

# ANNUAL REPORT 1974



16504



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

## An Act

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

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

### TITLE I—FEDERAL JUDICIAL CENTER

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

#### **"Chapter 42.—FEDERAL JUDICIAL CENTER**

##### **"§ 620. Federal Judicial Center**

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

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

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

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

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

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

\* \* \* \* \*

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

X

**FEDERAL JUDICIAL CENTER**

**ANNUAL REPORT**

**1974**

**Dolley Madison House  
1520 H Street, N.W.  
Washington, D.C. 20005**

## **FEDERAL JUDICIAL CENTER**

### **Board**

Honorable Warren E. Burger, Chairman  
The Chief Justice of the United States

Honorable Walter E. Hoffman, Vice-Chairman  
Judge, United States District Court  
for the Eastern District of Virginia

Honorable Ruggero J. Aldisert  
Judge, United States Court of Appeals  
for the Third Circuit

Honorable Griffin B. Bell  
Judge, United States Court of Appeals  
for the Fifth Circuit

Honorable Marvin E. Frankel  
Judge, United States District Court  
for the Southern District of New York

Honorable Adrian A. Spears  
Chief Judge, United States District Court  
for the Western District of Texas

Honorable Rowland F. Kirs  
Director, Administrative Office of the United States Courts

## **FEDERAL JUDICIAL CENTER**

### **Director**

Honorable Alfred P. Murrah  
Senior Judge  
United States Court of Appeals  
for the Tenth Circuit

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### **Director Emeritus**

Honorable Tom C. Clark  
Justice (Ret.)  
United States Supreme Court

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### **Deputy Director**

Richard A. Green

### **Division Directors**

Kenneth C. Crawford, Continuing Education & Training

Joseph L. Ebersole, Innovation & Systems Development

William B. Eldridge, Research

Alice L. O'Donnell, Inter-Judicial Affairs & Information Services

THE FEDERAL JUDICIAL CENTER

DOLLEY MADISON HOUSE  
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WASHINGTON, D. C. 20005

TELEPHONE  
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August 14, 1974

TO: The Judicial Conference of the United States  
FROM: Alfred P. Murrah, Director  
SUBJECT: Annual Report of the Federal Judicial Center

At the direction of the Board of the Federal Judicial Center, I am pleased to transmit herewith the Annual Report of the Center. As in prior years, the activities are only briefly described in the report. Full detail will be made available wherever the Conference or its committees may desire further information.

This is my last opportunity to report to the Conference as Director of the Center. Pursuant to the statutory requirement, I will relinquish the position in October 1974. But I will not be through with the Center; I expect to work with it as long as I can be of help. It was my privilege to be one of the judicial midwives who helped to bring the Center into life. The fledgling institution, embodying so much of our hope for improved judicial administration, was delivered to the tender wardship of Mr. Justice Clark. Under his careful guidance, hope began to become reality. Despite the fact that he had less than two years as director, Justice Clark built it into an organization capable of assuming a substantial role in the quest for better institutions and improved procedures.

By the time I was called to be director, the Center had passed its infancy. The question was no longer what it was and what it would do. Very quickly the question had become how to choose among all the needs and opportunities that daily arose. Justice Clark had engendered such a strong measure of respect for the Center and confidence in its work that my job was made much easier. Because of that solid beginning, these four and a half years have been among the most satisfying and fruitful of my life. The annual reports for those years chronicle our accomplishments in terms of projects and seminars

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and new developments. The judiciary can be justly proud of those accomplishments, for they are not simply the work of the Center. They are the work of the whole judicial family. What the reports do not show is the growth of a healthy and happy institution within the third branch that is just beginning to realize its capabilities. I could not hope to leave to my successor a better legacy than the potential of the Federal Judicial Center with its three major assets--a hardworking and dedicated staff, a concerned and supportive Board, and an involved and cooperative judiciary.

Godspeed them all.

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# ANNUAL REPORT

1974

## INTRODUCTION

This Annual Report of the Federal Judicial Center will be not so much a litany of what has been done during the past year but more a statement of where we are headed and brief descriptions of progress in a variety of projects designed to aid the courts, the Center, and other supporting activities to realize the shared goal of improved administration of the federal judicial system.

Judge Barrett Prettyman once described his philosophy of judicial administration as having two equally important parts, the daily use of the best we know and the unending search for better answers. For a new organization like the Center, there could have been no better point of departure in the effort to find the most effective way to meet its statutory mandate to aid in the improvement of the administration of justice. In order to meet that first requirement, the Center initiated research and training programs to discover and communicate the best that was known in the federal system. In the early years of the Center, much of our effort was devoted to basic field studies to identify the critical problems and to describe and evaluate the methods developed in various courts for meeting those problems. Only in this way could we learn and share the best that we know.

This gathering of experience will never be a completed task because the federal courts are constantly improving old methods and developing new methods to meet the everchanging demands of a growing and dynamic society. Enough has been learned, however, to permit the Center to render effective assistance to the courts in the search for better answers. This Report, therefore, will reflect a continued effort to understand more fully the operations of the courts. At the same time, the Report will reflect throughout the major program areas, a growing effort and capability to assist the courts through projects tailor made to respond to the individuated conditions obtaining in various courts of the federal system. We have learned that endemic problems such as juror utilization can be addressed only to a limited degree through programs general enough to apply to the entire system. Considerable progress can be and has been made with general guidelines operating in all courts. Further improvement requires individual programs that take into account the particular conditions under which different courts operate. The same is true for the problems arising out of calendar management, clerks' office operations, court information



systems, and the use of supporting personnel. More and more the Center is moving to meet this need through many of the projects described hereafter.

As outlined in the **Annual Report** for 1973, Center activity has coalesced into four major areas of work: (1) matters affecting appellate litigation; (2) matters affecting trial litigation; (3) the basic responsibility for continuing education and training; and (4) coordination with other organizations to avoid waste, conflict, and neglect of important problems. Many projects will have secondary, or even primary, impact in more than one of these areas, but reference to these four large categories enables us to maintain balance in the allocation of resources and priorities among the myriad opportunities that constantly arise for new undertakings.

Each year, this Report has acknowledged the indebtedness of the Center to the judges and other personnel of the judicial system. This year is no exception, and we are convinced that it must always be so. Whatever contribution the Center has been able to make is in very substantial measure due to the willing--indeed the eager--assistance of the judicial personnel. It is no longer adequate to express appreciation for cooperation. Today, it is more accurate to acknowledge that this Report reflects the partnership of the courts and the Center in a joint program for the very best of which the system is capable.

## I. ORGANIZATION AND GENERAL SERVICES

**A. THE CENTER BOARD.** In March 1974, U.S. District Judge Marvin E. Frankel of the Southern District of New York was selected by the Judicial Conference of the United States to serve a four-year term on the Board of the Center. Judge Frankel has been serving on the Board, filling the unexpired term of U.S. District Judge Gerhard Gesell, and was thus eligible for a full term under the provisions of 28 U.S.C. §621. Judge Frankel's membership extends to 1978.

**B. BUDGET.** The House Appropriations Committee recommended the appropriation of funds for fiscal year 1975 in an amount of \$2,400,000. This represents an increase of \$327,000 over the fiscal year 1974 appropriation, but was \$299,000 less than requested. The Center appealed this disallowance to the Senate Appropriations Subcommittee, seeking a restoration of the total request.

During fiscal year 1974, approximately 40 percent of the Center's appropriation was expended on research and development activities; 36 percent on continuing education and training; 16 percent on general supervision, administration, and planning; and 8 percent on inter-judicial affairs and information services.

**C. STAFF.** At the close of the fiscal year, Richard A. Green, Deputy Director of the Center, announced his plan to return to the private practice of law. Since Director Murrah will reach the mandatory retirement age of 70 in October of this year, he has decided not to seek a replacement for the position, leaving that decision for his successor.

The only changes in staff during the year involved additions and replacements below the level of division director. The Center's facilities and staff grew moderately to keep up with its broadening activities and the expanding requests for assistance from the judiciary. Nonetheless, the guiding principle of the Center's personnel policy continued to be to work with a comparatively small core of project-oriented permanent staff. Whenever possible, the Center utilizes services of short-term temporary, part-time, or contractor personnel to meet the requirements of its research and development objectives, including those projects that span one year or more. At the close of fiscal year 1974, the permanent Center staff numbered 38 with an additional 30 employees retained for specific project activities.

## II. PROGRAM ON APPELLATE LITIGATION

Several items from previous years continue to occupy an important position in Center activity on matters affecting the appellate courts. This is particularly the case with those efforts directed at fundamental changes in the structure of courts of appeals in the light of expanding caseloads. The Center maintains a cooperating and supportive relationship to the Commission on Revision of the Federal Appellate Court System, the Advisory Council for Appellate Justice, and the National Center for State Courts. At the same time, other programs of direct and immediate significance to the courts of appeals have been initiated, such as the experiment on managing the movement of civil appeals and the evaluation of computer aided legal research.

**A. STUDY GROUP ON WORKLOAD OF THE SUPREME COURT.** The work of the Study Group, under the chairmanship of Professor Paul Freund, was completed during fiscal year 1973 and reported in the Center's Annual Report for that year. The work of the Study Group continues to receive wide attention from the bench and bar necessitating an additional printing and distribution. The analysis of Supreme Court workload, the recommendation for a national level court of review, and the proposal to establish an ombudsman-type agency to work with prisoner complaints have all served as major stimuli to other agencies dealing with broad questions of appellate structure and function.

**B. COMMISSION ON REVISION OF THE FEDERAL APPELLATE COURT SYSTEM.** The Commission on Revision of the Federal Court Appellate System has delivered its first report on the phase of its assignment

related to geographic realignment of the circuits. The report proposed the creation of two additional circuits by splitting both the Fifth and Ninth Circuits, and offered proposals on the number of judges required for the resulting four circuits. Legislation was introduced to carry out these recommendations and is pending before the Senate Committee on the Judiciary.

The Commission is now conducting the second phase of its study, focusing on the structure and operating procedures of the circuits. The Center has provided assistance by conducting analyses of appellate case filings and terminations.

The Center Board approved a request of the Commission that Center staff design, prepare, and administer a questionnaire to a sample of appellate attorneys in the Second, Fifth, and Sixth Circuits, eliciting their views about appellate procedures in light of the hard trade-offs between competing values that affect court decisions on rules. The practices about which attitudinal data are being sought were determined by the Commission staff. Questionnaires were prepared and mailed to 1,000 lawyers in each of the three circuits in late June, and a report of the findings will be presented to the Commission in the fall. The Center is administering a limited version of the questionnaire to all circuit judges to permit a comparison of the attitudes of lawyers and judges.

**C. ADVISORY COUNCIL FOR APPELLATE JUSTICE.** The Center has worked closely with the Advisory Council since that group was formed nearly three years ago. The Council is concerned with appellate problems at all levels of government, and has given extensive attention to the fundamental issues of adequate resources for the court systems, effective use of supporting personnel, fair and effective review of criminal cases with particular emphasis on finality, standards for the issuance and publication of opinions, and a variety of other questions. In addition, the Council has set forth a comprehensive proposal for establishment of a national level court of review for the federal system. While the Freund Study Group reached its conclusions as a result of analyzing the needs of the Supreme Court, the Council's analysis stepped off from the problems of the courts of appeals and the need for more nationally authoritative decisions in many areas. It is worthy of note that both groups, with their different approaches converge in their recommendations for a structural change to provide national level review below the Supreme Court. There are substantial differences in the recommendations, but there is a shared perception that the present structure cannot continue in the face of contemporary demands for court services.

The Council will sponsor a national conference on appellate problems in San Diego in January of 1975. The conference will invite about 250 participants from bench, bar, academia, and the public. They will represent both federal and state systems. The Judicial Center and the National Center for State Courts are working with the Council on the organization of the conference.

#### **D. APPELLATE COURT OPERATING PROCEDURES.**

1. **Studies of Workload.** The Center continues to explore the regularly gathered data on expanding workload of the United States courts of appeals. These studies are designed to improve our understanding of the complexities of the workload, to identify trends, illuminate problems, and aid in the development of solutions. Additionally, these studies permit the Center to make recommendations to the Administrative Office and the Judicial Conference for modifications in the regular reporting system to produce new and improved statistics to guide planning.

2. **Rates of Appeal.** In the last Annual Report, the Center reported on special projects to develop new measures of appeal rates throughout the federal system. These studies showed that despite the tremendous increase in the number of civil cases appealed, the rate of increase in *appealed* cases has not shown any dramatic rise. These data suggest that the critical change has taken place in manner of disposition of civil cases at the trial court level. Thus, one constant rate of appeal applied to a dramatic increase in appealable terminations below seems to account for the triple digit inflation in the appellate caseload.

As our work on predicting the inflow of cases to the district court progresses, these new insights into appellate statistics will enable us to step off from the forecasting of district court caseloads into more reliable forecasting of appellate filings. Consequently, we have continued to refine these studies to sharpen the tools for forecasting that are essential to long-range planning for needs of the appellate courts.

3. **Civil Appeals Management Project.** The Second Circuit has begun a pilot project with Center support to determine the value of a senior attorney to assist the court in the preliminary stages of civil appeals. Through conferences with the attorneys in selected non-prisoner civil cases, the staff counsel will explore settlement possibilities, help to focus the issues on appeal, expedite designation and preparation of the record and transcript, obtain agreement on scheduling orders, and perform other functions the court may suggest. An evaluation of the project will be conducted by the Center in cooperation with the Second Circuit.

**E. CONFERENCE OF CIRCUIT CHIEF JUDGES.** During the past year, the Center continued to host semi-annual meetings of the chief judges of the courts of appeals. The Conference has formed into a permanent body and will hold regular meetings on the day following each Judicial Conference. By-laws

have been adopted providing for a rotating four-member executive committee with agenda preparation responsibilities and a chairman and secretary selected for yearly terms by that committee. Chief Judge David T. Lewis, Tenth Circuit Court of Appeals, is the current Conference Chairman.

The Conference will regularly invite the Chief Justice and the Directors of the Center and the Administrative Office to each of their sessions, and will meet jointly with circuit executives at least once a year.

The Conference continues to serve as a valuable sounding board for Center project ideas and an important source of information and suggestions. At their sessions, the Conference considered the work of the Second Circuit Sentencing Committee, problems associated with administering the Criminal Justice Act, extra-judicial activities, and reports from the circuit executives.

**F. COMPUTER ASSISTED LEGAL RESEARCH.** During the past five years, significant progress has been made in the development of a number of computer assisted legal research systems. The Center has been maintaining close contact with these developments, but has not initiated a pilot project because an adequate data base of federal case and statutory law was not available until the latter part of this fiscal year. The staff has been reviewing the characteristics and capabilities of these systems in order to project some tentative assessments of their utility for use in the federal courts.

There is promise that the quality of legal research can be improved by the use of computer assisted systems and that the time required for research can be reduced. Because of the cost of these services, evaluation of the effectiveness of the systems must be undertaken before widespread operational use is recommended. The Center is developing an evaluation methodology for comparisons between traditional research methods and the new methods and between competing systems offering significantly different types of capabilities. A pilot project involving the use of legal research terminals in several courts is being planned for this evaluation.

**G. CITATION VERIFICATION SERVICE.** The Lawyer's Cooperative Publishing Company has established a computerized system for validating case citations and discovering their later writ histories. The system, known as the Automated Citation Testing service or "ACT," contains citations to all of the more than three million opinions published in the United States and allows rapid and complete citation verification. The Center has leased "ACT," and has initiated a pilot project to experiment with the system to measure its usefulness in the federal courts. The Center has been working with judges, administrators and law clerks in the Emergency Court of Appeals, the Court of Appeals for the District of Columbia, and the D.C. District Court in the development of an evaluation methodology that will allow practical use of the service while data to determine its usefulness and effectiveness is being collected.

Uses of "ACT" include verification of authorities listed in briefs and pre-argument memoranda and verification of authorities relied on in an opinion once the case has been decided, but prior to filing of the opinion. In addition to speed and accuracy, use of "ACT" means that the entire cite-checking operation can be performed by non-judicial personnel who are authorized and trained to use the computer terminal, thereby eliminating the judge or law clerk time traditionally allocated to this task.

**H. COURTS OF APPEALS LIBRARIES.** The second phase of the Center's study on the libraries of the courts of appeals was completed with the first federal librarians' conference held at the Center last September. The focus of this meeting was on the nature of current problems and proposed solutions with emphasis on informational exchange and dialogue among the librarians, representatives of the Administrative Office, and the participating circuit executives. The extensive suggestions generated from this consultation, coupled with the findings of the Center's *Comparative Report on Internal Operating Procedures in U.S. Courts of Appeals* were presented to the Center's Board in December. The Board determined that since circuit library needs are widely disparate and based upon local conditions and do not lend themselves to national standards beyond what should constitute a basic collection—which virtually all now have—the Center should not engage in further library study. The Board recognized that involvement in studies on *ad hoc* problems of different courts was beyond the Center's mandated function, but suggested that multi-judge district courts be encouraged to pool their library facilities.

**I. INTERNAL OPERATING PROCEDURES OF COURTS OF APPEALS.** Most of the projected research in this area was completed during fiscal year 1973, including a comparative report analyzing differences and similarities among appellate courts. The one continuing element is a follow-up study still in progress to evaluate the effects of screening procedures and increased use of para-judicial personnel. This study has focused on the Fourth Circuit because of its particularly distinctive procedures in these areas. Some observers of the federal courts question the use of para-judicial personnel in screening appeals, arguing that such procedures raise the possibility that staff decisions might tend to replace court decisions. The extent to which a court supervises the work of its staff seems to control any inferences to be drawn from staff participation in court decision-making. Accordingly, the nature, extent, and effect of court supervision of legal staff in the Fourth Circuit are being studied through discussions with judges and staff as well as examination of data on case-processing.

### III. PROGRAM ON TRIAL COURT LITIGATION

Several projects of pervasive importance to the trial courts remain on the Center agenda as we pursue individual applications that will meet problems

that arise in the effort toward implementation of generalized solutions. Particular examples are juror utilization, video technology and court reporting. The district court studies project (Item V, *infra*) a long-term project of consultation and research, is the largest project thus far undertaken by the Center. It serves as a vehicle for learning more about the operations of the trial courts and as a vehicle for bringing to the courts promising innovations in management and procedure. Similarly, the on-going conferences of chief judges and clerks of metropolitan district courts afford a continuing opportunity for the Center to learn about the problems that are experienced by all courts and to learn about the great variations among them. Whatever the reasons for these differences among courts, they are realities that must be recognized and understood. Sometimes the differences can be erased; sometimes they must be accepted and accommodated. Effective assistance to the courts depends upon developing sufficient information in all these areas to assess the value of alternative responses.

**A. JUROR UTILIZATION.** During this fiscal year, Center staff developed a juror utilization workshop curriculum at the request of the Fifth Circuit District Judges Association. A member of the Center staff participated as speaker and reporter in each of the four workshops held during the year. Immediately preceding each workshop, the Center conducted a study of juror utilization procedures in the participating districts. The evaluations and recommendations resulting from each survey were presented to the district judges and clerks as grist for the discussion sessions of the workshops. Significant improvements in juror utilization have occurred following the workshop series.

The Center has worked closely with a project group which, under an LEAA grant, has conducted a study of juror utilization in state court systems. A Center staff member served on the advisory committee. The project group was provided all research findings of prior Center studies to facilitate their work in state courts. The project's dramatic findings have been receiving wide attention throughout the nation.

The Center-developed *Guidelines for Improving Juror Utilization in U.S. District Courts* continues to be a "best-seller." The Guidelines are now being used by both state and federal courts.

**B. JUROR REPRESENTATIVENESS.** Under the provisions of 28 U.S.C. 1863, the federal courts have a responsibility to assure that federal juries are drawn from a fair cross section of the community in which the district court sits. The Committee on Operation of the Jury System has initiated a regular reporting procedure to monitor the results of jury selection procedures. Data is gathered reflecting race and sex of the persons in more than 300 jury wheels in the federal system. The Judicial Center obtained Census data on the race and sex breakdown of the population of each of the wheel areas for comparison with 1972 jury wheel data. Revision of the voting laws to

permit nationwide registration and voting by 18-year olds has necessitated that the comparison be provided again with jury wheel data obtained after the 1972 elections. The new jury wheel data has been reported and is now being processed for a new report.

In addition to reporting on the comparison statistics, the Center is working with the Committee and the Administrative Office to design a new system of regular data gathering that can be accomplished with less burden to the district clerk's offices. The new system will have sufficient flexibility to permit reporting at variable intervals as necessitated by refilling of wheels rather than a single date for the entire system. The proposed system will also help courts to determine whether imbalances in wheels results from imbalance in the source of names or from the application of excuse and exemption provisions.

**C. PROCEDURES FOR ADMINISTRATION OF DISTRICT COURTS.** The Center has received from several sources the suggestion that there should be compiled a comprehensive document identifying all the administrative responsibilities that devolve upon a district court either by express direction of Congress and the Judicial Conference or by clear implication from specific substantive responsibilities of the courts. In addition, the document should describe the various procedures that have been adopted in the district courts for meeting these responsibilities.

Substantial work has been done during the final quarter of this year on the identification of administrative responsibilities. Close coordination is being maintained with the District Court Studies Project in order to gather information on methods currently in use in various district courts.

A special committee of district court judges will advise the Center on both form and content of the document in order to assure that it speaks to the varying conditions, needs and practices obtaining throughout the system. When a final draft is approved by the Center Board, it will be submitted to the Judicial Conference for such action as may be appropriate.

**D. VIDEO TECHNOLOGY.** The expansion of the Center's pilot program from one to four district courts (E.D. Mich., N.D. Ohio, E.D. Pa., and W.D. Pa.) has been completed and, as of the end of the fiscal year, all four pilot districts were making use of videotape for pre-recording testimony. The purpose of these pilot projects is to stimulate the use of the technique; to determine the effect it has on court administration; and, to gain the experience necessary to formulate guidelines for its future use. Under the pilot projects, the Center has provided video equipment, trained court personnel to record and play-back videotapes, and compiled technical standards and procedural guidelines. The pilot courts in turn are responsible for implementing the technology in their local practice, experimenting with further applications in court administration, and maintaining records on usage for evaluation purposes.

During the past year, the pilot courts have contributed substantially to the resolution of some of the many questions presented by videotape. It has been shown that the presence of video equipment facilitates improved scheduling of trials. Videotaping of testimony for the first two pre-recorded videotape trials in the federal system has begun in one pilot court. Pilot courts are now able to schedule trials to avoid disruption of the trial calendar, minimize delay in criminal cases, and decrease the expense to the parties for out-of-town witnesses.

One pilot court has found television monitors overwhelmingly preferable to an overhead projector for presentation of documentary evidence to a jury, since the courtroom does not have to be darkened during the projection, and the jury can see the documents as the witness holds them in his hands. This application has resulted in a substantial reduction in trial time in cases where document identification would otherwise be a cumbersome time-consuming procedure.

One oft-cited advantage of videotape is the ability to eliminate inadmissible testimony from the tape during playback at trial, but the best method for ruling on objections and striking inadmissible testimony is still open to question. To overcome problems inherent in earlier methods, the Center developed a new editing technique which cuts off both sound and picture from the jury monitors, while retaining them for the judge so he can make his ruling on each objection during the trial. This technique is less expensive, saves judge time, and can be operated by presently available personnel. Although the Center's editing technique is now being used in trials, the pilot courts still have the opportunity to use other methods and report their evaluations.

Although the pilot courts have experienced no difficulties with equipment malfunction, the Center is considering various ways to increase the accuracy, trustworthiness, and reliability of the recordings. In construing Rule 30(b)(4) of the Federal Rules of Civil Procedure for audio tape recordings, some courts have ordered duplicate originals or backup systems to ensure accuracy. Although the initial procedures set forth in the Center's manual, *Guide to Pre-Recording Testimony on Videotape Prior to Trial*, established high standards to ensure the production of a reliable tape, these are being revised so as to include circuitry and equipment that can provide duplicate originals.

At the Center's suggestion, in consultation with the Administrative Office, designs to accommodate the use of video equipment for playback of pre-recorded testimony in new federal courtrooms have been communicated to GSA.

Although there is now sufficient experience to conclude that video technology has a definite place in court administration, it is still too early to conclude that it can or should be used for every type of trial or for every type

of witness. Aside from potential Sixth Amendment problems in criminal trials, there are still questions about subtle differences between live and videotaped presentation of testimony. For example, are the perceptions and judgments of jurors affected by videotaped presentations? Do these perceptions have any potentially biasing effects? These and a number of related issues are being addressed by several research projects. Although the funding requirements for such projects go beyond the budgetary capability of the Center, staff members have maintained close contact with relevant research endeavors. A member of the Center staff has acted in a consulting capacity in the first major research on jurors' response to videotaped trials at Michigan State University under a National Science Foundation grant. The Center has also coordinated its efforts with a recent LEAA funded National Center for State Courts project on videotape in criminal proceedings.

The Center's video equipment and experts have been used to tape Center seminars, Circuit Judicial Conference proceedings, a sentencing council session, and in presentations at seminars. The Center has the most complete collection of materials on the use of video technology in the courts available anywhere.

**E. BAIL STUDY.** During the past year, clerks' offices in 89 districts provided information about the bail status of a sample of criminal defendants. This information is now being edited and keypunched in preparation for computer tabulation, and it is expected that the analysis will be completed in the fall of 1974. The report of this study will provide the first systematic review of practices under the Bail Reform Act since its enactment in 1966.

**F. CONFERENCE OF METROPOLITAN CHIEF JUDGES.** During the past year, the Center supported two additional meetings of the Chief judges of the 22 largest federal district courts. Six such conferences have been held since the series began in the summer of 1971. The Conference has become a permanent component of the Center's program with a steering committee chaired by Senior Judge William J. Campbell and composed of six chiefs appointed by the Director. The committee has responsibility for program formulation and Conference focus.

The Conference considered reports on various Center activities including the civil speedy trial analysis and the operation of COURTRAN. The judges themselves continued to exchange information and suggestions covering a wide range of topics including matters related to the prompt disposition of criminal cases, effective discharge of the Chief judge's responsibilities, organization principles for clerks' offices, and the utilization of magistrates and bankruptcy judges.

The Conference has continued to provide the Center with a rich source of information and project suggestions. Both the Task Force on Standards for Clerks' Office Organization and Procedures for District Court Administration



were developed at the request of the Conference. A Conference of Metropolitan District Court Clerks was also organized during this year to serve as an implementation and resource group for the judges, meeting during the intervals between the Metropolitan Chiefs Conferences.

**G. COMMITTEE ON PETITIONS UNDER SECTION 1983.** The prisoner civil rights committee, also known as the § 1983 committee, is chaired by Judge Ruggero J. Aldisert, United States Court of Appeals for the Third Circuit. Other committee members include Judge Griffin B. Bell, Judge Robert C. Belloni, Judge Frank J. McGarr, and Judge Robert J. Kelleher. The consultant is Professor Frank J. Remington of the School of Law, University of Wisconsin.

The committee is in the process of establishing standards for processing prisoner civil rights cases through the courts, recognizing that prisoner petitions constitute one-sixth of the cases in the average district court's civil docket. The committee began work by circularizing the entire federal judiciary asking for suggestions. The response was magnificent. The committee then proceeded to work in conjunction with the Ad Hoc Habeas Corpus Committee, chaired by Walter E. Hoffman. Joint meetings were held and a consensus obtained as to the method of processing the cases.

Judge Aldisert then made a series of presentations before district court seminars at The Federal Judicial Center, reporting some of the tentative ideas and obtaining the responses of the district judges. The committee prepared a form complaint for use by prisoners, made suggestions for processing in multi-judge courts, and made certain recommendations to the Magistrates Committee of the Judicial Conference and the Advisory Committee on Civil Rules. The committee continues to function in an effort to devise standards within existing statutory and case law.

**H. COURT REPORTING.** The Center's activities in this area during the fiscal year have consisted primarily of monitoring development and evaluation projects undertaken by other organizations. Center staff worked with the National Center for State Courts in planning a project to test the commercial viability of computer transcription and cooperated with the National Center in a demonstration of the voicewriting reporting technique in a federal district court.

In the case of computer transcription, the Center staff believes that development is being adequately pursued by the private sector and that a marketable computer transcription service will be offered to court reporters by several commercial firms during calendar year 1974. However, the use of a court's computer for transcription is still deemed worthy of consideration for pilot purposes if adequate software is available for lease.

The Center has explored the possibility of training several official reporters in the voicewriting technique on the theory that every potential means for improving the efficiency of transcript preparation should be given a thorough test and evaluation. Although no definite plans have been made, a project of this type may be initiated during the coming year.

**I. INTERPRETING SERVICES.** The Center has continued to collect information on the nature and possible problems associated with the provision of interpreting services in the federal courts. An informal telephone inquiry was directed to thirteen district courts to provide a preliminary assessment of present interpreting services. The courts surveyed indicated that they are able to provide timely and adequate interpreting services when needed for all criminal appearances; that most of interpreting work is done through the U.S. Attorney's office; that present salary provisions are low by most standards but little dissatisfaction was expressed by the clerks contacted; and that recruitment and training procedures are largely *ad hoc* in nature. At its March session, the Judicial Conference adopted the recommendations of its Committee on Court Administration to advise that no demonstrated need for legislation such as S.1724 (The bilingual Courts Act) has been found in the federal system. As this report is being prepared, the Senate Judiciary Committee has reported favorably on S.1724. The Center is prepared to provide assistance that might be needed to respond to Congressional direction in this area.

**J. BOARD OF EDITORS—*Manual for Complex Litigation*.** The Center has continued to sponsor work of the Board of Editors for the *Manual on Complex and Multidistrict Litigation*. Three sessions were held during the year to maintain the up-dating and *Manual* revision process. One of these was in conjunction with the meeting of the transferee judges of the Judicial Panel on Multidistrict Litigation.

#### IV. PROGRAM ON SENTENCING AND PROBATION

The past year has seen a quickening of interest in the whole area of corrections. The Parole Board has opened some doors on their operations. Both Congress and the Judicial Conference are considering some form of sentencing review. The press and public have become increasingly critical of what is perceived as irrationality in the whole correctional process from sentencing to release of offenders. The Center's activities in this area are in response to initiatives by people who bear the decisional burdens—judges, parole board members, and probation officers. Primarily the projects are to develop information about what is actually happening, as in the Second Circuit project, or to increase communication between the various decision makers.

**A. AID TO SENTENCING INSTITUTES.** The Judicial Conference has requested that the Center assume a substantial measure of responsibility for

developing and coordinating the programs of sentencing institutes. In order to more effectively meet that request, a staff level committee has been established with representatives of the Probation Service, the Prison Bureau, the Parole Board and the Center. This group is actively assisting in preparation of the upcoming institute for the Fourth, Fifth, and D.C. Circuits. It is expected that this will be the largest single meeting of federal judges ever convened. The program will lay heavy emphasis on the range of services available to courts and offenders. In turn, the correctional services will describe their need for greater communication from the bench and the opportunities for post-sentencing feedback of information on offender experience. The staff level committee will critique the institute for the benefit of the Probation Committee and the planners of the institute.

**B. SECOND CIRCUIT SENTENCING STUDY.** At the request of the Second Circuit Committee on Sentencing Practices, the Center administered a study of sentencing disparity in which the district judges of the Second Circuit rendered sentences in thirty cases on the basis of identical presentence reports. The cases were mailed to the judges over a six-week period in the spring of 1974, and the sentences returned have been tabulated and analyzed by Center staff. The report of this study is now in draft and will be submitted to the judges prior to the Second Circuit Conference in September. Staff members will also make a presentation of major findings at the Conference. We believe it will represent a major contribution to the literature on sentencing disparity.

**C. OTHER ACTIVITIES RELATED TO SENTENCING.** At the request of Chief Judge Mishler of the Eastern District of New York, staff of the Center analyzed the operation of sentencing councils in that district by studying six years of report forms. The analysis suggested that conclusions about the overall dimensions of sentencing disparity should not be drawn from studies of sentencing council experience since most councils are not randomly constructed; rather, they are usually assembled to represent known divergences in judicial sentencing patterns. As a result, analysis of the initial recommendations of council members is likely to reflect the highest degree of disparity in a court, which may differ markedly from averages or medians derived from total court activity. The study did reveal that for each of the past five years, two-thirds of the council panels were unanimous in their initial recommendations on the threshold question of prison or probation.

For the judges of the Seventh Circuit, the Center prepared tabulations of all sentences rendered in the circuit for one year, broken down by offense, prior record category, and age group so that the range of sentences in somewhat similar case groupings could be examined. This material was used by the Seventh Circuit judges at a recent conference in considering the nature and extent of disparity problems within the circuit and in considering the institution of meliorative measures such as inter-district sentencing councils and sentence review.

#### **D. COMMUNICATION BETWEEN JUDGES AND PAROLE BOARD.**

For some time, the Parole Board has indicated that it has been hampered in its efforts to give proper weight to the sentencing objectives of the courts by the fact that it received no information about those objectives. The Center, working with the Probation Division of the Administrative Office, the Federal Prison Bureau, the Board of Parole, and the Probation Committee of the Judicial Conference has developed an experimental form that provides the sentencing judge with opportunity for direct communication of any matters, the judge thinks should be considered in the correctional program for an offender. The form is being tested by the members of the Probation Committee in their respective courts at the present time. With such modifications as they may make, the form will be presented to the Conference for adoption. Upon Conference approval, the form will become a part of presentence reports accompanying the offender as he moves through the correctional system.

The Center will assist in evaluating the use and effectiveness of the form and in developing other means of communication between the judiciary and correctional authorities.

**E. PAROLE BOARD GUIDELINES.** In connection with its program to regionalize the operations of the Parole Board, the Board had established a set of guidelines developed from a study of parole decisions and parolee experience over a period of years. This innovation by the Board has obvious and important impact on the operation of the parole system. The significance of the new procedures for the courts is not so immediately obvious, but the impact may be as significant for courts as for the Board. To aid judges and probation officers to appreciate the significance of these changes, the Center has worked with the Probation Division of the Administrative Office in preparing a memorandum concisely explaining the new policies in terms of their implications for the sentencing process. The memorandum is now being distributed by the Probation Committee of the Judicial Conference to all judges and chief probation officers.

**F. PROBATION TIME STUDY.** During fiscal year 1973 a time study was conducted to aid the Probation Division in determining the workload of probation officers and in supporting the requests for additional field personnel. The study also gathered data on various classifications of offenders correlated with the amount of time devoted to each class by the field staff then available. Further analysis has been undertaken during the current fiscal year to develop patterns of time expenditure related to these classifications. Time has been quantified according to the type of effort involved, such as interviewing, counseling, job development, and investigation. The results of this analysis will enable the Center's Education and Training Division to focus seminars and conferences more sharply on the activities that actually consume most probation time. It will also enable the Probation Division and the field offices to organize their effort more effectively.

## V. PROGRAM ON GOVERNANCE AND MANAGEMENT OF THE JUDICIAL SYSTEM

This program comprises those activities of the Center that are designed to provide better management capabilities both at the individual court level and system-wide. COURTRAN and the district court studies are examples of local management improvement efforts, and the forecasting study is the prime example of work that will affect the operation of the judicial branch as a single system. Several projects, such as model statistics programs for circuit executives and organization of clerks' offices are based on individual needs of components of the system but will contribute to more systematic treatment of the judiciary as a whole.

**A. LOCAL COURT MANAGEMENT INFORMATION SYSTEMS.** During the past year we completed all planned refinements to COURTRAN I, the batch, punched-card version of the Center's court management information and research system. COURTRAN I uses rented time on commercial computers geographically remote from the user court for its computational power. As previously reported, COURTRAN I serves as a tool for court supporting operations and assists judges, clerks of court and their staffs in managing the business of the courts. The criminal and/or civil versions of COURTRAN I are now in operation in the District of Columbia, the Northern District of Illinois, the Eastern District of Michigan, and a less powerful pre-COURTRAN version is operational in the Southern District of New York. The extensive research capabilities of COURTRAN I were used this past year in support of numerous Center research projects, particularly the district court studies, as well as in support of research efforts of the National Science Foundation and the Commission to Reorganize the Circuits.

Our experience to date with COURTRAN I has shown that automatic data processing technology is capable of providing significant management assistance to federal courts and will be capable of assuming a large number of clerical functions now performed by deputy clerks. From a technical viewpoint, the operational success of COURTRAN I has proven the soundness of our modular design approach and software innovations.

A detailed analysis recently completed by the Center revealed that the conversion of COURTRAN service from a batch to an on-line mode of operation when coupled with organizational changes in the clerk's office would allow a substantial increase in the quality and quantity of COURTRAN service provided to courts. We have now undertaken the development of an on-line system, called COURTRAN II, which will build upon the technical achievements of COURTRAN I, particularly the use of a transition matrix to describe court operations and a structured information engram to record individual transactions.

The Center commissioned a national management consulting firm to review our COURTRAN II planning and also requested a private consultant experienced in court automation projects to conduct a cost-benefit analysis of proposed COURTRAN II operations. Their reports confirmed our findings and noted that the value of the software and systems procedures developed exceeds the cost of the hardware.

The cost-benefit analysis completed by the private consultant relied upon the clerical work measurement (CWM) technique which allows the assignment of numerical time values to clerical functions and then allows the researcher to compute mathematically the manpower savings that would result from automating all or any part of a clerical function. The analysis concluded that the installation of COURTRAN II in a district court could save sufficient manpower to make it cost effective.

The first COURTRAN II system, which was installed in the District of Columbia, will, in addition to supporting COURTRAN operations in the local federal courts, perform all ADP tasks for Center research projects previously performed by commercial service bureaus. These savings would be sufficient in themselves to justify the acquisition of the required hardware.

After extensive equipment evaluation and selection competition among vendors, the specific equipment to be used in the COURTRAN II project was selected. The first pilot system was installed in the U.S. courthouse for the District of Columbia in late June 1974. This system is now undergoing acceptance testing. Site preparation for the installation of the second pilot system is currently underway in the courthouse for the Northern District of Illinois.

It will be several years before the full potential of COURTRAN II is realized. In the interim the system will provide courts with the full range of services provided by COURTRAN I and will then slowly expand automated service to those additional areas of court administration identified by our ADP assessment studies.

**B. FORECASTING DISTRICT COURT CASELOADS.** The Center's project to provide an improved method for forecasting federal court caseloads is well underway. The first stage of the project called for the development of explanatory models based on the variability of federal district court caseloads in five study states. The Center's Advisory Committee on Forecasting created the original list of indicator variables (social, economic, demographic) which were then analyzed to explain caseload variability in the period 1950-1970. It is encouraging that the models generated to date have explained a large proportion of caseload variability over time.

The second stage of the forecasting project calls for the development of predictive models. The Advisory Committee has responded to a list of possible future events by assessing the probability that such events will occur five, ten,



and twenty years from now. Given that the events have occurred, the Committee then assessed the probable impact of such events on federal court caseloads. In addition, the effect of each event on other events was also assessed.

A number of techniques have been used to generate predictive models for the district courts in the five study states. Following an evaluation of these techniques, predictive models will be developed for all district courts. The Center anticipates the conclusion of this project in fiscal 1975.

**C. DISTRICT COURT STUDIES.** This project is a congeries of studies whose general goal is to answer the "why" questions regarding differences between courts. The studies search for unifying or common principles regarding case-processing techniques and the organizational structure of support groups in courts, leading to the development of theory regarding judicial administration. The project grew out of the comparative study of courts of appeals, and is based on the experience gained there. Its most immediate goal is to gain more systematic knowledge about the effects and value of various district court case-processing procedures, with special reference to evaluation of the effects of procedures taught at FJC seminars. The knowledge gained will be made available to the courts both in the seminars and through consulting.

The staffing of the project is flexible, to provide the best possible utilization of staff for various efforts. The permanent project coordinator is heavily involved in individual studies and has available different personnel depending on the skills and experience required by the studies. These persons, drawn from the Center staff, have experience in legal research, management consulting, computer applications, training programs, and empirical research. Consultants are brought in with special skills in statistics and court management.

Generally, there are two major thrusts of the project:

1. **Field work.** An intensive study of the organization and procedures of the district of Maryland was carried out in early 1974, and an interim report submitted to the court. A similar study began in June 1974 in the Eastern District of Pennsylvania, which will be followed by four other metropolitan courts. The field studies will evaluate the effects of case processing procedures and alternative forms of organization. Most important are the judges' procedures to establish control of a case, monitor and direct its progress, and preside over the trial (if it reaches that stage). Supporting personnel are also interviewed and their procedures observed; these include courtroom deputy clerks, law clerks, secretaries, and the general clerk's office staff. In this way, a summary description of procedures can be prepared. Courts have been chosen for maximum contrast in a variety of measures traditionally

used to determine the state of a court's business. The field work also evaluates the effect of procedures on those measures. The data will produce improved evaluation of both the procedures and of the statistical measures now in use.

2. **Statistical Analysis.** The field work was preceded by extensive statistical analysis of all 94 district courts; courts for field study were selected from this analysis. The Center is analyzing many measures of workload, resources, and case-processing. Most of the data used are drawn from reports made available by the Administrative Office; some have been collected especially for the study. A new measure—weighted terminations—has been computed and evaluated. Studies have been conducted on the relationship among various measures to gain improved understanding of the relationship of various kinds of resources to the work of the courts. Thousands of correlation coefficients have been computed. The technique of analysis of variance has been applied to the figures on cases terminated by judges. It showed much less variation within a court than among courts, suggesting that court procedures, traditions, and caseload are more determinative of this measure than the individual differences among judges. Ratios have been computed showing the relationship of court size to various measures of efficiency, generally showing that large courts are more efficient than small.

The present preliminary research in this area will provide a foundation for more rigorous hypothesis-testing in the future. The field studies will suggest hypotheses—based on observation of a small sample of courts—that can be tested statistically for the whole system. This would obviate the need for full field studies in all of the district courts. The field studies will also lead to proposed new measures of court business for possible adoption by the Judicial Conference. Present measures often do not conform to observations from the field studies.

**D. MANAGEMENT CONSULTING.** During the planning phase of the district court studies project, we foresaw making the results available through the Center's educational program and through consulting activities. However, before the field work began, the Center received requests for management consulting assistance from the Second Circuit Judicial Council. In keeping with the flexibility principle, the Center assigned one person to serve as a consultant for assignments to courts. He assisted in the field studies but concentrated his effort on consulting assistance to the district courts in the circuit through the circuit executive's office and on development of organization guidelines and a modernized mission statement for clerks' offices.

1. **Consulting Assistance to Second Circuit.** Consulting assistance to the Second Circuit was focused on the Southern District of New York where an extensive study of the organization and procedures of the clerk's office was conducted. A number of organizational changes, changes in procedures, and changes in work assignments were recommended. Some of these recommendations have already been implemented. Others are still under consideration. A short study was also conducted in the Court of Appeals for the Second Circuit, which recommended changes in organizational methods and assignment of duties. The Center consultant has also been assisting the circuit executive in developing some preliminary methods and procedures to determine the feasibility of establishing a circuit-wide budgeting system. In these efforts, he has visited and consulted with each district court in the circuit.

2. **Development of Organizational Guidelines and Mission Statement for Clerks' Offices.** Consulting assistance on this project is being provided to the Metropolitan District Court Clerks' Conference which has been assigned the task of developing organizational guidelines and a mission statement by the Conference of Metropolitan Chief Judges. The Center consultant has served as project manager and is working with the clerks of several large metropolitan courts to develop guidelines on organizational concepts and structures and to develop a modernized statement of the missions of a clerk's office. Although the emphasis of the conference is on large district courts, it is intended that the organizational guidelines and mission statement will eventually apply to all district courts. At the close of the fiscal year, a report was in preparation on these topics which will be presented to the next meeting of the Conference of Metropolitan Chief Judges. A number of court projects is being planned by the Clerks' Conference, and the Center will endeavor to provide consulting assistance to task forces of that conference where such assistance fits in with goals approved by the Center Board and where valuable projects could not otherwise be performed.

**E. SELECTION AND TENURE OF CHIEF JUDGES.** At the request of the Subcommittee on Judicial Improvements, the Center distributed to all federal judges a questionnaire to elicit their views on several questions relating to the selection and tenure of chief judges of the district courts and courts of appeals. Returns were received from 438 federal judges.

In May 1974, the Center submitted a report to the Subcommittee reflecting judicial endorsement of the seniority system for selection of chief judges. The report also showed that the judges overwhelmingly favor the present requirement that chief judges relinquish their positions at age 70. In

addition, the responses indicate that the judges favor limiting chief judgeship to those who could serve a specified minimum term of two or three years. There was also substantial, though slightly less than majority, support for establishing a maximum term of service as chief judge.

#### **F. MODEL STATISTICS PROGRAMS FOR CIRCUIT EXECUTIVES.**

In order to provide maximum service to their respective circuit councils, the circuit executives find an increasing need for special statistical data. Sometimes the need is for material that is gathered and ultimately published by the Administrative Office, but the usefulness of that data requires that it be available more frequently than semiannually. Sometimes the need is for data not presently collected by the AO or any other segment of the judicial system.

The Subcommittee on Judicial Statistics requested the Center to work with the circuit executives and the Administrative Office to develop model statistics programs that would ensure the compatibility of data, avoid needless repetition of effort, and provide a continuing exchange of information and experience among the executives and with the Administrative Office. The Center has just begun work with a committee of circuit executives and a representative of the Statistics Subcommittee toward these objectives.

**G. BAR ADMISSION-DISCIPLINE STUDY.** The interim report and analysis of all rules and practices related to admission and discipline of lawyers in the federal courts, prepared by the Center under contract, was considered by the Judicial Conference Subcommittee on Judicial Improvements and their report presented at the September session of the Conference.

The Conference, on recommendation of the Committee, approved for transmittal to Congress a draft bill that would result in regularizing disciplinary procedures in all federal courts. The Committee recommended against the promulgation of a uniform rule on admission at this time, noting that disparity in rules has not been great enough to generate significant dissatisfaction with current procedures.

It is anticipated that the Center's final report will be published early in the coming fiscal year.

As a result of the work in this area, the Center has been able to furnish extensive materials to special committees in the Second and Seventh Circuits, which are examining their own rules of admission. The Center's consultant has also been working with the Second Circuit committee studying qualifications for trial lawyers.

**H. PROPOSED REVISIONS IN THE CRIMINAL LAWS OF THE UNITED STATES.** The consultant engaged by the Center to assist the Judicial Conference Committee on the Criminal Law in its consideration of pending proposals to revise the federal criminal laws has completed and tendered his final report. In March of this year, the Committee presented to the Conference

his detailed analysis and comparison of the texts of the substantive law provisions of the present Title 18 and S.1 (Senator McClellan's Bill), S.1400 (the Department of Justice Bill), and H.R. 10047 (the Brown Commission Report). No recommendations of definitions were made since the provisions define substantive offenses. The Conference authorized transmittal of the comparative texts to the Congress.

## VI. INTERJUDICIAL AFFAIRS AND INFORMATION SERVICE

A. STATE-FEDERAL RELATIONS. Supportive efforts continue with the State-Federal Judicial Councils. This work is mainly in the nature of attendance at council meetings, exchange of information on programs of the councils, and contacts with the Conference of Chief Justices.

The head of the Interjudicial Affairs Division appointed a committee on State-Federal Relations as an ABA activity and a report on their studies was presented to the ABA House of Delegates in August of this year.

Discussions have been held with representatives of the National Center for State Courts and the Dean of the National College of the State Judiciary to consider the feasibility of jointly sponsored state-federal conferences to work out problems of mutual concern to state and federal courts. Subjects to be discussed would include: habeas corpus and civil rights filings, mutual use of juror lists, joint pretrial hearings in cases with common sets of facts filed in state and federal courts.

B. *THE THIRD BRANCH*. *The Third Branch*, the official bulletin of the federal courts, continues to be published monthly in an 8-page format. Several times each year the publication also carries an informative insert sheet. This year, inserts provided listings of publications and cassette recordings available from the Center. Production has increased from 6,500 to 11,000 copies per edition with distribution to all personnel in the federal judiciary, state judges, law school deans, law libraries and others working in the judicial administration field.

*The Third Branch* is beamed to keep its readers aware of new developments and techniques in the federal courts, the activities of the Judicial Conference of the United States, pertinent legislation, and other matters acutely affecting the work of the courts. It features interviews with key individuals working in law-related areas, judicial administration and corrections.

C. LIAISON. An important facet of this division's activities is continuing contact with bar associations and other organizations in the judicial administration field. This is accomplished through the division director's membership on a committee representing leading institutions working in this area of the law, by attending and addressing conferences, and through daily contacts to support programs of mutual interest.

The division director meets with the Board of the National Center for State Courts and serves as secretary-treasurer to this organization. Further liaison is accomplished through service on the Council of the Federal and American Bar Associations. Since the division director served this year as chairman of the ABA Judicial Administration Division, it was possible to maintain close contact on important endeavors to better the administration of justice in our courts, state and federal.

D. EDUCATION IN JUDICIAL ADMINISTRATION. The division director, in her capacity as chairman of the ABA Division of Judicial Administration, also represented the Center's interest in a new ABA Committee on Education in Judicial Administration. The committee's labors culminated in a spring meeting at the Center where state and federal judges met with legal educators to propose methods for elevating the teaching of judicial administration in the nation's law schools.

As a direct result of the meeting, several law schools will offer new judicial administration courses next year. Present plans are to continue the work of this committee next year.

E. USE OF LAW STUDENT RESEARCHERS BY FEDERAL JUDGES. At the request of the Ad Hoc Sub-Committee of the Judicial Conference's Committee on Court Administration, the division began a project in February to determine the feasibility and advisability of having law students assist federal judges on case research problems to gain valuable experience while acquiring academic credit.

An initial survey was conducted of the country's accredited law schools to determine where such programs presently exist and to learn whether other law schools would be interested in establishing them. The survey also provided a listing of many of the federal judges now participating in such programs. These judges have been contacted for their evaluations. A cross section of former students who participated in programs of this nature is currently being polled to measure the participant reaction. A preliminary report will be provided to the subcommittee prior to the September meeting of the Judicial Conference.

F. INFORMATION SERVICE. In addition to meeting the research needs of the Center staff, the Information Service responds to numerous requests from judges, magistrates, court personnel and individuals outside the judiciary. More than 1100 requests for information and Center publications have been received and answered since July of last year.

This past year the Information Service added over 500 volumes to the existing collection and in the September issue of *The Third Branch* a list was made available of all publications that can be obtained through the Center. Loans made by the service within the judiciary totaled 656 volumes.

Other projects have included: assisting the Continuing Education and Training Division in planning the first seminar for federal court librarians; compiling bibliographies and indexes on a wide range of topics; obtaining publications for Center staff; assisting the Administrative Office in the revision of its administrative manuals; initiating a federal librarians newsletter; and coordinating and updating listings and acquisitions of materials with the AO.

Consultation and cooperation between the Center's Information Specialist, law librarians of the courts and other related organizations continued during this past year and resulted in the broadening of mutually beneficial contacts and assistance.\*

**G. VISITOR SERVICES.** This division continues to receive visitors to the Center from across the country and throughout the world. These guests are generally briefed on the structure and function of our dual court system and, more specifically, on the goals and operations of the Center. Whenever possible, supplemental materials are provided in those areas of particular interest. The division also assists visitors in scheduling appointments at other points of judicial interest, such as the Supreme Court, the Administrative Office, the Institute for Court Management, etc. Our ability to host visitors successfully results from cooperation with the U.S. Department of State, The Asia Foundation, The International Legal Center, bar associations, law schools, and other organizations active in judicial administration. The past year has seen visits to the Center by representatives of: Great Britain, Australia, Taiwan, France, Cyprus, Afghanistan, American Samoa, The Sudan, Micronesia, Lebanon, and the Republic of South Viet Nam.

## VII. PROGRAM ON CONTINUING EDUCATION AND TRAINING

**A. SEMINAR AND CONFERENCE ACTIVITIES.** The Division of Continuing Education and Training has the basic objectives of attempting to improve the skills of every member of the federal judicial system and to develop and/or increase in these individuals the capacity to learn, accept and employ new ideas and adjust to changed circumstances. Through the various means at our disposal—seminars, conferences, institutes, publications, cassettes, and other audio-visual aids—we work to increase the competency and efficiency of all the employees of the courts. In doing so, great emphasis is accorded to the results of the research conducted by the Center. We must be sure that we are teaching the best we know.

Approximately one-third of the total Center budget is devoted to the continuing education of the members of the judicial branch. This reflects not only the direct cost of seminars and conferences, such as travel and subsistence of the participants and faculty, and consultant fees, but also the relatively hidden costs involved in planning the program agenda, production of material

for hand-outs, book and pamphlet form synopses of program content, and the purchase of expendable supplies and training aids.

Constant evaluation continues to be an important facet of our educational program. Participants and faculty are requested to submit constructive criticism at the conclusion of each seminar or conference. In this way, past experiences are used to improve the content and quality of later classes.

Increasing use has been made of qualified personnel from outside the judiciary in planning and conducting the programs. For example, the law school deans and professors who served as reporters in the district court judges conferences met with the judicial faculty and Center staff immediately following each conference to evaluate the efficacy, timeliness, and presentation of each agenda item and to suggest appropriate program adjustments. This marriage of the academic and judicial segments of the legal community has served not only to broaden the focus of the educational program but also to foster increased exchanges in substantive areas.

During the past fiscal year, several new programs were designed and presented. Following the completion of the Center's probation case aide study in Chicago, a seminar was held for these case aides, or probation officer assistants. Bankruptcy training was expanded to provide five seminars for the chief clerks of bankruptcy offices. The first conference for probation chief clerks was sponsored; an annual program for circuit court clerks inaugurated; seminars for chief deputy district court clerks instituted; and federal court librarians were brought to the Center for their first meeting.

The year also saw the completion of the initial training series for experienced district judges and for courtroom deputy clerks. It is expected that the future training effort for these groups will afford annual orientation seminars for newly appointed and refresher training on a three year cycle. As noted below, the semi-annual meetings of the chief judges and clerks of the metropolitan district courts, and of the circuit executives, along with annual meetings of federal public defenders and clerks of the circuit courts of appeals will continue.

In all, 1,731 members of the judicial branch attended 57 conferences and seminars as participants, along with 814 faculty members for a total of 2,545 persons involved in the Center's fiscal year educational activities.

Cooperation with other agencies engaged in the training of state and local judicial and parajudicial personnel continues. In late April, the division director participated in a National Judicial Educators Conference at the University of Mississippi and during the year addressed meetings at the Court Management Institute of the University of Maryland, the Task Force on Advanced Judicial and Legal Education of the American Bar Association and the annual conference of the United States Court Reporters' Association. He visited the National College for the State Judiciary at the University of Nevada in Reno,

and observed training for state judges being conducted at that institution. In turn, Dean Watts of the National College attended one of our conferences for district judges in order to observe first hand the format and procedures we employ. In November, the director of the division attended the annual meeting of the National Council of Bankruptcy Judges and also visited Bentley College in Boston, Massachusetts, where he briefed members of that institution's staff on the Center's work. Thus, educational information is exchanged with many other organizations engaged in similar endeavors.

Several of our programs were held in university facilities. This gave us the opportunity to work more closely with university personnel and to exchange information and ideas. Seminars were held at the University of Michigan, Harvard Law School, the University of Maryland, the University of Alabama, and California State Polytechnic University. In view of the interest in our programs evidenced by the academic community, we plan to continue this practice. A program is scheduled for Yale University in April, 1975, and it is expected that one or more seminars will be held at the University of South Carolina during the coming year.

Again this year, we were privileged to have the extremely valuable assistance of Senior Judge William J. Campbell at the majority of the programs offered. The Administrative Office of the U.S. Courts also continued to provide us with highly effective program planning support and faculty participants.

#### 1. District Judges

The series of seven conferences for federal trial judges, which began in the preceding fiscal year was completed in fiscal year 1974. Five of the conferences were held this year. Each trial judge with five years or more tenure received an invitation. Of these, 155 were able to come to the Center for one of the conferences, 107 during this past year. These meetings continued to be formed around a modified "Arden House" format with major subject areas identified for discussion in separate seminars. The conferees were divided into small groups, each chaired by a judge as discussion leader assisted by two reporters who were either deans or professors of law schools. The small group discussion periods were combined with plenary sessions on the same subjects and ended with reports of the discussion of each seminar group. A combined and edited text of all of these reports will be published in Federal Rules Decisions in order that all concerned may have the benefit of the observations and conclusions.

#### 2. Newly Appointed District Judges

One orientation conference was held in Washington during the fiscal year with 24 newly appointed judges and judges-designate meeting with a faculty of experienced circuit and district judges, representatives of the Federal Judicial Center and the Administrative Office, and representatives from other agencies. A compilation of the papers presented at this conference will be published. An innovation in this conference was the use of video tape. A courtroom was equipped with a television camera, video tape deck and play-back TV monitors. Participating judges were invited to come to the courtroom after the concluding conference session of the day. Those who accepted gave a mock jury charge from the bench and engaged in a dialogue with a "defendant". This was recorded and played back on a TV monitor permitting each judge to assess his own bench manner, appearance, and delivery.

#### 3. Metropolitan District Courts

In fiscal year 1974, the division became responsible for providing necessary funding and administrative support for semi-annual meetings of the chief judges and the clerks of the metropolitan district courts. (See Item III F. *supra*).

#### 4. Circuit Executives

The circuit executives met twice at the Center contemporaneously with the meetings of the Judicial Conference of the United States. The programs were structured to permit as much informal discussion by the participants, members of the Center and senior Administrative Office staff as possible. The problems discussed ranged from the budgeting process to the printing of slip opinions. Special briefings were presented on the status of Center studies, COURTRAN, computer transcription and the inner workings of the federal public defender program. As an outgrowth of these conferences, the executives have formed four committees to deal with improvements in the appellate process; resources-planning and budget requirements; annual reports - format and content; and the circuit executive's role.

#### 5. United States Magistrates

Two orientation meetings for newly appointed magistrates were held with 47 full-time and part-time magistrates participating. Also, two refresher seminars were held for 51 participants; and conferences for magistrates of the First and Eighth Circuits were



held in Massachusetts and Iowa respectively for 28 participants. The seminar for the magistrates of the Eighth Circuit was held in conjunction with the annual circuit conference. At this conference, the full-time magistrates joined in the program established for the judges of the circuit for portions of two days. For the remainder of the three days, the magistrates adjourned to their own seminar where they and members of the Administrative Office discussed criminal pretrial motions, civil rights actions, habeas corpus, civil pretrial conferences, and social security review.

The First Circuit magistrates met in Boston. The chief judges from within the circuit were also invited to participate. Discussion centered around search and arrest warrants, bail and commitment, preliminary and removal hearings, trial of minor offenses, and forfeiture of collateral.

#### 6. Bankruptcy Judges and Staff

Seminars for Bankruptcy Judges continued with five regional programs conducted during fiscal year 1974. Emphasis was placed on the new rules of bankruptcy, which became effective in October 1973.

A pilot video tape of an illustrative trial was produced. The issues focused on a complaint to determine dischargeability of a particular debt. This tape has proved to be very effective and will be used extensively.

The impact of the new rules also led training for the chief clerks of bankruptcy offices. Faculty members were drawn from the ranks of the clerks. Bankruptcy judges and Administrative Office personnel also served. A video tape covering the method of closing cases and drawing statistical reports was prepared and effectively used during these courses. During the year 174 clerks attended the five seminars which completed this new series.

#### 7. Probation Officers and Staff

Two groups in the probation service were given formalized training by the Federal Judicial Center this year for the first time. One was chief clerks of probation offices, and the other was probation officer assistants (case aides). The chief clerks of probation officers were selected for this pilot seminar from offices mainly east of the Mississippi. In almost every instance, these persons were senior members of the court staff who had never received formalized training from the Center. Evaluation com-

ments received from the 34 attendees have convinced us that the effort should continue. A subsequent seminar will be conducted for the remaining clerks during fiscal year 1975.

The probation officer case aide project was sponsored by the University of Chicago's Center for Studies in Criminal Justice and financed by the National Institute of Mental Health and the Federal Judicial Center. A test group of 20 persons was selected and employed at strategic cities throughout the United States. Those assistants were selected from ex-offender or minority groups. They assisted the probation officer in his supervision of more difficult cases. An orientation seminar was conducted in Chicago for 18 of these paraprofessionals.

The largest single segment of the division's resources was spent on orientation training for the newly appointed probation officers. During fiscal year 1974 the number of authorized probation officers increased by 340, a 42% increment. Ten orientation seminars were scheduled. Eight of these were conducted during January-June 1974. During this intensive educational period, 81% of the newly appointed officers were trained. A total of 333 new officers attended the ten courses. A number of innovative training techniques were employed in each of these programs. One was role playing combined with the use of the Federal Judicial Center's video-tape capability. By using this technique, newly appointed probation officers were able to sharpen their interviewing techniques by witnessing their own performance in a probation officer/client interviewing skit which was taped and the sequence replayed for audience appraisal.

Six refresher seminars were conducted for the experienced probation officers who had not attended one of the review courses offered during the past three years; 197 officers took part in those six seminars. Case managers from the Bureau of Prisons and case analysts from the Board of Parole participated in these joint sessions. Emphasis was placed on workshop-type training in order to allow maximum participation by the attendees.

In addition, one management seminar was conducted jointly with the Adult Education Center at the University of Maryland for 24 chief, deputy chief and supervising probation officers. It is anticipated that additional management courses will be conducted during fiscal year 1975.

The final regional conference of a long series was conducted in September with 120 officers in attendance. A special invitational seminar was held for 68 officers in conjunction with the Seventh Circuit Judicial Conference in May.

## 8. Court Clerks and Staff

In January, the first annual meeting of the clerks of the circuit courts of appeals was held. Using the Center's *Comparative Study of the Internal Operating Procedures of the Courts of Appeals* as the focal point of the conference, participants discussed many problems common to all circuits. Topics covered included court reporting, use of staff attorneys, expediting appeals, statistical reporting and personnel management.

The last of a series of conferences for courtroom deputy clerks was held with 33 clerks participating. This type of seminar, designed to emphasize the ways in which supporting personnel provide maximum assistance to trial judges and assist with calendar control problems, will be held once each year for newly appointed courtroom deputies in accordance with our policy of giving priority to orientation training.

After completing the second series of seminars for district court clerks in fiscal year 1973, a new series was instituted this year to provide a similar training experience for the chief deputy clerks. In the two seminars held, 65 chief deputy clerks with a faculty composed of clerks of court, a circuit executive, university professors and members of the Center staff discussed office organization, statistical reporting, personnel management, juror utilization, and docketing procedures. Each conference ended with a round-robin discussion by the participants of common problems and suggested solutions.

## 9. Federal Public Defenders

The third annual conference for federal public defenders was held in January, 1974. Thirty-three federal and community defenders attended. The faculty comprised Center and Administrative Office personnel, federal judges, the Clerk of the Supreme Court, a circuit executive, and a representative of the Bureau of Prisons. The defenders discussed their relationship with the courts and the offices represented by the faculty, the proposed amendments to the criminal code and to FRCrP, sentencing consequences, rights of offenders, and mental examinations of defendants.

## 10. Court Reporters

Improvement of reporting standards and efficiency continues to be of prime interest to the Center. To this end, we closely coordinate our program with the Systems and Innovation Division. During this fiscal year, a faculty of reporters from the

Southern District of New York presented a two-day seminar for 21 reporters. Among other subjects, the advantages of the pool system of reporting services management, wherever possible, were emphasized.

## 11. Federal Court Librarians

In September, 1973, the first seminar for federal court librarians was conducted. Techniques for developing full utilization of the services of the court library were emphasized. Twenty federal librarians attended. The seminar participants were given escorted tours through the Library of Congress and the library of the Supreme Court as part of the seminar program.

## 12. In-Court Training

Under the auspices of the Federal Judicial Center the training division of the western region of the Civil Service Commission conducted seminars on three successive Saturdays—April 27, May 4, and May 11—for personnel of the Northern District of California. While this course had been conducted numerous times by the Civil Service Commission, it was experimental insofar as the members of the federal judiciary were concerned. The topics covered consisted of such subjects as motivation, group relations, leadership, "problem employees" and concepts of human behavior. The program was well received and has proven to be effective.

## B. OTHER EDUCATIONAL SERVICES

### 1. Special Tuition Authorization Program

The Center has continued its program of providing financial assistance to individual employees of the Judicial system enabling them to attend job related education and training programs sponsored by other government agencies, universities and private organizations. The amount expended during the fiscal year for this purpose was approximately \$36,000, the majority of which went for the specialized training of probation officers and longer duration training at the Institute for Court Management for selected supporting personnel of the courts. A total of 226 persons participated at an average cost of \$155.00 per participant.

The percentage distribution of financial assistance during the year was as follows:

a. Offices of Clerks of Court	32.5%
b. Probation Officers	26.4%
c. Administrative Office	19.1%
d. Judges and Magistrates	13.6%
e. Federal Public Defenders	3.9%
f. Federal Judicial Center	2.7%
g. Miscellaneous (Secretaries, Supreme Court & Bankruptcy)	1.8%

## 2. Audio Cassette Program

After over two full years of operation, the Center's library of audio cassette recordings had reached a total of 386 topics in 17 categories. Virtually all formal presentations made at seminars or conferences sponsored by the Center are recorded on audio tapes. If the quality of the recording, and the interest shown in a presentation indicates that it is advisable, the reel tape recording is edited and re-recorded on cassettes that may be circulated to any member of the federal judiciary upon request and, in limited instances, to law schools and members of the bar. During the past twelve months 1430 such requests were filled. In June, 1974, a catalogue listing these cassettes was printed and distributed.

## 3. Video Tape and Film Program

As noted in the discussion of the seminar and conference activities, our video tape library now includes two presentations used in conferences for bankruptcy judges and their staff. In addition, a tape was produced of an actual sentencing council. This tape is used to illustrate the council procedure at conferences for judges. Other presentations consist of addresses made by prominent members of the federal judiciary.

The Center has 14 motion picture films covering various subjects of interest to persons in the probation and corrections field. During the year, 86 requests for the loan of these films were received from state agencies, federal probation offices, universities and schools. An updating and expansion of this service is planned.

## 4. Publications

The following publications were produced during the year:

- Report of the Conference of District Judges, February 20-23, 1973 (Reprint from Federal Rules Decisions)
- Report of the Conference of District Court Judges, May 7-10, 1973 (Reprint from Federal Rules Decisions)
- A compilation of presentations made at the Newly Appointed District Judges Seminar, 1973
- Probation Officer Case Aide Project Report, Phase I and Phase II
- Orientation Manual for Secretaries to Federal Trial Court Judges
- Manuscripts and Outlines of Presentations made at Seminars for United States Magistrates, Volume III
- The Mechanics of Chapter XI
- A Catalog of Cassettes

## C. PLANS FOR FISCAL YEAR 1975

- A series of conferences for judges of the courts of appeals
- A series of conferences for district judges with two to five years tenure
- An orientation seminar for newly appointed district judges
- The continuation of training for bankruptcy judges and staff to include a new series of seminars for deputy chief clerks
- Seminars for non-metropolitan court clerks
- Probation Officer training will continue to insure that sufficient orientation courses will be offered as new personnel are appointed. Refresher courses will continue to be held so that each officer attends once each three years. The series of seminars for chief clerks will be completed. A series of conferences is planned for



deputy chief clerks of probation offices. Report writing classes will be conducted for probation officers desiring such assistance.

- Refresher, orientation and special interest courses for magistrates will be scheduled.
- Annual conferences for circuit clerks and public defenders will continue as will the semi-annual meetings of the clerks of metropolitan courts and the circuit executives. Official court reporter seminars will be conducted as required.
- Expansion of the film lending library for the probation service.
- Orientation manual for law clerks of federal trial judges will be published.
- A management training program entitled "Improving Supervisory Skills", designed for the middle management personnel within the Federal Judiciary, will be conducted. The faculty will consist of Judge Campbell and four of our most talented court personnel. The thrust of the course will concern orienting job improvement to personal initiative, exercising the power to decide, organizational training and the improvement of the performance of subordinates, the importance of proper communication, the elimination of disorder, maintaining standards of performance, techniques of gaining group participation in the court mission and other management techniques dealing with human relations. It was decided to use court personnel rather than university professors to teach this material because of their ability to relate to the participants so much more effectively. Further, the faculty will not confine itself to the material listed in the agenda. As the occasion demands, any problem or topic that is raised will be discussed. The first of the series is scheduled to be held in the Central District of California (Los Angeles) in August. The second will be held in early September in the Eastern District of Michigan (Detroit).

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