District of California, one of the three courts participating in the arbitration experiment described in section one above. The system randomly selects the names of attorneys who are eligible to serve as arbitrators, then automatically generates letters to the parties, informing them of the ten attorneys from whom they are to select the three-member panel. The system also monitors case flow according to time limits established by the local rules.



Other examples of local systems are the statistical system developed in Northern Illinois to analyze that court's bankruptcy cases, and the services provided by the clerks' offices in the Southern District of New York and the Central District of California to help their probation offices manage cases.

## **K. Statistical Data Transfer to the Administrative Office**

One of the Courtran system's goals is to develop the capability to automatically produce statistical reports for the Administrative Office, replacing the present, manually prepared reports. The first phase of the project designed to achieve this goal is being tested by two of the ten districts using the Courtran Criminal Case-Flow Management System. It involves automatically producing hard copies of the JS-2 (case opening) and JS-3 (case termination) reports, which will be compared to the manually prepared reports. Upon successful completion of this first phase, planned for fiscal 1979, the Center will initiate the design and programming necessary to provide these reports to the Administrative Office, on magnetic tapes from the Courtran computers. Automatic report production in machine-readable form will remove the clerical burden from the districts compiling the reports and from the Administrative Office in preparing the data for entry into its computer system.

## **L. General Research Support**

Courtran computer facilities and staff have been made available to other units of the Center and the Administrative Office. For instance, programming support has been provided to the Research Division for evaluation of local arbitration rules, and to the Administrative Office for a system to maintain data on clerk's office supporting personnel and for preparing reports on the operation of pretrial service agencies.

## **M. Learning About Courtran**

With the increased use of Courtran, there is a special need for an effective and economical way to train court personnel in

the system and its use. In fiscal 1978, the Center launched a project to develop a computer-assisted course to help court personnel learn how to use current and planned Courtran applications.

The material for the course will be divided into several modules. The first module will involve Speedy Trial time accounting. After course development is completed in September 1978, selected courts will test the first module early in fiscal 1979.

The Courtran staff will also develop what is known as an "authoring" language, which Center staff members will use to write additional instruction modules on other aspects of Courtran.

## VI. CONTINUING EDUCATION AND TRAINING PROGRAM

The Center is required by statute "to stimulate, create, develop, and conduct programs of continuing education and training for personnel of the judicial branch of the Government" (28 U.S.C. § 620(b)(3)). As the statute makes clear, the programs are not to be limited to judges and other judicial officers, but are to include clerks of court, probation officers, and other supporting personnel. Indeed, one of the major reasons for the Center's creation was the need for a comprehensive program of continuing education.

The Center's Division of Continuing Education and Training this year conducted 129 seminars, conferences, workshops, and other education and training programs. The Center also provided correspondence courses, maintained a lending library of audiovisual materials for individual instruction, and provided a modest amount of tuition support for federal judicial employees taking job-related courses at colleges, universities, and other institutions.

During the past year, almost half of the eleven thousand persons employed in the federal judiciary attended seminars or other programs conducted by the Center. When participants in correspondence and other individual courses are included, Center programs reached more than sixty-three hundred judges, magistrates, bankruptcy judges, circuit executives, clerks and deputy clerks, probation officers, public defenders, and other persons working in the federal courts.

To direct its educational efforts where they are most needed, the Education and Training Division monitors Administrative Office reports, particularly statistical reports and the reports of the Management Review Division. In addition, division staff occasionally visit courts where training programs are held; before-and-after comparisons of court operations indicate the utility and effectiveness of the training.

Center programs for judges deal with case management as well as with various legal issues, both substantive and procedural. These programs respond to needs identified by the judges, who find particular value in an organized forum in which to explore new legal issues with their colleagues and with academic specialists. One judge, commenting on the value of these forums, said that without continuing legal education, he and his two law clerks would "have greater and greater difficulty . . . in dealing on a daily basis with the product of law firms whose manpower is numbered in the dozens." The Center's seminars, workshops, and other programs are held both in Washington and around the country, either at regional meetings such as the annual circuit judicial conferences, or at particular courts for specialized local training. Most of the programs' faculty are federal judges and supporting personnel, including Center and Administrative Office staff; the education and training staff also calls on Parole Commission members, professors of law and related disciplines, and others with expertise in relevant fields.

The Center designs its programs with the assistance of planning committees composed of judges and other federal judicial personnel who have special knowledge of a seminar's subject area. Judge William J. Campbell, formerly chief judge of the Northern District of Illinois, serves as senior chairman, Center Seminar Programs.

In fiscal 1977, the Center began conducting on-site training to focus on specific local problems. This separately organized component of the Center's education and training activities provides an economical and effective way to use national training resources in solving unique local problems.

The following statistical summary of fiscal 1978 conferences, seminars, workshops, and other types of training sessions shows the number of programs held, the number of participants and faculty in each program category, and total attendance.

<u>No.</u>	<u>Category</u>	<u>Participants</u>	<u>Faculty</u>	<u>Total</u>
9	Federal circuit and district judges . .	350	98	448
9	Bankruptcy judges and clerks . . . . .	354	57	411
5	Public defenders, assistant public defenders, and panel attorneys . . .	267	63	330

<u>No.</u>	<u>Category</u>	<u>Participants</u>	<u>Faculty</u>	<u>Total</u>
5	Magistrates and clerks .....	153	66	219
1	Circuit executives .....	10	—	10
1	Senior staff attorneys .....	10	9	19
11	Court clerks and deputies .....	954	35	989
29	Probation officers and clerks .....	1,181	299	1,480
42	In-court management training .....	1,226	82	1,308
15	Local training and technical assistance .....	439	35	474
2	Court reporters .....	110	16	126
		<u>5,054</u>	<u>760</u>	<u>5,814</u>

## A. Workshops, Seminars, and Conferences

### Judges

The Center sponsors programs for judges of the district courts and the courts of appeals. The last appellate seminar was held in fiscal 1977, and another is scheduled for 1979. Programs for district judges are described below..

**Metropolitan District Chief Judges.** In October 1977 and April 1978, the Center provided programs for the meetings of the Conference of Metropolitan District Chief Judges. Both meetings included presentations on discovery, complex litigation, and the costs of litigation, as well as Administrative Office reports on pending legislation. In April, the Conference met jointly with the Judicial Conference Committee to Consider Standards for Admission to Practice in the Federal Courts, to consider that committee's forthcoming recommendations. The Center also arranged an extended presentation on the status of federal rule making at the national and local levels.

**Workshops for District Judges.** Subject matter for the eight workshops for district judges during fiscal 1978 included Title VII cases and issues, problems and techniques in the preparation and trial of antitrust cases, plea bargains and the taking of guilty and nolo contendere pleas, patent cases, recent developments in jurisdiction and practice, and effective use of United States magistrates.

**Seminars for Newly Appointed District Judges.** The last seminar for newly appointed district judges was held in

September 1977, and another is scheduled for November 1978. The Center is also developing an in-court program to provide newly appointed district judges with a brief, structured orientation under the guidance of experienced judges from their home districts.

## **Bankruptcy Judges and Chief Clerks**

**Seminar for Bankruptcy Judges.** Five seminars for bankruptcy judges addressed such topics as Article 9 of the Uniform Commercial Code and the Bankruptcy Act; the use of secured creditor's collateral by the debtor in possession, receiver, or trustee; the new federal rules of evidence; and new developments in case law. In addition, one seminar was held to help newly appointed bankruptcy judges better understand their role and responsibilities.

**Seminar for Bankruptcy Clerks.** The Center conducted one seminar for chief bankruptcy clerks this fiscal year to promote nationwide uniformity in practice and procedure—to the extent local conditions and problems permit—and to demonstrate methods of efficient operation and administration of bankruptcy offices.

Two workshops for bankruptcy clerks below the level of chief clerk emphasized proposed changes in bankruptcy; receiving, opening, reopening, and closing a case; reporting of bankruptcy statistical data; and troublesome bankruptcy rules.

## **Federal and Assistant Public Defenders**

This fiscal year's seminar for public defenders addressed useful practices in appellate matters, troublesome aspects of pretrial diversion, institutional offender problems, and issues of juror selection.

The Center also held four seminars on basic trial advocacy for assistant public defenders. For the first time, panel attorneys appointed under the Criminal Justice Act were offered an opportunity to participate.

## **Magistrates**

The Center held two orientation seminars for magistrates this year (one was designed for part-time magistrates with

limited duties) and three seminars for the staffs of full-time magistrates.

### **Circuit Executives**

Center staff meet with the circuit executives when they are in Washington during biannual meetings of the Judicial Conference. The agenda includes discussion of Center activity of special interest to the circuit executives.

### **Senior Staff Attorneys**

A seminar for senior staff attorneys, the second held by the Center, analyzed the office of the staff attorney, techniques for determining priorities, and how to improve use of time and resources.

### **Probation Officers**

**Probation Officers' Orientation.** Because of a decrease in new officer positions, only three orientation seminars for probation officers were held this year. In addition to experienced probation officers, the faculty for these seminars included representatives of the Administrative Office, the Department of Justice, the United States Parole Commission, the Federal Bureau of Prisons, and the academic community.

**Advanced Seminars.** Three "refresher" seminars were held in fiscal 1978. These programs are made available to all probation officers every third year to help keep them abreast of the latest developments in criminal justice and recent legislation affecting probation and parole. Participants choose six sessions from a list of twenty-seven topics in order to pursue programs responsive to their particular needs. They are required to participate in three additional sessions: current developments in the United States probation system; the Parole Commission; and the Bureau of Prisons.

**Advanced Management for Supervisory Probation Officers.** Two years ago, the Center began conducting advanced management seminars for supervisory probation officers. This program, designed to meet the needs of rapidly expanding probation offices, concluded this year. The focus of these seminars was on effective supervision of professional personnel.

**Crisis Intervention Workshops.** The three crisis intervention workshops held in fiscal 1978 dealt with reacting safely and professionally during dangerous and difficult situations. The skills taught included how to defuse potential crises and maintain personal safety and professional control.

**Employee Placement Workshops.** The responsibility of helping probationers and parolees find employment was transferred this year from the Bureau of Prisons to the federal probation system. The Center held three workshops to prepare probation officers for this task.

**Indian Affairs.** In some areas, most probationers and parolees are Native Americans. The Center developed and conducted a seminar to help the probation officers in these areas understand the cultural and ethnic problems involved and to supervise Indian offenders more successfully.

**Graduate Training Program for United States Probation Officers.** The Center assists probation officers in taking a three-year graduate studies program leading to a Master of Arts degree in sociology offered by Fordham University. The program is now available to probation officers in the north-eastern and western United States. The candidates are responsible for tuition costs; the Center covers expenses for a week-long seminar held each semester.

**Chief Clerks of Probation Offices.** This year, the Center concluded a series of workshops, begun in fiscal 1977, for chief clerks in probation offices. The series was structured to provide a broad overview of the probation system, stimulate increased understanding of the role and functions of a probation office, and discuss and analyze various management problems.

**Pretrial Services Advanced Seminar.** The pretrial services program is in the third year of its four-year test period. Four seminars were held this fiscal year, one of which was for chief and supervisory pretrial services officers.

**Report Writing.** Six workshops, primarily for probation officers, addressed the basic techniques of writing concise, well-organized reports.



## **Federal Court Reporters**

Two Center workshops for federal court reporters were designed to increase reporters' managerial, administrative, and technical reporting skills. The training covered records management, accounting practices, reporting activities, technological equipment advances, and use of reference materials and services.

## **Court Clerks**

**Docketing Clerks.** The objectives for seven docketing clerks' workshops were developed in consultation with docketing clerks from throughout the federal courts. The workshops furnished detailed information on procedures, practices, and problems involved in docketing civil cases, criminal cases, and appeals; helped participants understand how to use statistical data taken from dockets; and explored the problems and procedures involved in multidistrict litigation.

**Personnel Clerks.** The Center held four personnel workshops for individuals in the offices of clerks, bankruptcy officials, magistrates, public defenders, and judges. The sessions were intended to acquaint at least one person in each court or office with the basic procedures of personnel management in the federal judicial system.

## **B. Local Training**

### **In-Court Programs on Supervisory, Managerial, and Executive Development**

The Center has designed a sequential series of four programs, held at court locations, to help participants improve their managerial performance. Participants begin the program with independent study and continue with a workshop on supervisory skills. Subsequent sessions deal with managerial development and offer an opportunity to acquire executive-level skills. The Center also conducted a series of workshops on how to use time more effectively and organize one's workload. Based on models of similar programs in private industry, the workshops were adapted to court operations.

## **Regional Local Training Programs**

Regional local programs are designed, developed, and offered for one court or one division, or are shared by one or more divisions within a district. This year, the program included workshops for deputy clerks and staff, as well as one local training workshop for secretaries and one for court interpreters.

## **Self-Development Training**

The Center includes within its educational services a program designed for those personnel within the federal judicial system who wish to pursue, on their own initiative, training to enhance their skills and improve their potential. For these individuals, the Center furnishes a broad range of materials to be used at the individual's own pace. These include programmed learning texts, independent-study films, and audio cassettes. For example, during fiscal 1978, thirteen courts arranged speed-reading courses for 325 participants, each of whom studied independently. A brochure, *Self-Development Information*, describes this aspect of the Center's educational services.

In 1975, the Center began offering a correspondence course for court personnel interested in improving their supervisory skills through independent study. Revised in 1978 and reissued in a new form, the course has been completed by 339 persons and currently has more than a thousand active participants, almost half of them from clerks' offices.

## **Technical Training**

Another tool for meeting the training needs of a particular court's personnel is nonstructured technical training provided by one or two persons with expertise in the problem area. These instructors might be personnel from another court or paid consultants. One example of such technical training is a two-person team of bankruptcy clerks who advised and assisted approximately 150 of their counterparts in fifteen courts, suggesting procedures and practices to increase productivity and reduce backlogs. Reports received from the supervisors of those who have been assisted by this program attest to the effectiveness of this training.

## **Training Coordinators**

To expand the scope of local training and increase both the frequency and availability of local training opportunities, the Center provides administrative support and coordination to 140 local training coordinators in ninety districts. An informal monthly newsletter alerts these training coordinators to new materials and programs and provides a forum for sharing experiences.

## **Educational Media Services**

The Center furnishes a variety of educational media and equipment to court personnel, training coordinators, outside consultants, and Center training staff. Examples of this material are:

**Audio Cassettes.** The Center maintains a lending library of audio cassettes recorded at seminars and workshops. There are more than a thousand separate presentations covering twenty-two broad subject areas. Tapes produced by various other organizations on such issues as federal litigation and rational behavior therapy are also available. Now in its third year of full operation, the cassette library has been used to fill 7,955 requests. The number of requests is constantly growing.

A biannual addendum to the yearly *Educational Media Catalog* will list all new tapes, films, publications, and other educational material produced since the most recent distribution of the catalog. Also, additions to the Center's media services are announced in *The Third Branch*.

**Film and Video Library.** In addition to audio cassettes, commercially produced films and video films are available for loan from the Center. The Center staff uses fifteen of the library's sixty-two films in training programs, and forty-seven films are for loan. Subjects include juror orientation, law enforcement, probation, parole, juvenile offenders, rational behavior therapy, team building, assertiveness training, landmark Supreme Court rulings, and time management.

## **Video Equipment**

The Center has placed video equipment in selected courts for use in local training. To ensure proper usage and to help

individuals plan, script, and tape training material, the Center conducted five on-site training programs this fiscal year. Further, personnel in six courts have been trained in the techniques of taping depositions on video equipment, and twenty-one courts have been provided with video equipment. Advanced workshops are planned for those individuals who have participated in the initial workshops.

### **C. Tuition Grants**

Federal judicial personnel who wish to improve their skills through short courses that are directly related to their duties and functions in the court are eligible for tuition assistance provided by the Center. These short courses are usually taken at colleges and universities, but may also be taken from the Civil Service Commission, the Graduate School of the Department of Agriculture, the National College of Criminal Defense Lawyers and Public Defenders, or other private firms.

During fiscal 1978, the Center provided tuition assistance for more than six hundred participants, at a per capita cost of \$123.37. Almost half the assistance was given to personnel in clerks' offices.

### **D. Educational Assistance to Related Institutions**

Staff of the Center's Continuing Education and Training Division maintain contact and provide informal advice to personnel with similar responsibilities in the state court systems. Further, during the past fiscal year, the Center continued to provide technical and planning assistance to the National American Indian Court Judges Association. A one-day orientation to the federal judicial system was held for American Indian tribal judges who were in Washington for a series of non-Center-related meetings, and a Center staff member served as faculty for a training conference of clerks and deputy clerks in tribal courts.

## **VII. INTER-JUDICIAL AFFAIRS AND INFORMATION SERVICES**

The Division of Inter-Judicial Affairs and Information Services provides a specific forum for coordination between the Center and organizations with related interests and goals, thus broadening the Center's perspective on its own work. The division also provides the Center and the federal judiciary with a central bibliographical service in the area of judicial administration.

### **A. The Information Services Office**

During fiscal 1978, the Information Services Office continued to expand its collection of judicial administration materials, which includes journals, treatises, and texts, as well as a wide variety of fugitive sources, such as unpublished speeches and reports. It also maintains a collection of local federal court rules. Five hundred volumes were added to the collection this year, and the office borrowed more than twice that many from other libraries in order to meet specific requests.

Although the office exists primarily to serve federal judges and supporting personnel, it also responds to requests from professors, students, other researchers, and members of the public. Its services range from providing a rapid answer to a narrow question, on the one hand, to compiling extensive bibliographies, on the other. The office is also responsible for filling requests for Center publications. During fiscal 1978, the office responded to more than five thousand requests, twice as many as during the previous year.

### **B. Library of Congress Project**

Under a cooperative arrangement between the Center and the American-British Law Division of the Law Library of the Library of Congress, federal judges have been offered special

research services not available at their local libraries. During the past year, this service filled about a hundred requests, primarily compiling empirical data and legislative histories. The Library of Congress continues to welcome federal judges' requests for research, which may be made directly or through the Center.

### **C. The Third Branch**

The official bulletin of the federal courts, *The Third Branch*, is published by the Center in cooperation with the Administrative Office. Thirteen thousand copies are distributed each month to officials of the federal judiciary, members of Congress, law school deans, law libraries, state judges, and others with a specific interest in the work of the federal courts.

### **D. Foreign Visitor Service**

Official visitors from abroad—judges, legal officers, and others—are frequently referred to the Center by the State Department, the United Nations, and other organizations. They usually seek information concerning various aspects of the federal judicial system that have relevance to particular problems in their own countries. The Inter-Judicial Affairs Division is responsible for assembling appropriate materials and arranging meetings and briefings. Frequently, Center staff and other participants in these sessions gain helpful insights, useful in dealing with our own problems. Over the past year, the Center received visitors from Brazil, Korea, Australia, Japan, Thailand, Chile, New Zealand, South Africa, Afghanistan, Nigeria, Colombia, Zaire, France, Great Britain, and Canada.

### **E. Interorganizational Liaison**

The Inter-Judicial Affairs Division maintains continuing relationships with other organizations interested in the courts and judicial administration. The division's director and staff members are actively affiliated with organizations such as the National Center for State Courts, the Institute of Judicial Administration, the American Bar Association, the Federal Bar Association, and the American Judicature Society. Liaison is also maintained with law schools and other educational institutions in which the work of the courts is studied.

## VIII. CENTER PUBLICATIONS

The Center disseminates the results of its work through several types of publications.

Center reports contain the results of major research projects. Staff papers are the product of short-term research efforts, often undertaken in response to specific inquiries. They are published in the staff paper format in order to give wider distribution to items of general interest.

Publications in the Education and Training Series make available selected lectures and other materials presented at seminars and conferences sponsored by the Center.

Manuals and handbooks are produced as reference materials for federal court personnel. When appropriate, they are provided to a wider audience, usually on a loan basis.

The various publications produced by the Center in fiscal 1978 are listed below. Some of these items were available for limited distribution in 1977 as well.

### **Research Reports and Staff Papers**

*An Evaluation of the Civil Appeals Management Plan: An Experiment in Judicial Administration* (FJC-R-77-4), by Jerry Goldman

*Case Management and Court Management in United States District Courts* (FJC-R-77-6-1), Steven Flanders, Project Director

*Judicial Controls and the Civil Litigative Process: Discovery* (FJC-R-78-4), by Paul R. Connolly, Edith A. Holleman, and Michael J. Kuhlman

*The Quality of Advocacy in the Federal Courts* (FJC-R-78-1), by Anthony Partridge and Gordon Bermant

*Conduct of the Voir Dire Examination: Practices and Opinions of Federal District Judges* (FJC-R-77-7), by Gordon Bermant

*Observation and Study: Critique and Recommendations on Federal Procedures* (FJC-R-77-13), by Larry C. Farmer

*Recommended Procedures for Handling Prisoner Civil Rights Cases in the Federal Courts* (Tentative Report No. 2) (FJC-R-77-5), Hon. Ruggero J. Aldisert, Committee Chairman

*Improving the Federal Court Library System* (FJC-R-78-2)

*Central Legal Staffs in the United States Courts of Appeals* (FJC-R-78-3)

*An Evaluation of the Application of a Computerized Citation-Checking System in the Federal Courts* (FJC-R-77-23), by Alan M. Sager

*An Evaluation of Computer Assisted Legal Research Systems for Federal Court Applications* (FJC-R-77-2), by Alan M. Sager

*Legislative History of Observation and Study* (FJC-SP-77-8), by Robert Schwaneberg

*Decisions Construing the Judicial Disqualification Statute* (FJC-SP-77-2), by Francine Tilewick

### **Education and Training Series**

*The Judge's Role in the Settlement of Civil Suits* (FJC-ETS-77-7), by Hon. Frederick B. Lacey

*An Overview of Federal Class Actions: Past, Present and Future* (FJC-ETS-77-8), by Prof. Arthur R. Miller

*Plenary Sessions of Regional Bankruptcy Seminars, 1976-1977* (FJC-ETS-77-10), by Prof. George M. Treister

*The Consequences of Alternative Sentences: A Presentation* (FJC-ETS-77-14), by Anthony Partridge, Alan J. Chaset, and William B. Eldridge



*Self-Development Information* (FJC-ETS-78-1)

## **Manuals**

*Law Clerk Handbook* (FJC-M-1), by Anthony M. DiLeo and  
Hon. Alvin B. Rubin



## IX. HISTORY AND ORGANIZATION OF THE FEDERAL JUDICIAL CENTER

Throughout its 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—across 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; others involve taking new approaches to problems that have existed for generations. Among current Center activities are: studies of the effectiveness of court procedures; developing an effective technology for solving appropriate problems of judicial administration; education and training of court personnel—via seminars, correspondence courses, audio cassettes, 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; and collection and dissemination of information to expedite case flow.

Prior to 1968, five organizations within the judiciary were involved in the administration of the federal courts: the Supreme Court of the United States, the Judicial Conference of the United States, the circuit judicial councils, the circuit judicial conferences, and the Administrative Office of the United States Courts. All of these continue to function in their respective spheres. In December 1967, however, the Congress authorized the establishment of the Federal Judicial Center and charged it with the responsibility of education and training for personnel within the judicial branch, independent research on the problems of the judiciary, and the development and application of technology essential for effective court management.

The impetus for this action by the Congress came from the

judiciary. The late Chief Justice Earl Warren and other members of the Judicial Conference recognized that the demands of the rapidly expanding federal case load could not be met by ad hoc responses from individuals and organizations working on a diffused, part-time basis. Accordingly, in 1966, the Conference authorized the Chief Justice to appoint a special committee to explore the need for congressional authorization of a broad program of continuing education, research, training, and technological innovation for the federal courts.

The 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 was submitted to Congress. After an extensive series of hearings, and with broad bipartisan support, the Congress enacted Public Law 90-219, which the President signed on December 20, 1967, establishing the Federal Judicial Center. Shortly thereafter, under the leadership of its first director, the late Justice Tom C. Clark, the Center began functioning as the federal judiciary's research, development, and education organization.

The Center is supervised by a board of seven members: the Chief Justice as a permanent member and chairman; five members elected by the Judicial Conference for four-year terms—two circuit judges and three district judges (who are not members of the Conference); and the director of the Administrative Office as a permanent member. The Center maintains close contact with the Administrative Office, which is the operational arm of the federal courts.

The director of the Center is selected by the board and, by statute, may serve only until the age of seventy. As indicated above, the first director of the Center was the late Justice Clark, who was succeeded by the late Judge Alfred P. Murrah, former chief judge of the United States Court of Appeals for the Tenth Circuit. Judge Murrah, in turn, was succeeded by Judge Walter E. Hoffman, formerly chief judge of the Eastern District of Virginia, who continues to serve as the Center's director emeritus. The incumbent took office in July 1977.

The Center's formal organization structure consists of four

divisions, each of which is responsible for designated projects and each of which draws upon the other divisions in the discharge of its functions. The Center has organized its programs and its divisions in a manner designed to combine optimal organizational efficiency with optimal organizational flexibility.

The Research Division studies various aspects of the operation of the federal courts, usually at the request of the courts themselves or of Judicial Conference committees, in an effort to provide information and analysis that will facilitate the effective administration of justice. As detailed in this report, Research Division projects include: sentencing studies, voir dire studies, analysis of discovery in civil cases, and research on the quality of advocacy in the federal courts.

The Division of Innovations and Systems Development devises, tests, and evaluates new technologies designed to improve the efficiency and effectiveness of court processes. Under the general mantle of Courtran, the division is in the process of developing management information systems for criminal and civil cases in the district courts and the courts of appeals. The work of the division, as detailed in the body of this report, is wide-ranging. It has had, for example, such responsibilities as the evaluation of computer-assisted legal research and transcription systems.

The Division of Inter-Judicial Affairs and Information Services coordinates Center activities with those of other organizations working for court improvement. It also provides a bibliographic and research service specializing in the area of judicial administration.

The Continuing Education and Training Division conducts seminars, workshops, and short courses for all third-branch personnel. These programs range from orientation seminars for judges to on-site management training for supporting personnel. As detailed in the body of this report, more than six thousand individuals—over half of the personnel in the federal judicial system—have been served by at least one of the wide variety of Center educational programs.



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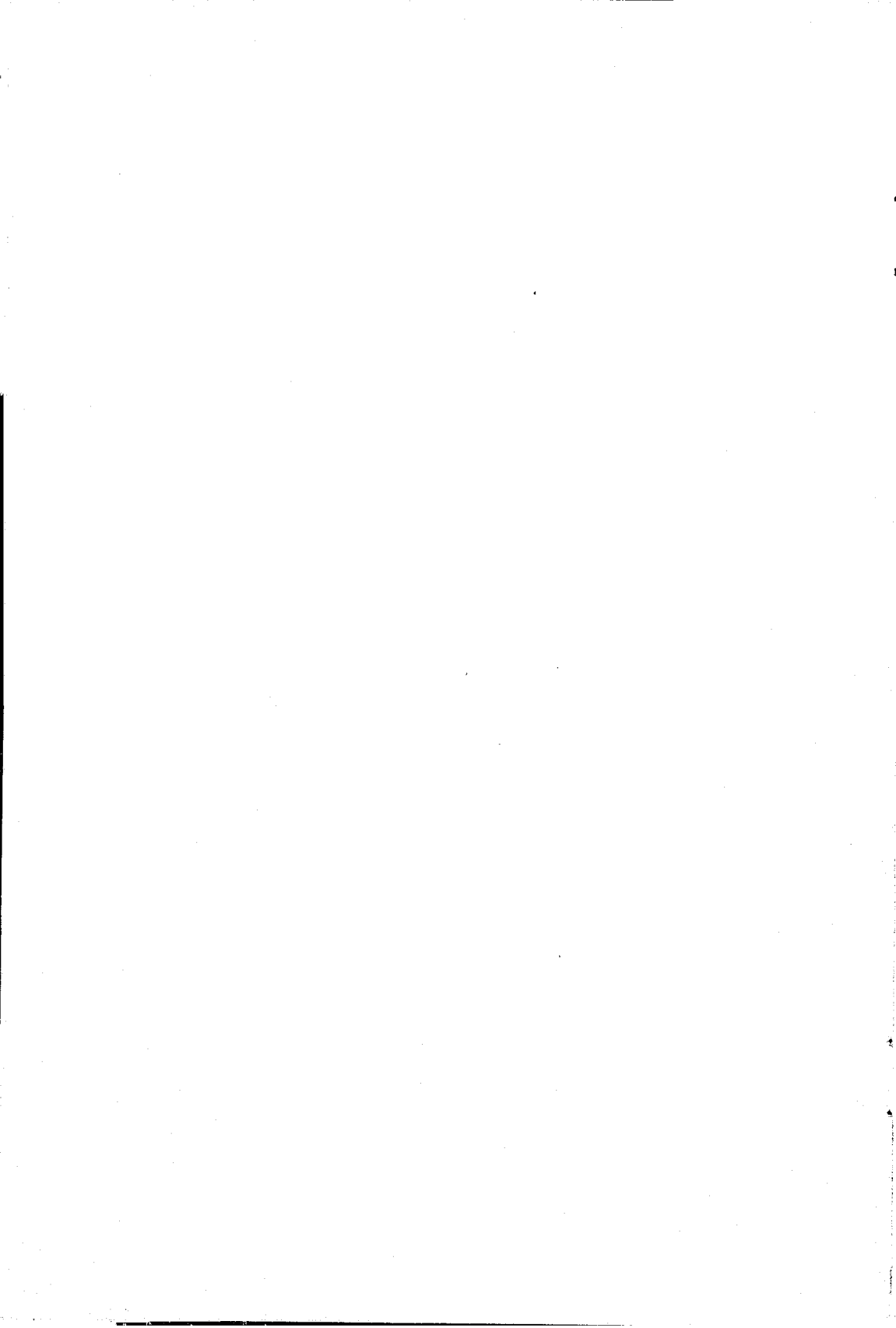
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Public Law 90-219  
90th Congress, H. R. 6111  
December 20, 1967

## 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:

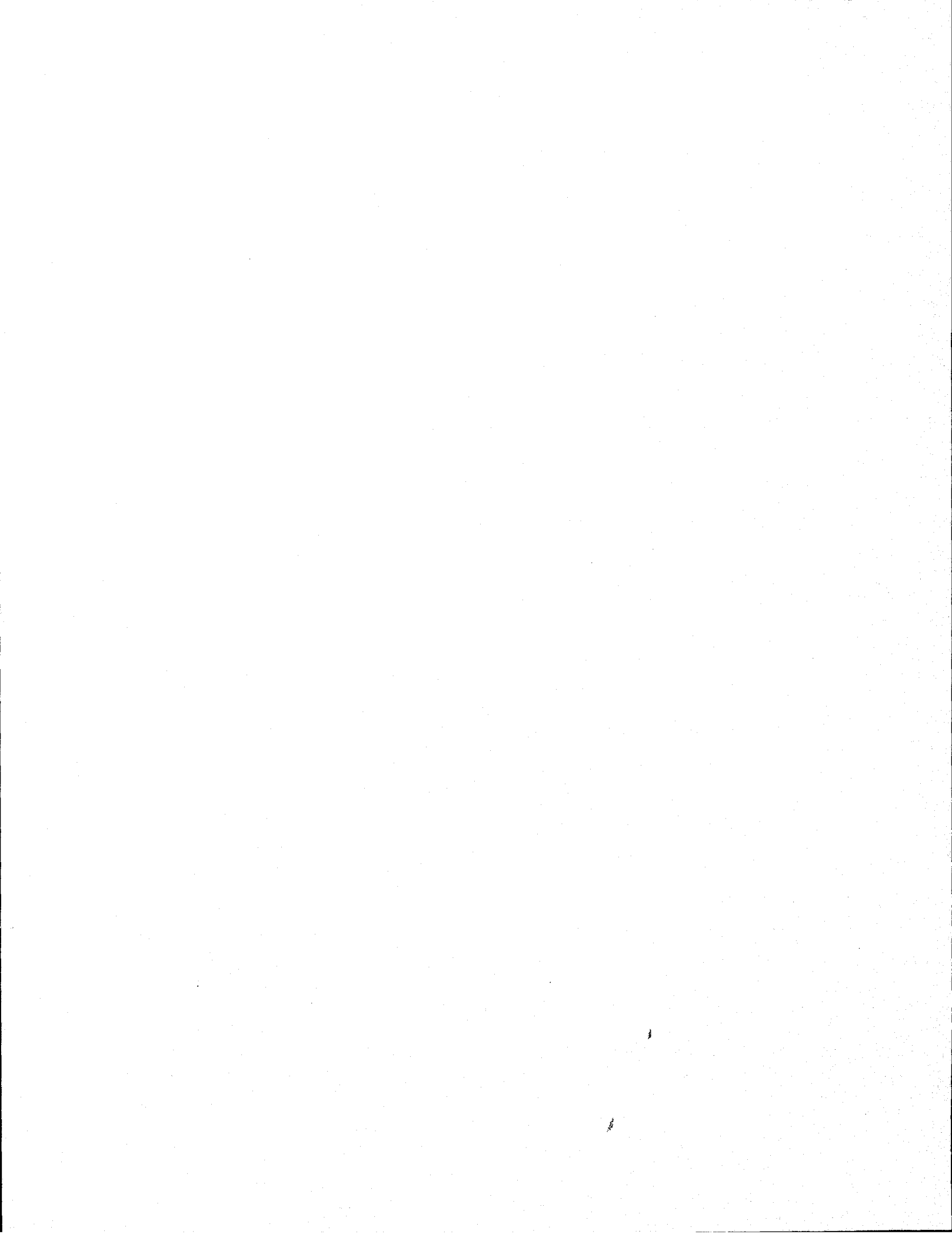
“(1) to conduct research and study of the operation of the courts of the United States, and to stimulate and coordinate such research and study on the part of other public and private persons and agencies;

“(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.

**FEDERAL JUDICIAL CENTER**  
**DOLLEY MADISON HOUSE**  
**1520 H STREET, N.W.**  
**WASHINGTON, D.C. 20005**  
**202/633-6011**



**END**