

# Federal Judicial Center Annual Report

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**1979 ANNUAL REPORT**  
**FEDERAL JUDICIAL CENTER**

**NCJRS**

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**Honorable Walter E. Hoffman, Director Emeritus**

**Senior Judge, United States District Court for the  
Eastern District of Virginia**

**October 27, 1974 to July 18, 1977**

THE FEDERAL JUDICIAL CENTER

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August 20, 1979

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

Pursuant to the provisions of 28 U.S.C. § 623, I respectfully submit the Federal Judicial Center's Annual Report for fiscal year 1979.

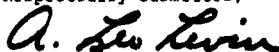
This report summarizes our activities since the last annual report and describes the work projected through September 30, 1979, the formal end of the fiscal year. Further details on any facet of our programs will, of course, be made available to you on request.

This letter provides once again an appropriate and genuinely welcome occasion to express gratitude to the Congress for its support of the work of the Center, evidenced in many forms, not the least of which is interest in the products of the Center's work. Once again, the Judicial Conference and its committees, the judges, and the other constituent elements of the federal judicial system have favored the Center with their requests for service, their suggestions for improvement and their many concrete contributions to our programs.

The staff of the Center is in the particular debt of the Chairman and the other members of our Board for their sustained interest in our work and for the consistent support they have provided.

We count it a privilege to be of service to the federal judicial system. 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: OF ULTIMATE GOALS**

This annual report of the Federal Judicial Center for fiscal 1979 is submitted, pursuant to statute, to the Judicial Conference of the United States, the Congress, and others specified in the governing mandate. It affords the Center a welcome opportunity not only to keep the Committees on the Judiciary "fully and currently informed" concerning its activities, but also to share this information with the entire federal judiciary and the many other individuals and organizations with whom the Center works and to whom it relates.

An annual report, by design, focuses on the events of the year—the challenges, the opportunities, and, it is hoped, the accomplishments of a relatively short time span. These pages record a large number of such events. Thus, in 1979, the Center has been engaged in the welcome task of providing orientation to new judges appointed under the 1978 Omnibus Judgeship Act and to supporting personnel who have entered the third branch as a consequence of the increase in judges. Also, the Center's Courtran program had developed by 1979 to a point that allowed a major expansion of automated case flow services to additional courts, to assist them in meeting the monitoring and reporting requirements of the Speedy Trial Act of 1974. Other Center research—on such varied topics as complex civil litigation, aspects of the jury system, or services needed by probationers—produced specific results in 1979 and are described below.

To focus only on the events of a single twelve-month period is to examine only a thin slice of an organization's life and work, often ignoring the background out of which many projects arise and the goals they are designed to achieve. The occasion of an annual report is an opportunity to focus more broadly, to look both backward and forward. In one sense, a somewhat larger view is a necessity. Many of the Center's programs continue from year to year, notably its education and training activities and its liaison and inter-judicial affairs services. Other Center projects, such as the research and development to test and imple-



ment the Courtran computerized case flow management system, are long and complex. Similarly, research on such topics as juries, case management, and sentencing could make little contribution if the progressive steps of design, data gathering, analysis, and presentation had to be completed within one year. It is important, in stressing the events of a single year, that the long-term nature of the Center's work be understood.

Regarding each activity of the Center, we extend an invitation to interested persons to learn more about the specific details of its programs and services, either by consulting its publications, listed in a separate section of this report, or through direct contact with staff.

One event of the past year, in particular, invites a broader look at the Center and its function. I refer to the death of Warren Olney III, Director of the Administrative Office of the United States Courts from January 1958 to October 1967, who played a leading role in the creation of the Center. Paying tribute to his former colleague in the Department of Justice, Mr. Chief Justice Burger said of Mr. Olney: "As much as any single individual, he was responsible for the creation of the Federal Judicial Center, working closely with Chief Justice Warren and Justice Tom Clark. He helped develop the legislation which ultimately emerged from Congress to authorize a research, development, and continuing education organization for the courts. His life was a career dedicated to public service of the highest order. Integrity and excellence are two words that sum up his life."

Warren Olney had a broad view of the potential inherent in a Federal Judicial Center and of the principles vital to its success. Scarcely more than a decade has passed since the Center was established; it is surely too early to attempt to assess long-range impact. Yet the Center remains sensitive to the need constantly to evaluate the effects of its various programs. Compliments—and complaints—provide a helpful source of informal feedback. The Center has developed effective working relationships with the various constituent units of the federal judiciary that it serves, and these relationships convey reactions on a continuous basis. We are encouraged by the number of reports we receive that our research efforts have resulted in beneficent changes in the practices of a given judge or the procedures of a given court. We are encouraged by favorable comments on the utility of our training programs, on the value of Courtran appli-

cations, on the help provided by the Center's Information Services. The Center also uses, where appropriate, more formal evaluation devices to measure the effects of its programs. Nevertheless, we remain sensitive to the fact that one of the major tasks facing the Center—indeed, facing any service agency as its position becomes more established—is to stay constantly aware of the ultimate objectives for which it exists, and to employ appropriate evaluative devices to determine whether or not it is serving those objectives in optimal fashion.

Evaluation inevitably requires that thought be given to ultimate goals. Much of the Center's work concerns efficiency in the administration of justice and, inevitably, the focus is frequently on details. Efficiency is a worthy enterprise, yet its importance must be viewed in perspective. We need neither denigrate its significance in the overall scheme of things, nor elevate it to the level of an ultimate goal. Not too long ago, we were reminded by the Pound Conference Follow-Up Task Force, chaired by Judge Griffin B. Bell: "It is important to keep firmly in mind that neither efficiency for the sake of efficiency, nor speed of adjudication for its own sake are the ends which underlie our concern with the administration of justice in this country. The ultimate goal is to make it possible for our system to provide justice for all. Constitutional guarantees of human rights ring hollow if there is no forum available in fact for their vindication. Statutory rights become empty promises if adjudication is too long delayed to make them meaningful or the value of a claim is consumed by the expense of asserting it. Only if our courts are functioning smoothly can equal justice become a reality for all."

Even more recently, in a submission to the Congress, the Chief Justice noted the importance of recalling "old [and] familiar propositions" concerning the place of justice in our national hierarchy of values. "From the earliest days of the Republic," he observed, "justice has been a preeminent concern of our people. The preamble to the Constitution gives priority to establishing justice, ahead of the blessings of liberty. The pledge of allegiance, too, links justice with liberty and serves to remind each succeeding generation that justice for all remains a national aspiration of the highest importance." And yet, he continued, "the reality has fallen short of the aspiration."

This report chronicles our efforts during fiscal 1979 to contribute to the realization of that aspiration—to reduce, if not yet to eliminate, the gap between aspiration and reality.

# **I. TRIAL COURT RESEARCH**

In enumerating the missions assigned to the Federal Judicial Center, the Congress listed first the obligation "to conduct research and study on the operation of the courts of the United States" and to stimulate such research by others. Over the twelve years of its existence, the Center's research has focused on the problems pressing for attention as defined by the courts themselves, by the members of the Center's Board, by the Judicial Conference of the United States and its committees, and by the Congress as it considers legislative changes affecting the courts' structure and operations. Our research is, in large measure, policy research, directed toward providing help to those who must make policy decisions. While a particular research project may be triggered by a single inquiry, the results are typically of more general interest and are disseminated, not only through published reports, but also through the Center's educational programs, consultation with courts and relevant Conference committees, and on request, consultation with congressional staff.

The Center has always devoted significant resources to policy research on district court operations, simply because the district courts loom large not only in their relative size within the federal judiciary but also in the varied and complex problems entailed in their effective operation. In recent years, of course, there has been unusual emphasis in the Judicial Conference and in the Congress on problems of complex civil litigation, as well as on matters of sentencing and the proper structure of the sentencing process.

This section reports on the Center's trial court research, including its research on civil litigation, weighted case loads, jury utilization, and the like.

## **A. Civil Litigation Studies**

Civil litigation, as a subject of substantial concern to the federal judiciary, has a high priority on the Center's research

agenda. Prior Center work, reported in previous annual reports, has examined various management strategies employed in district courts to improve and expedite case processing. We are pleased when judges report to us, as they have, that as a result of our reports they have adopted new procedures with beneficial results. Our studies helped to refocus elements of the current debate on revision of the federal rules; they are now being supplemented by a number of discrete inquiries focusing on various facets of civil litigation selected for analysis because they promise to provide 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. These studies are described below.

## **Motions**

*Judicial Controls and the Civil Litigative Process: Motions*, completed in the summer of 1979, analyzes the relationship between various methods of handling motions and the promptness of rulings. The use of oral proceedings and the extent of opinion drafting were found to vary substantially among the six metropolitan districts in the sample. Rulings on motions were filed most promptly by two courts that kept opinion drafting to a minimum even though these courts followed markedly different approaches to the use of oral proceedings. The size of the drafting workload remains the greatest impediment to speedy ruling on motions.

The authors conclude that extensive use of oral proceedings coupled with self-enforcing motion-day procedures constitute the most effective method of minimizing delay in rulings. This requires little, if any, administrative activity by the judge; its tracking feature automatically delivers each motion to the judge for an opportunity to rule from the bench.

The report also presents empirical information on civil motions practice, including data on types of motions, briefs, and outcomes; this information will be useful in future planning.

## **Discovery Practices**

*Discovery Activity: Empirical Case Studies*, completed this year, builds on the study of discovery practices reported in the Center's 1978 report, *Judicial Controls and the Civil Litigative*

**Process: Discovery.** That report found, among other things, that the volume of discovery requests was not spread evenly across all cases in the sample examined; a high volume of such requests (eleven or more) was found in a relatively small number of cases. Because it dealt only with the number of discovery requests shown on the docket, the report did not provide any definitive view of the total discovery activity represented by the requests. To learn more about total discovery activity, two authors of the initial discovery report conducted an intensive examination of eighteen cases with a high volume of discovery requests. The cases were selected from terminated cases in the District of Maryland, which, of the six courts providing data for the earlier study, provided easiest access to Center researchers. The most important finding of this set of case studies was that the volume measure of the earlier report provided a satisfactory measure of total discovery activity in the cases examined. There is, for example, a strong correlation between the number of interrogatory sets filed and the total number of questions asked. Similar correlations hold for deposition activity.

The authors also attempted to assess the matter of "discovery abuse" through interviews with attorneys of record and an independent study of court files. The researchers found one case of the eighteen that they regarded as revealing substantial discovery abuse and three others with minor problems. In the authors' opinion, the remaining fourteen cases adhered reasonably well to generally accepted notions of proper discovery practice.

These case studies suggest to the authors that questionable discovery practices were so highly individuated that the solution to discovery abuse lies more in effective professional discipline than in substantial revision of the discovery process.

## **Case Studies of Discovery Problems**

The Center also used the case study method to learn more about discovery abuse. The case studies described above and the Center's large-volume empirical studies suggest that discovery in the vast majority of cases is working without serious problems, but these findings are not inconsistent with the existence of serious problems in some cases.

To study the problems, we asked a large number of lawyers who litigate in federal courts to identify cases in which they perceived discovery problems—both cases in which they participated and cases they knew about.

From these cases, the researchers selected a group that presented a variety of circumstances and a variety of perceived problems. Interviews with attorneys in those cases were conducted to flesh out the dynamics of discovery activity, to clarify perceptions, to understand the form of the problems, and to pinpoint their sources. The report, which will include recommendations for solutions to discovery problems, is now being completed and is scheduled to be available early in 1980.

## **The Use of Sanctions to Control Discovery**

The Federal Rules of Civil Procedure provide sanctions that district judges may impose in the discovery process to redress the effects of abusive discovery and to deter such conduct in the future. There is, however, little systematic knowledge of how judges have used these sanctions. An obvious, crucial question is: can sanctions be used more effectively? To help address this question, the Center commissioned students and faculty at the Notre Dame Law School's Thomas J. White Center to examine secondary literature and reported case decisions in order to learn more about types of conduct resulting in sanctions and the nature of sanctions imposed. Preliminary drafts of the report were delivered to the Center in the summer of 1979, and the final report is expected in late 1979.

## **Local Rules and Practices Affecting Discovery**

While the Federal Rules of Civil Procedure provide national direction for the conduct of discovery, rule 83 allows the various district courts to promulgate their own local rules; there are also a variety of practices by individual judges that are not embodied in rules of court. The Center conducted an informal survey of these local rules and practices in 1977. The data collected in this survey formed the basis for a more comprehensive inquiry and analysis in a study for the Center by Professor Sherman Cohn; this study was published in the *Minnesota Law Review* in 1979 and was reprinted as a Center report. In *Federal Discovery: A Survey of Local Rules and Practices in View of Proposed Changes to the Federal Rules*, Professor Cohn elected to analyze certain recommended changes in national discovery rules in light of his findings about the operation of local practices.

## **Regulation of Attorneys' Fees**

The cost of civil litigation continues to attract concern from many segments of our society, including but hardly limited to bench and bar. Attorneys' fees are only one element in the cost of litigation, and while not all fee arrangements are subject to court scrutiny, they are increasingly being subjected to regulation and to court review. The Center is developing information to help judges discharge their responsibility in this area.

The Center has launched two studies concerning attorneys' fees. One is a report by Professor Robert Aronson of the University of Washington on federal statutes and regulations governing fees. The other is a study by Professor Arthur Miller of Harvard University of court supervision of fees in class actions. Both studies were completed in the summer of 1979 and are to be published in 1980.

## **B. 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 *Manual*, a collection of suggested procedures for handling complex cases, is written by judges for judges after receiving comments and criticism from bar associations and individual members of the bench and bar. The *Manual* contains, as Chief Judge Alfred P. Murrah of the Tenth Circuit Court of Appeals noted in 1960 and as the *Manual's* Board of Editors reiterates, "neither a simplified outline for the easy disposition of complex litigation nor an inflexible formula or mold into which all trial and pretrial procedure must be cast." In the next year, the Center and the Board will look toward a major redrafting of the *Manual* in light of developments over the last decade.

## **C. Evaluation of Court-Annexed Arbitration**

Local rules requiring nonbinding arbitration in certain types of civil cases were adopted last year in the districts of Connecticut, Northern California, and Eastern Pennsylvania. The stated objectives of this court-annexed arbitration are to reduce the time and costs to litigants of disposing of certain civil cases and

to reduce the need for full judicial resources in the resolution of some disputes. Under the rules, cases are submitted to lawyer arbitrators (usually panels of three) for decision; after the arbitration judgment, the parties may seek a trial de novo in district court. The Center, at the request of the courts and the Department of Justice, has undertaken a two-year evaluation of the effects of these rules.

Data from court records, brief questionnaires to those involved in the cases, and surveys of the bar will help measure whether the arbitration rules reduce the courts' involvement in these cases and will help determine the effects of the rules on the rates at which cases terminate, whether by arbitration, settlement, or trial. The research is also assaying the satisfaction of lawyers, litigants, and others involved in the cases subject to arbitration. The Center has prepared an informal interim report presenting the limited amount of data that were available after the first year of the evaluation; a final report on the effects of the rules in each of the three courts will be prepared as soon as the evaluation is completed.

Legislation currently pending before Congress would mandate a test of similar rules in at least one district in most circuits, with the Center responsible for evaluating this larger test. The study of the three rules now in operation continues to inform debate and discussion and will provide a tested structure for the expanded evaluation.

## **D. Weighted Case Load Analysis**

Case weights are relative measures of the judge time typically consumed by various types of cases and are applied to the courts' case load statistics so they may describe more accurately the relative demands imposed on different courts by the specific mix of cases filed with them. Such weights have been of interest to the Congress, as well as to the courts, because they aid in analyzing the need for additional judgeships. Determining these weights has normally required a time study of all judges, or some sample, to learn how much time they devote to various types of cases. In fiscal 1979, the Center, on behalf of the Judicial Conference Subcommittee on Judicial Statistics, conducted the data collection and analysis necessary for a revision in the case weights in use since 1971.

To accomplish this, the Center conducted a nationwide survey in which 100 randomly selected judges maintained simple



diary records for a three-month period, recording the number of minutes they spent on each case each time they worked on it. These records are being used to create revised case weights for use by the Administrative Office of the United States Courts and the Judicial Conference in the statistical reporting process. They will be used in preparing the reports to Congress that request additional judgeships.

To avoid imposing again on the judges for case weight diaries, the Center is also reviewing the feasibility of a permanent system called "event-based weighting," which would require only a single time study that could be revised subsequently by using data from docket sheets and computer records. However, the heavy demands that such a system, as currently constituted, would impose on the courts' data-gathering resources pose serious operational problems. If this concept can be refined and simplified sufficiently to make it cost-effective, it will be tested in the field and implemented over the next few years. The Courtran system, described in Section V, will be an important resource in the development and operation of such an approach.

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

In recent years, the courts have found it necessary to issue orders for large-scale and systematic changes in institutions such as prisons and mental hospitals as a means of redressing widespread violations of constitutional rights. Special masters appointed by the courts to oversee the implementation of the courts' orders have proved a significant aid in such cases, but the use of such masters can involve procedures as unusual as the cases themselves. Members of the research staff have continued to study the role of the master in one large case, a study undertaken at the suggestion of the judge involved. The Center expects this project to lead to publication of two documents. The first report will be an overview of the theory and practice of implementation of court orders in extended impact cases, with emphasis on reform in institutions of total confinement. The second report will be a documented study of the single case the Center staff has been observing; its publication will await termination of the case.

The Center also arranged for an analysis of the master's role by Professor Vincent Nathan, who served as the court master in

two other prison reform cases in federal courts. Nathan's analysis, *The Use of Masters in Institutional Reform Litigation*, was published this year in the *University of Toledo Law Review* and was reprinted as a Center report.

## **F. Prisoner Civil Rights**

In his annual address to the American Bar Association in 1973, Chief Justice Burger expressed his view that the increasing number of prisoner cases filed in the federal courts presented a problem requiring immediate attention, and he called for the development of alternative procedures to ensure that these cases would be handled expeditiously while assuring that meritorious matters are not overlooked in the process. Soon after that speech, a special Center committee, chaired by Judge Ruggero J. Aldisert (United States Court of Appeals for the Third Circuit), was formed to study prisoner cases in the federal courts and to suggest improved procedures for the handling of these cases. The Center has provided staff support since the committee's inception.

In recent years the committee published, through the Center, two tentative reports with 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 being developed for publication next year. The report will reflect additional standards and recent developments in the case and statutory law and will incorporate the results of a survey on the use and utility of the two prior reports.

In addition to improving and expanding the report, the committee has made available, through the Center, a *Compendium of the Law on Prisoners' Rights*, a lengthy resource treatise prepared by a member of the committee. Committee members and Center staff have also participated in a series of regional seminars, convened by the American Correctional Association, for state correctional officials and assistant attorneys general. Further, Center staff continues to assist the growing number of court law clerks who help process prisoner cases: recent cases, articles, and information on innovative procedures are distributed to personnel in the field.

In addition to Judge Aldisert, the committee includes District Judges Robert C. Belloni (District of Oregon), Robert J. Kelleher (Central District of California), Frank J. McGarr (Northern District of Illinois), the late John H. Wood, Jr. (Western District of Texas), 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.

## **G. Jury Projects**

The Center, working closely with the Judicial Conference Committee on the Operation of the Jury System, continues its attention to a number of projects to improve the efficiency of jury selection procedures, while assuring that juries in United States district courts are representative.

The Center analyzed the feasibility of a comprehensive system of computerized juror selection, management, and payment with a view toward achieving economy and efficiency. The analysis suggests that for such a system to be cost-effective, certain simplifications in existing juror selection procedures would be required, albeit without affecting the intent and spirit of the law. These modifications may require amendments to the juror selection statute.

Also, the Center has been asked to monitor efforts in the Eastern District of New York to establish a one-day, one-trial term of service, whereby jurors are called to sit on a single trial or are excused after waiting one day without being selected. Its use in several large-city state courts has reportedly resulted not only in greater appreciation of jury service on the part of the public, but enhanced representativeness and efficiency in the juror selection process. If the Eastern District's initial experience is successful, it may also adopt certain methods of increasing system efficiency that appear particularly suitable in the one-day, one-trial mode.

The Center is also completing a comparative study of several methods to select, qualify, and summon prospective jurors. Some courts combine the juror qualification questionnaire and

the summons in one mailing; others use the mail simply to summon the prospective jurors. Extensive data collected in eight of nine pilot districts will provide detailed information on the costs associated with each step of the jury selection process. The data will be valuable for future studies and improvements of the district courts' juror selection operations. The final report on this project, delayed by the press of other priorities, is scheduled for completion in fiscal 1980.

## **H. Criminal Jury Instructions**

In the spring of 1978, the Chief Justice appointed the Federal Judicial Center Committee to Study Criminal Jury Instructions. The committee is chaired by Judge Prentice H. Marshall of the Northern District of Illinois. The other members are Judge Patrick E. Higginbotham of the Northern District of Texas and Judge Thomas A. Flannery of the District Court for the District of Columbia. The committee was established because enactment of a new criminal code, still before the Congress, would render many existing jury instructions obsolete; the committee's creation did not foreclose the possibility that an exhaustive redrafting effort would require a larger committee with representatives of courts throughout the system.

The committee decided early on that a major objective in drafting suggested instructions under a new code should be to improve the comprehensibility of instructions to jurors. This need for improved comprehensibility persisted even when it became clear that a new criminal code would not be enacted in the Ninety-fifth Congress. The committee thus turned to instructions unlikely to be affected by code revision, while recognizing that attention could be focused on the other instructions if and when a code revision becomes law. Center staff provided support, particularly with respect to juror comprehension, understandability of instructions, and existing pattern instructions used in the district courts. The committee's drafting work is now under way with the assistance of two professors from the University of Illinois: Paul Marcus, associate professor of law, assisted by Thomas B. Littlewood, professor of journalism, who served previously as a reporter covering legal matters for a Chicago newspaper.

## **I. Studies of the Voir Dire Examination**

At the request of the Judicial Conference Jury Committee, the Center continues to work on the effectiveness of the voir dire examination, a subject of increasing importance as a result of the relatively recent emphasis on the role of the judge in the voir dire. The Center's work is designed to help judges elicit accurate, relevant information from prospective jurors. In addition to considering the content of voir dire questions, the research highlights ways in which the form, pacing, and order of questions can influence the answers. The Center's research on voir dire to date has been described in *The Voir Dire Examination: Practices and Opinions of Federal District Judges* and *The Voir Dire Examination, Juror Challenges, and Adversary Advocacy*.

Illustrative of the complexity of the problems in this area is the fact that different language habits (e.g., rising inflections at the ends of declarative statements, excessive use of particular modifiers) may influence perceptions of potential jurors' veracity, credibility, or impartiality.

With the information already developed and the results of research soon to be undertaken, the Center hopes to develop a provisional training manual or teaching package for judges, to help them hone their skills in the conduct and evaluation of the examination.

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

To assist the courts in resolving problems of interpretation of the Speedy Trial Act, the staff has prepared a legislative history of relevant materials from congressional hearings, committee reports, and debates, collected under the statutory language to which they pertain. A portion of this history was made available to the courts. Completion and distribution of the entire report was delayed to take account of congressional amendments to the act, which were passed in early August. Center staff has also continued to provide technical advice to planning groups and district courts in fulfillment of the Center's statutory obligation under the act, and to the Judicial Conference Committee on the Administration of the Criminal Law.

## **II. Sentencing and Probation Research**

### **A. Issues Raised by Debate over Criminal Code Revision**

In fiscal 1979, as in the last several years, Center research has been applied to questions raised in the congressional debate over major revisions in the federal criminal code. Examination of new jury instructions, discussed in Section I, is one project. Other projects, relating more to the sentencing process, are discussed below.

One project examines how a new federal criminal code may increase prosecutors' discretion to affect sentencing and sentences served. Code changes presently under consideration, including abolition of parole release and the development of sentencing guidelines, are intended to limit discretion in sentencing and to produce substantially greater predictability of sentences actually served. One consequence, albeit perhaps unintended, may be to enhance substantially the ability of federal prosecutors, through charge selection, to determine the sentence ultimately served.

Professor Stephen Schulhofer of the University of Pennsylvania analyzed for the Center the likely extent of prosecutorial discretion under various models of the sentencing process currently under legislative consideration. His analysis suggests that the bargaining power of United States attorneys and the effect of their decisions on sentencing will indeed be substantially enlarged, unless there is a concomitant restructuring of such prosecutorial discretion.

The report was completed in the spring of 1979 and distributed in the summer of 1979, although the Center earlier honored requests for preliminary drafts by congressional staff and others involved in legislative analysis of the new code.

A prominent feature of the debate over criminal code revision is choice of a method to develop sentencing guidelines. One method, used in several states and suggested for federal sentencing guidelines should they be authorized, attempts to discover the sentencing criteria or policies used by judges through a statistical analysis of patterns of actual sentences imposed. In an article published in the March 1979 issue of *Federal Probation Quarterly*, two members of the Research Division argue that it is fallacious to claim to have identified judges' sentencing policies merely from the fact that certain defendant or case characteristics are statistically associated with certain types of sentences imposed by judges. Any effort to do so mistakenly assumes that statistical correlations alone can indicate causality, and furthermore, fails to account for other, unstudied variables that may explain the associations discovered. To identify judges' sentencing criteria, the Center researchers suggest that one should start by asking the judges.

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

Under federal criminal law, a sentencing judge has wide discretion to impose any type and length of sentence for a specified offense, within the statutory limits. The trial judge is thus expected to prescribe an "individualized" sentence that suits the offender's character, social history, and potential for recidivism. He is expected to do so against the background of all relevant information about the defendant. The major vehicle for conveying this information to the sentencing judge is the presentence investigation report. The defendant has an obvious interest in assuring that the report is accurate as well as complete. 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.

In 1977, responding to a request from the Judicial Conference Probation Committee and the Probation Division of the Administrative Office, the Center, working with the 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 decision. The report on the project will be available early in the fall.

## **C. Sentencing Council Study**

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

In fiscal 1979, the Center completed a study of whether councils in fact reduce disparity. Others have examined the effects of council deliberations on tentative sentencing decisions in individual cases. By contrast, the Center's research has compared 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 councils' operations are crucial to their effectiveness. Indeed, the study suggests that unless councils engage in wide-ranging, give-and-take discussions, their effect may be to increase, rather than reduce, disparity. Varying attitudes toward the importance of developing a consensus appear to be crucial. The study concludes that sentencing councils do reduce disparity if they are structured to emphasize development of a consensus; but without such emphasis, they are unlikely to achieve that result.

## **D. Probation Case Load Classification**

In fiscal 1979, the Center continued its project to produce a reliable instrument to assist probation officers in making case load classification decisions by improving their ability to predict,



on the basis of past experience, what services a probationer is likely to need. A classification format based on a statistical or base expectancy scale (BES) holds considerable promise for improving the probation officer's ability to determine, accurately and consistently, the appropriate level of supervisory attention each client should receive.

Data on a sample of probationers and parolees received for supervision in eight districts in 1974 have been collected and analyzed to determine which of four possible models would best serve the needs of the entire probation system. The eight districts are: Northern California, Northern Georgia, Nebraska, Eastern New York, Eastern Pennsylvania, Rhode Island, Southern Texas, and Western Washington.

The initial results of the data analysis have been presented to the Judicial Conference Committee on the Administration of the Probation System and the Probation Division of the Administrative Office. Further data analysis continues, focusing on the ability of the BES models to aid classification of both probationers and parolees, and the models' possible use by probation officers in making sentencing recommendations.

The final research report on the project is scheduled to be issued before the end of the calendar year.

## **E. Guidance to Aid Judges in the Sentencing Function**

In response to concern over disparity in sentences, Congress authorized the Judicial Conference to convene institutes or joint councils to allow judges to study and discuss questions relating to the sentencing process and to develop policies and standards to foster uniformity in sentencing procedures. The Center, at the request of the Judicial Conference, has been involved in the planning, administration, and evaluation of these institutes since 1974.

The Center worked with the Probation Committee of the Judicial Conference, representatives of the circuits involved, and personnel from the Bureau of Prisons, the Parole Commission, and the Probation Division of the Administrative Office to organize and present two institutes in fiscal 1979. The first, for the Eighth and Tenth Circuits, met in Denver and included a tour of

the Federal Correctional Institute at Englewood, Colorado. The second, held for the First, Fourth, and District of Columbia Circuits, included a tour of the new federal corrections facility at Butner, North Carolina. Center staff were also involved in planning the next two institutes: one for the Fifth Circuit in October 1979, and a joint institute for the Third and Sixth Circuits scheduled for May 1980.

In a related project, the Center has prepared and published a short paper to advise judges of the relationship between a judge's sentence of imprisonment and the actions of those agencies that have responsibility for an offender after sentencing. *Policies of the Parole Commission and the Bureau of Prisons as They Affect the Judge's Sentencing Options* was originally drafted for presentation at sentencing institutes; it describes the operation of the parole guidelines, prison designation procedures, and other important procedures. The paper now has been incorporated as part of the Education and Training Series for general distribution and more specifically for the seminars for newly appointed district judges. Staff periodically reviews current policies and procedures of the particular agencies to update the document as needed.

## **F. Pretrial Services Agency Data Analysis Project**

Title II of the Speedy Trial Act of 1974 directs the Administrative Office to evaluate the three-year experience of the ten federal pretrial services agencies (PSAs) established under the act. The Administrative Office asked the Center to assist it by analyzing the recorded data on the defendants that the PSAs processed. The Center's report on the project was forwarded to the Congress by the Administrative Office as an appendix to its statutorily mandated evaluative report.

The Center analyzed the experience in PSA districts and a set of five districts selected for comparison purposes to allow the researchers to distinguish changes that might have been caused by PSA from changes that took place elsewhere in the judicial system. Data were also collected for two years prior to the implementation of PSA so that changes attributable to PSA could be determined.

The analysis revealed no statistically significant differences between PSA and other districts in rates of detention and only

minor differences in the number of defendants who commit crime while on bail. A second central finding was that although there were differences in detention between those PSAs managed by an independent board of trustees and those managed by the district's probation office, those differences might be explained by the different kinds of cases that the two sets of PSA districts processed. In particular, although board-managed districts had greater reduction in detention than probation-managed districts, they also had fewer serious offenses, which might have accounted for the detention differences.

Additional findings were presented, and a revised final report with more analyses and expanded interpretation will be published early in the next fiscal year.

## **G. Case Load Management and Review Project for the United States Probation Office for the District of Columbia**

At the request of the Probation Division of the Administrative Office, the Center has helped the United States Probation Office for the District of Columbia develop a set of pilot procedures to improve case load management and review practices. The case control system was developed primarily to provide line officers as well as supervisory and administrative staffs with current information on critical items for every individual supervised in the district. In addition, the data generated in this project are expected to provide the office with important feedback for more accurate evaluation of its goal of management by objective. Finally, this information should better serve to alert the line officer about cases that require some manner of immediate case work intervention.

After review of the case control model, the district decided to evaluate the plan on a limited basis using a randomly selected sample of one-fourth of its total case load. After evaluating its experience with the case control model, the district decided to implement the case control procedures on an office-wide basis for a two-year trial period. The Probation Division has asked for continued assistance during the office-wide evaluation period.

### **III. APPELLATE COURT RESEARCH**

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

Interest in the development and evaluation of new techniques for managing the appellate docket has grown along with appellate court case loads and the intensification of pressures for more efficient means of handling them. In fiscal 1978, the Center completed an evaluation of the Second Circuit's Civil Appeals Management Plan (CAMP), which resulted in modifications of the plan. Last year, at the request of the United States Court of Appeals for the Seventh Circuit, the Center began another study of an appellate court procedure, an evaluation of a process 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 conferences, some cases were apparently being settled prior to conference as a result of the scheduling letters sent to counsel, leading the court to consider a program of sending appropriate letters that might stimulate settlement without conferences, at least in certain types of cases. Such a procedure would produce substantial economies while accomplishing the ultimate ends of the conference: speedier disposition for litigants, reduction in the total amount of time required of the attorneys, and reduction of judicial and administrative workload.

The court asked the Center 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. An interesting 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. An interim report on the evaluation

was prepared during this fiscal year, with the final project report anticipated early in fiscal 1980.

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

Techniques of panel appointment and case assignment in the United States courts of appeals 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. In 1977, 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. Using the criteria that the circuit had specified, Center research staff designed, tested, and delivered a calendaring program to meet the court's needs. Center staff has continued 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 has thus far implemented 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.

A final project report, entitled *CALEN9: A Calendaring and Assignment System for Courts of Appeals*, was published this year as a Courtran System Description.

As described in Section V, 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. Fur-

ther development of the calendaring program will take place within the AIMS framework.

## **C. Study and Documentation of the Appeals Expediting System of the Eighth Circuit Court of Appeals**

The Eighth Circuit Court of Appeals developed and implemented a system for expediting appeals from the filing of notice of appeal in trial court through oral argument. Stringent schedules for the filing of transcripts and briefs are implemented by repeated notices to participants to assure strict compliance to deadlines.

Presumably this system helps explain why the Eighth Circuit's median time from filing to disposition is one of the shortest in the nation. To date, however, the system had not been reduced to writing, either in operations manuals for district court personnel assigned to appeals work, or in a system description, which would inform other appellate courts of the procedure. Further, the court, while satisfied with the system, thought that refinements of forms and techniques could improve the overall operation. Finally, in its present form, the system does not facilitate the gathering of statistics and other important management information, which must be extracted from multiple sources.

At the request of the circuit, the Center arranged for Professor Larry Farmer of Brigham Young University to study the court's expediting system and to deal with the identified problems and deficiencies. In addition, Professor Farmer is evaluating expediting techniques in other circuit courts and developing a set of recommendations for appeals expedition in the federal courts. In all of these efforts, he is working closely with Center staff and the Eighth Circuit's appeal expeditor, who is charged with overall system responsibility.

A final report on the project, including final system documents, will be published in the next fiscal year. Professor Farmer also will supervise the preparation of manuals and forms developed as a result of the research.

## **IV. RESEARCH IN OTHER AREAS OF THE FEDERAL COURT'S OPERATION**

### **A. Experimentation and the Law**

A major challenge of policy research is determining whether an innovation does indeed achieve the results intended for it. The classic scientific method of evaluation is the controlled experiment, in which one group is subject to a specific change and an otherwise identical group is not. Wherever human subjects or human activities are involved, such differential treatment presents problems of fairness, and these problems are compounded in legal institutions. On the other hand, forsaking rigorous evaluation involves the substantial risk that what are praised as "reforms" may in fact lead to waste of vital resources or even to serious harm. Other professions, such as medicine and education, have confronted the problems of experimentation involving human activities, though not with absolute success on all fronts, but the legal community has for the most part not considered the issues.

Consequently, the Chief Justice, as chairman of the Center's Board, last year appointed the Federal Judicial Center Advisory Committee on Experimentation in the Law, composed of thirteen judges, lawyers, and scholars from several disciplines, and chaired by Chief Judge Edward Re of the United States Customs Court. The committee's mission is to provide guidance to the judges, administrators, and researchers who must ultimately decide whether and how to apply experimental methods in research related to legal institutions.

The committee has met throughout the year to review in detail several papers prepared for it by the Center's Research Division and to gain the benefit of the views of eminent members of the social science research community. The committee is expected to conclude its work during the coming year.

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

During the past fiscal year, the Center completed a dual project on circuit executives and judicial councils with publication of *The Impact of the Circuit Executive Act* and *Operation of the Federal Judicial Councils*. The project was initiated because Congress had expressed an interest in a report on the operation of the Circuit Executive Act after sufficient time had passed to evaluate it. After this research was under way, the Center received a request from the Judicial Conference Subcommittee on Federal Jurisdiction to evaluate implementation of guidelines for judicial council operations, promulgated by the Judicial Conference in 1974.

The report on circuit executives presents a diverse picture. The circuit executives have indeed made important contributions to the operation of the courts of appeals, as well as to the district courts and the judicial councils. The authors concluded, however, that the functions of some circuit executives could be expanded to broaden the impact of the position. The tasks assigned to some executives, the report notes, have left them little time for important policy-relevant work and staff assistance contemplated by the Congress.

As to the judicial councils, the Center researchers concluded they have operated much better than their critics have indicated, especially in the crucial areas of judicial discipline and performance. The councils have intervened in relatively subtle and effective ways when questionable behavior by a judge has been brought to their attention. There was little or no indication that problems were being swept under the rug, as many commentators seem to believe. However, the report contains a number of suggestions designed to increase lawyers' awareness of the scope and functions of the circuit councils, particularly with regard to discipline, and to establish routine procedures for receiving and screening complaints.

The report is more critical of councils' supervision of the dockets of courts within the circuit. The study indicates that the materials available to the councils for obtaining a clear and concise picture of operational problems in district courts are not being used in optimal fashion. The report proposes several specific remedies to improve such judicial council supervision and to permit councils to act on a more manageable body of information.



## **C. Analysis of Federal Court Rule Making**

The Chief Justice, in his 1979 State of the Judiciary Address, expressed the view, shared also by some members of Congress, that the time had come for a reexamination of the national rule-making process, including a consideration of whether better arrangements for national review of proposed rules might be devised. In response to this call, the Center asked Dean Roger Cramton of Cornell Law School to author a working "think piece" that could be considered at a small conference of individuals in a position to suggest alternatives to the present system if necessary. This review of the national rule-making process will continue into fiscal 1980.

Local rules are frequently the subject of much criticism. Moreover, it is not clear what role they should play within the system of national rules. On the one hand, uniformity has been a major premise of national rule making since the 1930s; on the other hand, local rules offer an opportunity for testing innovations, which has many attractions. The Advisory Committee on Civil Rules is asking the Center to expand its work in the area of local rules, and we expect to respond to that request in the coming year.

## **D. Creation of Federal Judgeships**

Over the last several decades, the effects of the sporadic creation of large numbers of federal judgeships have increasingly complicated the problems of effective delivery of justice. Particularly when the Congress has been controlled by the political party opposite that of the President, stalemates have deprived the nation's federal courts of needed judicial power for long periods of time. Typically a large omnibus judgeship bill has then been passed, requiring the judiciary to absorb large personnel increases in a short period of time.

On several occasions the Chief Justice and others have asked whether alternative means of judgeship creation might be developed to avoid the twin problems of judgeship drought, followed by inundation. Several state legislatures have, for example, attempted to devise semiautomatic means of triggering new judgeships.

This matter appeared to the Center to be one of the relatively rare occasions justifying the commitment of very modest resources to provide fresh insights concerning a problem unlikely to see immediate solution. Accordingly, the Center invited Professor Carl Baar, an expert on state judicial administration, to analyze the current methods used in the states and suggest options that might stimulate thought by the legislative, judicial, and political communities. His analysis reveals that in modern times the average increment in federal judgeships on a yearly basis has been relatively small, suggesting consideration of a system of providing a greater role for the judiciary in determining when and where new judgeships would come into existence. The report will be distributed by the Center during the coming fiscal year.

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

The ability to forecast changes in case filings can be a very useful tool in planning; sophisticated forecasting techniques might also help predict the impact of legislative or procedural rules changes. For some years, the Center has been doing pioneer work in this area, although the forecasts generated were not of immediate practical value. The problem appears to have been in the modeling techniques used in the analysis.

Taking advantage of these previous experiences and the data bases that had been developed, the Center continued to invest modest resources in this area. A member of the Center staff developed a simple model of federal civil and criminal filings and terminations that was used to develop short-range forecasts, as a demonstration of one possible operational procedure. The model was described in a paper presented to a conference on the legislative impacts on courts sponsored by a National Academy of Sciences panel that had been commissioned by the National Science Foundation to analyze the feasibility of creating "judicial impact statements."

During the coming year revisions will be made to the short-range forecasting model presented to the National Academy of Sciences, using data at the circuit level, as well as for shorter time periods (calendar quarters rather than years). New techniques for short-range forecasting will also be explored.

## **F. Decisions Construing the Judicial Disqualification Statute**

In 1974, a number of amendments to the judicial disqualification statute (28 U.S.C. § 455) broadened and clarified grounds for disqualification. Last year, the Center published a staff paper, *Decisions Construing the Judicial Disqualification Statute*, which identified and annotated recent cases interpreting the amended section. Prepared at the request of the Judicial Conference Joint Committee on the Code of Judicial Conduct, the paper was distributed to all judicial officers.

This year, the Center updated its research on the statute and condensed the staff paper into a shortened form suitable for adoption for benchbooks or other reference binders, including that maintained for the code by the Administrative Office. It reports on cases that either construe the meaning of section 455 or contribute to an understanding of how it should be applied. The cases are grouped by factual circumstances that prompt allegation of judicial bias.

## **V. COURTRAN**

In compliance with the congressional mandate to study the application of automatic data processing and systems procedures to federal court administration (28 U.S.C. § 623(a)(5)), the Center is developing what we refer to as Courtran, a wide-ranging computerized federal case and court management system. Courtran is an umbrella term that refers both to the Center's computer hardware facilities and transmission networks and to the numerous software applications that the Center develops. These applications, when fully tested, are to be transferred to the courts for daily operational use.

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. Once in operation, however, the Courtran systems will enable all courts in need of the service to use computer terminals to store their case load data in time-sharing computers located in Washington. This will allow instant docket monitoring by the courts themselves and will provide a centrally located data base for planning and research.

The Center has given first priority to developing the Criminal Case-Flow Management System, which facilitates judicial compliance with the Speedy Trial Act of 1974. As noted below, in fiscal 1979, those elements of the system that will be most helpful to the courts in connection with the Speedy Trial Act were either in place for experimental use or being made available to forty-five courts, comprising about three-fourths of the total criminal case load. This section describes the principal elements of Courtran development in fiscal 1979. In addition to

these major applications, Courtran provides a wide variety of auxiliary services, such as electronic transmission of documents and sophisticated statistical analysis capabilities.

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

The Criminal Case-Flow Management System is now in various stages of operation in eleven pilot district courts, which last year accounted for over 34 percent of the national criminal case filings. The pilot courts are selected not only to allow the Center to test automated case management services in courts with a sizable percentage of the national case load, but also to allow the Center to examine the effects of automation in courts of varying size, dispersion, and court management approaches. As explained below, an additional thirty courts have been offered a specific application derived from the Criminal System to help them monitor their compliance with the Speedy Trial Act of 1974. Four other district courts have already started using this specific application.

The Center has completed all of the Criminal System's initial software development, although a great deal remains to be done before this application can be certified as operational and transferred to the courts as such. Current activities primarily involve maintaining the existing software while making improvements and modifications to meet pilot court needs and revising the software so that it consumes significantly fewer computer resources. The Center is also seeking to improve the system's capacity to accommodate changing usage patterns in the courts as automatic data processing becomes integrated into their daily business activities.

Ten of the eleven pilot courts have entered all information on their pending criminal case load into the system and are now entering all information on new criminal cases, as well as information concerning further activity in pending cases. Additionally, each of the ten courts has completed extensive validation of the information entered into the computer and has verified the accuracy of the reports produced by the system. The pilot courts are using the Criminal Case-Flow Management System for monitoring all criminal cases to assure compliance with the Speedy Trial Act.

## **B. Speedy Trial Accounting and Reporting System (STARS)**

The Center has this year developed another system for accounting and reporting under the Speedy Trial Act of 1974. It is narrower in focus than the Criminal Case-Flow Management System described above and designed for use in courts that either do not need or cannot be provided that full Criminal System. We refer to this as STARS, the Speedy Trial Accounting and Reporting System.

Unlike the Criminal Case-Flow Management System, STARS will supplement rather than replace existing court record-keeping and reporting procedures. STARS was specifically designed to minimize the time that court personnel must spend entering information into the computer, while still maintaining the system's capability to provide courts the relatively detailed information they need to monitor compliance with the Speedy Trial Act. Deputy clerks will enter information concerning their courts' criminal case load on terminals located in the court, and the central Courtran computers in Washington will complete the actual processing of this information. A number of reports analyzing Speedy Trial compliance will be processed by the central computers and printed out on the computer terminals located in the participating courts.

STARS is currently being implemented in four courts, and in May 1979 the Center advised an additional thirty courts that STARS (and a related application, INDEX, described below), would be made available to them if they wanted this assistance. As a result, automated assistance in monitoring compliance with the Speedy Trial Act through the full Criminal System or through STARS has been offered to a total of forty-five courts—including all courts with more than 250 felony defendants in 1978—which comprise almost 80 percent of the national criminal case load. Not all of the thirty additional courts will accept our services immediately; not all can be brought on line immediately.

## **C. District Court Index System (INDEX)**

The Center has developed an automated District Court Index System (INDEX) to replace the manually prepared card

indexes from which most courts derive their lists of pending cases. Thus INDEX records such basic information as parties' names, case filing dates, the number of defendants in any specific case, and the judge to whom the case has been assigned. INDEX accepts information on all civil, criminal, magistrate, and bankruptcy cases filed in a given district. Additional information, such as termination date, judge reassignment, and attorneys of the respective parties can also be entered into the INDEX system. This information is used to prepare monthly statistical reports on case activity and judges' pending cases.

The INDEX system is presently in use in fifteen pilot districts and has been offered to the additional thirty district courts that have been offered STARS. Like STARS, INDEX is easy to operate, readily producing useful analytical reports.

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

The next step in the development of a Civil Case-Flow Management System for district courts is development of a software package that will run on the large central Courtran time-sharing computers. The specific task is to transfer the concepts developed during a test of the Civil System on minicomputers in two district courts into such a software package. An initial survey of system requirements for this transfer has been completed. The Center's objective in completing this new version of the Civil System is to develop a single family of software that can 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 future system maintenance costs.

## **E. Central Violations Bureau Support**

Although they are not typically considered federal cases, more than 500,000 relatively minor offenses, such as traffic violations on federal land, were processed in the federal courts in fiscal 1978, with resulting fines of over \$6 million. These cases are handled through what are called Central Violations Bureaus (CVBs), and the Center, responding to requests from several

districts, has been conducting a pilot project to automate the 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 action by the court. Where payment of a fine is not received within a certain specified period, the system automatically generates a warning letter to the violator and any other follow-up action that may be required. Eliminating manual citation monitoring reduces the amount of typing and clerical effort required to deal with citations ignored by violators. As a by-product, the automated CVB system makes it easier for the clerk's office to prepare statistical information for the Administrative Office and for its own management of the CVB operation.

The automated CVB operations, now under way in all four pilot districts, will be expanded to additional district courts if they prove successful.

## **F. 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. The functional description, a standard first step in developing any automated management information system, defines the Appellate Case-Flow Management System's purpose, scope, content, and capabilities. It was produced by personnel from the courts, who worked with Center and Administrative Office staff to analyze and define the management information needs of the appellate courts and develop agreement on the purpose that AIMS would serve.

The first major portion of the AIMS system, called Pre-AIMS, is now being tested by the Second and Tenth Circuits. A model implementation plan is nearing completion and will assist other appellate courts in introducing this powerful case management tool into their operations.

As with other Courtran case-flow management systems, the information entered into the computer and recorded on micro-



fiche will eventually replace the manual docket; clerk's office personnel using terminals will be able to retrieve information and reports on demand, thus effecting economies while promoting efficiency.

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

An automated index system for appellate courts, the Courtran Appellate Index System (CAIS), which is similar to the District Court Index System, has been developed to provide an alphabetized indexing service tailored for use within the appellate court environment. Monthly updated reports provide information about parties and cases on both the general and miscellaneous dockets.

The system can also produce reports about judge and panel assignments, case terminations, and case reopenings, as well as the periodic JS-30 summaries and monthly statistical reports required by the Administrative Office. The CAIS system is now undergoing testing in two circuit courts. This system will ultimately be a part of AIMS when the latter is implemented.

## **H. Word Processing and Electronic Mail**

In March 1979, the Center published its report on the word processing and electronic mail experiment that it had undertaken in cooperation with the United States Court of Appeals for the Third Circuit. For the project, sophisticated word processing systems were installed in the chambers of each active judge, and one senior judge, and in the offices of the clerk, pool secretaries, and circuit executive. In addition to performing normal word processing functions, the equipment was able to communicate electronically by telephone lines with the central Courtran computers in Washington, D.C., making it possible for judges to transmit draft opinions and certain case-related documents instantaneously to one another.

Among the major study findings were:

1. The use of word processing is cost beneficial for the courts of appeals. It decreases the cost of preparing court opinions and allows better utilization of the time of support personnel in each judge's chambers.

2. The use of this technology consistently decreases the time required to prepare written opinions. The Center report documented a 52 percent reduction in the time required by the court to prepare and issue per curiam opinions and a 25 percent reduction in the time to prepare signed opinions.
3. The use of word processing increases secretarial productivity by 200 to 300 percent and decreases the number of typing hours by half.
4. Judges do not have to alter their work style or procedure to use this technology.

The project found electronic mail effected substantial time savings in transmission and, while more expensive than regular postal service, was less expensive than other forms of expedited transmission. The electronic transmission portion of the experiment was extended by the Center and the court to allow resolution of certain technical problems. The editors of *Word Processing World* awarded the Third Circuit a national merit award for this project.

## **I. Courtran Facilities and Equipment**

During fiscal 1979 the Center completed construction of its second major Courtran computer facility located in the District of Columbia federal courthouse. The fourth large Courtran time-sharing computer was also installed in this new facility, thus increasing the Center's computer capacity by approximately one-third and allowing the rapid expansion of such Courtran applications as STARS and INDEX.

Regulating and distributing the processing workload among the several Courtran computers is a major part of the Center's day-to-day operations management. In order to make the most effective decisions regarding computer utilization—an urgent requirement as court usage increases—the Center is continuing to develop programs for sophisticated analysis of the amount and distribution of the load on its computers. An important function of these data is to provide identification of long-range trends in computer usage and early warning of future computer overload.

## **J. Courtran Network**

Crucial to the efficient operation of Courtran is the method selected for linking the Courtran terminals in the district and appellate courts over the country with the central Courtran computers in Washington. During fiscal 1979, the Center continued to study the alternatives available to it for this purpose. Commercial value-added-network services are still used for a majority of the data transmitted to and from the courts. In addition, the Center uses 1200 baud dial-up service procured through the General Services Administration, and a major expansion of this service was instituted during the year. The Center is also evaluating direct-leased lines as well as hard-wired terminals, all in the effort to secure the most cost-effective means for court data transmission.

## **K. Local Programming Applications**

Several of the pilot districts using Courtran facilities have developed local systems to answer 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 it can do so without interfering with the development of Courtran applications intended for nationwide use.

One such local application, discussed in last year's annual report, is the arbitration system used in the Northern District of California, which is one of the three courts participating in the arbitration experiment described above in Section I. 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 the Northern District of Illinois to analyze that court's bankruptcy cases and the services provided by the clerk's offices in the Southern District of New York and the District of Columbia for probation case management.

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

One of the Center's goals is the capability within the courts to produce statistical reports automatically for the Administrative Office, replacing the present, manually prepared reports. The first step in achieving this goal was a test undertaken by two of the ten districts using the Courtran Criminal Case-Flow Management System. The two courts are automatically producing hard copies of the JS-2 (case opening) and JS-3 (case termination) reports; they will be compared with the manually prepared reports. Once this phase is successfully concluded, the Center will complete the design and programming necessary to provide these reports to the Administrative Office on magnetic tapes. Automatic report production in machine-readable form will relieve the district court clerks of a significant burden and will also help the Administrative Office in entering received data into its computer system.

## **M. General Research Support**

Courtran computer facilities and staff are available to other units of the Center and Administrative Office, subject of course to the primary need for nationwide development of Courtran case and court management systems. Examples are the programming support provided to the Center's Research Division for evaluating 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 services agencies.

## **N. Training Courtran Users**

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 1979, the Center continued a project launched the year before to produce a Computer-Assisted Instruction (CAI) course, using an authoring language developed by the Center, to help court personnel learn how to use current and planned Courtran applications. The first training module, dealing with Speedy Trial Act monitoring, has been completed and has been released to the pilot courts for testing.

After these courts have had the opportunity to make extensive use of this module, the Center will evaluate the need for developing additional training modules.

## **VI. CONTINUING EDUCATION AND TRAINING**

The Federal Judicial Center is directed by statute (28 U.S.C. § 620(b)(3)) "to stimulate, create, develop, and conduct programs of continuing education and training for personnel of the judicial branch of the Government." To discharge this mandate, the Center's Division of Continuing Education and Training presented 131 workshops, seminars, and conferences during 1979, which were attended by over 5,000 participants—including circuit and district judges, bankruptcy judges, magistrates, public defenders, court clerks and deputies, probation officers, court reporters, and librarians—close to half the personnel in the federal judicial system. The division provided additional educational services through audio and video cassettes, correspondence courses, Center publications, and support for participation in established courses offered at national and local institutions.

Although some Center seminars and workshops are held in Washington, most are offered on a regional basis; the specific site is determined by the geographical distribution of the personnel attending. To minimize the expenditure of funds for travel and subsistence, the Center this year began to investigate the potential of various new technologies for education and training, including satellite telecommunications to telecast seminar and workshop programs, and computer-assisted legal instruction as an educational aid for judges. Judges' receptivity to this latter approach was tested during the course of the most recent seminar for newly appointed United States district court judges. In addition, the Center has continued to expand its program of taping seminar sessions, to bring the programs to those who could not attend and to serve as refreshers to those who did attend.

Continuing legal education (CLE) credits accrue to participants in many of the Center's legally oriented programs. Various programs presented by the Center have been approved for continuing legal education credit in the states of Minnesota, Iowa, Wisconsin, Washington, Colorado, and Idaho. The purpose of the Center's programs is to meet educational needs within the

federal judicial system. Those needs are identified through study of the reports of the Management Review Division of the Administrative Office, the studies undertaken by the Center's Research Division, and in consultation with personnel in the judiciary. The planning committees that design the various programs include judges and other judicial personnel; experts in the various fields, such as university faculty members; senior staff of the Administrative Office; and senior staff of the Division of Continuing Education and Training.

The Center uses a variety of devices to measure the effectiveness of its programs, including supervisors' assessments of participants' on-the-job performance and follow-up evaluation questionnaires after the conclusion of each program, as well as more standard mechanisms. To stay abreast of trends in continuing education, the Center also maintains close contact with professional accreditation groups, institutions of higher education, and other continuing education organizations. This collaboration enables the Center to stay abreast of trends in continuing education and thus helps to assure a continued high level of training programs.

The following table of fiscal 1979 conferences, seminars, workshops, and other types of training sessions summarizes the number of programs conducted and the number of participants and faculty in each program category. A fuller description of these programs is provided in the next sections.

No.	Category	Participants	Faculty	Total
17	Federal Circuit and District Judges.....	699	175	874
7	Bankruptcy Judges.....	450	79	529
4	Magistrates.....	113	56	169
30	Clerks of Court, Chief Deputy Clerks, and Deputy Clerks .....	1,086	165	1,251
5	Public Defenders, Panel Attorneys, and Public Defenders' Investigators .....	211	54	265
18	Probation Officers.....	1,321	182	1,503
4	Administrative Office Support Training.....	81	11	92
1	Court Reporters .....	47	5	52
1	Librarians.....	33	24	57
1	Judges' Secretaries .....	21	7	28
43	In-Court Management .....	1,315	90	1,405
131		5,377	848	6,225

## **A. Conferences, Seminars, and Workshops**

### **Judges**

**Seminars for Newly Appointed District Judges.** The Center conducted seminars in November and June for sixty-six newly appointed federal district judges; the June seminar was attended mainly by judges appointed pursuant to the 1978 Omnibus Judgeship Act, and the Center is scheduled to hold three additional seminars for new judges in fiscal 1980 to provide orientation both for judges appointed to newly created positions under the act and for judges appointed to normally occurring vacancies.

The orientation seminars, the oldest of the Center's programs, provide an intensive introduction into as many crucial areas of judicial performance and responsibility as a six-day program reasonably allows. Among the areas covered are case management, plea bargaining, sentencing, judicial ethics, and special problems of the jury and nonjury trial.

**Federal Circuit Judges.** The Center sponsored two conferences for federal circuit judges in fiscal 1979. Seminars in Los Angeles in January and in Atlanta in March addressed topics related specifically to the federal appellate function. These included statutory construction, the review function, and the exercise of discretion within constitutionally specified bounds. A seminar for newly appointed federal circuit judges is being planned for fiscal 1980.

**Workshops for District Judges.** These annual workshops are held in the various circuits and their content is designed in close consultation with the district judges of the circuit, in order to provide a curriculum tailored to varying needs within the federal judiciary. Workshops deal not only with administrative and procedural subjects; they also provide a forum for judges to review among themselves, and with legal scholars, recent developments in the substantive law in such areas as the new federal habeas corpus, the Federal Securities Code, anti-trust, and patent law.

**Harvard Law School Program.** The Center's Board approved this year an experimental program to enable fifteen federal judges to participate in the Harvard Law School's Summer



Program for Lawyers, which provides intensive treatment of a range of basic substantive areas of the law—tax, antitrust, and administrative law, for example. The Harvard program presents the opportunity for rigorous and sustained substantive instruction (thirty-six classroom hours in a two-week period) of a type more conveniently provided by an academic institution than by the Center. Center sponsorship is experimental, and the Center's Board will review the evaluations of this year's participants in determining whether to continue this program.

**Metropolitan District Chief Judges.** The Conference of Metropolitan District Chief Judges, which the Center has sponsored since its inception, met twice in fiscal 1979. The twenty-nine courts represented in the conference are those with six or more authorized judgeships. The case load of these courts was about 60 percent of the total federal case load in 1979. Among the range of topics addressed in these sessions were in-court orientation programs for newly appointed federal district judges, alleviating juror hardship, jury instructions, and the special administrative and managerial functions of the chief judge.

## **Judges and Clerks of Bankruptcy Courts**

The Bankruptcy Reform Act of 1978 mandated creation of a separate bankruptcy court in each federal judicial district as of October 1979, and specified substantial changes in bankruptcy law and procedure. The Center adjusted its previously scheduled educational programs in the bankruptcy area, substituting for them a series of special orientation programs over the summer of 1979, in order to equip judges and clerks of bankruptcy courts to exercise their new responsibilities.

**Seminars for Bankruptcy Judges.** Orientation seminars for judges of bankruptcy courts were separated into two series of programs. The first series consisted of initial introductory seminars, one in Atlanta and the other in Salt Lake City. These sessions examined the Bankruptcy Reform Act in some detail to inform and prepare judges for the sweeping changes its implementation will require. The second series, held for judges in five geographical regions, addressed the new duties and administrative responsibilities imposed by the Bankruptcy Act. Topics in this latter series included the Federal Rules of Evidence, the role of trustees, conduct of a jury trial, the settlement process, and principles of personnel management.

**Seminars for Bankruptcy Clerks.** The Bankruptcy Act increased substantially the responsibilities and supervisory authority of chief bankruptcy clerks. To prepare them for their enlarged role, the Center conducted three workshops to provide an in-depth introduction both to the special procedural requirements of the act and to the range of new administrative and supervisory duties they will assume as clerks of federal courts.

## **Magistrates**

**Full- and Part-Time Magistrates.** The Center conducts orientation seminars annually for recently appointed United States magistrates; because magistrates are appointed for limited terms there is a substantial rate of turnover in this office. An orientation program for full-time magistrates was held in January and one for part-time magistrates was presented in August. The various sessions addressed both procedural and substantive topics including office management, arrest and search warrants, removal hearings, and preliminary examinations.

The Center also sponsors advanced seminars for full-time magistrates, to provide more in-depth and specialized instruction to those who have served for one or more years. Matters covered at the two 1979 seminars included expediting civil litigation, the conduct of jury and nonjury trials, and the processing of complex cases.

## **Clerks of Court, Chief Deputy Clerks, and Deputy Clerks**

**Clerks of Court.** The Center presented two seminars for clerks of court in fiscal 1979. Designed with a view to the wide range of managerial and executive responsibilities clerks exercise, they dealt with such topics as the General Services Administration, actions taken by the Judicial Conference, the effective utilization of training, and contract management.

**Chief Deputy Clerks and Deputy Clerks.** Within the federal court system are a variety of clerical and supervisory personnel who are responsible for the effective performance of the courts' numerous operational activities, and Center workshops each year reach from one-third to one-half of such personnel. In fiscal 1979, they included, for example, three workshops for jury clerks on such topics as juror utilization and automation of the jury selection process; three regional workshops for financial deputy clerks covering financial reports, treasury transac-

tions, registry funds, and accounting procedures; and several workshops for procurement clerks.

## **Public Defenders, Panel Attorneys, and Public Defenders' Investigators**

The fiscal 1979 seminar for federal public defenders was conducted in January and provided training in the administrative and budgetary aspects of operating a defender office and the utilization of technological advances. It also examined the probable impact of recent and pending legislation on the defender program.

In fiscal 1979, the Center held two seminars for assistant federal public defenders and court-retained attorneys who represent indigent defendants under the Criminal Justice Act. These programs dealt almost exclusively with legal matters and were designed to review and improve participants' expertise in representing deprived individuals charged with federal crimes.

The Center conducted a workshop in April for federal public defenders' investigators. The program examined those sections of the United States Code that specially affect investigators and reviewed the proper scope of attorney/investigator relations.

## **Probation Officers**

**Seminars for Probation Officers.** In this fiscal year, the Center conducted three orientation seminars for newly employed probation officers, providing an intensive introduction into the range of duties and tasks assigned to probation personnel. Faculty members serving at these seminars included judges and experienced probation officers, as well as representatives of the Federal Bureau of Prisons, the Department of Justice, and the United States Parole Commission. The Center also presented a series of advanced seminars for over 1,100 probation officers. This advanced training, relying heavily on case studies, taught techniques for more effective investigations, proper termination procedures, probation revocation, and implications of recent Supreme Court decisions for probation officers.

**Management Training for Chief Probation Officers.** Chief probation officers from each district were invited to participate in a one-week seminar in December. The program was designed to augment managerial and administrative capabilities by providing training in new theories and principles of effective

supervision. Task force groups formed at the seminar applied these theories and principles to practical management problems and derived recommendations that, subsequently, were submitted to the Administrative Office for possible action.

**Drug Aftercare Procedures Seminar.** Congress has directed the transfer of official responsibility for drug aftercare service for probationers from the Bureau of Prisons to the federal courts, effective October 1, 1979. In anticipation of the transfer, the Center developed an intensive orientation program in conjunction with the Probation Division of the Administrative Office. Chief probation officers from all the federal probation offices participated in the training, which included topics ranging from aftercare contracting to detoxification measures and urinalysis procedures.

**Pretrial Services Officers.** Fiscal 1979 is the final year of a four-year test of a series of seminars for officers serving in the pretrial services agencies established on an experimental basis by the Speedy Trial Act of 1974. Two advanced five-day seminars dealt with both legal and administrative matters.

**Graduate Education for Probation Officers.** The Center assists probation officers who qualify for a three-year program offered by Fordham University, designed to allow the officers to pursue a Master of Arts in sociology. The program relies primarily on correspondence work, which is complemented each semester by a one-week residential semester. The officers meet the tuition costs themselves, and the Center provides travel and subsistence for participants in the residential seminars. Fiscal 1979 saw the first degree awarded to a probation officer enrolled in the program, which is currently available in the northeastern and western states; approximately forty-five officers are currently enrolled.

## **Administrative Office Support Training**

The Center conducted four programs during fiscal 1979 for staff members of the Management Review Division of the Administrative Office. Management review teams, consisting of attorneys, auditors, and management analysts, conduct in-court reviews of all United States district courts. The purpose of these reviews is to analyze all operations of the courts, determine whether organizational or managerial deficiencies exist, and pro-

vide recommendations designed to improve the courts' effectiveness. The programs were designed to increase team members' knowledge of court operations and to acquaint them with various managerial tools and skills for use in the review process.

## **Federal Court Reporters**

**Workshop for Federal Court Reporters.** The Center sponsored two workshops for federal court reporters during the fiscal year to increase reporters' technical reporting skills as well as their awareness of the rules and regulations governing the preparation and distribution of manuscripts. The programs included sessions on communications with the Administrative Office, records maintenance and reporting procedures, professional development, and the utilization of advanced technological equipment to expedite the reporting process.

## **Federal Court Librarians**

The Court conducted a seminar for federal court librarians at the Dolley Madison House in March. The five-day program provided court librarians with the opportunity to develop alternative solutions to common problems, under the guidance of an experienced faculty.

## **Judges' Secretaries**

The Center presented one local seminar for judges' secretaries in fiscal 1979, intended to supplement the professional skills of secretaries with fundamental self-help and management principles, covering subjects such as effective time management, the Speedy Trial Act, and the importance of effective record keeping.

## **B. In-Court Training and Education Programs**

In addition to the conferences, seminars, and workshops offered by the Center throughout the country, the Division of Continuing Education and Training also conducts specialized in-court programs designed to meet particular needs within an individual court. These needs are brought to the attention of the Center in various ways. Sometimes courts request specific assist-

ance from the Center, and at other times the Center may suggest assistance based on problems revealed by reports of the Administrative Office's Management Review Division.

**Programs on Supervisory, Managerial, and Executive Development.** The Center offers, as an in-court training option, three sequential programs to improve the skills of managers and supervisors in the federal courts. Typically, participants begin with an independent study course, which is complemented by a workshop on supervisory skills and principles, which is followed in turn by more formal sessions on developing managerial capabilities. Other programs are available for the acquisition of additional executive skills and expertise.

The Center also conducts periodic in-court workshops on effective productivity. During fiscal 1979, fifteen such workshops were held on such topics as effective time management, improved communication, and change and its impact.

**Technical Training.** Occasionally, specific categories of court personnel require specialized technical or professional training and updating in order to discharge their responsibilities more effectively.

When requested by a local court, the Center structures in-court training sessions to provide assistance with respect to technical and professional problems for specific categories of local court personnel. In fiscal 1979, for example, the Center arranged for supervising probation officers with nationally recognized expertise to provide assistance to local courts in helping clients design specific post-probation plans. Faculty for such programs is not limited to government officials, but includes others with the needed expertise.

**Training Coordinators' Network.** In order to expedite the training of new employees, update the skills of present employees, and stimulate in-court promotion through upward mobility training, the Center has sought to have a training coordinator appointed in every large and medium-sized federal court. With Center support and aid, these coordinators structure and promote training programs for the various categories of personnel within their courts. The coordinators have designed cross-training for employees in one category who work in close conjunction with those in other categories, created standards and requirements for professional development, and designed education and training programs to provide specific assistance to those

who want it. A monthly Center newsletter, *What's Happening*, alerts training coordinators to new materials and programs available through the Center.

## **C. Media Services and Individualized Training**

The Center's media library includes 800 audio cassettes of presentations made at division-sponsored conferences, seminars, and workshops, indexed under twenty-two broad topical headings. In addition, it includes audio cassettes produced by professional organizations such as the American Law Institute. In 1979, there were more than 1,500 requests from the field for such material, and the number of total annual requests continues to increase. The library also circulates video cassettes of select division-sponsored programs as well as cassettes produced commercially. In addition to audio and video cassettes, the media library has available for loan over 150 professionally produced films for training purposes. Among the range of topics covered are juror orientation, landmark Supreme Court rulings, supervisory and managerial techniques, and juvenile offenders. The Center's *Educational Media Catalog* is updated periodically.

In order to promote the use of audio and video technology in the court system for education and training purposes, the Center has placed video playback and recording equipment in about twenty-five of the larger federal courts. In-court training coordinators work closely with video coordinators to produce short training films for in-house use in orientation, technical skills training, and employee relations improvement. Those persons designated as video coordinators are trained by the Center.

## **D. Specialized Training and Tuition Assistance**

The Center's specialized training program underwrites enrollment in job-related courses offered by various educational institutions, when the needs cannot economically be filled by Center seminars or media services. During fiscal 1979, federal judicial personnel were authorized to participate in more than 1,500 separate short-term courses at colleges, universities, and other institutions, including the National College of Criminal Defense Lawyers and Public Defenders, the Institute for Court

Management, and the National Judicial College. In all instances, tuition grants are conditioned upon a demonstration that the courses will enhance job proficiency and performance.

In fiscal 1979, the costs per course averaged \$151, and the bulk of the funds expended were for the training of personnel from offices of clerks of court, federal public and assistant public defenders, and probation officers. Aggregate funds of \$230,000 were obligated to the following personnel categories:

	<i>Percentage</i>
Offices of Clerks of Court .....	24.0
Federal Public Defenders .....	23.3
United States Probation Officers .....	21.4
United States Judges .....	13.4
Bankruptcy Courts .....	5.6
United States Magistrates .....	3.3
Offices of Circuit Executives .....	3.2
Staff Attorneys .....	3.0
Secretaries .....	1.7
Pretrial Services Officers .....	.7
Court Librarians .....	.3

## **E. Assistance to Related Institutions**

Center staff members provide occasional modest assistance to a variety of offices and institutions involved either directly or peripherally in judicial education. During fiscal 1979, these included the American Academy of Judicial Education, the National Judicial College, the American Bar Association, and the National American Indian Court Judges' Association. Various state court administrative offices maintain informal contacts with the Center as they undertake to develop programs of continuing education and training for personnel within those systems. The Center encourages such contact and exchange in the interest of improving the quality, as well as the quantity, of judicial education and training.



## **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. The division recently initiated a service that will catalog and file judicial opinions that suggest consideration of statutory or rules changes, thus creating a repository of information useful for the Judicial Conference Rules Committees, Congress, and judges.

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

During fiscal 1979, 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 what are termed fugitive materials, such as unpublished speeches and reports. It also maintains a collection of local federal court rules. Five hundred and fifty volumes were added to the collection this year, and the office borrowed almost that many from other libraries in order to fill specific requests.

Automation of the Information Services materials, on an in-house basis, was begun in fiscal 1979. ISIS—the Information Services Index System—will allow indexing and cross-referencing of the Information Services collection, especially of fugitive materials that are not normally indexed and available in a central depository. This will insure more accurate, precise, and complete response to requests for information, with greater efficiency. The system was developed by the Innovations and Systems Development Division, as a by-product of the Courtran program. The development of ISIS, coupled with access to the *New York Times* Information Bank and the vast collection of the Library of Congress, as well as the collections of other judicial administra-

tion organizations, assists the Information Services Office in its role as a national resource for information on federal court administration.

Although the office exists primarily to serve federal judges and their supporting personnel, it also responds to requests from other individuals and organizations working in the area of judicial administration. Its services range from providing a rapid answer to a narrow question, to compiling extensive bibliographies. During fiscal 1979, the Information Services Office responded to more than 6,000 requests for information and publications—1,000 more than the previous year.

Information Services is also responsible for the distribution of Center publications—over 9,000 copies in fiscal 1979. A catalog, the first in the Center's history, listing more than 100 separate Center publications, was published this year. The catalog lists reports of research and analysis done by or for the Center, as well as the products of seminars and workshops conducted for various third branch personnel.

## **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. 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 jointly by the Center and the Administrative Office. Thirteen thousand copies are distributed each month to personnel within the federal judicial system, 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 De-

partment, the United Nations, and other organizations. They usually seek information concerning various aspects of the federal judicial system that have relevance to particular matters related to their own judiciary. The Inter-Judicial Affairs Division is responsible for assembling appropriate materials and, when necessary, arranging meetings and briefings elsewhere. Over the past year, the Center received visitors from Argentina, Australia, Bangladesh, Bolivia, Brazil, Canada, Chile, Ghana, Greece, Iceland, Indonesia, Israel, Kenya, Nigeria, Pakistan, Peru, Senegal, Sierra Leone, the Soviet Union, Sri Lanka, Swaziland, Sweden, Thailand, and Zaire.

## **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. The publications listed below, and earlier publications listed in the Center's 1978 *Catalog of Publications*, may be obtained either by writing the Center's Information Services Office, or calling that office at (202)633-6365 (also FTS). (While the Center seeks the widest appropriate dissemination of its publications, some are produced in limited quantities for specific audiences and are available only on a loan basis.)

Center reports contain the results of major research projects. Staff papers include the products of short-term research efforts in response to specific inquiries, as well as works of Center staff that appear, for example, in professional publications and are reproduced as staff papers because of interest in the subject matter.

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 and available for distribution in fiscal 1979 are listed below. This annual report, however, includes reference to various other 1979 works that were completed by the authors but were still in the process of production during fiscal 1979.

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

*Survey of the Literature on Discovery from 1970 to the Present: Expressed Dissatisfactions and Proposed Reforms*, by Daniel Segal

*The Voir Dire Examination, Juror Challenges, and Adversary Advocacy*, by Gordon Bermant and John Shapard

*Operation of the Federal Judicial Councils*, by Steven Flanders and John T. McDermott

*The Impact of the Circuit Executive Act*, by John T. McDermott and Steven Flanders

*The Impact of Word Processing and Electronic Mail on the United States Courts of Appeals*, by J. Michael Greenwood and Larry Farmer

*Prosecutorial Discretion and Federal Sentencing Reform*, by Stephen Schulhofer

*Federal Discovery: A Survey of Local Rules and Practices in View of Proposed Changes to the Federal Rules*, by Sherman L. Cohn [Reprinted from 63 Minn. L. Rev. 253 (1979)]

*The Use of Masters in Institutional Reform Litigation*, by Vincent M. Nathan [Reprinted from 10 Toledo L. Rev. 419 (1979)]

*CALEN9: A Calendaring and Assignment System for Courts of Appeals*, by Michael R. Leavitt

*"The Feasibility of a National Sentencing Policy" A Critique*, by Anthony Partridge and Michael R. Leavitt

*COURTRAN II—The Comprehensive Application of Computer Technology to the Federal Courts of the United States*, by Charles William Nihan

*The Federal Judicial Center: A Nontraditional Organization in the Federal Judiciary of the United States*, by Joseph L. Ebersole

*Configuration Options for the Fourth Federal Judicial Center Computer System*

*A Study of Alternatives for the Distribution of Processing and Concentration of Communications*

*Judicial Discipline and Removal in the United States*, by Russell Wheeler and A. Leo Levin

## **Education and Training Series**

*Policies of the Parole Commission and the Bureau of Prisons as They Affect the Judge's Sentencing Options*, by Anthony Partridge, Alan J. Chaset, and William B. Eldridge

## **Manuals and Handbooks**

*Compendium of the Law on Prisoners' Rights*, by Ila Jeanne Sen-  
senich, distributed by the Center for the Center's Committee on  
Prisoner Civil Rights

## **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; development of an effective technology for solving appropriate problems of judicial administration; education and training of court personnel—through 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, other members of the Judicial Conference, and the late Warren Olney, then Direc-

tor of the Administrative Office, recognized that the demands of the rapidly expanding federal case load could not be met solely by ad hoc responses from judges and other 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 retired 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 President Johnson 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. Under the provisions of the Bankruptcy Reform Act of 1978, a bankruptcy judge elected by the Judicial Conference will assume membership on the Center Board in the fall of 1979.

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 efficiency with optimal flexibility. The Center maintains close contact with the Administrative Office, which is the operational arm of the federal courts.

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, evaluation of appellate court innovations, and refinement of the case weighting system for federal case load statistics.

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 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 this report, more than 6,000 individuals—over half of the personnel in the federal judicial system—were served during the past year alone by at least one of the wide variety of Center educational programs.

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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.

**END**