

R.R. Smith  
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# Federal Judicial Center Annual Report

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**1987 ANNUAL REPORT  
FEDERAL JUDICIAL CENTER**

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Associate Justice (Ret.), United States Supreme Court

March 27, 1968 to September 23, 1969

Honorable Alfred P. Murrah

Senior Judge, United States Court of Appeals

for the Tenth Circuit

May 1, 1970 to October 27, 1974

Honorable Walter E. Hoffman, Director Emeritus

Senior Judge, United States District Court

for the Eastern District of Virginia

October 27, 1974 to July 17, 1977

Honorable A. Leo Levin, Director Emeritus

Meltzer Professor, University of Pennsylvania Law School

July 18, 1977 to July 31, 1987

**THE FEDERAL JUDICIAL CENTER**

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August 21, 1987

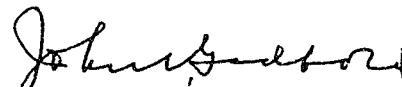
TO THE CHIEF JUSTICE AND MEMBERS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

I am pleased to send you the Federal Judicial Center's Annual Report on the activities of the Center in fiscal year 1987.

As noted in the report, the Center's twentieth year was one of transition. This marked the first full year under the leadership of its new Chairman, Chief Justice Rehnquist. And, on July 31, Professor A. Leo Levin retired after serving as the Center's Director for more than a decade.

The pages that follow reflect the Center's efforts to fulfill its statutory mandate to further the development and adoption of improved judicial administration in the federal courts. We shall seek to continue and improve these efforts in the years ahead.

Sincerely,



John C. Godbold

# TABLE OF CONTENTS

INTRODUCTION: A Lasting Imprint.....	1
I. TRIAL COURTS .....	3
A. Continuing Education and Training Programs .....	3
B. Desk and Research Aids for United States District Courts.....	12
C. Automated Case and Court Management Support for District Courts .....	14
D. Automated Case and Court Management Support for Bankruptcy Courts .....	16
E. Management of the District Courts.....	17
F. Research on the Trial Litigative Process .....	19
G. Jury Projects .....	23
II. FEDERAL SENTENCING AND PROBATION .....	27
A. Sentencing Guideline Education .....	27
B. Continuing Education and Training .....	28
C. Probation and Sentencing Research.....	33
D. Probation Information Management System.....	34
III. APPELLATE COURTS .....	35
A. Continuing Education and Training .....	35
B. Research and Development on Appellate Court and Case Management.....	37
C. Automated Appellate Information Management Systems.....	38
IV. CENTER ACTIVITIES WITH SYSTEMWIDE IMPACT....	41
A. Educational Programs and Services .....	41
B. Assessing the System's Needs for New District Court Judgeships.....	46
C. Information and Liaison Activities.....	47
V. THE ORGANIZATION OF THE CENTER AND ITS FIVE DIVISIONS.....	53
A. The Board of the Center.....	53
B. Division of Continuing Education and Training.....	54

C. Division of Special Educational Services.....	55
D. Division of Innovations and Systems Development .....	56
E. Division of Research.....	57
F. Division of Inter-Judicial Affairs and Information Services .....	57
 <b>VI. CENTER PUBLICATIONS.....</b>	 59
 <b>INDEX.....</b>	 61

## **INTRODUCTION: A LASTING IMPRINT**

Those who have followed the development of the Federal Judicial Center during A. Leo Levin's service as director see and appreciate his imprint on the judicial system.

I was a member of the Board of the Federal Judicial Center when Leo Levin was selected as director. Over the years since then I have been fortunate to work with him as a Board member, as a chief circuit judge, and then as the upcoming director designated by the Board to succeed him. He is a warm, gracious, and caring person. He has imbued the Center with his personal qualities of creativity, integrity, concern, and commitment to quality. Leo Levin has been a wise, sympathetic, and responsive servant of the judiciary. One senior district judge wrote of him in tribute that "Anyone such as [he] who can fine-tune a symphony where only the federal judges are playing the instruments, must indeed be a master conductor." Professor Levin indeed was a respected representative of the judiciary's interest. The Federal Judicial Center and the court system have been rewarded for his diligence and integrity by continuing congressional support for existing programs and frequent suggestions for new Center activities.

The federal judiciary and its needs grew dramatically during Leo Levin's ten years at the Center. Burgeoning caseloads outpaced increases in the number of authorized judgeships. New laws and new legal theories created fresh complexities. These and other developments heightened the demand for quality education and training programs, innovative methods for administering the business of the courts, and research and information on judicial administration, case management, and other issues of critical interest to the judiciary. Professor Levin inspired the Center to meet these demands. Building on the achievements of his distinguished predecessors—Justice Tom C. Clark, Judge Alfred P. Murrah, and Judge Walter E. Hoffman—he unfailingly pursued the Center's mission of improving the administration of justice in the courts of the United States.

New challenges confront the federal judiciary as it approaches its third century, providing new opportunities for the Center to serve. In 1984 Congress created a mechanism for the radical restructuring of sentencing in the federal courts. The possible implementation this fall of guideline sentencing will challenge the Center's research and education and training apparatus to provide timely information and instruction to all members of the judicial system.

The volume of business in the federal courts continues to press the need for speedy and less costly methods for adjudicating cases. Alternative forms of dispute resolution are gaining acceptance. The Center will continue its research and dissemination of information on alternative dispute resolution.

In a systemic sense, the expansion of the federal courts creates challenges for all of us in the federal judiciary. Much of the attention of the past two decades has been focused on the increasing demands on the federal courts. The system is growing larger, more complex, and less informal. Federal judges face the reality of a changing court system and yet seek to retain its responsiveness, flexibility, civility, and professionalism.

The Center will continue to employ new technologies and a variety of media to provide education and information to the judicial family. It will continue to demand the highest caliber performance from its staff and to seek advice and counsel from those it serves.

Moreover, the Center will ask the hard questions, seek new methods, probe and question and examine to see if there are better ways to administer justice. Reliance on custom and tradition adds much to the stability of the judiciary, but critical, meaningful self-examination is necessary to respond to new situations and to keep pace with a changing world.

We hope that Leo Levin will continue to contribute his intellect and insight to problems of judicial administration and to the work of the Center. As Professor James Chadbourn wrote upon the retirement of Dean Charles McCormick: "[M]ore is yet to come. Of that we may be sure, for continuing creation is the stamp of the man."

John C. Godbold  
August 1987

## **I. TRIAL COURTS**

### **A. Continuing Education and Training Programs**

During the past year, the Federal Judicial Center continued its efforts to achieve an appropriate balance between its educational programs for newly appointed personnel in the district courts and its offerings for their more experienced colleagues. The Center's programs for newly appointed district judges were enhanced, while at the same time the Center made substantial progress in improving its educational programs for bankruptcy judges, magistrates, and supporting personnel. The Center continued to employ a variety of techniques, ranging from the traditional seminar to instructional software, to carry out this mission.

**Orientation Programs for Newly Appointed District Judges.** The perspective of a trial judge is radically different from that of a practicing attorney, no matter how rich a lawyer's courtroom experience. This is the uniform reaction of newly appointed district judges. No practicing attorney has ever sentenced a defendant to the loss of liberty; no practicing attorney has ever had the obligation of managing a docket of four hundred or more civil cases with the responsibility of ensuring that each proceeds at an appropriate pace to settlement or trial. Equally obvious is the fact that few, if any, appointed judges have had wide experience in both criminal and civil litigation, with particular emphasis on the federal specialties. For these reasons, there is a need for broad-based training in the responsibilities of the office to be offered promptly upon appointment of a district judge to the bench.

To meet these needs, the Center offers a three-phase educational program for newly appointed district judges: an in-court orientation program, a four-day regional seminar that includes video programs and a visit to a federal correctional institution, and a week-long training session in Washington, D.C.

In-court orientation programs vary from court to court in length, detail, and formality. These sessions make it possible for new judges to be assisted at the outset of their judicial careers by their

more experienced colleagues on the bench. The Center has developed a "checklist" of topics that are appropriate for consideration in any court's orientation sessions. Copies are provided not only to the newly appointed judge but also to the appointee's chief judge. The list is designed to allow newly appointed judges to "fill in the gaps," putting emphasis on those topics that are of particular interest to them. In addition, the Center supplements this orientation process by providing a variety of publications and other materials to new judges.

The new judges are subsequently invited to attend a small four-day regional seminar sponsored by the Center. The first day of the program focuses on federal sentencing practices and policies, and includes a visit to a federal correctional institution. This accords with the 1976 resolution of the Judicial Conference of the United States "that the judges of the district courts, as soon as feasible after their appointment and periodically thereafter, shall make every effort to visit the various Federal correctional institutions that serve their respective courts."

The sentencing portion of the program is typically under the guidance of a member of the Judicial Conference Committee on Administration of the Probation System. In addition to the warden and senior staff of the institution, local Bureau of Prisons representatives, probation officers, and regional staff from the U.S. Parole Commission typically participate.

The remaining three days of the regional seminar are devoted to the basics of case and court management and the Federal Rules of Evidence. Under the tutelage of an experienced district judge, the participants view video lectures that the Center has produced specifically for these seminars. The informal arrangement and the small size of the group afford the participating judges the opportunity to raise questions and to discuss matters of particular interest, as well as to become acquainted with colleagues in other districts and circuits.

The Center conducted three regional seminars for newly appointed judges in fiscal 1987. Two involved a day at the correctional institution at Phoenix, Arizona, and one involved a visit to the Petersburg, Virginia, institution.

A week-long seminar in Washington, D.C., which judges usually attend during their first year of service, constitutes the last phase of the orientation program for district judges. These seminars are

scheduled when the number of newly appointed judges is large enough to constitute a class of approximately thirty-five; one seminar is typically scheduled each year. The Chief Justice participates in the program, and other members of the Supreme Court often find occasion to visit with the new judges during the course of the seminar.

The Center did not offer a week-long program in fiscal 1987, although thirty-three newly appointed judges attended a seminar in September 1986, and one has been scheduled for November of 1987.

A committee appointed in 1985 and chaired by Judge Warren K. Urbom of the District of Nebraska has been reviewing the orientation program. A substantial number of changes were made in the video orientation program's curriculum, and new video programs were produced to give effect to these revisions. In addition, the September 1986 week-long seminar incorporated some content changes and refinements in curriculum based on the committee's suggestions.

**Continuing Education Programs for United States District Judges.** In accordance with its statutory mandate to develop and conduct "programs of continuing education and training for personnel of the judicial branch of the Government," the Center regularly conducts regional workshops, organized by circuit. These are still commonly referred to as workshops for U.S. district judges, but in recent years increasing numbers of appellate judges have found them valuable, and today they are usually viewed as serving both the district and circuit judges. These workshops are held on an annual basis in most circuits, although whether to have a workshop in any particular year is at the option of each circuit. The Center works closely with planning groups of judges, appointed by the chief judge of the circuit, to develop the programs for the workshops, some of which are held jointly with judges of a contiguous circuit. In order to assist the Center in developing the curriculum for a particular workshop, the judges are typically asked to select their preferences from a "menu" of prospective presentations. When the preferences are sufficiently varied and the number of judges warrants it, electives are offered by scheduling two lectures concurrently.

The Center sponsored seven circuit workshops in fiscal 1987, one of which was a joint program for the judges of the Eighth and Tenth Circuits. In addition, District of Columbia judges are invited to the Fourth Circuit workshop. Procedural and substantive topics reflect-

ing both current local needs and national concerns are offered at these sessions. Judges at the Eleventh Circuit's workshop, for example, heard a panel discuss requests for stays of execution in death penalty cases. The joint workshop for the Eighth and Tenth Circuits featured presentations on the Racketeer Influenced and Corrupt Organizations Act and on new developments in federal criminal procedure and constitutional torts, while judges at the Sixth Circuit's workshop spent a day focusing on settlement and negotiation techniques, including participation in mock negotiation sessions. The judges attending the workshop for the Seventh Circuit devoted time to recent developments in federal habeas corpus relief, employment discrimination law, and techniques for clearing old cases from judicial calendars. Attorney fee awards, a review of recent Supreme Court cases, and expert testimony were among the subjects covered at the Ninth Circuit's annual workshop.

Other more specialized programs are described elsewhere in this chapter.

**Special Summer Programs for District and Appellate Judges.** Since 1979, the Center has afforded district and appellate judges the opportunity to attend special summer programs held on the campuses of some of the nation's leading law schools. Occasionally, it has sponsored the attendance of a limited number of judges at educational programs organized by the law schools; at other times, the Center has developed its own special programs in light of federal judges' perceived needs and offered them in law school facilities around the country.

In June 1986, the Center presented its own program on constitutional adjudication. As the demand for that program considerably exceeded the attendance limit, the Board approved the Center's offering basically the same program in 1987. The 1987 summer program brought seventy-eight district and fifteen appellate judges to the campus of the School of Law of the University of California at Berkeley (Boalt Hall). The program, using plenary lectures, small-group discussions, and specially prepared readings, presented a panoramic sweep of frequently litigated constitutional provisions (other than criminal procedure) and also considered some issues of constitutional history in the light of the bicentennial of the Constitution. Audiocassettes of the plenary lectures, together with the reading materials, are available to all judges and supporting personnel.

The Center's committee on summer educational programs, appointed by the Chief Justice and chaired by Judge Howard C. Bratton of the District of New Mexico, includes Judge Daniel M. Friedman of the Federal Circuit Court of Appeals, Judge Louis H. Pollak of the Eastern District of Pennsylvania, and Judge Pamela Rymer of the Central District of California.

**State-Federal Programs.** The Center has supported the work of state-federal judicial councils since their inception in 1971, providing not only modest travel support but also discrete educational components for meetings of state and federal judges held under council auspices. In fiscal 1987, Sixth Circuit Chief Judge Pierce Lively arranged a council meeting that included ten justices and judges from all four states of the circuit, as well as federal judges. This meeting, like many meetings, featured a presentation on habeas corpus developments and postconviction relief—sources of considerable state-federal tension. The Center, through its Inter-Judicial Affairs Division, also assists states interested in organizing state-federal judicial councils.

**Education and Training Publications.** The Center offers a wide range of educational monographs and manuals on issues of interest to federal trial judges. A new edition of the *Manual on Employment Discrimination Law and Civil Rights Actions in the Federal Courts*, by Judge Charles R. Richey, was published in fiscal 1987. This latest edition, significantly altered and expanded, includes new chapters surveying significant state employment discrimination statutes and discusses common-law claims arising *ex contractu* and *ex delicto*. The manual also includes new sections on AIDS and on chemical abuse in the workplace. As with earlier editions and their updating replacement pages, the most recent edition has been made available to the bar through private publication.

In fiscal 1987, the Center published *Major Issues in Immigration Law* by Professor David Martin. It not only treated the major features of the relevant substantive and procedural law, but also included a chapter on the Immigration Reform and Control Act of 1986. This is one of a series of monographs designed to provide judges with overviews on a variety of topics. The monographs are typically accompanied by bibliographies.

Because of the demand for the first edition, the Center in 1987 also undertook a second edition of Professor George Rutherford's monograph on *Major Issues in Employment Discrimination Law*. Where

appropriate, the Center makes these monographs available on audiocassette to personnel within the federal judicial system.

An April 1987 publication, *The Bail Reform Act of 1984* by Deirdre Golash of the Center staff, summarized the appellate court decisions (with the exception of standards of review) interpreting provisions of the act from October 12, 1984, its effective date, to January 1987.

The Center also has in process two monographs, one on patent law and one on copyright law, scheduled for publication in fiscal 1988, and is receptive to suggestions for additional topics.

**Bankruptcy Judges.** In 1987, the Center's four regional workshop programs for bankruptcy judges covered subjects such as accounting and financial analysis in bankruptcy cases, evidentiary issues in bankruptcy litigation, recent case law developments, allowance of attorneys' fees, Chapter 11 business reorganization issues, and the problems of professional responsibility. Commensurate with the increasing interest of all judges in efficient trial and calendar management, several seminars also included a component on judicial techniques to expedite hearings and trials and strengthen the management of dockets and cases at all stages of bankruptcy proceedings.

Small regional orientation seminars, led by experienced bankruptcy judges, are the primary means of introducing newly appointed bankruptcy judges to their duties. Five such seminars were scheduled in 1987, the last two to accommodate the first group of new appointments resulting from the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986. These seminars treated such basic topics as the bankruptcy code, payment of attorneys' and professional fees, pretrial procedures and settlement techniques, the administration of the bankruptcy court system, practical solutions to courtroom problems, effective case management, and the Federal Rules of Evidence.

The Center supplements video orientation seminars with national seminars in Washington for recently appointed bankruptcy judges. These programs afford the judges the opportunity to meet together after a year or two of experience on the bench and to benefit from a more advanced program. Fifty judges attended a March 1987 seminar that included presentations on the new Chapter 12 of the Bankruptcy Code dealing with family farmer bankruptcies and on expansion of the United States Trustee System from the eighteen

original pilot districts to all federal districts and almost all bankruptcy courts.

Bankruptcy Judge Martin V. B. Bostetter, Jr., of the Eastern District of Virginia, a member of the Center's Board, chairs a committee that reviews current Center educational programs for bankruptcy judges and provides recommendations for improving them. The dramatic increase in bankruptcy court workload (reflected in fiscal 1986's record number of 507,557 case filings) and the accompanying expansion in the number of authorized bankruptcy judges (fifty-two new judgeships under bankruptcy legislation enacted in late 1986) have made this a priority area for the Center's judicial education programs. The committee developed a pilot case and calendar management seminar for chief judges and clerks of bankruptcy courts to be given in September 1987. The committee also undertook a thorough review of the video lectures that serve as the focal point of the curriculum for the regional orientation seminars.

**Magistrates.** By statute, the Center is required to provide both full-time and part-time magistrates with "periodic training programs and seminars," and further to provide an introductory training program within one year of a magistrate's appointment (28 U.S.C. § 637). This year the Center conducted one video orientation seminar for newly appointed full-time and part-time magistrates. The seminar addressed magistrates' managerial and administrative duties, the Federal Rules of Evidence, criminal procedure, and civil procedure. A national seminar for newly appointed full-time magistrates will be held in September 1987 in Washington, D.C.

Four regional seminars for full-time magistrates and those part-time magistrates with substantial workloads were conducted in fiscal 1987. A sampling of the topics discussed includes a review of recent significant legislation, decisional law affecting the work of magistrates, and recent amendments to the Federal Rules of Civil Procedure, as well as recent developments in the Federal Rules of Evidence.

Suggestions from the magistrates assist the Center in developing the curricula for these programs. In addition, the Center works closely with the Magistrates Division of the Administrative Office of the U.S. Courts and the Judicial Conference Committee on the Administration of the Magistrates System. Where possible, the Center arranges for a member of the committee to chair the seminar.

**Clerks of Court and Supporting Personnel.** The Center offers a variety of educational programs for personnel in federal trial court clerks' offices through seminars, workshops, or in-court programs. In some cases, the primary instruction is by way of Center-produced audiovisual materials.

In February 1987, the Center sponsored a national seminar for the clerks of bankruptcy courts. The seminar included sessions on management and leadership, small group workshops on a range of technical areas, and a session on the nationwide implementation of the U.S. trustee program. The Center also developed and conducted its first national seminar for deputies in charge of divisional offices in the bankruptcy courts. The program included sessions on management, bankruptcy case administration, nationwide implementation of the U.S. trustee program, and the status of and plans for bankruptcy court automation.

As previously noted, a pilot bankruptcy case management workshop for chief bankruptcy judges and bankruptcy clerks was presented in fiscal 1987. The workshop provided a forum for the discussion of case management perspectives and approaches and for the exchange of information about techniques that have proved successful.

Among other programs for supporting personnel offered by the Center was a nationwide seminar for chief deputy clerks of the district courts and three workshops for personnel managers from the federal circuit, district, and bankruptcy courts. The personnel workshops featured Judicial Conference equal employment opportunity policies, adverse action procedures, and the development of orientation programs. Finally, clerks of court and jury administrators participated in the final jury utilization workshop, described elsewhere in this chapter.

The Center is placing increasing emphasis on the use of specially prepared video materials to help in the orientation of the large numbers of court clerical staff. Clerks' offices personnel, for example, continue to make extensive use of the Center-produced six-part video series on the Federal Rules of Civil Procedure, designed to introduce deputy clerks to the major elements of title 28 of the U.S. Code and to relevant provisions of the Federal Rules of Civil Procedure. In fiscal 1987, the Center had in production a series of video orientation programs on federal procurement, and an introduction to the Central Violations Bureau. The Center was also asked in fiscal 1987 to prepare a series of video orientation pro-

grams for bankruptcy court clerical personnel. In all cases, the Center works closely with appropriate units of the Administrative Office and with field personnel, seeking both suggestions and assistance in the review of the prepared materials. Video programs such as these enable personnel to keep abreast of changes dictated by new legislation, requirements imposed by directives of the Judicial Conference, Administrative Office policies, changing patterns of district court civil litigation and criminal prosecutions, and new developments in court and case management and administration.

As in recent years, clerks' offices personnel continued to participate actively in Center-supported local educational activities. A large proportion of the Center's tuition support funding (see chapter 4) in fiscal 1987 was expended to enable staff from clerks' offices to take relevant courses offered by the Office of Personnel Management, the National Independent Studies Center, and others.

**Federal Public and Community Defenders, Assistants, and Investigators.** The Center is responsible for the training of federal public defenders and federal community defenders, their assistants, and support personnel such as investigators. By contrast, the Department of Justice provides continuing legal education for assistant U.S. attorneys.

The Center held an orientation seminar in November 1986 for assistant federal defenders in Aurora, Colorado. Developed in co-operation with the Administrative Office and a planning group of federal public and community defenders, the five-day program was both rigorous and comprehensive, including, but not limited to, consideration of preliminary hearings, discovery, motions to suppress, jury trials, the Federal Rules of Evidence, sentencing, and posttrial motions. Various provisions of the October 1984 omnibus crime legislation were also analyzed and explained.

This year the Center again sponsored the attendance of thirty new assistant federal defenders at a special program organized by the National Criminal Defense College at Mercer University Law School. This intensive two-week training session concentrates almost exclusively on the development of sophisticated advocacy skills relevant to criminal defense. Taken together with the five-day orientation, these programs provide new assistant defenders with a comprehensive introduction to the theory and practice of criminal defense work.

Two regional seminars were conducted for public and community defenders in fiscal 1987 at Washington, D.C., and Denver, Colorado. The curriculum included pretrial motions, advanced cross-examination, developments in habeas corpus, appellate advocacy techniques, legal ethics issues, grand jury representation, and drug legislation/sentencing guideline updates.

Early in the fiscal year, the Center sponsored a seminar for defender investigators in Orlando, Florida, which was held in conjunction with the annual meeting of the National Defender Investigators Association. Topics addressed at the seminar included the role of investigators in preparing for detention hearings, the Victim and Witness Protection Act of 1982, drug investigations, the insanity defense, and detection of counterfeit checks and currency.

**Senior Management Teams.** In fiscal 1987, the Center conducted an experimental program on negotiation and problem-solving skills for senior management teams from six large districts in the Northeast. Team members included the district and bankruptcy clerks, the chief probation officer, and, where applicable, the district court executive and the chief pretrial services officer. The program was designed to serve two primary purposes: to help the participants strengthen their conflict management skills and to foster improved communication and working relationships among the respective team members. As a result of the success of the initial program, the Center hopes to schedule additional sessions.

## B. Desk and Research Aids for United States District Courts

**Bench Book for United States District Court Judges.** The *Bench Book*, published in two volumes, is an ongoing compilation of information that federal judges have found useful for immediate reference on the bench or in chambers. Magistrates and bankruptcy judges have also found the publication useful, and it is intended to serve them as well.

The *Bench Book* includes sections on instructing a jury in a civil case, taking guilty pleas, and assigning counsel; model sentencing forms are also included. It is published in a loose-leaf format so as readily to accommodate revisions and new material. The *Bench Book* is prepared by a committee of experienced judges, chaired by Chief Judge William S. Sessions of the Western District of Texas,

and including Chief Judge William T. Hodges of the Middle District of Florida, Chief Judge Aubrey E. Robinson, Jr., of the District of Columbia, Judge Donald S. Voorhees of the Western District of Washington, and Judge A. David Mazzone of the District of Massachusetts.

The *Bench Book* was originally published in 1969; the third edition was published and distributed by the Center last year.

**Bench Comments.** From time to time, the Center publishes two- or three-page discussions of recent appellate decisions that may be of particular interest to federal judges and magistrates. Typically, these describe practical procedural problems that trial judges may face. Although prepared by a member of the Center staff, each issue is reviewed by several experienced federal judges prior to publication.

Topics suitable for *Bench Comment* treatment are frequently suggested by federal judges, and such suggestions are welcome. Subjects treated during the past year include considering motions by recalcitrant grand jury witnesses who seek termination of civil contempt incarceration, and proper procedure where a witness enters a blanket assertion of the privilege against self-incrimination. A cumulative index of all *Bench Comments* distributed through December 1986 was also published.

**Chambers to Chambers.** The Center periodically publishes brief descriptions of case or chambers management techniques found particularly helpful by federal judges. Like *Bench Comments*, each issue of *Chambers to Chambers* is reviewed by several federal judges as part of the prepublication process.

Issues published during the fiscal year discussed allocating time for presentation of evidence in protracted cases, interim summations, and appointment of counsel for indigents. In January 1987, the Center published an index of all *Chambers to Chambers* previously published.

**Manuals and Handbooks for Supporting Personnel.** For almost a decade, the Center has published a variety of manuals and guides for supporting personnel. Its *Handbook for Federal Judges' Secretaries* is one example. During this fiscal year, Judge Alvin B. Rubin of the Fifth Circuit Court of Appeals continued his work, with the help of two former clerks, on a revision of his *Law Clerk Handbook*.

*book*, first published by the Center in 1977. Publication is expected in fiscal 1988.

## C. Automated Case and Court Management Support for District Courts

Working with the Subcommittee on Judicial Improvements of the Judicial Conference Committee on Court Administration, the Center and the Administrative Office jointly develop an automation plan for the federal courts, which has a five-year time horizon and is updated annually.

The most recent revision of the *Five-Year Plan for Automation in the United States Courts* describes the Center's plans for completion of major systems under development and transfer of those systems to the Administrative Office for operational implementation, support, and enhancement. In addition, the plan summarizes the status of the various automation projects that come under the purview of the Administrative Office. In previous editions, the plan emphasized development and implementation plans for data processing applications; the latest update of the plan also addresses the areas of office automation and data communications. The following paragraphs describe the Center's fiscal 1987 automation activities relevant to district courts.

**CIVIL Case Management System.** The CIVIL Case Management System is an automated system for district courts that replaces paper dockets with electronic dockets. In addition, the system produces many of the schedules, forms, and reports that are associated with the civil side of district court clerks' workload: case management for use in the courts, statistical reports for the Administrative Office, address labels for mailings to litigants and their attorneys, and magnetic tapes for production of microfiche case and party indexes. This system is far more sophisticated than anything previously produced by the Center to aid in the management of civil litigation.

Four pilot courts are participating in the development of the CIVIL system: the District of Arizona, the District of Columbia, the Northern District of Georgia, and the Western District of Texas. During 1987, the Center and the pilots carried the CIVIL system into its final developmental stages. As of January 1, 1987, all four pilot courts had begun "live" operations under CIVIL. Typewritten

docket sheets are no longer created for new cases. Where necessary, paper docket sheets are produced by the system itself.

In the early stages of the CIVIL system's development, access was limited to docket clerks and a few managers. Most of the pilot courts have now received terminals for use by their courtroom deputies, more of their managers, and, on a test basis, a few court-rooms and a few chambers. Some of the pilot courts are placing terminals in their intake areas for use in assisting members of the bar and the public who seek information.

A phased transfer of the system to the Administrative Office began in July 1987; the transfer process is scheduled to be completed in January 1988.

**Automation Training.** To support the successful decentralization of automation, the Center has played a principal role in providing automation training for the courts. It is responsible for developing the documentation and instructional materials necessary for the Administrative Office to train court personnel in the use of the Center-developed software applications. In addition, the Center conducts an intensive two-week workshop designed to educate court-designated computer system administrators in standard operating procedures and in mastering the myriad technical details involved in the operation and maintenance of the courts' hardware and software. The workshops are scheduled on an as-needed basis; four were conducted in fiscal 1987.

Over the past year, the training course has undergone a rather dramatic evolution. First, it has been adapted to the new Unisys/Sperry computers now being purchased by the Administrative Office under the FEDCAP hardware procurement. The training materials have been reorganized and greatly expanded. Finally, the course has been enhanced through the use of multimedia instructional techniques that combine the advantages of videotaped presentations, computer-based training courseware, and accompanying written instructional materials.

During this fiscal year, the Center offered its system administration class on five occasions; thirty-three students attended, representing three circuit courts and fifteen district courts. Because of hardware installation scheduling conflicts, a special on-site version of the course was conducted for one district court. This opportunity afforded a comparative evaluation of the effectiveness of in-court training versus the usual central classroom approach.

**In-Chambers Automation Projects.** In fiscal 1987, the Center undertook two modest initiatives to introduce automation support directly into judicial chambers. First, we explored with four district judges a wide range of questions regarding the capture, storage, and retrieval of case-related and administrative information directly in chambers. Each of the four judges responded differently in identifying the areas of development that would be most promising and useful. The Center is addressing each request individually in the hope that the resulting solutions might be generalized and thus be of wider use.

In the second initiative, the Center is working with two district judges' chambers to provide state-of-the-art office automation support to the judge and each of the judge's in-chambers staff, using personal computers connected together in a local area network. The equipment installed provides word processing support, access to computer-assisted legal research systems, access to the electronic docketing and case management systems in the clerk's office, and the ability to develop additional in-chambers applications, such as scheduling and administrative support systems. These demonstration projects are intended to serve as tests of the equipment configuration of networked personal computers identified by the Administrative Office for the nationwide office automation procurement scheduled to be awarded in fiscal 1988.

#### **D. Automated Case and Court Management Support for Bankruptcy Courts**

The central component of the Center's Bankruptcy Court Automation Project (BANCAP) is an electronic, full-docketing case management system. BANCAP is part of the Center-designed family of electronic docketing and case management systems, based on a software core known as the Integrated Case Management System (ICMS). The CIVIL system, described above, and the New Appellate Information Management System (New AIMS) are also based on the same underlying ICMS software. The purpose of the BANCAP system is to provide the nation's bankruptcy courts with the automated assistance necessary to carry out their prescribed tasks, from case opening to docketing to noticing to statistical reporting, in a more efficient and effective manner on a decentralized basis.

In addition to the electronic docketing and generalized report writing features shared with the other members of the ICMS family of

case management systems, several new features were developed for BANCAP to address the particular, high-volume case processing needs of bankruptcy courts. To facilitate the entry of creditor name and address information associated with each case, attorneys are required to submit creditor lists in a specified format, allowing these lists to be automatically scanned and read into BANCAP using relatively inexpensive optical character readers, thereby avoiding substantial manual data entry costs.

Another labor-intensive activity found in large bankruptcy courts is responding to telephone inquiries seeking information relating to pending cases. Using commercially available computer voice synthesis technology, BANCAP has the capability of receiving and responding to telephone inquiries. By using a standard telephone keypad as the data entry device, such inquiries are received without the intervention of court personnel. The system is able to probe the BANCAP data base to answer the query and respond to the telephone caller using a computer-generated synthetic voice.

Finally, emphasis has also been placed on addressing the high-volume noticing requirements required by bankruptcy courts. Mechanisms have been provided to expedite the preparation and mailing of high-volume notices, and additional analytical work is under way to identify cost-effective solutions to addressing high-volume printing requirements on a nationwide basis.

Three pilot courts have worked with the Center in the development of the BANCAP system: the Districts of Western New York, Western Texas, and Western Washington. In 1987, all three pilot courts began "live" operations under BANCAP. A phased transfer of the system to the Administrative Office began in July 1987; this transfer process is scheduled to be completed in January 1988. The Subcommittee on Judicial Improvements has designated the transfer and implementation of BANCAP into additional court sites as a high priority under the *Five-Year Plan*.

## **E. Management of the District Courts**

**Programs for Chief District Judges and Their Staffs.** For the past several years, the directors of the Center and the Administrative Office have invited all new chief district judges to visit both agencies to become better acquainted with their respective programs that are particularly relevant to a chief judge. The stimulus for this policy came from the Conference of Metropolitan District Chief

Judges. That body also endorsed the suggestion that it would be useful for the Center to develop a resource book designed for chief judges of the district courts. As a result, in 1984 the Center published the *Desk Book for Chief Judges of United States District Courts* and in 1986 issued the first set of replacement pages designed to keep the manual current. In fiscal 1987, the Center began work on additional revisions, which will result either in another set of replacement pages or an entirely new edition of the manual.

The *Desk Book*, prepared in close consultation with sitting and former chief district judges and reviewed by the Conference of Metropolitan District Chief Judges, is designed for all chief judges and is particularly helpful to those newly elevated. It describes the agencies of federal judicial administration; reviews chief judges' relationships with other judges, officers, and employees of the court; and details chief judges' relationships to various aspects of district court administration, including case management and related tasks, personnel management, procurement, construction, court security, and media and bar relations. The *Desk Book* refers to official policies and guidelines where they exist and presents suggested approaches to court management found useful by experienced chief judges.

Because of the utility of the *Desk Book*, the Center responded affirmatively in fiscal 1987 to a request of the Administrative Office's Bankruptcy Division to prepare a similar resource for the chief judges of the bankruptcy courts.

**Conference of Metropolitan District Chief Judges.** The Conference of Metropolitan District Chief Judges, an integral part of the Center's judicial education program, consists of the chief judges of district courts with six or more authorized judgeships. The conference has been meeting semiannually to consider developments affecting large district courts and to exchange information concerning techniques of leadership and coordination that have proved successful. These meetings also provide the opportunity for presentation of informational reports on legislative developments and Judicial Conference actions.

A highlight of the conference's February 1987 meeting was an extensive question and answer session with Chief Justice Rehnquist, providing both the Chief Justice and the members of the conference an opportunity to become better acquainted. In fiscal 1987 the conference also considered the work of the United States Sentenc-

ing Commission and a Center report on settlement strategies of district judges.

Judge Charles E. Simons, Jr., of the District of South Carolina, serves as chairman of the conference; the Center's deputy director serves ex officio as executive secretary.

- Local Rules.** As part of its clearinghouse function, the Center's Information Services Office maintains a complete collection of district and circuit court local rules. Use of an automated index provides subject access to this body of information and permits rapid response to local rules inquiries. The collection is kept current as a result of the cooperation of the clerks of courts in promptly forwarding newly promulgated rules, as well as amendments to existing rules.

**Local Rule Making.** There has been increased interest in employing local rules as an integral part of caseload management in the federal courts. In addition, there has been increased attention to the processes by which these rules are developed. The Congress has evidenced an interest in the courts providing for greater participation of the bar in the formulation of the rules; advisory committees to work with the courts have been encouraged. The Center's Research Division is in the process of developing a case study of the process of revision of local rules in the Northern District of Georgia, which the district completed in 1985. It is hoped that a thorough documentation of the experience can help other courts plan for revision.

## F. Research on the Trial Litigative Process

**Asbestos Litigation.** Asbestos litigation provides a unique challenge to federal courts. The number of filings has increased dramatically; the number of dispositions has also increased, while the length of time required for trial has decreased. Particularly significant is the fact that there is an increasing backlog of asbestos cases in most courts.

After identifying those courts that were experiencing the largest numbers of asbestos filings, in June 1984 the Center's Research Division conducted a small conference of judges, magistrates, and clerks to discuss important features of the cases and the various courts' methods of management. The Center published a report on the conference discussions and conclusions, together with basic in-

formation obtained in preparing for the conference. The 1985 report, *Asbestos Case Management: Pretrial and Trial Procedures*, noted that the conference had raised some fundamental questions that called for further exploration. Skeptical responses to the conclusions of the conferees registered by other judges emphasized the need for more detailed information. A 1987 Center report, *Trends in Asbestos Litigation*, addresses many of those questions. Interviews with dozens of lawyers, judges, magistrates, and clerks disclosed that asbestos cases that were originally complex have become more routine, at least in courts where there has been active management by the courts through trials and settlements.

The Center conducted another asbestos case management workshop in the summer of 1987; techniques of asbestos case management have developed considerably since 1984. Judges with lengthy asbestos litigation experience and those new to these cases discussed assignment systems, pretrial management, settlement, and related aspects of managing an asbestos docket.

**Court-Annexed Arbitration.** The Center's Research Division continues to work with the ten federal districts currently engaged in programs of court-annexed arbitration. Variations in the programs provide an opportunity to observe and report on differences in primary goals, in procedures, and in selection of cases for referral, including the amount in controversy. The Center is also studying the level of satisfaction among participants, including judges, lawyers, parties, arbitrators, and court personnel.

Identification and assignment of cases for evaluative study has been completed in all ten districts. In four of the districts, the cases to be studied have gone through the courts' programs, and analyses of the relevant data have begun. It is expected that the remaining six courts will complete their processing of the cases to be studied during 1988, with data analyses and final evaluation reports to follow.

Very early data returns, mentioned in last year's annual report, indicated substantially positive responses from participants who were surveyed. Though much analysis remains to be done, those early indications appear to be sustained as the programs move forward.

Another development in this area is the introduction of legislation in Congress that calls for extension of the pilot operations to ten additional courts. The additional information will assist the Congress in making its final determination on the future of court-an-

nected arbitration in the federal justice system. The bill calls on the Center to continue the type of studies now being conducted and to report to the Congress the results of experimentation during a period of four years following enactment of the bill.

**Attorneys' Fees.** In response to a call for study of alternative means of managing the increasing number of attorneys' fees petitions in the federal courts, the Center reviewed the distinctive approaches to taxation of attorneys' fees that have evolved in the English, Alaskan, and U.S. federal court systems. The results of the study were reported in *Taxation of Attorneys' Fees: Practices in English, Alaskan, and Federal Courts*, published early in fiscal 1987. The study found that the centralized institution that has developed in England has limited transferability to American courts, but some aspects may have potential for more restricted applications, perhaps on a districtwide basis. For example, English specialists are able to delegate repetitive aspects of their work—such as calculation of categories of fees—to clerical personnel, a procedure that may have applications in this country.

The Alaskan system provides a bridge between the English system and American practice. Judges decide the fee issues, but schedules and refined, experience-based judgments about market rates provide a regularizing effect akin to that of the English.

The federal experience includes innovations produced by federal judges faced with an influx of attorneys' fees petitions. These innovations sometimes parallel aspects of the practices followed in England and Alaska.

**Sanctions.** The 1983 amendment of rule 11 of the Federal Rules of Civil Procedure clearly signaled the concern of federal judges with abuse of the civil litigative process and their intention to take remedial steps to alleviate the problem. Attention has focused particularly on frivolous litigation and discovery abuse. An earlier Center study, *An Empirical Study of Rule 11 Sanctions*, explored the attitudes of federal judges toward sanctions and the varying goals served by their practices.

Questions have been raised about the effectiveness of the sanctions imposed, whether they generate satellite hearings or interfere with settlement prospects, and whether fair and effective procedures are being followed. A new project on practices and procedures in this area is being developed by the Research Division in the effort to identify and analyze developments in this area.

The Center published a staff paper in fiscal 1987 that examines the use of rule 11 since the 1983 amendments, with emphasis on appellate cases. The paper, *Achieving Balance in the Developing Law of Sanctions*, describes emerging patterns, identifying situations in which the appellate courts have found sanctions to be clearly applicable, and situations in which appellate courts have demonstrated restraint in applying the rules.

**Court-Appointed Experts.** In fiscal 1986 the Center published *Court-Appointed Experts*, a paper that examined existing authority to appoint, procedures for appointment, procedures for allocation and payment of costs, and functions of court experts. This year, surveys were initiated to develop in some detail how frequently this authority is being used and to learn how well it has served those judges who have employed it. It is already clear that use of court-appointed experts is quite limited, and the study will attempt to discover why this is so. The study will also solicit judges' views concerning what might best serve to remove impediments to the use of court-appointed experts where they would prove beneficial.

**Bankruptcy Studies.** Bankruptcy courts are experiencing burgeoning caseloads that threaten to outstrip resources. In fiscal 1987 the Center began an examination of methods to assist the improvement of bankruptcy operations through research on case management and other programs designed to alleviate backlogs.

The Center's Research Division is studying the alternative dispute resolution program currently in use in the bankruptcy court for the Southern District of California. Adversary proceedings and contested matters are being selectively designated by the judges for referral to a court-established mediation program. The Center is working with the court to document the case characteristics that lead to referral and to obtain empirical information on the initial months of operation. A report on the program is planned for early 1988.

Recent developments in the substantive law have added to the burdens of bankruptcy courts. The new Chapter 12 covering farm bankruptcies is a case in point. The Center has begun a study, initially focused on Nebraska, to learn how these filings may differ from other cases, what special problems are involved, and what special responses the courts are developing. Staff papers addressing specific points likely to arise in many bankruptcy courts will be published as quickly as information can be obtained.

**Summary Judgment.** Rule 56 of the Federal Rules of Civil Procedure does not appear to be used to the extent anticipated at the time of its adoption. Impressions have been strong that litigants are reluctant to move for summary judgment, that district courts hesitate to grant it, and that appellate courts are unlikely to uphold them. At the request of the Advisory Committee on the Federal Rules of Civil Procedure, the Center's Research Division examined summary judgment activity in three districts and compared current practices with those of eleven years ago. Some of the findings of the study were particularly interesting. Summary judgment motions are filed today about as frequently as eleven years ago. However, the percentage of cases terminated by summary judgment has declined by about half in the same period. Appeals were taken in 13 to 17 percent of the studied cases. In two courts for which the Center had relevant information, appeals from summary judgment resulted in reversal about as often as in all civil appeals. The report presenting these findings, *Summary Judgment Practice in Three District Courts*, was published in the summer of 1987. Responding to continued interest in the area, the Research Division expanded its inquiry to another district; results will be presented in the next fiscal year.

**Manual for Complex Litigation, Second.** In fiscal 1986, the *Manual for Complex Litigation, Second* was published, so titled "to signify that it is based upon, but constitutes a major revision of, earlier editions of the Manual." It describes various procedures that have been successfully implemented by federal trial judges and identifies practices that have caused difficulties. The board of editors was chaired by Chief Judge Sam C. Pointer, Jr., of the Northern District of Alabama. This revision promises to follow its predecessors as one of the most widely used and frequently cited of the Center's publications.

## G. Jury Projects

**Juror Utilization.** Previous reports have noted the request of the Judicial Conference of the United States that each circuit council undertake to improve juror utilization within its circuit. The Conference, while encouraging circuit experimentation with different methods of achieving this end, specifically suggested education in juror utilization as one way to obtain improved performance.

To assist in this effort, the Center, in cooperation with the Clerks Division of the Administrative Office, began a series of juror utilization workshops designed for "jury management teams." Participants include the chief judge or the judge responsible for jury matters, the clerk of court, and the jury administrator or deputy. The concluding workshop in this series was held in fiscal 1987. These programs stressed techniques of effective juror utilization and emphasized the need to ease the frustration of citizens needlessly called for jury duty and to reduce jury system cost. The workshops featured roundtable discussions on various aspects of petit and grand jury administration. The juror utilization workshops were also coordinated with the Judicial Conference Committee on the Operation of the Jury System.

Since their inception, these workshops have contributed to improved juror utilization rates. According to data on first-day petit juror usage maintained by the Administrative Office, those improved rates yielded a savings of more than \$700,000 in the past two-year period.

During this year, the Center also continued its work on a juror utilization manual, designed specifically as an orientation text for personnel unfamiliar with the jury selection process.

**Videotaped Jury Panel Orientation.** When requested, the Center has produced videotapes in its Washington, D.C., studios of the presentations several chief district judges use to welcome jury panel members and orient them to jury service. The availability of these videotapes allows courts to eliminate a separate orientation. Instead, the videotape can be shown to jurors on the first day they report for regular duty. In one metropolitan court, the clerk's office estimates that use of the videotaped remarks has produced an annual savings of almost \$116,000 in jury-related costs. Significant savings in the judges' time are also realized.

**Juror Studies.** During the fiscal year, the Center published *Jury Service in Lengthy Civil Trials*, a report based on a compilation of juror records and interviews that examines the differences in the characteristics and experiences of jurors selected to serve in lengthy trials and those of jurors in similar but shorter trials. The report found that jurors in lengthy trials were more likely to be unemployed or retired and to be unmarried, and less likely to have a college education. These differences are consistent with the general perception that the burden of jury service in lengthy trials falls to those who are relatively free of other duties and responsi-

bilities. The single characteristic that most clearly distinguished jurors in these cases was sex: jurors in lengthy trials are more likely to be women.

**Pattern Jury Instructions.** For several years, the Center's Research Division has been providing assistance to the Subcommittee on Pattern Jury Instructions of the Committee on the Operation of the Jury System of the Judicial Conference of the United States. Under the chairmanship of Judge Thomas Flannery of the District of Columbia, the Subcommittee undertook revision of the criminal jury instructions published by the Center in 1982. The revised version of *Pattern Criminal Jury Instructions* was scheduled for publication late in fiscal 1987.

## **II. FEDERAL SENTENCING AND PROBATION**

### **A. Sentencing Guideline Education**

In April 1987, the United States Sentencing Commission transmitted its proposed sentencing guidelines to the Congress. These will become effective on November 1, 1987, unless legislation is enacted either postponing the effective date or altering the substance of the provisions. The Center promptly began intensive planning for the massive educational program necessary, if the guidelines become effective, to familiarize U.S. district court judges, judges of the courts of appeals, magistrates, probation officers, appellate staff attorneys, and federal defenders, among others, with the guidelines themselves and with the new processes and procedures that they will require. The anticipated changes with respect to sentencing are fundamental and far-reaching.

A Center committee, appointed by the Chief Justice and including Judge A. David Mazzone of the Center's Board and two members each of the Judicial Conference Committee on Administration of the Probation System and of the Committee on the Administration of the Criminal Law, has provided guidance in the development of educational programs dealing with the provisions of the 1984 Crime Control Act, including the work of the Sentencing Commission.

The work of the Commission has been reflected in Center educational programs since 1985, and *The Third Branch* carries a regular feature that brings news from the Commission to the members of the federal judicial system. Education about the guidelines intensified in fiscal 1987, as the Commission produced several draft guideline reports in addition to the April 1987 submission to Congress. Commission members provided explanations of the draft guidelines at various Center programs for judges, including circuit workshops and the October 1986 seminar for appellate judges. In addition, the members of the Commission provided significant elements of the curriculum at programs for probation officers and federal defenders.

The Center also prepared and distributed to all probation offices a video program on the status of the Commission's work in December 1986 and, thereafter, a program on the guidelines as submitted to Congress. The latter program was released to all probation offices in June 1987.

The plan for guideline education developed by the Center and approved by the guideline education committee includes the following: First, the Center is developing for probation officers special instructional modules including the video programs described above and programs on specific areas of guideline application, such as fines calculation. Second, the Center is developing, as the heart of its effort, an in-court training program on the guidelines to be made available to every district court to use, if and when it wishes, about the time of guideline implementation. The program will include brief video introductions and extensive guideline-application exercises, all designed to fit within a suggested curriculum outline. In this connection, the Center developed an intensive program of "training the trainers" to help ensure that each court has at least one, and probably two, probation officers qualified to respond to questions and to lead the discussion concerning the provisions of the guidelines. Two such programs were scheduled during fiscal 1987.

The committee decided to use this approach to afford optimal flexibility to each district court in determining when and how to undertake guidelines education. Moreover, in the event that Congress effects a last-minute delay in guideline implementation, judges and probation officers will not have been burdened with travel to regional seminars to hear instruction that has been rendered moot.

Finally, the Center is continuing to feature guideline education programs at all relevant seminars and workshops, and may schedule special seminars in fiscal 1988 if there is a clear need for them.

## **B. Continuing Education and Training**

**Sentencing Institutes.** The Center has been involved in the planning, administration, and evaluation of sentencing institutes since 1974. By statute, these institutes are convened by the Judicial Conference of the United States at the request of a chief circuit judge. The Center works closely with the Judicial Conference Committee on the Administration of the Probation System, delivering these services through the joint effort of its Research Division and Divi-

sion of Special Educational Services. In light of the special needs for guideline education, the Center has temporarily suspended its sentencing institutes because they are not the best vehicle for such education.

**Orientation and Continuing Education for United States Probation Officers.** The continuing education needs of federal probation and pretrial services officers are many and varied, particularly in a period of substantial growth and major systemic changes in federal criminal law and procedure.

In fiscal 1986 these officers completed nearly 170,000 investigations that assisted their own, as well as other, courts and agencies such as the Federal Bureau of Prisons and the U.S. Parole Commission. The reports based on these investigations have a significant impact on sentencing, fixing bail, institutional classification, and community programming. In addition, these officers supervise over 60,000 federal probationers, parolees, and pretrial defendants. The education required to serve these officers has been complicated in recent years by new legislation that requires, for example, additional emphasis on investigative fact-finding, financial profiling, and assessing victim harm.

It should be noted that environmental, cultural, and offender characteristics vary greatly among districts and regions, and these in turn generate legitimate training needs that vary from one district and region to another. The Center has therefore laid great emphasis on providing training that reflects the national character of the probation system but is balanced by flexibility in addressing unique regional and district needs.

Center orientation programs introduce new probation and pretrial services officers to the federal judicial system and to the national probation service. In fiscal 1987, approximately two hundred new officers were trained in nine such programs. Instruction at the orientation programs consists primarily of live presentations and discussions. These are supplemented by videotaped lectures. Faculty for the programs are drawn primarily from experienced probation and pretrial services personnel. Where feasible, regional or local representatives of the Bureau of Prisons and of the Parole Commission also participate.

The Center in fiscal 1987 designated three training sites for orientation and regional programs. These sites, the University of Colorado campus in Boulder, Colorado; Sam Houston State University

in Huntsville, Texas; and a corporate learning center in Leesburg, Virginia, all offer reasonable room and board packages in addition to an environment highly conducive to learning and collegiality. In addition, criminal justice system experts are in residence at Boulder's National Academy of Corrections and Sam Houston State's College of Criminal Justice, while Leesburg is close to Washington, D.C.

In-service training is provided through a combination of national conferences, regional seminars, and district-based training. National and regional programs provide forums for the timely dissemination of information on the latest developments affecting the system.

This fiscal year, a national conference of all chief and deputy chief probation and pretrial services officers was held in late June, two months after the U.S. Sentencing Commission submitted the proposed guidelines to Congress. The chiefs' conference was chaired by Judge Gerald Tjoflat of the Eleventh Circuit, chairman of the Judicial Conference Committee on Administration of the Probation System. The curriculum featured a general session and panel discussion on the impact of guideline sentencing on the probation system. The panel was supplemented by workshops in which each chief, working in small groups organized by size of district, discussed management issues posed by guideline sentencing. There were eighteen separate workshop sessions covering a diverse array of topics. In addition, small groups of chiefs met with Probation Division representatives to discuss how major changes such as system growth and new criminal justice legislation are affecting the federal probation system.

The Anti-Drug Abuse Act of 1986 introduced major changes in penalties for drug-related crimes. To acquaint officers with the new legislation and to provide advanced training on drug-related supervision, the Center conducted three regional seminars to which designated specialists from approximately seventy-five districts were invited. The programs provided intensive training on new developments in urinalysis, offender supervision, drug-use trends, the connection of AIDS and drug abuse, and the new act. Officers were asked to share the information so acquired with colleagues in their home offices upon returning.

Supplemental training funds made it possible to sponsor several traditional regional programs on topics related to the 1986 Act. The agendas for such programs reflect a joint effort of the Center and

representatives of the participating districts to develop programs that respond to specific regional needs. The additional funding also enabled the Center to fund the participation of a number of officers at special drug institutes sponsored by various coalitions of law enforcement and social services agencies in collaboration with private vendors.

Working closely with the United States Sentencing Commission, the Center has scheduled three guideline sentencing trainers workshops to be conducted early in fiscal 1988 for probation officers and interested district court judges. At these workshops, participants will spend several days working in small groups and gaining "hands on" experience in the application of the guidelines to hypothetical cases. The workshop agenda also calls for a day devoted to collateral matters such as revisions to the presentence investigation, financial investigation, a proposed new local rule, and appellate review of sentencing. Attending officers and judges also will be introduced to the guideline sentencing training package being developed by the Center and will receive several hours of skill training on how to deliver this training package in their home districts.

In fiscal 1987, the Center also conducted three special report-writing workshops undertaken to assist pretrial services officers to improve the quality of bail reports they prepare.

Substantial training was also conducted on the local level. A prime example is the staff safety program, which uses written materials and video vignettes to provide instruction on safety precautions. These programs also include instruction on how officers should respond in crisis situations. Using a two-day curriculum developed by the Center with the assistance of a group of officers in fiscal 1986, Center staff conducted a special "train-the-trainer" program in Boulder, Colorado, for twenty-seven officers from districts throughout the country. In fiscal 1987, these officers, working in pairs, delivered the program fifty times to some fourteen hundred officers and clerks in districts throughout the country. The Center anticipates scheduling an equivalent number of programs in fiscal 1988.

Given the success of this staff safety effort, similar training development projects are now under way. One, on financial investigation, will introduce a standard national model for investigating an offender's financial status so the court can make an informed decision on ability to pay restitution or a fine. Work on this program is scheduled to be completed early in fiscal 1988, and field personnel will be trained in its delivery and implementation. A variation of

this model also will be used to instruct officers in guideline sentencing.

Local, intradistrict programs are designed largely by pretrial services and probation officers who serve as training coordinators. In developing these programs, the training coordinators draw upon resources in their local communities and on specialists from other districts. They also take advantage of the Center's extensive media library. The emphasis on local training, which is less costly than national seminars, has allowed the Center to increase both the number of programs for probation officers and the total number of officers receiving training.

Probation and pretrial training needs are supported in other ways as well. In fiscal 1986, the Center inaugurated a program, developed in cooperation with the National Institute of Corrections, under which selected federal probation officers are sent to the National Academy of Corrections to develop expertise in particular areas. The purpose of this training was to enable such officers, selected in a systemwide competition, to teach other officers in local training sessions in both their own and other districts.

The growth of the system has necessitated increased concern with training for supervisory personnel. The Center has a two-phase, eighty-hour program for new probation and pretrial supervisors. Phase I—which is also available to personnel in other court offices, including clerks—is a forty-hour, self-study correspondence course entitled *Applied Supervision*. This course is administered by the Center through its training coordinators. Since the course was made available early in fiscal year 1986, more than 150 probation and pretrial services officers have completed it successfully. The second phase of the program is a national workshop, which is an intensive one-week program that includes formal classroom training covering supervision and management strategies and tools, complete with evening sessions and homework assignments. One such workshop was conducted in fiscal 1987.

Probation and pretrial officers also benefit from the Center's tuition support program, which enables them to obtain training not otherwise available through the Center. Of special interest is the program that Fordham University offers under which qualifying probation and pretrial services officers earn a master's degree in sociology, specializing in probation and parole practice. During fiscal 1987, the Center funded the participation of five officers in the first week-long residential session and three in the second. The

tuition support program was also used extensively by probation and pretrial officers to obtain training in drug and alcohol abuse identification and treatment modalities. More than half the requests approved by the Center for probation and pretrial officers were for such programs.

### C. Probation and Sentencing Research

**Sentencing.** The Center has continued to work with the United States Sentencing Commission. At the Commission's request, last year the Center developed a report on punishments actually imposed on federal offenders under current sentencing provisions. This year, at the request of the Judicial Conference Ad Hoc Committee on Sentencing Guidelines, the Research Division prepared a new analysis, "Comparing the Draft Sentencing Guidelines to Current Practice," assessing the probable impact of the draft guidelines made public in September of 1986. Further analyses of particular areas of impact are continuing.

*Home Confinement: An Evolving Sanction in the Federal Criminal Justice System*, a Center publication released in fiscal 1987, describes the increased but still cautious use by federal judges of house arrest. A number of factors have served to focus attention on various forms of curfew and nonprison confinement. First, the increasing number of individuals incarcerated and the increasing lengths of prison terms are straining prison capacities to the limit. Second, in the view of some judges and parole officials, there are offenses that do not require imprisonment in an institution, although they do warrant more severe punishment than ordinary parole. Home confinement, which can range from evening curfew to total house arrest, permits flexibility in meeting identified sentencing objectives appropriate to the individual case. Technological developments, including electronic devices, have dramatically increased the capability of supervisory personnel to achieve practical and efficient monitoring of offenders sentenced to these programs.

The Center report describes the origins and development of home confinement and its current use in state and federal systems. The report discusses strengths and weaknesses of various forms of home detention and identifies issues for further consideration by policy-makers and researchers.

The new sentencing guidelines would authorize home confinement only as a condition of probation; the sanction would not be permitted as a substitute for incarceration when mandated by those guidelines. Noting the limited experience with home confinement in the federal system, the authors of the report urge that provisions be made for sufficient use of this sanction to permit adequate evaluation of its effectiveness.

#### **D. Probation Information Management System**

During the past year, the Center continued to provide follow-up support on the Probation Information Management System (PIMS), which it developed in cooperation with the probation office in the Northern District of Ohio. This system presently serves offices in Cleveland, Akron, Youngstown, and Toledo. The ability of PIMS to achieve direct personnel cost savings is being measured by the Administrative Office. The transfer of PIMS to the Administrative Office and subsequent expansion to other probation districts awaits the results of the Administrative Office's study. PIMS is capable of serving both the management needs of a local probation office and, to the extent that it is placed in probation offices generally, national needs for accurate information about probationers, parolees, and sentences meted out.

### **III. APPELLATE COURTS**

#### **A. Continuing Education and Training**

**Judges' Orientation Programs.** The Center periodically conducts orientation programs for newly appointed federal appellate judges. These are typically held once every twelve to eighteen months, depending on when the number of new judges warrants. The concern is not simply with costs, but also with ensuring the minimal number necessary for interaction among the participants.

The Center conducted one orientation seminar for newly appointed appellate judges in fiscal 1987. The program was developed with the assistance of the Center's Committee on Appellate Judicial Education, chaired by Judge Richard S. Arnold of the Eighth Circuit. The committee also includes Judge Robert H. Bork of the District of Columbia Circuit, Judge Daniel M. Friedman of the Federal Circuit, and Judge Jon O. Newman of the Second Circuit. The curriculum typically includes presentations on the appellate function, opinion writing and editing, appellate collegiality, standards of review, particular problems in review of agency decisions, and judicial ethics. Some substantive law topics, such as civil rights litigation under 42 U.S.C. § 1983, and developing areas such as appellate judges' responsibilities under the new sentencing guidelines, are also considered.

Because the interval between seminars can exceed a year, the Center this year developed two video programs to make available to new appellate judges upon appointment. One deals with matters of appellate collegiality and the judicial process; the other treats various practical aspects of setting up chambers and adapting to the work of an appellate court. Both programs are essentially conversations among four judges of the U.S. courts of appeals, each from a different circuit.

The orientation appropriate for new appellate judges differs substantially from the training useful to newly appointed trial judges. The appellate judge typically sits as one of a panel of three, case management responsibilities are radically different, and immediate

rulings from the bench are rare. However, it is exceedingly useful for judges who come to the appellate bench with no judicial experience on a trial court to become acquainted with the work of federal district judges, whose actions they are called upon to review. Accordingly, such appellate judges are invited to attend one of the Center's video orientation programs for newly appointed district judges and to participate in the discussion of sentencing policies during the course of a visit to a federal correctional institution.

**Judges' Continuing Education Programs.** The Center also sponsors continuing education seminars for appellate judges on a three- to four-year cycle. An October 1986 program, developed in cooperation with the Center Committee on Appellate Judicial Education, featured plenary sessions on civil rights litigation, the recently released Preliminary Draft of the sentencing guidelines, and underlying theories and purposes of antitrust enforcement. Elective sessions dealt with employment discrimination litigation, habeas corpus, insider trading, and civil RICO. There was also an opportunity for the judges to discuss varying techniques of appellate case processing and management in small intercircuit sessions.

As noted above, appellate judges are also regularly invited to the annual judicial workshops organized by circuit, which are designed mainly for district judges. These programs have proved of increasing value to judges of the courts of appeals.

**Appellate Clerks.** The Center sponsored a January 1987 seminar for the clerks of the courts of appeals that featured segments on management and leadership, as well as workshops on case and calendar management. The program also provided a forum for reports on Center research and development, including its automated appellate case management system, analyses of the proposed amendments to the Federal Rules of Appellate Procedure, and reports from various divisions of the Center and the Administrative Office. As in past years, clerks, sitting as a committee of the whole, had an opportunity to present to senior Center and Administrative Office staff their perceptions of likely developments in appellate case management and the needs for training as well as other forms of support that are expected to flow from those developments.

Automation in the appellate courts requires specially tailored training programs. To help meet this need, the Center presented this year a seminar on case processing in the courts of appeals for operations managers of these courts. This seminar provided information on identifying and solving technical docketing problems, in-

novative approaches to dockets, and the impact of automation on appellate case management. It also included a session on management skills development.

In fiscal 1987, the Center undertook development of a series of orientation video programs for employees of the appellate court clerks' offices. A committee of appellate clerks is assisting with this project.

**Senior Staff Attorneys.** The Center sponsored a one-day seminar for senior staff attorneys in June 1987 that featured the screening of appellate cases and also treated recent developments in civil rights liability. This program was scheduled immediately prior to the annual seminar of the American Bar Association Committee of Appellate Staff Attorneys. The ABA seminar covered a variety of topics, including managerial innovations, technological developments, legal writing, criminal procedure, issues in prisoner litigation, and expediting criminal appeals. Pursuant to arrangements made by the Center, federal senior staff attorneys were also able to attend the ABA seminar.

## B. Research and Development on Appellate Court and Case Management

**Screening Practices.** The Research Division has been engaged in a two-part study of screening practices in the federal courts of appeals. *Deciding Cases Without Argument: A Description of Procedures in the Courts of Appeals*, published last year, reported the results of the first part of the study.

The second stage of the project was completed in the current year. The ensuing report, *Deciding Cases Without Argument: An Examination of Four Courts of Appeals*, is an intensive study of the programs in the Third, Fifth, Sixth, and Ninth Circuits, detailing the procedures used by these courts. The report describes the processes developed in response to variations in the emphasis these courts give to different elements of the appellate process.

A critical question remains whether these innovations have enabled the courts to deal adequately with rising caseloads. The report suggests that the courts have been substantially successful to date in achieving that goal, but warns that present filing trends may endanger that success in the future.

**Preargument Conferences.** The Center continues to assist the courts of appeals in the Sixth and Ninth Circuits in evaluating their preargument conferencing programs.

Assignment of cases to the evaluation program has been completed in the Sixth Circuit, but comparison cases are still moving through the conferencing program and through the regular court processes. Interviews, questionnaires, and comparison data are being collected as the cases are completed. The final evaluation report is expected early in 1988.

The program in the Ninth Circuit has been interrupted for a few months while staff attorneys work on other pressing matters in that court. A completion date will depend upon resumption of the evaluation procedures.

**Judicial Councils.** A set of illustrative rules for handling complaints against judicial officers under the provisions of 28 U.S.C. § 372 was published by the Center this year. The rules were written by a special drafting committee of the Conference of Circuit Chief Judges; the project was staffed by the Center. Chief Judge James R. Browning served as chairman of the committee, which also included Judge Collins J. Seitz and Chief Judge Charles Clark. The Judicial Conference of the United States recommended that each circuit council adopt these rules, substantially in the form presented, on a trial basis. Several circuits have already acted on the recommendation of the Judicial Conference.

### **C. Automated Appellate Information Management Systems**

Following the successful transfer of the docketing and case management aspects of the New Appellate Information Management System (New AIMS) to the Administrative Office in July 1986, work commenced on Phase II of New AIMS. Phase II is intended to provide a variety of ancillary services to the federal circuit courts, including automated assistance in providing chambers access to New AIMS information, issues indexing, formation of hearing panels, and assignment of cases to a calendar for oral argument.

The Center this year experimented with methods of linking word processing and office automation equipment located in chambers with the New AIMS system. The purpose is to make it possible for chambers personnel to docket events in a case as appropriate, to

make inquiries about the status of a specific case, and to generate a copy of a docket report or the official caption of a case on the New AIMS computer, thereafter transferring it to the in-chambers machine.

Special programs were developed to allow users to specify (via standard codes or textual descriptions) the issues in a case and to retrieve that information through an on-line index. An on-line index was also developed to permit court personnel to enter the name of a party or an attorney and have the system identify all of the cases in which that person or entity is involved and provide an abbreviated history of each case, as well as current deadlines and status information.

A series of programs has been developed to generate randomly assigned judicial panels for assignment to hear cases, as well as to make calendaring recommendations. The paneling program will take into account such variables as the days on which the court is in session, the availability of judges for particular days, any standing panels, and the number of panels needed for a particular day. The calendaring program will randomly match with a panel cases that are ready to be assigned to a calendar after considering such information as recusals and dates requested for a case to be heard. The variables controlling the processes used in both the paneling and calendaring programs may be adjusted as required by court personnel.

As was the case with Phase I of New AIMS, three pilot courts are involved in the follow-on Phase II development process: the Fourth, Ninth, and Tenth Circuits. The capabilities developed in Phase II of New AIMS are being transferred to the Administrative Office as they are completed and tested by the pilot courts; the development and transfer process is scheduled to be concluded by December 1987.

## **IV. CENTER ACTIVITIES WITH SYSTEMWIDE IMPACT**

### **A. Educational Programs and Services**

**Media Services.** There are a number of Center services that are available to all federal judicial system personnel. Audiovisual programs are a prime example. The Center has an extensive media library of audiocassettes, videocassettes, films, and instructional software packages that cover a wide range of specialized topics and are used throughout the federal judicial system. These are either lectures recorded at Center seminars, Center-produced audio or video programs specially developed to meet the needs of the federal judicial system, or commercially produced programs purchased by the Center.

The media production unit is part of the Division of Special Educational Services; the media library is housed in the Center's Information Services Office. The 1987 edition of the Center's *Catalog of Audiovisual Media Programs* was published this year, continuing the format revision introduced in the 1985 catalog.

Sometimes audiotapes serve as a substitute for attendance at a seminar or workshop. This is particularly true where individuals were unable to attend the live session but are interested in the material. However, the tapes also afford attendees the opportunity to review, in a more leisurely setting, programs they have heard in person. The complexity of many of the subjects treated has made for increased use of tapes for this purpose.

The Center's media capability allows it to develop high-quality orientation lectures and special instructional programs on a great variety of topics. Specially produced audiocassettes offer great potential for use in automobiles while commuting. In fiscal 1987, the Center began to produce audiocassettes of selected Center publications; they exclude footnotes and tabular material and are similar in format to commercially produced educational audiocassettes.

**In-Court Training and Education Programs.** Although there are educational needs that are common to virtually every district, such as orienting new deputy clerks to the appropriate provisions of the Federal Rules of Civil Procedure, each district has special training needs that may not be common to the others. The same is true of offices within a particular district. To respond to these needs, the Center continues to encourage each major court office to designate a training officer or coordinator to develop local training services and to serve as the office's training liaison with the Center. This effort has been successful. As of August 1987, 303 federal court employees were serving as training coordinators. Eleven serve in the federal courts of appeals, while 292 serve in trial courts. Of the latter, 110 are employed in probation or pretrial services offices and 182 in district and bankruptcy clerks' offices.

These individuals assume training responsibilities in addition to their primary duties. A training coordinator may be a probation officer, a chief deputy clerk, a management analyst, or a docketing supervisor. As coordinators, they assess staff training needs, request Center funding to bring in an outside instructor, and, where appropriate, work with office managers to determine whether training is a solution for a particular problem. They also alert judges, magistrates, and supporting personnel to new Center media acquisitions—those produced by the Special Educational Services Division as well as those purchased from commercial vendors (such as the software-based computer training packages or the popular self-improvement audiocassette programs)—and other training resources.

Newly designated training coordinators, although skilled as managers and/or technicians, typically have had little formal instruction or experience in continuing adult education. To prepare them for the functions of a training coordinator, the Center invites each new coordinator to an orientation workshop. In fiscal 1987, three such programs were conducted. These three-day workshops cover principles of adult education, assessment of training needs, training delivery methods, program evaluation, and resources available through the Center and other organizations. In July and September the Center experimented with a pilot four-day orientation program, expanding the typical three-day agenda to provide time for the participants to plan and design a training program in consultation with the workshop faculty.

The Center also conducted two workshops for experienced training coordinators from three circuits. Advisory committees consisting of

training coordinators assisted in the development of the curriculum. These programs offered advanced instruction on a variety of training topics: enhancing presentation skills, motivating employee interest in training, organizational development, and innovations in court training. They also provided coordinators the opportunity to become better acquainted with their peers and to set up networks for exchanging training information and experiences. The Center plans to offer such programs to each circuit's training coordinators on a three- to four-year cycle.

Under a new plan, scheduled for implementation in the next fiscal year, newly designated coordinators would first complete a self-study program of training materials, including videotapes, prior to attending an orientation workshop. Only coordinators who demonstrated an active commitment to training would be invited to attend advanced workshops.

To further support the training coordinator network, the Center publishes a bimonthly newsletter, *What's Happening?*, that contains summaries of successful local training efforts, articles excerpted from leading training and development journals, and descriptions of new programs available through the media library. In addition, work has begun on a training coordinator's manual to provide basic information on training techniques and available resources.

In fiscal 1987, there were more than 150 in-court workshops. These dealt with topics such as financial investigation, communication for frontline office workers, sentencing guidelines, problem solving and decision making, the budget process, federal records, managing change, writing skills, and handling disruptive groups. Most were conducted by training coordinators but some were conducted by the Center.

Several of the in-court programs were designed specifically for judges. In October 1986, for example, the Center provided funding for a consultant to instruct the judges of the District of Arizona on effective voir dire procedures. The session included videotaping a mock voir dire that was subsequently replayed and critiqued. With Center support, the successful educational lecture series for judges of the Ninth Circuit Court of Appeals that was launched in 1986 was continued in fiscal 1987. In other instances, judges participated in districtwide programs designed by training coordinators for several levels of staff.

In fiscal 1986, in response to a recognized need for supervisory and management training for judicial branch personnel, the Center adopted the self-study correspondence course *Applied Supervision* as the first phase of a projected multiphase management development curriculum. The course requires approximately forty hours of individual study and the successful completion of several examinations that are scored by the Center. Administrative support is provided by training coordinators.

To enhance the material covered in *Applied Supervision*, a growing number of courts are integrating a series of group training sessions into the sequence of topics the course covers. Since the course was first made available in early fiscal 1986, nearly 450 copies have been distributed, and more than 300 certificates of completion have been issued to court personnel. Approximately 150 persons are currently enrolled in the course.

In fiscal 1987, the Center completed a pilot test of a new management development training program. This program is currently under consideration as a possible second phase of the Center's management development curriculum. The program consists of twenty-three individual units. Each unit includes discussion materials, videotaped case studies, and practice sessions in which participants, working in small teams, seek to strengthen and apply the new skills they have learned.

The program is applicable for supervisors and mid-level managers in circuit, district, and bankruptcy clerks' offices as well as probation and pretrial services offices. A unique feature is that managers and supervisors from all court offices are represented in each training class, thus reducing some of the traditional isolation between, for example, probation and bankruptcy offices.

The four pilot districts—District of Columbia, Eastern District of Virginia, Northern District of Texas, and District of Colorado—received training in the six core units in the first half of calendar 1987. In addition, two of the courts completed eight of the optional modules as part of the pilot.

**Supplementary Training—Tuition Support.** The Center also offers a program of limited tuition support for qualified personnel to attend courses in job-related subjects, primarily at local educational institutions. The tuition support program is limited to courses on subject matter not covered in Center seminars or through instructional materials that can be obtained from the Cen-

ter's media library. Courses may include offerings of one or more days' duration on specialized topics in corrections and law enforcement, substantive legal issues, or advocacy skills. Evening courses that run for a full semester may also be funded.

When a course leads to a degree or certificate, such as the Institute for Court Management's Court Executive Development Program, the student is expected to absorb a portion of the costs. Increasingly, a condition of support for more costly programs is a commitment from the employee to share what was learned with other employees, typically in a semiformal local training session. The Western District of Texas, for example, requires all officers who receive tuition support to report on what they learned in sessions following office staff meetings. The benefits from such investments can be substantial. In fiscal 1985, for example, two probation officers in a metropolitan court of the Eleventh Circuit attended a course on financial investigation. Subsequently, they arranged a workshop attended by sixty officers, treating such topics as cash generation and fraud schemes, evidence of illicit income, and manipulation of books and records. These two officers then prepared a comprehensive manual entitled *Financial Investigative Techniques for Probation Officers*, which has been distributed to districts throughout the country. The two officers subsequently conducted, under Center sponsorship, a number of local training programs throughout the country, most recently in Boston and New York. In fiscal 1987, one of the officers worked closely with the Center and Administrative Office Probation Division staff to develop a financial investigation training curriculum for delivery to all districts.

For fiscal 1987, the Center anticipates providing tuition support to more than 1,100 individuals at an average expenditure per course of about \$110. The table that follows shows the allocation of these funds by category.

**Training in Automation.** As discussed in previous chapters, the Center continues its effort to provide automation support to the circuit and district courts. The shift to decentralized systems has created the need for a training effort of substantial proportions, an effort that is being undertaken jointly by the Innovations and Systems Development Division and the Special Educational Services Division. During fiscal 1987, the Center continued to provide support for courts that have personal computing equipment for use by chief judges, clerks, and others. This assistance took the form of multimedia instructional packages, including instructional soft-

## Tuition Support Program—Fiscal 1987

	<i>Percentage of Funds</i>
Circuit, district, and special court judges	3.0
Bankruptcy judges	1.9
U.S. magistrates	3.6
Federal public defenders	6.9
Probation and pretrial officers	40.4
Offices of clerks of court (circuit, district, and bankruptcy)	33.2
Offices of circuit executives and staff attorneys	2.8
Secretarial and clerical staff	6.0
Librarians	2.2

NOTE: Not included in this list are the funds for assistant federal defenders' attendance at Mercer University's National Criminal Defense College (described in chapter 1 of this report) and probation officers' attendance at the Fordham program (described in chapter 2).

ware, on popular applications such as Lotus 1-2-3, Symphony, and dBase III.

### B. Assessing the System's Needs for New District Court Judgeships

Two major time studies were conducted by the Center to assist the Subcommittee on Judicial Statistics of the Judicial Conference of the United States in assessing the need for new district court judgeships. These studies, which were done in 1969-70 and in 1979, required participating judges to keep diaries for a three-month period during which they recorded the time they spent on each of their cases. These studies were used by the subcommittee and others to assess the relative burdens associated with different types of cases filed in federal district courts.

In 1985, the subcommittee asked the Center to assess the continuing validity and accuracy of the 1979 case weights. The subsequent analysis revealed that the accuracy of the 1979-based rates had deteriorated somewhat and that a different study methodology held substantial promise of both improving the case weights and providing substantially more information that would be quite useful. The new methodology would include all case-related time from filing to termination by both magistrates and judges on a representative set of cases. Changing the procedure to record all time spent on a given case, rather than all time spent during a relatively short period, promises to yield significant information concerning case

types in addition to valuable data concerning the burden on judges and magistrates.

A feasibility study of this new approach to a time study was conducted in five district courts. Based on the findings of that study, the Subcommittee on Judicial Statistics requested that the Center conduct a national study using the new methodology. The Center has agreed to do so. Data will also be collected concerning the nature of the work done and the characteristics of each case that might be associated with the amount of time expended. The current timetable calls for initiation of the expanded study at the beginning of the next fiscal year.

### C. Information and Liaison Activities

The Center maintains extensive contact with various federal and state organizations interested in judicial administration. By statute, the director of the Center is a member of the Advisory Board of the U.S. Department of Justice's National Institute of Corrections. The Center's deputy director serves as a liaison member to the Administrative Conference of the United States. The director of the Division of Inter-Judicial Affairs and Information Services is president-elect of the Institute of Judicial Administration. The director of the Division of Research is a liaison member of the Advisory Corrections Council by request of the council.

**Celebration of the Bicentennial of the United States Constitution.** Constitutional adjudication is part of the regular business of the federal courts; it is only natural that judges be called upon to participate in the "great national seminar" on the meaning of our basic document. The Center has assisted by developing bibliographic materials relevant to that celebration—*The Writing and Ratification of the U.S. Constitution: A Bibliography*—and providing specially prepared background materials for judges' use in preparing speeches on bicentennial topics. This year *The Third Branch* introduced as a monthly feature a brief vignette on events two hundred years ago bearing especially on the creation of the federal judiciary.

In fiscal 1987, the Center assisted the Commission on the Bicentennial of the U.S. Constitution by organizing and coordinating the Judicial Speakers Bureau. Under the direction of a committee chaired by former Judge Arlin M. Adams of the Third Circuit, the Center recruited over 500 state appellate and federal judicial officers to

participate in the Speakers Bureau. The Center coordinated assignment of judicial speakers to various events throughout the United States. In addition, the U.S. Information Agency has made many requests for judicial speakers with fluency in foreign languages to participate in various programs they are sponsoring both in the United States and abroad.

**Literature for Courthouse Visitors.** Responding to a suggestion of the Judicial Conference Committee on the Judicial Branch, the Center this year prepared two items of descriptive literature about the federal courts suitable for distribution to courthouse visitors. *Welcome to the Federal Court* is a brochure for casual courthouse visitors, describing briefly the organization of the federal judicial system and its procedures. *Federal Courts and What They Do* is a longer pamphlet, prepared for use by secondary school students who visit the courts as part of an academic program. Demand for both items from the courts has been very high.

**Judicial Sabbaticals.** Sabbatical leaves are typically granted to afford employees an opportunity to broaden professional skills and to cope with stress and job burnout. This concept is common in universities and, more recently, has been adopted by business and industry.

At the request of Judge Frank M. Coffin, chairman of the Committee on the Judicial Branch of the Judicial Conference of the United States, the Center has explored the possibility of sabbatical opportunities for judges. Professor Ira Robbins was assigned the project during his tenure as a Judicial Fellow at the Center. A staff paper presenting his findings, entitled *Judicial Sabbaticals*, is scheduled for publication late in the fiscal year.

**Library of Congress Liaison.** The Center continued during fiscal 1987 to benefit from established ties with the American-British Law Division of the Law Library of the Library of Congress. The library has proved to be a rich source of assistance to the judiciary in such areas as legislative history. Under existing arrangements, federal judges can obtain timely responses to research questions, including printed supportive material, from the library. Requests, which the Library of Congress staff welcomes, may be made directly to the library or through the Center.

**The Third Branch.** The Center and the Administrative Office are copublishers of *The Third Branch*, a monthly bulletin for federal judicial system personnel. This publication serves as a forum for in-

formation about recent legislation, actions of the Judicial Conference of the United States, news from the United States Sentencing Commission, judicial appointments, seminars and conferences, and programs held at circuit conferences. Individuals from outside the federal judicial system who have a professional interest in federal administration may also subscribe to this publication.

Elected officials, judges, and others in policy-making positions are interviewed on subjects related to the work of the federal courts. In-depth interviews with the following individuals were published by *The Third Branch* during the past fiscal year: Senator Orrin G. Hatch; Professor Arthur Miller of Harvard University Law School, former reporter for the Advisory Committee on Civil Rules of the Judicial Conference of the United States; Judge John Minor Wisdom of the Fifth Circuit Court of Appeals; Marshall J. Breger, chairman of the Administrative Conference of the United States; Abraham B. Sofaer, State Department legal adviser; Deputy Attorney General Arnold I. Burns; Solicitor General Charles Fried; Representative Romano L. Mazzoli, chairman of the House Judiciary Committee's Subcommittee on Immigration, Refugees, and International Law; Chief Judge William S. Sessions of the Western District of Texas, chairman of the Judicial Conference Subcommittee on Judicial Improvements; U.S. Bankruptcy Judge Martin V. B. Bostetter, Jr., a member of the Judicial Conference Court Administration Committee; Chief Judge Harrison L. Winter of the Fourth Circuit Court of Appeals; and J. Michael Quinlan, director of the Bureau of Prisons.

**Information Services Office.** The Center's Information Services Office (ISO) meets the diverse research and information needs of all of the Center's divisions, combining traditional reference and collection development services with advanced techniques of document retrieval, cataloging, and indexing. Given the interdisciplinary quality of much of the Center's work, the ISO staff makes frequent use of electronic data bases in law, the social sciences, and computer technology. On-line searching is complemented by an active interlibrary loan program to provide Center staff with effective bibliographic, reference, and current awareness services.

The ISO also serves as a national information center for resource material on federal judicial administration. In fulfilling its clearinghouse role, the office handles a multitude of requests from judges and their supporting personnel. A 6,000-volume collection of books and periodicals covers all areas of judicial administration. In addition, the ISO maintains an extensive file of research reports,

conference papers, and unpublished addresses related to the work of the federal courts. Access to this body of "fugitive" information is afforded by the Information Services Index System (ISIS), an application designed by the Innovations and Systems Development Division.

The ISO also serves as a central repository for the local rules of federal district and circuit courts. Using an automated index to identify rules on specific topics, the ISO has been able not only to facilitate the work of the Research Division but also to help individual courts engaged in review and revision of their own local rules. During fiscal 1987, the ISO also provided direct assistance to the ongoing local rules study project by the Judicial Conference's Standing Committee on Rules of Practice and Procedure.

The ISO has primary responsibility for disseminating the Center's published reports, staff papers, and manuals. During fiscal 1987, more than twenty-seven thousand copies of Center publications were distributed in response to requests from judicial personnel, government officials, attorneys, state agencies, and others interested in federal judicial administration. Nonprint material adds another dimension to the ISO's service profile. The growing collection of audio and video programs housed in its media library offers judicial personnel unique opportunities for continuing education and self-improvement. During fiscal 1987, nearly thirty-four hundred audiovisual loan requests were received from personnel throughout the system, with district judges accounting for nearly a third of the total.

**Briefings for Visitors from Abroad.** Responding to requests from the U.S. Information Agency, the Asia Foundation, the African-American Institute, and other organizations, the Center's Inter-Judicial Affairs and Information Services Division receives visitors from foreign countries who are interested in learning about judicial administration in the United States. Visitors typically include judges, court administrators, law professors, and elected officials. Representatives from more than forty countries were received at the Center during the past fiscal year.

Presentations are tailored to individual interests, sometimes through translators who accompany the visitors.

**Canada-United States Legal Exchange.** In August and October of this year, the first Canada-United States Legal Exchange will be conducted. Teams of judges and lawyers from each country will ex-

change visits and participate in a variety of educational sessions dealing with two subjects—a comparison of the Canadian Charter of Rights and Freedoms with the United States Bill of Rights, and emerging civil litigation issues.

Chief Justice Rehnquist will lead the United States team and Chief Justice Dickson will lead the Canadian team. The exchange is being sponsored by the American College of Trial Lawyers, the Canadian Judicial Council, and the Federal Judicial Center. The Center's director is a member of the American team and the Center's deputy director has been designated as the coordinator for the United States portion of the exchange.

## **V. THE ORGANIZATION OF THE CENTER AND ITS FIVE DIVISIONS**

This year was one of transition at the Federal Judicial Center. This marked the first full year under the chairmanship of Chief Justice Rehnquist. Judge John C. Godbold, formerly chief judge of the U.S. Court of Appeals for the Eleventh Circuit and a member of the Center's Board from 1976 to 1980, took office as the fifth director of the Center. He succeeded Professor A. Leo Levin, who retired on July 31, 1987. Professor Levin, the first nonjudge to hold the position, served as director for more than a decade—over half of the Center's lifetime.

### **A. The Board of the Center**

The Center's governing statute provides that it shall be "within the judicial branch of the Government" and that its activities shall be supervised by a board, chaired by the Chief Justice of the United States. The Board also includes the director of the Administrative Office, who serves as a permanent member, and six judges—two from the courts of appeals, three from the district courts, and one from the bankruptcy courts. The members of the Board serve for nonrenewable four-year terms and are elected to office by the Judicial Conference of the United States.

The Board welcomed three new members in 1987. Judge Alvin B. Rubin of the U.S. Court of Appeals for the Fifth Circuit was elected to fill the unexpired term of Judge Arlin M. Adams, who resigned from the U.S. Court of Appeals for the Third Circuit. Judge Anthony M. Kennedy of the U.S. Court of Appeals for the Ninth Circuit was elected to fill the vacancy created by the expiration of the term of Judge Daniel M. Friedman of the U.S. Court of Appeals for the Federal Circuit. Judge William C. O'Kelley of the Northern District of Georgia was elected to succeed Judge Howard C. Bratton of the District of New Mexico.

The Center operated with a total budget of \$10,824,000 in fiscal 1987, with ninety-six authorized personnel positions. The Center carries out its mission through five divisions, described in the sections that follow.

## B. Division of Continuing Education and Training

The educational needs of the more than seventeen thousand members of the federal judicial system are the responsibility of two Center divisions: the Division of Continuing Education and Training and the Division of Special Educational Services, which is described more fully below.

The Division of Continuing Education and Training is primarily responsible for formal workshops and seminars and local training programs.

The table below, setting forth seminars and workshops by category, provides some insight into the diversity of training needs and personnel served. It also offers dramatic evidence of the extent to which in-court training programs have become an important element of the Center's overall educational effort: More than 50 percent of those participating in Center-sponsored programs do so "in court." The table does not include specialized training of various types that is offered by other educational institutions and that federal judicial personnel attend with Center funding. As detailed in chapter 4, the tuition support program benefited approximately eleven hundred individuals during fiscal 1987. This program, too, is administered through the Division of Continuing Education and Training.

The division uses a four-phase planning cycle that begins with identification of educational needs and continues thereafter with development, implementation, and assessment of its programs. Needs are identified, in part, through the work of planning committees, which typically include representatives of the personnel to be served and, where appropriate, of the Administrative Office. In addition, there are inevitably suggestions from the field. Finally, needs are identified through staff review of data that the courts provide regularly to the Administrative Office. In consultation with the planning groups and others, the division then prepares and presents its educational programs.

Determining whether education and training actually results in a benefit is highly complex and requires substantial and subtle anal-

### Fiscal Year 1987 Seminars and Workshops

No.	Category	Participants	Faculty	Total
13	Circuit/district judges	739	138	877
11	Bankruptcy judges	321	65	386
6	Magistrates	289	55	344
9	Clerks of court and clerk's office personnel (circuit, district, and bankruptcy)	474	115	589
30	Probation and pretrial officers	1,564	215	1,779
5	Federal public defenders, community defenders, and investigators	225	61	286
1	Senior staff attorneys	13	3	16
5	Training coordinators	138	24	162
23	Automation seminars and workshops	171	20	191
4	Programs for personnel in several categories	115	24	139
107	TOTALS	4,049	720	4,769

### In-Court Training Programs

5	Circuit/district judges	103	5	108
38	Clerks of court and clerk's office personnel (circuit, district and bankruptcy)	741	39	780
88*	Probation/pretrial officers and clerks	2,407	184	2,591
23	Programs for personnel in several categories	449	36	485
154	TOTALS	3,700	264	3,964
261	GRAND TOTALS	7,749	984	8,733

\*Includes Staff Safety Programs.

ysis. Questionnaires distributed during or immediately after a program are standard; in certain instances selected supervisors are contacted to learn whether there have been any observable changes in employees' performance; in some instances follow-up questionnaires are distributed some months after a program.

## C. Division of Special Educational Services

In light of the growth and diversification in both substance and form of the Center's programs of continuing education, the Center's Board in fiscal 1986 approved creation of a new Division of Special Educational Services. The new division has responsibility for educational publications, the production of audiovisual programs, sentencing education, computer training, and such special offerings as the summer program for judges.

The division works closely with the Division of Continuing Education and Training, particularly since specially produced video programs, manuals, and similar educational materials are produced by the one division to assist in the programs administered by the other.

## **D. Division of Innovations and Systems Development**

When the Congress established the Center in 1967, it provided that the newly created organization "study and determine ways in which automatic data processing and systems procedures may be applied to the administration of the courts of the United States" (28 U.S.C. § 623(a)(5)). Pursuant to that mandate, the Division of Innovations and Systems Development assumed responsibility for translating new developments in computer and related technologies into automated systems that can benefit all levels of the federal court system.

The division spearheaded the current efforts to decentralize the placement and support of information-processing equipment required by the courts for case management. As a part of this effort, and building on its prior Courtran court automation experience, the division also designed a family of electronic docketing and case management systems, based on a software core known as the Integrated Case Management System (ICMS). Using this base system, particular applications were developed: the New Appellate Information Management System (New AIMS) for the courts of appeals; the CIVIL Case Management System for district courts; and the Bankruptcy Court Automation Project (BANCAP) for the bankruptcy courts. The Administrative Office also intends to use the ICMS base to develop a CRIMINAL Case Management System for the district courts.

The New AIMS application was declared operational and transferred to the Administrative Office in July 1986. During fiscal 1987, the Center's CIVIL and BANCAP applications entered their final development phases. The district and bankruptcy pilot courts have commenced live use of their ICMS full-docketing systems. Current schedules call for the Center to complete the transfer of its remaining ICMS-based systems development efforts to the Administrative Office early in 1988.

Following the transfer of CIVIL and BANCAP, the Innovations and Systems Development Division will have the opportunity to revert

to a more research-oriented role and to undertake a range of technology assessment studies and experimental evaluations that have been requested by Judicial Conference committees, judges, and others within the federal judicial system. These studies and evaluations are designed to enable the federal courts to take full advantage of a number of new technologies available commercially, such as high-capacity optical data storage and retrieval systems and voice synthesis systems. The Center will continue its work relating to computer and data security and public access to automated court data. Special emphasis is to be placed on addressing the automation needs and concerns of judges and their in-chambers staffs.

## **E. Division of Research**

The Division of Research is charged with fulfilling the Center's statutory mandate to "conduct research and study of the operation of the courts of the United States" (28 U.S.C. § 620(b)(1)). The division undertakes research projects at the request of committees of the Judicial Conference, individual courts, the Administrative Office, and, on occasion, specially created bodies, such as the Sentencing Commission of the United States. In addition, the division undertakes studies on its own initiative where there is receptivity in the field. Results of Center research are published in reports and staff papers, and are also made available in presentations at training programs.

## **F. Division of Inter-Judicial Affairs and Information Services**

This division serves as the Center's liaison with other organizations interested in judicial administration. In addition, the director of the division greets foreign judicial personnel, provides them with a general overview on the federal judicial system, and introduces them to the work of the Center.

The division is also responsible for the production of *The Third Branch*, the monthly bulletin of the federal courts, described earlier in this report.

The Center's Information Services Office is under the purview of the division. This unit, which is discussed more fully in chapter 4, serves as a repository of both published and unpublished informa-

tion on the federal judicial system. The Center's media library is also the responsibility of the Information Services Office.

## VI. CENTER PUBLICATIONS

The Center prepares a variety of published materials in the fulfillment of its mission. Every Center division is responsible for at least one type of publication. The findings of the Division of Research's studies are published in reports and staff papers; the Special Educational Services Division produces manuals and monographs; and the Innovations and Systems Development Division prepares technical documents and training manuals. *The Third Branch* is published monthly by the Division of Inter-Judicial Affairs and Information Services. The Division of Continuing Education and Training issues a bimonthly bulletin in support of its training coordinator program.

In addition to its *Annual Report*, the Center also publishes a *Catalog of Publications* that briefly describes the publications in the Center's collection. Publications can be obtained by writing to the Information Services Office; inclusion of a self-addressed mailing label is especially helpful.

The publications below were either completed or in the final stages of completion in fiscal 1987.

### Research Reports and Staff Papers

"Achieving Balance in the Developing Law of Sanctions," by A. Leo Levin and Sylvan A. Sobel (in 36 *Catholic University Law Review* 587 (1987))

*Calendaring Practices of the Eastern District of North Carolina*, by Susan M. Olson

*Deciding Cases Without Argument: An Examination of Four Courts of Appeals*, by Joe Cecil and Donna Stienstra

*Home Confinement: An Evolving Sanction in the Federal Criminal Justice System*, by Paul J. Hofer and Barbara S. Meierhoefer

*Illustrative Rules Governing Complaints of Judicial Misconduct and Disability*, by James R. Browning, Collins J. Seitz, and Charles Clark

*Judicial Sabbaticals*, by Ira P. Robbins

*Jury Service in Lengthy Civil Trials*, by Joe S. Cecil, E. Allan Lind, and Gordon Berman

*Pattern Criminal Jury Instructions*, Report of the Subcommittee on Pattern Jury Instructions, Committee on the Operation of the Jury System, Judicial Conference of the United States

*Summary Judgment Practice in Three District Courts*, by Joe S. Cecil and C. R. Douglas

*Trends in Asbestos Litigation*, by Thomas E. Willging

#### **Education and Training Series**

*The Bail Reform Act of 1984*, by Deirdre Golash

*1987 Catalog of Audiovisual Media Programs*

*Federal Courts and What They Do* (pamphlet)

*Major Issues in Employment Discrimination Law* (second edition), by George Rutherglen

*Major Issues in Immigration Law*, by David A. Martin

*Manual on Employment Discrimination Law and Civil Rights Actions in the Federal Courts* (revision), by Charles R. Richey

*Welcome to the Federal Court* (brochure)

# INDEX

- in-chambers automation projects, 16
- B**
- The Bail Reform Act of 1984* (Golash), 8, 60
- Bankruptcy court automation project (BANCAP) features addressed to bankruptcy court needs, 17 purpose of system, 16
- Bankruptcy judges bankruptcy court automation project (BANCAP), 16 bankruptcy studies, 22 orientation seminars, 8 pilot bankruptcy case management workshop, 10 regional workshops, 8
- Bench Comment* topics suitable for treatment, 13
- Bicentennial of the Constitution Center participation, 47
- The Writing and Ratification of the U.S. Constitution: A Bibliography* (Wheeler), 47
- Board of the Center governing statute, 53 new members, 53
- C**
- Calendaring Practices of the Eastern District of North Carolina* (Olson), 59
- Canada-U.S. legal exchange, 50
- Catalog of Audiovisual Media Programs*, 41, 60
- Catalog of Publications*, 59
- Chambers to Chambers* review by federal judges, 18

- CIVIL case management system  
description of system, 14  
pilot courts, 14
- Clerks of court  
appellate clerks' seminar, 36  
video materials, 10
- Conference of metropolitan district  
chief judges, 18
- Constitutional bicentennial, 47
- Continuing education  
appellate judges' continuing education programs, 36
- Division of Continuing Education and Training, 54
- orientation and continuing education for U.S. probation officers, 29
- sentencing institutes, 28
- U.S. district court judges, 5
- Court-annexed arbitration  
study of on-going programs, 20
- Court-Appointed Experts* (Willging), 22
- Courthouse visitors  
literature, 48
- D**
- Deciding Cases Without Argument: A Description of Procedures in the Courts of Appeals* (Cecil & Stienstra), 37
- Deciding Cases Without Argument: An Examination of Four Courts of Appeals* (Cecil & Stienstra), 37, 59
- Desk and research aids for district courts
- Bench Book for U.S. District Court Judges*, 12
- Bench Comments*, 13
- Chambers to Chambers*, 13
- handbooks and manuals for support personnel, 13
- Desk Book for Chief Judges of United States District Courts*, 18
- District courts management  
conference of metropolitan chief judges, 18
- Desk Book for Chief Judges of United States District Courts*, 18
- local rule making, 19
- local rules index, 19
- programs for chief judges and staffs, 17
- Division of Continuing Education and Training  
in-court training programs, 55
- planning cycle, 54
- responsibilities, 54
- seminars and workshops, 55
- Division of Innovations and Systems Development  
activities, 56
- congressional mandate, 56
- Division of Inter-Judicial Affairs and Information Services  
functions, 57
- The Third Branch*, responsibility for production, 57
- Division of Research  
functions, 57
- Division of Special Educational Services  
creation, 55
- responsibilities, 55

**E**

- Educational programs  
automation training, 15, 45
- bankruptcy judges workshops, 8
- clerks of court and supporting personnel, 10
- continuing education programs for district judges, 5
- federal public and community defenders, assistants, investigators, 11
- in-court training and education programs, 42
- newly appointed district judges, 3
- orientation programs for new district judges, 3
- publications, 7
- senior management teams, 12
- special summer programs for district and appellate judges, 6

state-federal programs, 7  
supplementary training-tuition support, 44  
Education and training series  
Center publications, 60  
*An Empirical Study of Rule 11 Sanctions*, 21

## F

*Federal Courts and What They Do*, 48, 60  
*Five-Year Plan for Automation in the U.S. Courts*  
recent revision, 14

## G

Godbold, Judge John C.  
director of Center, 53

## H

*Handbook for Federal Judges' Secretaries*, 13  
*Home Confinement: An Evolving Sanction in the Federal Criminal Justice System* (Hofer & Meierhoefer), 33, 59

## I

*Illustrative Rules Governing Complaints of Judicial Misconduct and Disability* (Browning, Seitz & Clark), 60  
In-court training and education programs  
Division of Continuing Education and Training, 55  
generally, 42  
Information Services Office functions, 49  
Investigators training programs, 11

## J

Judges. *See also Appellate judges*  
bankruptcy judges' workshops, 8  
Conference of Metropolitan District Chief Judges, 18  
continuing education program for district judges, 5  
*Desk Book for Chief Judges of United States District Courts*, 18  
district court judgeships, assessment of needs for, 46  
in-chambers automation projects, 16  
management programs for chief district judges and staff, 17  
newly appointed judges' orientation programs, 3  
orientation programs for new district judges, 3  
special summer programs for district and appellate judges, 6  
*Judicial Sabbaticals* (Robbins), 48, 60  
Jury projects  
juror studies, 24  
juror utilization, 23  
*Jury Service in Lengthy Civil Trials* (Cecil, Lind & Bermant), 24, 60  
*Pattern Criminal Jury Instructions*, 25, 60  
videotaped jury panel orientation, 24  
*Jury Service in Lengthy Civil Trials* (Cecil, Lind & Bermant), 24, 60

## L

*Law Clerk Handbook* (Rubin), 13  
Levin, A. Leo  
retirement, 53  
service as director of Center, 1  
Library of Congress liaison, 48  
Local rule making  
case study of local rule revision, 19  
Local rules index, 19

## M

- Magistrates  
    training programs and seminars, 9
- Major Issues in Employment Discrimination Law* (Rutherford), 7, 60
- Major Issues in Immigration Law* (Martin), 7, 60
- Manual for Complex Litigation, Second*, 23
- Manual on Employment Discrimination Law and Civil Rights Actions in the Federal Courts* (Richey), 7, 60
- Media services  
    audiovisual media programs, 41
- Catalog of Audiovisual Media Programs*, 41, 59

## O

- Orientation programs for district court judges, 3

## P

- Pattern Criminal Jury Instructions*, 25, 60
- Probation  
    information management system, 34  
    orientation and continuing education for U.S. probation officers, 29
- Probation information management system (PIMS), 34
- Publications  
    *Achieving Balance in the Developing Law of Sanctions* (Levin & Sobel), 22, 59  
    *Annual Report*, 59  
    *Asbestos Case Management: Pre-trial and Trial Procedures*, 20  
    *The Bail Reform Act of 1984* (Golash), 8, 60

- Calendaring Practices of the Eastern District of North Carolina* (Olson), 59
- Catalog of Audiovisual Media Programs*, 41, 60
- Catalog of Publications*, 59
- Court-Appointed Experts* (Willging), 22
- Deciding Cases Without Argument: A Description of Procedures in the Courts of Appeals* (Cecil & Stienstra), 37
- Deciding Cases Without Argument: An Examination of Four Courts of Appeals* (Cecil & Stienstra), 37, 59
- Desk Book for Chief Judges of United States District Courts*, 18
- education and training series, 60
- An Empirical Study of Rule 11 Sanctions* (Kassin), 21
- Federal Courts and What They Do*, 48, 60
- Five-Year Plan for Automation in the U.S. Courts*, 14
- Handbook for Federal Judges' Secretaries*, 13
- Home Confinement: An Evolving Sanction in the Federal Criminal Justice System* (Hofer & Meierhoefer), 33, 59
- Illustrative Rules Governing Complaints of Judicial Misconduct and Disability* (Browning, Seitz & Clark), 60
- Judicial Sabbaticals* (Robbins), 48, 60
- Jury Service in Lengthy Civil Trials* (Cecil, Lind & Bermant), 24, 60
- Law Clerk Handbook* (Rubin), 13
- list of new publications, 59
- Major Issues in Employment Discrimination Law* (Rutherford), 7, 60
- Major Issues in Immigration Law* (Martin), 7, 60
- Manual for Complex Litigation, Second*, 23
- Manual on Employment Discrimination Law and Civil*

- Rights Actions in the Federal Courts* (Richey), 7, 60  
*Pattern Criminal Jury Instructions*, 25, 60  
 Research reports and staff papers, 59  
*Summary Judgment Practice in Three District Courts* (Cecil & Douglas), 23, 60  
*Taxation of Attorneys' Fees: Practices in English, Alaskan, and Federal Courts* (Tomkins & Willging), 21  
*The Third Branch*, 27, 47, 48, 57, 59  
*Trends in Asbestos Litigation* (Willging), 20, 60  
*Welcome to the Federal Court*, 48, 60  
*The Writing and Ratification of the U.S. Constitution: A Bibliography* (Wheeler), 47
- Public defenders  
 educational and training programs, 11
- R**
- Research on trial litigation process  
 asbestos litigation, 19  
 attorneys' fees, 21  
 bankruptcy studies, 22  
 court-annexed arbitration, 20  
 court-appointed experts, 22  
*Manual for Complex Litigation, Second*, 23  
 sanctions, 21  
 summary judgment, 28  
 Research reports and staff papers  
 Center publications, 59
- S**
- Sanctions  
*Achieving Balance in the Developing Law of Sanctions* (Levin & Sobel), 22  
*An Empirical Study of Rule 11 Sanctions* (Kassin), 21  
 Senior management teams
- program on negotiation and problem-solving skills, 12  
 Sentencing  
 Guideline education, 27  
 orientation and continuing education for U.S. probation officers, 29  
 sentencing institutes, 28  
 sentencing research, 33  
 Special summer programs for district and appellate judges, 6  
 State-federal educational programs, 7  
 Summary judgment  
 study of summary judgment activity, 23  
*Summary Judgment Practice in Three District Courts* (Cecil & Douglas), 23, 60  
 Supplementary training-tuition support, 44
- T**
- Taxation of Attorneys' Fees: Practices in English, Alaskan, and Federal Courts* (Tomkins & Willging), 21  
*The Third Branch*, 27, 47, 48, 57, 59  
*Trends in Asbestos Litigation* (Willging), 20, 60  
 Tuition  
 supplementary training-tuition support, 44
- V**
- Video materials  
*Catalog of Audiovisual Media Programs*, 41, 60  
 educational programs for clerks of court, 10  
 Visitors from abroad, 50
- W**
- Welcome to the Federal Court*, 48, 60



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.