

**2002**

Catalog of Publications

**FEDERAL JUDICIAL CENTER**

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This catalog lists 168 of the publications the Center has produced since its creation in 1967, grouped by subject category. The publications listed here include reports of research and analysis done by or for the Center, as well as educational manuals, monographs, and other reference works for various judicial branch personnel. The Center also produces audiovisual media, which are described in the *1999 Catalog of Audiovisual Media Programs*. The points of view expressed in all Center publications are those of the authors.

*Please note:* Publications within each subject are listed chronologically, newest first. Older Center publications contain information, analyses, and conclusions that reflect conditions or practices that have since changed. This is particularly true in the areas of automation and sentencing. Some of these older publications have been retained in the catalog because readers with special interests may find them useful, even though they may be outdated by later developments in many respects.

#### **WHO MAY ORDER CENTER PUBLICATIONS**

The Center provides its publications free of charge to employees of the federal judicial system. Limited numbers of most Center publications are also available on request to the public. To order, write to Federal Judicial Center, Information Services Office, One Columbus Circle NE, Washington DC 20002-8003. Orders may also be faxed to: Information Services Office at 202-502-4077.

#### **CENTER PUBLICATIONS ON THE INTERNET**

The Center makes increasing numbers of its publications available in electronic form at [www.fjc.gov](http://www.fjc.gov) (and on the courts' intranet at [jnet.fjc.dcn](http://jnet.fjc.dcn)). Some Center publications are available on-line only.

#### **CENTER PUBLICATIONS AVAILABLE FROM OTHER SOURCES**

Selected Center publications are available via WESTLAW. They are located in the Texts and Treaties database. Some Center publications of general interest are available for purchase by the public from the Government Printing Office or from private publishers; entries for such publications in this catalog include purchasing information.

#### **FEDERAL JUDICIAL CENTER INFORMATION SERVICES GENERALLY**

The Center's Information Services Office maintains a specialized collection of books, journals, and published and unpublished documents relating to the work of the federal courts. Drawing from these, it serves as a national clearinghouse for information on federal judicial administration, providing reference and research assistance to the judicial branch. The library is open to individuals doing research on issues related to federal judicial administration. In addition, each year the office answers written and telephone requests for information from libraries, government agencies, academic institutions, research organizations, bar groups, and the media. The telephone number for the Information Services Office is 202-502-4153. The fax number is 202-502-4077.

## **ADVOCACY**

### **The Quality of Advocacy in the Federal Courts: A Report to the Committee of the Judicial Conference of the United States to Consider Standards for Admission to Practice in the Federal Courts**

Anthony Partridge & Gordon Bermant  
1978, 213 pages

A report on judges' evaluations of lawyers' performance in federal district courts and courts of appeals, undertaken in response to Chief Justice Burger's criticism of federal court advocacy. Based on surveys of trial and appellate judges and attorneys, as well as on ratings of videotaped trial performance, the study analyzes relationships between performance and lawyer characteristics (role in case, size of law office, and lawyer's age, experience, and education) and identifies areas of deficiency in trial and appellate skills.

## **ALTERNATIVE DISPUTE RESOLUTION**

### **Guide to Judicial Management of Cases in ADR**

Robert J. Niemic, Donna Stienstra & Randall E. Ravitz  
2001, 193 pages

This publication offers guidance to federal trial and bankruptcy courts on when and how to refer appropriate cases to ADR and how to manage cases referred to ADR.

### **Mediation in Bankruptcy, The Federal Judicial Center Survey of Mediation Participants: Report to the Advisory Committee on Bankruptcy Rules**

Robert J. Niemic  
1998, 63 pages

A report on the Center's survey of bankruptcy mediation participants, performed at committee request, to help members assess proposed rules changes that would govern mediation in bankruptcy.

### **Mediation and Conference Programs in the Federal Courts of Appeals: A Sourcebook for Judges and Lawyers**

Robert J. Niemic  
1997, 107 pages

This sourcebook is a reference guide on mediation and conference programs in the federal courts of appeals, programs that may offer a way for courts to deal with increasing filings. The sourcebook responds to requests from the appellate courts for a detailed description of all appellate courts' mediation and conference programs as well as more general information about what happens in the courts of appeals. In addition, it provides a means for attorneys to learn more about these programs.

### **ADR and Settlement in the Federal District Courts: A Sourcebook for Judges and Lawyers**

Elizabeth Plapinger & Donna Stienstra  
1996, 308 pages (available on WESTLAW)  
published jointly by the Federal Judicial Center & the CPR Institute for Dispute Resolution

Based on a survey of the federal district courts and an analysis of their rules, this sourcebook describes in detail how each court's ADR and settlement procedures functioned at the time of the survey. It also provides information for judges who design and refer cases to dispute resolution programs, for lawyers and litigants who face increasingly complex dispute resolution choices and obligations, and for policy makers and researchers who evaluate current programs and make recommendations for the future.

**Alternatives to Litigation: Do They Have a Place in the Federal District Courts?**

Donna Stienstra & Thomas E. Willging

1995, 68 pages

A discussion paper that analyzes arguments for and against incorporating ADR programs into the case-management procedures of federal district courts. The authors debate issues such as whether ADR is compatible with the role of the federal courts, whether ADR conserves litigants' costs and court resources, whether private or public-sector development of ADR is preferable, and whether mandatory or voluntary programs should be pursued.

**Voluntary Arbitration in Eight Federal District Courts: An Evaluation**

David Rauma & Carol Krafka

1994, 24 pages

A statutorily mandated report on the pilot court-annexed voluntary arbitration programs in eight federal district courts. The study examines program use in the context of the programs' referral systems. It is a companion to the 1990 FJC study of court-annexed mandatory arbitration programs in ten federal district courts (see *Court-Annexed Arbitration in Ten District Courts* below).

**FJC Directions, No. 7: Alternative Dispute Resolution**

December 1994

Based on presentations and discussions at a conference for federal judges held in late 1993, articles in this issue of *FJC Directions* acquaint readers with the context in which ADR is developing, define the principal types of ADR used in the federal courts, document the development and emerging role of ADR administrators in eight courts, and discuss the practical problems of evaluating and monitoring ADR procedures.

**Court-Annexed Arbitration in Ten District Courts**

Barbara S. Meierhoefer

1990, 154 pages (available on WESTLAW)

A statutorily mandated evaluation of the pilot court-annexed mandatory arbitration programs in ten federal district courts. The report examines how well the programs have met various goals, relying primarily on participants' responses to survey questions about fairness and reduction of cost, delay, and court burden. It also addresses how various program features affect goal achievement.

**Alternative Dispute Resolution in a Bankruptcy Court: The Mediation Program in the Southern District of California**

Steven Hartwell & Gordon Bermant

1988, 88 pages (available on WESTLAW)

A study of the Southern District of California's bankruptcy mediation program. The authors summarize interviews with twenty-six program participants and analyze the first eighty adversary proceedings to come to mediation. They explain the structure of the program and describe the opinions of judges, mediators, and attorneys as to the program's effectiveness.

**Evaluation of Court-Annexed Arbitration in Three Federal District Courts**

E. Allan Lind & John E. Shapard

Revised 1983, 140 pages

An early evaluation of the effectiveness of local rules that provided for mandatory, nonbinding arbitration in three federal district courts.

**Summary Jury Trials in the Northern District of Ohio**

M.-Daniel Jacoubovitch & Carl M. Moore

1982, 89 pages (available on WESTLAW)

An early analysis of the summary jury trial procedure and a documentation of the views and concerns of participants in summary jury trials. The authors observed a number of summary jury trials, reviewed court records, and interviewed those involved in cases assigned to summary jury trials.

see also **SETTLEMENT**

## **APPELLATE SYSTEM STRUCTURE AND REVISION**

### **Structural and Other Alternatives for the Federal Courts of Appeals**

Judith A. McKenna

1993, 179 pages

A statutorily requested study of the problems facing the federal courts of appeals and the numerous changes, structural and otherwise, that have been suggested as solutions. Areas of concern include the increased volume of appeals, the effects of caseloads on the quality of appellate decision making, intercircuit and intracircuit conflicts, the preservation of appellate traditions, and the scope of federal jurisdiction. The study outlines proposed changes to the structure of the courts, as well as techniques used by judges to keep pace with increased caseloads. The study concludes that no major proposal for change to the structure of the courts would substantially reduce appellate filings in the near future.

## **ATTORNEYS' FEES**

### **Auctioning the Role of Class Counsel in Class Action Cases: A Descriptive Study**

Laural L. Hooper & Marie Leary

2001, 120 pages (available on-line only)

A study conducted by the Center to provide the Third Circuit Task Force on Selection of Class Counsel information on judges who have employed an auction or bidding method to select class counsel. The report describes in detail the auctioning procedures used by the judges, including the process of evaluating bids and selecting the winning bidder. It is available at [www.fjc.gov](http://www.fjc.gov) (and on the courts' intranet at [jnet.fjc.dcn](http://jnet.fjc.dcn)). This report is also available at the Third Circuit website ([www.ca3.uscourts.gov](http://www.ca3.uscourts.gov)), which also contains the final report of the Third Circuit Task Force. It will also be published in Federal Rules Decisions.

### **Awarding Attorneys' Fees and Managing Fee Litigation**

Alan Hirsch & Diane Sheehey

1994, 167 pages

A monograph about the doctrinal and case-management aspects of fee awards. It analyzes the law of attorneys' fee awards under fee-shifting statutes, the common fund doctrine and its offspring, and the substantial benefit doctrine, and addresses an issue of special significance to bankruptcy courts—the propriety of sua sponte review of fee petitions. It also presents a selection of case-management strategies, based on interviews with judges, attorneys, U.S. trustees, and others.

### **Taxation of Attorneys' Fees: Practices in English, Alaskan, and Federal Courts**

Alan J. Tomkins & Thomas E. Willging

1986, 145 pages (available on WESTLAW)

An examination of how attorney fee petitions are administered in the English taxing master system, the Alaskan state courts, and the U.S. district courts. The authors discuss the advantages and disadvantages of the various procedures so that federal courts facing increased filings of attorney fee petitions can make informed policy choices.

### **Attorney Fee Petitions: Suggestions for Administration and Management**

Thomas E. Willging & Nancy A. Weeks

1985, 94 pages (available on WESTLAW)

An analysis of the cases, statutes, local rules, and other materials affecting judicial management of attorney fee petitions. The authors offer alternative approaches to various attorney fee issues and discuss techniques for streamlining repetitive aspects of fee applications and disputes.

**The Influence of Rules Respecting Recovery of Attorneys' Fees on Settlement of Civil Cases**

John E. Shapard

1984, 72 pages (available on WESTLAW)

A theoretical economic analysis that compares the influence of five attorney fee rules on litigants' financial incentives: the American rule, the English rule, statutory provisions allowing recovery by prevailing plaintiffs, contingent fee arrangements, and an offer-of-judgment rule.

**Judicial Regulation of Attorneys' Fees: Beginning the Process at Pretrial**

Thomas E. Willging

1984, 58 pages

A report on attorneys' assessments of the pretrial order designed to regulate and limit attorneys' fees during the course of the *Continental Illinois Securities Litigation*. Counsel for plaintiffs, defendants, corporations, unions, low-income clients, and public-interest groups were asked to compare the guidelines in the *Continental Illinois* case with their own practices. The author reports their approval of the general approach and details their suggestions for refinement of the order.

**AUTOMATION, COMPUTERS, AND TECHNOLOGY**

**Effective Use of Courtroom Technology: A Judge's Guide to Pretrial and Trial**

2001, 358 pages

This publication is the result of a joint project between the Federal Judicial Center and the National Institute for Trial Advocacy. It describes the substantive and procedural considerations that may arise when lawyers bring electronic equipment to the courtroom or use court-provided equipment for displaying or playing evidentiary exhibits or illustrative aids during trial. It comes with a CD-ROM that contains the entire text of the book for easy searching, reference, or excerpting, and includes examples of the kinds of exhibits that may raise objections as to transitions, animations, color, sound, and special effects. The Center provides this publication free to the federal judiciary. The public may purchase copies from the National Institute for Trial Advocacy ([www.nita.org](http://www.nita.org)).

**Electronic Media Coverage of Federal Civil Proceedings: An Evaluation of the Pilot Program in Six District Courts and Two Courts of Appeals**

Molly Treadway Johnson & Carol Krafka

1994, 56 pages

An evaluation of the Judicial Conference's 1991–1993 pilot program allowing electronic media coverage of federal civil proceedings in six district and two appellate courts. The report, which was originally presented to the Judicial Conference Committee on Court Administration and Case Management, provides information concerning applications for coverage and proceedings actually covered, as well as a content analysis of news broadcasts incorporating such coverage. It summarizes results from surveys of judges and attorneys in the pilot courts; interviews with judges, court staff administrators, and media representatives; and state studies of the effects of electronic media presence on witnesses and jurors.

**BANKRUPTCY APPELLATE PANELS**

**Alternative Structures for Bankruptcy Appeals**

Judith A. McKenna & Elizabeth C. Wiggins

2000, 123 pages

This report, prepared at the request of the Judicial Conference Committee on the Administration of the Bankruptcy System describes the bankruptcy appellate system and recent efforts at change.

### **Bankruptcy Appellate Panels: The Ninth Circuit's Experience**

Gordon Bermant & Judy B. Sloan

21 Arizona State University Law Journal 1 (1989)

A description of the Ninth Circuit's early use of panels composed of three bankruptcy judges to hear and decide initial appeals from decisions of the bankruptcy courts.

## **BANKRUPTCY—BUSINESS**

### **Chapter 11 Venue Choice by Large Public Companies: A Report to the Judicial Conference Committee on the Administration of the Bankruptcy System**

Gordon Bermant, Arlene Jorgensen & Aaron Kerry

1997, 72 pages

A report that responds to a request by the Judicial Conference Committee on the Administration of the Bankruptcy System for empirical information and analysis on whether the bankruptcy case venue statutes and procedural rule should be amended. The report presents the results of a 1996 survey of federal bankruptcy judges about Chapter 11 venue and judges' views of a proposal to amend 28 U.S.C. § 1408 to prohibit corporate debtors from filing for relief in a district based solely on the debtor's state of incorporation or based solely on an earlier filing by a subsidiary in the district. The report also presents analyses of administrative and demographic characteristics of large public companies that emerged from Chapter 11 during 1994 and 1995.

### **Business Bankruptcy**

Elizabeth Warren

1993, 177 pages

A general overview of the policies and practices of the business bankruptcy system. It covers both Chapter 7 liquidation and Chapter 11 reorganization.

## **BANKRUPTCY—CASE MANAGEMENT**

### **A Guide to the Judicial Management of Bankruptcy Mega-Cases**

S. Elizabeth Gibson

1992, 227 pages (available on WESTLAW)

A guide for a judge who must handle the multiple issues involved in a bankruptcy mega-case. Developed from insights offered by twenty-four experienced bankruptcy judges at a Federal Judicial Center conference, the guide includes sample forms and orders various judges have found useful in their courts.

*see also* **INTERNATIONAL AND FOREIGN LAW; MASS TORTS**

## **BANKRUPTCY—GENERAL**

### **Implementing and Evaluating the Chapter 7 Filing Fee Waiver Program: Report to the Committee on the Administration of the Bankruptcy System**

Elizabeth C. Wiggins

1998, 271 pages

A description of the study the Center undertook at the committee's request to examine the congressionally mandated pilot fee-waiver program in six districts. Under the program, which ran from Oct. 1, 1994, through Sept. 30, 1997, the \$175 filing fee was waived for Chapter 7 debtors unable to pay.



## **CALENDARS AND CALENDARING**

### **The Joint Trial Calendars in the Western District of Missouri**

Donna Stienstra

1985, 59 pages

An examination of the calendaring system used by the Western District of Missouri to clear its criminal and civil dockets at regularly scheduled intervals. The report, based on interviews with the district's judges, court personnel, and attorneys, discusses the system's impact and offers guidelines for courts considering its adoption. Copies of the court's orders and forms are included.

## **CAPITAL CASE LITIGATION**

### **Resource Guide for Managing Capital Cases, Vol. 1: Federal Death Penalty Trials**

Molly Treadway Johnson, Laural L. Hooper

2001, 58 pp. (available on-line only)

This guide describes the statutes, case law, and policies applicable to federal capital case management issues such as appointment of counsel, case budgeting, and jury selection, and summarizes procedures judges have used in capital cases at each stage of the proceedings. The guide is part of a website the Center prepared to assist judges assigned capital cases, including federal death penalty prosecutions and capital habeas cases. The site also contains orders, jury questionnaires, instructions, verdict forms, and other materials developed by judges who have handled death penalty cases, and a list of additional resources.

The Resource Guide and other material are available at [www.fjc.gov](http://www.fjc.gov) (and on the courts' intranet at [jnet.fjc.dcn](http://jnet.fjc.dcn)). They are not available in printed form.

Volume II of the guide, which will cover capital habeas cases, is under development.

## **CASE MANAGEMENT—APPELLATE**

### **Case Management Procedures in the Federal Courts of Appeals**

Judith A. McKenna, Laural L. Hooper & Mary Clark

2000, 210 pages

This report details the varying appellate practices and procedures of the U.S. courts of appeals within the generally uniform appellate scheme imposed by the Federal Rules of Appellate Procedure. The report was undertaken for the Judicial Conference Committee on Court Administration and Case Management and the Commission on Structural Alternatives for the Federal Courts of Appeals, created by Congress in late 1997 and chaired by retired Justice Byron R. White. Part I of the report highlights key variations from court to court; Part II describes in detail the case-management procedures of each court.

### **The Pre-Argument Conference Program in the Sixth Circuit Court of Appeals**

James B. Eaglin

1990, 86 pages (available on WESTLAW)

A study conducted at the court's request to determine if its program met its goals of saving judges' time, lessening case-management burdens, and simplifying issues on appeal. Using a control group method, the study determined that the program was a success—it met its goals and received strong support from the bar.

### **The Role of Staff Attorneys and Face-to-Face Conferencing in Non-Argument Decisionmaking: A View from the Tenth Circuit Court of Appeals**

Donna Stienstra & Joe S. Cecil

1989, 67 pages (available on WESTLAW)

Using materials obtained through interviews with the court of appeals' judges and staff attorneys, as well as visiting judges, the authors discuss the procedure used by the court for selecting and deciding cases suitable for disposition without argument. They concluded that staff attorneys' attendance at the decision-making conference and face-to-face discussion among the judges provided substantial benefits for the judges, the staff attorneys, and the efficiency and quality of the nonargument decision-making process.

### **Managing Appeals in Federal Courts**

Robert A. Katzmann & Michael Tonry (eds.)

1988, 826 pages

An anthology of Center reports on handling appeals. The editors selected writings from the twenty-five published and unpublished reports on the topic the Center has supported in the last fifteen years. Eighteen of these reports are reprinted in whole or in part. The editors' introductions to each of the book's five parts provide descriptions or summaries of the reports not reprinted.

### **Deciding Cases Without Argument: An Examination of Four Courts of Appeals**

Joe S. Cecil & Donna Stienstra

1987, 222 pages (available on WESTLAW)

A report on the role of staff attorneys and special judicial panels in the selection of cases for nonargument disposition in the federal appellate courts. The report was based on an examination of administrative records and on interviews with clerks, senior staff attorneys, and judges. It discusses the criteria and methods used in selecting nonargument cases, and it presents the judges' views concerning the role of oral argument.

### **Deciding Cases Without Argument: A Description of Procedures in the Courts of Appeals**

Joe S. Cecil & Donna Stienstra

1985, 53 pages (available on WESTLAW)

A report on procedures and standards used by the courts of appeals in the 1980s for deciding cases without oral argument. The authors discuss the responses of clerks of court to a survey on court practices and present statistical information along with a review of relevant local rules. The report discusses only the procedures developed for typical cases; it does not consider special procedures for pro se cases, nor does it attempt to evaluate the screening programs.

### **A Reevaluation of the Civil Appeals Management Plan**

Anthony Partridge & Allan Lind

1983, 115 pages

The report of the Center's second evaluation of the Second Circuit court of appeals' Civil Appeals Management Plan (CAMP), which in contrast to the first evaluation (see *An Evaluation of the Civil Appeals Management Plan* below), reveals that CAMP was producing the benefits expected of it. In addition to reducing average disposition time, CAMP resulted in settlement or withdrawal of about 10% of the appeals eligible for the program, producing a reduction of approximately 8% in the total number of appeals.

### **An Evaluation of the Civil Appeals Management Plan: An Experiment in Judicial Administration**

Jerry Goldman

1977, 122 pages

An evaluation of the first experimental operation of the Civil Appeals Management Plan (CAMP) of the Second Circuit. The report evaluated a set of procedures designed to eliminate burdensome appeals, improve the quality of appeals, and expedite the appellate process through the use of mandatory scheduling orders and pre-argument conferences supervised by staff counsel. The report concluded that the initial experiment failed to provide conclusive evidence of the plan's substantive value but that further analysis is warranted (see *A Reevaluation of the Civil Appeals Management Plan* above).

## **CASE MANAGEMENT—CIVIL**

### **Civil Litigation Management Manual**

2001, 463 pages

This manual provides trial judges a handbook on managing civil cases. It sets out a wide array of case-management techniques, beginning with case filing and concluding with steps for streamlining trials and discusses a number of special topics,

including pro se and high visibility cases, the role of staff, and automation that supports case management. The manual, which was produced in response to the Civil Justice Reform Act of 1990, is based on the experiences of federal district and magistrate judges and reflects techniques they have developed. It was prepared under the direction of the Judicial Conference Committee on Court Administration and Case Management, with substantial contributions from the Administrative Office of the U.S. Courts and the Federal Judicial Center, and was approved by the Judicial Conference in March 2001.

**The Use of Visiting Judges in the Federal District Courts: A Guide for Judges and Court Personnel**

Jennifer Evans Marsh

2001, 67 pages

At the request of the Judicial Conference Judicial Officers Resources Working Group the Center developed this guide to help courts create visiting judge programs and to provide practical suggestions to visiting judges.

**Use of Expert Testimony, Specialized Decision Makers, and Case-Management Innovations in the National Vaccine Injury Compensation Program**

Molly Treadway Johnson, Carol E. Drew & Dean P. Miletich

1998, 60 pages

A report on the Center's study of the vaccine injury program. The report examines why the program was created, its implementation, the filing and termination rates over its course, and participants' views of the program. The authors also discuss whether the program structure would be appropriate in other types of cases.

**Report to the Judicial Conference Committee on Court Administration and Case Management: A Study of the Five Demonstration Programs Established Under the Civil Justice Reform Act of 1990**

Donna Stienstra, Molly Johnson & Patricia Lombard

1997, 401 pages

Report on the programs adopted by districts designated as demonstration districts by the Civil Justice Reform Act. Includes a list of issues to address in designing a mediation program.

**The Civil Justice Reform Act Expense and Delay Reduction Plans: A Sourcebook**

David Rauma & Donna Stienstra

1995, 361 pages

An overview of the U.S. district courts' Civil Justice Reform Act expense and delay reduction plans. Seventeen tables summarize the courts' civil case management procedures and techniques in terms of common elements, such as service of process, motions, and alternative dispute resolution.

**The Analysis and Decision of Summary Judgment Motions: A Monograph on Rule 56 of the Federal Rules of Civil Procedure**

William W Schwarzer, Alan Hirsch & David Barrans

1991, 98 pages

The authors suggest ways of thinking about summary judgment that can help judges and lawyers make more effective use of the rule as a vehicle to reach the objectives of Federal Rule of Civil Procedure 1: the just, speedy, and inexpensive resolution of litigation. (The monograph is available at 139 F.R.D. 441.)

**Use of Rule 12(b)(6) in Two Federal District Courts**

Thomas E. Willging

1989, 19 pages (available on WESTLAW)

Federal Rule of Civil Procedure 12(b)(6) allows the defense of "failure [of a complaint] to state a claim upon which relief can be granted." The Center conducted the study at the request of the Advisory Committee on Civil Rules of the Judicial Conference of the United States and its reporter, Professor Paul Carrington. After considering the data in the paper at its April 1989 meeting, the Advisory Committee decided not to change Rule 12(b)(6).

### **Summary Judgment Practice in Three District Courts**

Joe S. Cecil & C. R. Douglas

1987, 13 pages (available on WESTLAW)

A review of data indicating a decline in the percentage of cases disposed of by summary judgment from 1975 to 1986. The report also notes, however, a renewed interest in the use of this procedure, the standards for which have been clarified by several Supreme Court decisions.

### **Protracted Civil Trials: Views from the Bench and the Bar**

Gordon Bermant, Joe S. Cecil, Alan J. Chaset, E. Allan Lind & Patricia A. Lombard

1981, 93 pages (available on WESTLAW)

A report on the nature and management of long, complex civil trials, based on interviews with sixty-eight experienced judges and lawyers. The report highlights facts and opinions about the role of juries in protracted trials. It also demonstrates that there are complicated trade-offs to be considered in weighing the relative advantages of bench trials and jury trials for protracted cases.

### **Judicial Controls and the Civil Litigative Process: Motions**

Paul R. J. Connolly & Patricia A. Lombard

1980, 76 pages

An investigation of variations in motion management procedures in civil litigation, based on data from more than 3,000 cases in six district courts. The report classifies courts by motions-day procedures and extent of opinion drafting and analyzes the written-submissions and oral-proceedings tracks for motion management.

### **Case Management and Court Management in United States District Courts**

Steven Flanders

1977, 153 pages

An oft-cited analysis of the differences between court management procedures resulting in fast versus slow processing and those resulting in high versus low rates of disposition. Alternative procedures are examined and recommended.

*see also* **CALENDARS AND CALENDARING; COMPLEX LITIGATION;  
DISCOVERY AND DISCLOSURE; EVIDENCE; EXPERT WITNESSES; JURY  
INSTRUCTIONS; JURY SELECTION AND UTILIZATION**

## **CASELOADS AND CASE WEIGHTS**

### **Stalking the Increase in the Rate of Federal Civil Appeals**

Carol Krafka, Joe S. Cecil & Patricia Lombard

1995, 32 pages

A report that examines sources of increases in federal civil appeals and the suggestion that these increases are caused by an increased proclivity to appeal lower court decisions. The report concludes that the increase in civil appeals has resulted mainly from the increased volume of litigation in the district courts. The growth in appellate caseloads has been principally attributable to increasing rates of appeal in prisoner actions and, to a lesser extent, civil rights cases. No evidence of an across-the-board increase in the likelihood of appeal was detected.

### **A Day in the Life: The Federal Judicial Center's 1988–1989 Bankruptcy Court Time Study**

Gordon Bermant, Patricia A. Lombard & Elizabeth C. Wiggins

65 American Bankruptcy Law Journal 491 (1991)

At the request of the Judicial Conference Committee on the Administration of the Bankruptcy System, during fiscal year 1989, the Center surveyed the caseloads of 272 bankruptcy judges (97% of those sitting at the time). The data collected in the survey formed the basis of seventeen case weights, which are the average amounts of time bankruptcy judges spent on the matters that came before them. The Administrative Office of the U.S. Courts uses the case weights to calculate weighted caseloads for each bankruptcy court, and the Judicial Conference uses this information as a major factor in assessing the need for bankruptcy judgeships.

**The Caseload Experiences of the District Courts from 1972 to 1983: A Preliminary Analysis**

Barbara Stone Meierhoefer & Eric V. Armen  
1985, 20 pages

An analysis of the appropriateness of using 400 weighted filings per judge as the touchstone for recommending the creation of new district judgeships. Through statistical comparisons of various single-year filing cutoff points, the authors examine how the district courts have handled their pending caseloads. The report concludes that, although important, the single-year filing levels are imperfect predictors of caseload behavior and that other variables need to be considered.

**The 1981 Bankruptcy Court Time Study**

John E. Shapard  
1982, 107 pages

This study, done at the request of the Bankruptcy Division of the Administrative Office, is an analysis of the caseload burdens of bankruptcy judges, using a refinement of the time study method developed in the 1979 district court time study. The report describes in detail what was then a new methodology and explains how to use case weights to produce weighted caseload measurements. (This methodology was further refined to produce *A Day in the Life: The Federal Judicial Center's 1988-1989 Bankruptcy Court Time Study*, which is described on page 10.)

**District Court Caseload Forecasting: An Executive Summary**

1975, 56 pages

A summary of the first phase of the Center's project to develop a caseload forecasting model. The study concludes that indicator-based forecasts can and should be used to help allocate district court resources.

**CATALOGS**

**Catalog of Audiovisual Media Productions**

1999, 165 pages

A catalog of educational programs on audiocassette, videocassette, and computer disk available for circulation to federal court personnel. The media programs include audio recordings of presentations made at Center seminars and workshops, videotaped lectures and other video programs produced by the Center, and commercially produced films and cassettes that address a range of legal, managerial, supervisory, and other topics.

**CIRCUIT AND DISTRICT EXECUTIVES**

**The First Decade of the Circuit Court Executive: An Evaluation**

John W. Macy, Jr.  
1985, 83 pages

A description of the evolution of the circuit executive position. The author, a longtime federal personnel executive and observer, considered the extent to which expectations for the executives' role in the administration of justice was realized and offered recommendations for further development of that role.

**The District Court Executive Pilot Program: A Report on the Preliminary Experience in Five Federal Courts**

William B. Eldridge  
1984, 28 pages

A discussion of the roles and responsibilities of the position of district court executive as implemented in the mid-1980s in five pilot courts. The paper focused on the patterns that emerged from a discussion by chief judges and executives of the pilot districts.

### **The Impact of the Circuit Executive Act**

John T. McDermott & Steven Flanders

1979, 269 pages

An early report on a study of the role and functions of circuit executives. The authors describe the birth of the circuit executive concept and its legislative history, assess the impact of circuit executives on federal judicial administration and provide a systematic review of the strong and weak points of the various circuits' experiences under the Circuit Executive Act.

*see also* **COURT GOVERNANCE AND ADMINISTRATION**

## **CIVIL RIGHTS LITIGATION**

### **Section 1983 Litigation**

Karen M. Blum & Kathryn R. Urbonya

1998, 127 pages

A summary of the legal principles governing litigation under 42 U.S.C. § 1983, the statute for redressing constitutional and federal statutory violations. This monograph includes pertinent cases from the 1997–1998 Supreme Court term.

## **CLASS ACTION LITIGATION**

### **An Empirical Study of Class Actions in Four Federal District Courts: Final Report to the Advisory Committee on Civil Rules**

Thomas E. Willging, Laural L. Hooper & Robert J. Niemic

1996, 200 pages

A study conducted by the Center to provide the Judicial Conference Advisory Committee on Civil Rules with systematic, empirical information about how Federal Rule of Civil Procedure 23 operates. The study addressed many questions about the day-to-day administration of Rule 23 in the types of class actions that are ordinarily filed in the federal courts. The report presents empirical data on all class actions terminated between July 1, 1992, and June 30, 1994, in four federal district courts, and it discusses many of the issues in the continuing debate about class actions.

*see also* **MASS TORTS**

## **COMPLEX LITIGATION**

### **Manual for Complex Litigation, Third**

1995, 568 pages (available on WESTLAW)

The successor to the *Manual for Complex Litigation, Second*, this work describes procedures that trial judges have found to be successful in managing complex cases. It also analyzes practices that have caused difficulties. It includes a number of forms that have been used by U.S. district judges. (Free distribution from the Center to federal judicial personnel only. A number of private publishers and the Government Printing Office reprint it for sale to the public.)

*see also* **CASE MANAGEMENT—CIVIL; JURY INSTRUCTIONS; JURY SELECTION AND UTILIZATION; MASS TORTS; SPECIAL MASTERS**

## **COURT GOVERNANCE AND MANAGEMENT**

### **Template for Chief Circuit Judges' Deskbooks**

2001, 27 pages (available on-line only)

In response to requests from chief judges and as a follow-up to a 2000 conference for appellate judges, the Center developed this common template that each circuit could use to develop its own deskbook for chief judges. It provides a comprehensive list of activities that chief judges and others undertake pursuant to statute, to Judicial Conference policies, or simply because of the imperatives of administering a circuit. The template is available only in electronic form at [www.fjc.gov](http://www.fjc.gov) (and on the courts intranet at [jnet.fjc.dcn](http://jnet.fjc.dcn)).

### **Deskbook for Chief Judges of U.S. District Courts, Second Edition**

1993, 128 pages

A detailed reference for chief judges of federal district courts. The *Deskbook* describes the position of chief judges within the system of federal judicial administration as well as their specific roles and responsibilities with respect to national and regional bodies of judicial administration; other judges, officers, and employees of the district court; various functions of the court; and external groups such as the bar, media, and public. Includes citations to statutory requirements and Judicial Conference and Administrative Office policies. A revised edition, to be published in 2002, contains a new chapter on leadership.

### **Origins of the Elements of Federal Court Governance**

Russell R. Wheeler

1992, 23 pages

A brief description of the history and evolution of the major elements—agencies, offices, organizations, positions (such as chief judge), and entities (such as a circuit)—of federal court governance. The author treats these elements through an index, a brief chronology, descriptions of the major factors involved in their creation, and a bibliography.

### **Administration of Justice in a Large Appellate Court: The Ninth Circuit Innovations Project**

Joe S. Cecil

1985, 167 pages

A description of a series of innovations adopted by the Ninth Circuit court of appeals from 1980 to 1982. The report outlines the court's Submission-Without-Argument and Prebriefing Conference programs and its modifications in the calendaring of oral arguments, and it reviews the effects of these innovations on case processing and the circuit's workload.

### **Administering the Federal Judicial Circuits: A Survey of Chief Judges' Approaches and Procedures**

Russell R. Wheeler & Charles W. Nihan

1982, 59 pages

A description of how chief judges of the federal appellate courts discharged their administrative responsibilities in the early 1980s, based on interviews with chief judges, circuit executives, and other court personnel. The report discusses current trends in circuit administration and offers suggestions for how the chief judge's administrative role might be strengthened.

### **Administrative Structures in Large District Courts**

Philip L. Dubois

1981, 79 pages

An early comparative analysis of management styles in the fifteen metropolitan district courts. The report is based on personal interviews with chief judges, clerks of court, and other judges and circuit personnel. It describes the many administrative tasks courts face and the various arrangements they have devised to perform those tasks.

### **Operation of the Federal Judicial Councils**

Steven Flanders & John T. McDermott

1978, 108 pages

An analysis of the creation and history of the councils, and an evaluation of the operation of the federal judicial councils before the 1980 statutory change. The authors assess the effectiveness of the guidelines for council activity that the Judicial Conference of the United States promulgated in 1974.

*see also* **CIRCUIT AND DISTRICT EXECUTIVES; JUDGES AND THE JUDICIARY;  
JURY INSTRUCTIONS; JURY SELECTION AND UTILIZATION;  
OPINION WRITING AND LEGAL WRITING**

## **COURT REPORTERS AND REPORTING**

### **Digital Audio Recording Technology: A Report on a Pilot Project in Twelve Federal Courts**

Donna Stienstra, Patricia Lombard, David Rauma & George Cort

1999, 174 pages

This report, prepared at the request of the Court Administration and Case Management Committee of the Judicial Conference, summarizes findings from a study of digital audio recording technology as it was used to take the record of court proceedings in six district and six bankruptcy courts.

### **A Comparative Evaluation of Stenographic and Audiotape Methods for United States District Court Reporting**

J. Michael Greenwood, Julie Horney, M.-Daniel Jacobovitch, Frances B.

Lowenstein & Russell R. Wheeler

1983, 222 pages

A report on the results of research undertaken in response to section 401 of the Federal Courts Improvement Act of 1982, which directs the Judicial Conference of the United States to “experiment with the different methods of recording court proceedings.” The study evaluated the performance of audio recording systems placed in twelve courtrooms in ten circuits.

## **CRIMINAL LAW AND PROCEDURE**

### **Manual on Recurring Problems in Criminal Trials, Fifth Edition**

Donald S. Voorhees (Genevra Kay Loveland, ed.)

2001, 178 pages

The fifth edition of the late Judge Voorhees’s guide to the law governing many of the procedural matters that arise in criminal trials. The material has been updated to include cases decided during the Supreme Court’s 2000–2001 term and U.S. Court of Appeals cases reported through 212 F.3d 306. Among the topics covered are jury-related problems, evidentiary issues, civil and criminal contempt, the Fifth Amendment, confessions, and severance of defendants.

### **The Bail Reform Act of 1984, Second Edition**

1993, 88 pages

A summary of appellate court decisions (with the exception of standards of review) interpreting provisions of the Bail Reform Act from October 12, 1984, the act’s effective date, to April 15, 1993.

*see also* **CAPITAL CASE LITIGATION; PROBATION AND PRETRIAL SERVICES;  
SENTENCING; SPEEDY TRIAL**



## **DESK REFERENCES FOR JUDGES AND SUPPORT STAFF**

### **Benchbook for U.S. District Court Judges, Fourth Edition**

March 2000 revision, 244 pages

An ongoing compilation of information that federal judges have found useful for immediate bench or chambers reference. The Benchbook contains sections on such topics as assignment of counsel, taking guilty pleas, sentencing, standard voir dire questions, and death penalty cases. It is prepared under the guidance of experienced district judges and is produced in loose-leaf format for easy supplementation.

### **Conducting Job Interviews: A Guide for Federal Judges**

1999, 29 pages

This guide describes an interviewing process that is simple, effective, and fair and gives examples of questions to help determine whether job candidates have the knowledge, skills, and abilities necessary for the position. The guide may be helpful to judges as they select law clerks, and to chief judges and other judges who are in the process of selecting unit executives.

### **Chambers Handbook for Judges' Law Clerks and Secretaries**

1994, 184 pages

A handbook that provides an overview of chambers operations and the work of the federal courts. It deals with the following tasks and areas of concern for judges' law clerks and secretaries: conduct, ethics, and protocol; basic analysis of litigation; court governance and administration; chambers and case management; relations with other court and justice system personnel; and legal research and writing.

## **DISCOVERY AND DISCLOSURE**

### **Discovery and Disclosure Practice, Problems, and Proposals for Change: A Case-based National Survey of Counsel in Closed Federal Civil Cases.**

Thomas E. Willging, John Shapard, Donna Stienstra & Dean P. Miletich  
1997, 75 pages

At the request of the Advisory Committee on Civil Rules, the Center conducted a study of the discovery process, examining the extent to which discovery is used, the frequency and nature of problems in discovery, the impact of the 1993 amendments, and whether additional rule changes are needed.

### **Attorneys' Views of Local Rules Limiting Interrogatories**

John Shapard & Carroll Seron  
1986, 31 pages

The results of a survey of practicing attorneys in twelve districts concerning their experience with district court rules that limit the number of interrogatories one party may serve on another without leave of court to serve more.

### **Judicial Controls and the Civil Litigative Process: Discovery**

Paul R. Connolly, Edith A. Holleman & Michael J. Kuhlman  
1978, 126 pages

A description of the use of the discovery rules then in effect in a sample of more than 3,000 cases from six district courts. The report provides quantitative information on each discovery device and on discovery motions. The authors evaluate the relationship between the degree of judicial control and the time required for discovery and provide guidelines for judges to use in setting discovery time limits. This report is a product of the District Court Studies Project.

## **EMPLOYMENT DISCRIMINATION**

### **Major Issues in the Federal Law of Employment Discrimination, Third Edition**

George Rutherglen

1996, 157 pages

An examination of the substantive and procedural provisions of Title VII of the Civil Rights Act of 1964. This third edition discusses developments in the law through December 31, 1995, including changes resulting from the Civil Rights Act of 1991 and the Americans with Disabilities Act of 1990. It covers such issues as claims of disparate treatment and disparate impact, affirmative action, and discrimination on the basis of sex, national origin, and religion. Other federal remedies for employment discrimination are also discussed. A bibliography of works the author considers most useful to judges and lawyers in the field is included.

## **EVIDENCE**

### **Case Law Divergence from the Federal Rules of Evidence**

Daniel J. Capra

2000, 26 pages

At the request of the Advisory Committee on Evidence Rules, Professor Daniel Capra, committee reporter, highlights the major instances in which case law has diverged from an applicable Rule. This report is reprinted at 197 Federal Rules Decisions 531.

### **Reference Manual on Scientific Evidence, Second Edition**

2000, 647 pages (available on WESTLAW)

A reference to assist judges in managing expert evidence in cases involving issues of science or technology. The manual discusses the management and admissibility of expert evidence, and contains a series of reference guides on particular areas of expert testimony such as statistics, epidemiology, toxicology, and DNA evidence. The Center distributes the manual free to the federal judiciary. The public may purchase copies from LRP Publications (1-800-341-7874 x307), Matthew Bender Publishing Co. (1-800-833-9844), or West Group (1-800-344-5009).

### **Advisory Committee Notes to the Federal Rules of Evidence That May Require Clarification**

Daniel J. Capra

1998, 48 pages

At the request of the Advisory Committee on Evidence Rules, Professor Daniel Capra, committee reporter, listed instances where Congress either rejected or substantially changed rules before passage, thus rendering advisory committee notes possibly confusing. He provides an introduction and a rule-by-rule commentary on these discrepancies.

*see also* **EXPERT WITNESSES**

## **EXPERIMENTATION AND INNOVATION IN THE LAW**

### **Experimentation in the Law: Report of the Federal Judicial Center Advisory Committee on Experimentation in the Law**

1981, 134 pages (available on WESTLAW)

The committee examined the ethical and legal problems posed by experimentation with innovative programs and procedures in the justice system. The report offers guidance to justice system administrators to help ensure that needed experimentation is pursued in a manner commensurate with fundamental ideals of the system of justice. The report presents a comprehensive approach to addressing the need for experimentation as a means for improving the operation of the justice system and describes the ethical and legal constraints on such experimentation.

*see also* **ALTERNATIVE DISPUTE RESOLUTION; AUTOMATION, COMPUTERS, AND TECHNOLOGY; CASE MANAGEMENT (APPELLATE AND CIVIL)**

## EXPERT WITNESSES

### **Neutral Science Panels: Two Examples of Panels of Court-Appointed Experts in the Breast Implants Product Liability Litigation**

Laural L. Hooper, Joe S. Cecil & Thomas E. Willging  
2001, 104 pages

This report to the Judicial Conference Committee on Court Administration and Case Management describes two different types of independent panels used in the silicone gel breast implants litigation. The use of such panels of appointed experts represents a marked departure from the traditional means of presenting and considering testimony. This report describes these expert panels in sufficient detail to permit others to understand the procedures that were used, the benefits that resulted, and the problems that arose.

### **Expert Testimony in Federal Civil Trials: A Preliminary Analysis**

Molly Treadway Johnson, Carol Krafka & Joe S. Cecil  
2000, 8 pages

This report describes the results of a 1998 Federal Judicial Center survey of federal judges about their experiences with expert testimony in civil cases. Judges answered specific questions about their most recent relevant civil trial, as well as questions drawing on their overall experience with expert testimony in civil cases. The Center conducted a similar survey of judges in 1991, shortly before the Supreme Court issued a ruling in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993). Preliminary analysis of the aggregated data has focused on (1) comparing judges' experiences with expert testimony before and after *Daubert* and (2) exploring the current concerns of judges regarding expert testimony in civil cases. A final report of the results from the 1998 and a 1999 survey will be published in *Psychology, Public Policy and Law*.

### **Court-Appointed Experts: Defining the Role of Experts Appointed Under Federal Rule of Evidence 706**

Joe S. Cecil & Thomas E. Willging  
1993, 108 pages

A study of why judges rarely appoint experts under Rule 706. In discussing this issue with judges, the authors learned of techniques and procedures that may aid judges when considering whether to appoint an expert or when managing an expert who has been appointed.

### **Court-Appointed Experts**

Thomas E. Willging  
1986, 25 pages (available on WESTLAW)

A description of the appointment of expert witnesses under Federal Rule of Evidence 706. The report discusses procedures for appointing an expert and for payment of the costs.

*see also* **EVIDENCE**

## FEDERAL JUDICIAL CENTER

### **Annual Reports, 1969–2001**

Reports submitted to the Judicial Conference of the United States, as directed by statute, describing the work of the Center each year. (Reports for years before 1980 are available only on a loan basis.)

### **FJC Directions (1991–1996)**

A magazine that reports Center research and education activities in a concise format. Ceased publication with issue number 9.

**Empirical Research and the Politics of Judicial Administration: Creating the Federal Judicial Center**

Russell R. Wheeler

51 Law & Contemporary Problems 31 (Summer 1988)

Analyzes the creation of the Federal Judicial Center with respect to the twentieth-century evolution of court administration and research and describes how the statute creating the Center was affected by the interests of judges and legislators.

*see also* **RULES—FEDERAL RULEMAKING**

**FEDERAL JUDICIAL SYSTEM**

**Federal Court Governance: Why Congress Should—and Why Congress Should Not—Create a Full-Time Executive Judge, Abolish the Judicial Conference, and Remove Circuit Judges from District Court Governance**

Russell R. Wheeler & Gordon Bermant

1994, 128 pages

An analysis of the pros and cons of alternative schemes for the governance of the federal courts. The scheme draws on proposals of various judges and other observers and includes the elements suggested in the title, among others. A “coda” discusses other more modest proposals for change in the governance structure. The paper’s purpose is not to advocate any particular proposals, but to stimulate and inform discussion of issues of governance.

**FEDERAL JURISDICTION**

**Conference on Assessing the Effects of Legislation on the Workload of the Courts: Papers and Proceedings**

A. Fletcher Mangum, ed.

1995, 173 pages

A record of the papers and proceedings of a conference the Center hosted in April 1993. The purpose of the conference was to facilitate efforts in judicial impact assessment by providing a forum where individuals with a shared interest in this area could exchange information and ideas. Panelists included state and federal judges, congressional staff, academics, and staff from the administrative offices of the state and federal courts, the National Center for State Courts, the U.S. General Accounting Office, the Brookings Institution, and the Center.

**A Primer on the Jurisdiction of the U.S. Courts of Appeals**

Thomas E. Baker

1989, 100 pages (available on WESTLAW)

A brief introduction to the statutory law, case law, and rules of court governing the U.S. courts of appeals. The author traces the appeals process and analyzes jurisdictional requirements for final and interlocutory appeals, criminal appeals, review by writ, and agency appeals. He provides an annotated bibliography.

**The Budgetary Impact of Possible Changes in Diversity Jurisdiction**

Anthony Partridge

1988, 58 pages (available on WESTLAW)

A report that estimates the budgetary impact of the 1988 amendments to diversity-of-citizenship jurisdiction and the potential impact as of 1988, of other proposals. The report presents a method for estimating the impact of changes in federal jurisdiction.

## FEDERALISM

### **On the Federalization of the Administration of Civil and Criminal Justice**

William W Schwarzer & Russell R. Wheeler

1994, 57 pages

An examination of some of the conflicting views and their underlying premises regarding federalization of the administration of justice, e.g., Does the Constitution dictate a limited role for the federal courts? Do the policy reasons underlying federalism argue for a restricted role? Does expanded jurisdiction subvert the appropriate role of the federal courts or threaten their quality and competence? Is there a principled basis for defining the federal courts' role? A concluding section notes that more practical considerations may be available to guide legislators and policy makers in preserving the unique role of the federal courts consistent with national interests.

### **Judicial Federalism in Action: Coordination of Litigation in State and Federal Courts**

William W Schwarzer, Nancy E. Weiss & Alan Hirsch

78 Virginia Law Review 1689 (1992)

A paper that describes how some state and federal judges have coordinated complex litigation pending in their courts. It recounts various arrangements the judges used to address problems presented by related multiforum litigation and considers the circumstances under which coordination is likely to be successful. The paper also addresses federalism concerns that may arise when state and federal judges coordinate litigation.

*see also* **STATE-FEDERAL JUDICIAL RELATIONSHIPS**

## HISTORY

### **Order in the Courts: A History of the Federal Court Clerk's Office**

I. Scott Messinger

2002

A chronological study of the development of the clerk's office as an institution from its creation by Congress in 1789 to the present. The report uses legislative material and other primary sources to describe the changing nature of the clerks' duties over the course of American history. The report also describes and explains the transformation of the clerks from relatively autonomous office-holders who earned their livings from the fees that their offices could generate to salaried employees of a federal judicial bureaucracy whose work was, and is, subject to a significant amount of oversight by various agencies of the government. The study emphasizes the clerks' contributions to judicial administration on a national level, but it provides a framework within which others can reconstruct the role of clerks in individual courts.

### **Directory of Manuscript Collections Related to Federal Judges, 1789-1997**

Federal Judicial History Office

1998, 262 pages

A comprehensive guide to manuscript collections related to federal appellate and district judges and Supreme Court justices. The directory provides locations and descriptions of the contents of manuscript holdings in libraries and other public institutions.

### **A Guide to the Preservation of Federal Judges' Papers**

Federal Judicial History Office

1996, 83 pages

A publication that discusses the importance of federal judges' papers as a documentary record of judges' careers and the work of the federal courts. The guide describes how students of the federal courts use judges' papers and offers guidelines for judges' selection of a repository to house a collection. The guide also offers recommendations for the management of documents in chambers.

### **Creating the Federal Judicial System, Second Edition**

Russell R. Wheeler & Cynthia Harrison

1994, 36 pages

The authors explain the provisions of the 1789 Judiciary Act and the compromises the Act embodies, review the evolution of the federal judicial system during the nineteenth century, and analyze the conditions and debates that led to the passage of the Evarts Act in 1891, which established the three-tiered system that characterizes federal court structure today. The publication includes twelve maps that illustrate the growth and evolution of the districts and circuits from 1789 to the present.

## **INTELLECTUAL PROPERTY**

### **Patent Law & Practice, Third Edition**

Herbert F. Schwartz

2001, 277 pages

An overview of U.S. patent law and practice. The author describes the patent application process and discusses defenses to and remedies for patent infringement, providing examples from case law. He also examines the impact of juries on patent litigation and considers ways in which a court can manage patent jury trials. The Center provides this publication free to the federal judiciary by arrangement with the Bureau of National Affairs and the author. The public may purchase copies from the Bureau of National Affairs.

### **Copyright Law**

Robert A. Gorman

1991, 156 pages

A concise overview of the law of copyright from its origins in the English common law through recent Supreme Court cases, designed to provide judges with a grounding in the essential concepts and statutory and case law in this specialized area. The author covers the duration and renewal of copyright, ownership of copyright, and copyright formalities, as well as jurisdictional and procedural issues and the preemption of state law by federal copyright statutes. He explains the changes brought about by the Copyright Act of 1976 and its 1989 and 1990 amendments, and he covers developments in case law through June 1991.

## **INTERNATIONAL AND FOREIGN LAW**

### **International Insolvency**

Samuel Bufford, Louise DeCarl Adler, Sidney Brooks & Marcia Krieger

2001, 170 pages

A monograph on the law governing insolvency cases with transnational dimensions. It was written by four bankruptcy judges: Samuel Bufford, Louise DeCarl Adler, Sidney Brooks, and Marcia Krieger, who are all members of the International Law Relations Committee of the National Conference of Bankruptcy Judges. The monograph summarizes the statutory and caselaw authority on international insolvency and covers all aspects of the insolvency process, including distribution of assets, notice, ancillary proceedings, and venue. It explains the theories of universality and territoriality, principles of comity, and conflict of laws, and discusses international conventions, including the North American Free Trade Agreement, the Cross-Border Insolvency Concordat, the UNCITRAL Model Law on Cross-Border Insolvency, and the European Union Regulation on Insolvency Proceedings.

### **A Primer on the Civil-Law System**

James G. Apple & Robert P. Deyling

1995, 70 pages

An overview for judges and lawyers who want to expand their knowledge of the civil-law tradition. The authors discuss the history of the civil-law system, beginning with the Roman Empire. References are made to the civil-law systems of France, Germany, Chile, and Brazil because of their strong influence on many other systems. The authors review the basic features of the modern-day civil-law tradition and compare the civil-law and common-law systems.

## **JUDGES AND THE JUDICIARY**

### **Planning for the Future: Results of a 1992 Federal Judicial Center Survey of United States Judges**

1994, 110 pages

Results from the Center's 1992 survey of nearly all federal judges on a wide range of issues of concern to the federal courts. The survey was conducted primarily to inform the deliberations of the Judicial Conference Committee on Long Range Planning and to inform the Center's congressionally mandated study of structural alternatives for the courts of appeals. (Results of that study were published in 1993 in *Structural and Other Alternatives for the Federal Courts of Appeals*; see page 4.)

### **Imposing a Moratorium on the Number of Federal Judges: Analysis of Arguments and Implications**

Gordon Bermant, William W Schwarzer, Edward Sussman & Russell R. Wheeler  
1993, 66 pages

An analysis of the arguments for and against imposing a cap on the number of federal district and circuit judgeships. The authors also discuss the arguments for "slow growth" and for a steep and immediate growth in the number of judgeships, proposals that have been put forth by various commentators.

### **Why Judges Resign: Influences on Federal Judicial Service, 1789 to 1992**

Emily Field Van Tassel

1993, 142 pages

Provides a historical perspective on the reasons federal judges have left the bench. The study focuses on the fewer than 200 judges who, over the last 200 years, resigned from the bench for stated reasons other than age or health. The Center prepared the study for the National Commission on Judicial Discipline and Removal.

### **The Federal Appellate Judiciary in the Twenty-first Century**

Cynthia Harrison (ed.)

1989, 277 pages

A collection of essays by scholars and jurists on the future of the federal appeals courts. The essays are based on presentations given at a conference for the appellate judiciary held in Washington, D.C., in October 1988.

### **Judicial Sabbaticals**

Ira P. Robbins

1987, 75 pages (available on WESTLAW)

Examines the possible use of sabbatical leave for federal judges as a means of improving judges' morale, reducing their job-related stress, and reducing attrition in their ranks. The author sets out the history of sabbaticals in other fields and discusses the value of such leave for those, like judges, in high-stress occupations.

### **Your Honor**

Edward J. Devitt

1986, 14 pages

A paper about the responsibilities of being a federal judge, based on an address given at several Center seminars for newly appointed district judges.

### **Disqualification of Federal Judges by Peremptory Challenge**

Alan J. Chaset

1981, 82 pages (available on WESTLAW)

An analysis of statutory procedures proposed in the early 1980s, and which continue to arise, that would allow federal litigants to challenge, on a peremptory basis, the federal judge or magistrate judge assigned to their case. Prepared at the request of the Judicial Conference Advisory Committee on Criminal Rules, the report discusses the proposals that have been offered on the federal level, analyzes the procedures then in effect in seventeen state court systems, and considers the possible administrative consequences of a federal peremptory challenge procedure.

### **Judgeship Creation in the Federal Courts: Options for Reform**

Carl Baar

1981, 49 pages

An early review of various procedures used by state legislatures and judiciaries to create judgeships. In light of those procedures, the author analyzes the federal judgeship creation process and suggests alternatives to it. These alternatives involve delegation to the federal judiciary of some portion of the judgeship creation authority, with appropriate checks to ensure judicial accountability and legislative control.

## **JUDICIAL CONDUCT AND DISABILITY**

### **Decentralized Self-Regulation, Accountability, and Judicial Independence Under the Federal Judicial Conduct and Disability Act of 1980**

Jeffrey N. Barr & Thomas E. Willging

142 *University of Pennsylvania Law Review* 1994 (180 pages)

A report prepared for the National Commission on Judicial Discipline and Removal. The report is in three parts: (1) a description of the appellate courts' processes for handling conduct and disability matters; (2) a discussion of data on the effects of the Act that the authors collected from interviewing chief circuit judges, circuit executives, and clerks of court, reviewing complaints and orders, and examining statistical data from the Administrative Office; and (3) a summary of chief circuit judges' assessments of the value of the Act and suggestions for change.

### **Judicial Discipline and Removal in the United States**

Russell R. Wheeler & A. Leo Levin

1979, 76 pages (available on WESTLAW)

An early review of the origins and development of various formal and informal means of dealing with judicial unfitness in the state and federal courts, with emphasis on the "commission" system. The authors evaluate various disciplinary mechanisms according to such criteria as effectiveness and protection of judicial independence, and they discuss proposed judicial discipline legislation, prior to enactment of the Judicial Conduct and Disability Act of 1980.

## **JUDICIAL ETHICS**

### **Maintaining the Public Trust: Ethics for Federal Judicial Law Clerks**

2002, 24 pages

The Center, in cooperation with the Judicial Conference Committee on Codes of Conduct and the Administrative Office of the U.S. Courts, prepared this pamphlet to help new law clerks recognize ethical issues and apply appropriate ethical standards. The pamphlet covers confidentiality; conflicts of interest; outside legal activities; dealings with prospective employers; outside professional, social, and community activities; receipt of gifts and honoraria; and political activity. It includes an ethics checklist for clerks to review with their judges at the start of their clerkships.

### **Recusal: An Analysis of Case Law Under 28 U.S.C. § 455 and 144**

2002

This monograph offers a synthesis and analysis of the case law under 28 U.S.C. § 455 and 144 to assist judges in ruling on recusal. After providing a history of § 455, the monograph identifies the core principles and recurring issues in the voluminous case law and examines, in representative cases, how the courts of appeals have applied these principles. The monograph also covers the application of § 144 and § 47, and goes into detail on issues such as timeliness of motions, recusal in bench trials, standing, and the Rule of Necessity.



## **JURY INSTRUCTIONS**

### **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**

1987, 172 pages

A collection of jury instructions covering the elements of common federal offenses as well as such matters as preliminary instructions, the definition of reasonable doubt, and evaluation of certain kinds of evidence. The instructions were written with comprehensibility to laypersons as a primary goal. Appendices written by Center staff include suggestions for drafters of jury instructions.

## **JURY SELECTION AND UTILIZATION**

### **Handbook on Jury Use in the Federal District Courts**

Jody George, Deirdre Golash & Russell R. Wheeler

1989, 93 pages (available on WESTLAW)

A manual that explains the basic concepts of administering federal juries. It describes statutory requirements, Judicial Conference policies, and various procedures used in the district courts. Although the handbook is intended primarily for jury staff, district judges who are assigned to serve as jury judges may find it informative.

### **Jury Service in Lengthy Civil Trials**

Joe S. Cecil, E. Allan Lind & Gordon Bermant

1987, 66 pages (available on WESTLAW)

A comparison of the demographic characteristics and trial experiences of jurors who served in lengthy civil trials with those of jurors who served in similar trials of shorter duration. In general, jurors in long trials were found to be less burdened by the demands of such trials than the authors expected.

### **Jury Selection Procedures in United States District Courts**

Gordon Bermant

1982, 60 pages (available on WESTLAW)

A manual for judges on conducting voir dire and juror challenges. It is based on descriptions provided by six federal district judges of their individual voir dire procedures and on observations of voir dire in practice. It offers recommendations for the conduct of the voir dire examination and juror challenges. Appendices to the report include juror qualification forms and standard voir dire questions.

### **The Voir Dire Examination, Juror Challenges, and Adversary Advocacy**

Gordon Bermant & John Shapard

1978, 50 pages (available on WESTLAW)

A broad review of the legal and psychological issues presented by the voir dire examination and subsequent challenges of prospective jurors. The discussion is organized under four headings: interests, criteria, parameters, and methodology. An edited version of the paper is contained in *The Trial Process* (B. D. Sales ed., Plenum 1981).

## **LONG RANGE PLANNING**

### **Long-Range Planning for Circuit Councils: Speeches Presented at the Meeting of the Judicial Council of the Ninth Circuit, May 1992**

J. Clifford Wallace, Otto R. Skopil, Jr., William W. Schwarzer, Charles W. Nihan & Russell R. Wheeler

1992, 52 pages

Five articles on long-range planning adapted from papers presented at the Ninth Circuit's Judicial Council meeting. The first article, "The Future of the Judicial Council of the Ninth Circuit—Until 1939," is an overview of the historical background to the formation of the council. The remaining four outline the importance of long-range planning for the Ninth Circuit and the rest of the U.S. court system.

## **MASS TORTS**

### **Case Studies of Mass Tort Limited Fund Class Action Settlements and Bankruptcy Reorganizations**

S. Elizabeth Gibson

2000, 244 pages

This is an expanded version of a report that was previously published as Appendix E of the Report of the Mass Torts Working Group. It evaluates the policy implications of the processes used in class actions and bankruptcies. It also offers suggestions for improving approaches to resolving tort claims against businesses that are approaching insolvency.

### **Individual Characteristics of Mass Torts Case Congregations: A report to the Mass Torts Working Group (Appendix D)**

Thomas E. Willging

1999, 113 pages (available on-line only)

This report, done for the Mass Torts Working Group, appointed in 1998 by the Chief Justice, organizes and presents information from published sources on about fifty sets of mass tort litigations involving personal injury and property damage claims. Information presented includes the shape of the litigation (e.g., individual, class action, consolidation, etc.), the number and type of parties, the dispersal of cases in the federal and state systems, the number and types of injuries alleged, the type of product involved and the evidence of its ability to cause the harm alleged, the extent of research and testing of the product, the length of any latency period, the extent of public exposure to the product, and the current status of the litigation. It is available at [www.fjc.gov](http://www.fjc.gov) (and on the courts' intranet at [jnet.fjc.dcn](http://jnet.fjc.dcn)).

### **Mass Torts Problems and Proposals: A report to the Mass Torts Working Group (Appendix C)**

Thomas E. Willging

1999, 126 pages (available on-line only)

The Mass Torts Working Group, appointed in 1998 by the Chief Justice, asked the Center to conduct a literature review examining problems related to mass torts and to discuss proposals for resolving those problems. This report is the result of that research. It identifies fourteen distinct problems and discusses a variety of case-management, legislative, and rule-making proposals to ameliorate those problems. It is available at 187 F.R.D. 328, or [www.fjc.gov](http://www.fjc.gov) (and on the courts' intranet at [jnet.fjc.dcn](http://jnet.fjc.dcn)).

### **Mass Tort Settlement Class Actions: Five Case Studies**

Jay Tidmarsh

1998, 100 pages

A monograph by Professor Jay Tidmarsh of Notre Dame Law School that examines five cases in which Fed. R. Civ. P. 23 was used to achieve settlement of a mass tort controversy.

### **FJC Directions, No. 8: Reports from the First National Mass Tort Conference**

July 1995

Four articles in this issue of *FJC Directions* are devoted to the November 1994 conference at which more than 175 federal and state judges gathered to analyze techniques for managing mass tort litigation.

### **Trends in Asbestos Litigation**

Thomas E. Willging

1987, 138 pages (available on WESTLAW)

A report, prepared as asbestos litigation was becoming a growing presence on federal dockets, based on an intensive study of ten federal district courts with heavy asbestos caseloads. The author examines both innovative and traditional methods of handling the asbestos caseload in the federal courts. He makes projections as to the expected future caseload and compares asbestos cases with other types of toxic tort litigation. Major topics include assignment systems, standard pretrial procedures, settlement, consolidation and other trial formats, and special burdens on judges and clerks.

### **Asbestos Case Management: Pretrial and Trial Procedures**

Thomas E. Willging

1985, 39 pages (available on WESTLAW)

A description of case-management procedures various courts used to facilitate prompt resolution in asbestos litigation. The report was based on a conference of federal judges, magistrate judges, and clerks. Among the methods described are use of standardized pretrial procedures to avoid duplication of effort, use of calendaring systems to establish firm and credible trial dates, and consolidation of cases for trial to conserve judicial time.

*see also* **COMPLEX LITIGATION; CLASS ACTION LITIGATION;  
EVIDENCE; EXPERT WITNESSES**

## **OPINION WRITING AND LEGAL WRITING**

### **Judicial Writing Manual**

1991, 41 pages

The Center has prepared this manual to help judges organize opinions and improve their opinion writing. Drawing on interviews with twenty-four experienced judges, and guided by a board of editors comprising judges, law professors, and writers, the manual offers advice on writing tailored to the needs of the federal judiciary.

### **Appellate Opinion Writing**

Edward D. Re

1975, 17 pages

A discussion of three aspects of opinion writing: preliminary considerations; the anatomy of the opinion; and peripheral matters such as citations, quotations, and the use of footnotes.

## **ORIENTATION FOR DISTRICT JUDGES**

### **Programs and Materials for New District Judges**

2000, 16 pages

A pamphlet describing programs and materials available to newly appointed district judges that supplement the Center's orientation programs. The outline is designed to assist courts in planning their in-court orientation and to help newly appointed judges find information for supplemental orientation.

## **PRISONER LITIGATION**

### **Resource Guide for Managing Prisoner Civil Rights Litigation with Special Emphasis on the Prison Litigation Reform Act**

1996, 172 pages

A resource for federal judges, pro se law clerks, and others in the courts who manage prisoner pro se litigation. The guide builds on an earlier Center report, *Recommended Procedures for Handling Prisoner Civil Rights Cases in the Federal Courts* (rev. 1980), while reflecting statutory changes and federal court experience in the sixteen years since that report was published. The guide describes provisions of the Prison Litigation Reform Act, enacted in April 1996, and how they are likely to affect widespread practices. Illustrative case-management forms are included in the appendix.

## **PRO SE LITIGATION**

### **FJC Directions, No. 9: Special Issue on Pro Se Litigation**

June 1996

Articles in this issue of *FJC Directions* describe federal courts' experiences with pro se actions. Included are an analysis of data from a Center study of nearly 60,000 pro se cases filed in ten district courts, a report on the District of Nevada's use of early case-evaluation telephonic hearings for prisoner pro se civil rights complaints, and discussions of developments in videoconferencing and other types of telecommunications for pretrial proceedings and trials.

## **PROBATION AND PRETRIAL SERVICES—OFFENDER POPULATIONS**

### **Special Needs Offenders Bulletin**

(available on-line only)

The Center has produced a series of bulletins on specific categories of offenders, which accompanied Federal Judicial Television Network (FJTN) broadcasts and are available at [www.fjc.gov](http://www.fjc.gov) (and on the courts' intranet at [jnet.fjc.dcn](http://jnet.fjc.dcn)). The public can purchase videotapes of these broadcasts from the National Technical Information Service at [www.NTIS.gov](http://www.NTIS.gov).

#### **No. 1: Street Gangs**

Dennise Orlando-Morningstar

August 1997, 16 pages

Provides national statistics on the number, membership, organization, and types of gangs and their impact on cities and police departments. Describes the relationship of gang membership and criminal activity, the intelligence-gathering role of federal law enforcement agencies, and federal law providing for the prosecution of individuals who have committed gang-related offenses. Also highlighted are why gangs exist and how to identify gang members.

#### **No. 2: Prison Gangs**

Dennise Orlando-Morningstar

October 1997, 12 pages

Describes security threat groups in U.S. prisons, gang alliances, prison gang organization, identifying markers, and gang activities outside prison. Also discussed are investigation and supervision, the intelligence-gathering role of federal law enforcement agencies, and BOP requirements for citation of gang membership in presentence and dispositional reports.

#### **No. 3: Sex Offenders**

Dennise Orlando-Morningstar

September 1998, 20 pages

Defines "sex offender," clinical definitions of paraphilia and pedophilia, sex offender characteristics, and sex offender treatment. It provides information on state sex offender registration and community notification laws. Treatment and supervision tools, risk assessment, investigation issues, conditions of supervision, and effectiveness of treatment are highlighted.

#### **No. 4: Reducing Risk through Employment and Education**

Mark Sherman

January 2000, 12 pages

Discusses the increasing number of defendants and offenders in the federal criminal justice system with limited job skills and education. It includes a supervision model for this population and highlights literacy and cognitive skills assessment, referral and coordination of services, and relevant BOP educational and employment programs. In-house job assistance and life-skills programs in federal districts, ways to overcome resistance to supervision, and ways of mitigating life skills-related conflict are discussed.

**No. 5: Introduction to Cyber Crime**

Mark Sherman

August 2000, 16 pages

Describes the challenges to the federal judiciary posed by cyber crime, answers the question “What is cyber crime?,” describes basic computer components, and contains a cyber crime sentencing job aid and cyber crime FAQs. Also included are suggested investigation questions, a matrix of conventional and cyber-specific supervision conditions, resources for technical assistance and training, and a glossary of cyber terminology.

**No. 6: White Collar Crime**

Mark Sherman

February 2001, 16 pages

Describes the challenges to the federal judiciary posed by complex white-collar crime. Explains what white-collar crime is and who commits it, characteristics of individual offenders, issues and tools for investigation and supervision, badges of fraud, organizational sentencing, supervision techniques, and resources for technical assistance. Job aids include questions for self-employed defendants and offenders, an investigation/supervision checklist, interviewing techniques, and tips for supervising complex organizations.

**No. 7: Women Offenders and Their Children**

Mark Sherman

September 2001, 19 pages

Describes investigation, sentencing, and supervision unique to federal women defendants and offenders — particularly those with young children. It provides statistics on women in the federal criminal justice system, including those under post-sentence supervision. Relevant sentencing guidelines, institutional recommendation by the court, special conditions, the effect of criminal activity on receipt of welfare benefits, and use of community resources are highlighted. Job aids include a checklist of special conditions considerations, a listing of BOP programs for female offenders, and a supervision planning checklist.

**PROBATION AND PRETRIAL SERVICES—OFFENDER POPULATIONS—SUBSTANCE ABUSE**

**The Impact of the Federal Drug Aftercare Program**

James B. Eaglin

1986, 119 pages

The findings of a study of supervision outcomes for a sample of 1,000 offenders who entered the aftercare program for drug-dependent federal offenders from July 1, 1982, to June 30, 1983. The report includes sixty-three tables of data from the study.

**A Process-Descriptive Study of the Drug Aftercare Program for Drug-Dependent Federal Offenders**

James B. Eaglin

1984, 124 pages

The preliminary report of the Center’s multiphase effort to document the effects of the Probation Division’s aftercare program for drug-dependent federal offenders. The author reviews the operation of the program in a sample of ten probation districts. He describes the program’s general approach; various characteristics of offenders in the program; services planned for and received by offenders; and adjustment experiences of offenders in aftercare, including resumed or continued drug use, new arrests and convictions, and technical violations.

## RESEARCH IN THE COURTS

### **Studying the Role of Gender in the Federal Courts: A Research Guide**

Molly Treadway Johnson

1995, 224 pages

A research guide on how to do social science research, how to avoid the common pitfalls of analyzing data in a policy-charged environment, and how to work with social scientists who might provide assistance to courts. Although its emphasis is studying the role of gender, the guide will be helpful to those seeking a general introduction to social science methods used in related inquiries.

## RULES—FEDERAL RULEMAKING

### **Past and Potential Uses of Empirical Research in Civil Rulemaking**

Thomas E. Willging

Notre Dame Law Review, May 2002

This article describes some of the advantages, disadvantages, potential benefits, and limitations of conducting empirical research to inform the civil rulemaking process. The article documents and analyzes the impact of fourteen Center studies during the last fourteen years in response to specific requests from rulemakers who wished to examine empirical data relevant to contemplated changes in the Federal Rules of Civil Procedure.

### **Survey on the Federal Rules of Bankruptcy Procedure**

Elizabeth C. Wiggins, Molly Treadway Johnson, Gregory A. Mahin & Robert J.

Niemic

1996, 56 pages

A report of the results of a Center survey of participants in the bankruptcy system concerning their views of the Bankruptcy Rules and related forms. The Long-Range Planning Subcommittee of the Judicial Conference Committee on Bankruptcy Rules requested the survey as part of a comprehensive review of the rules to determine whether they should be modified.

*see also* **CASE MANAGEMENT—CIVIL; CLASS ACTION LITIGATION;  
DISCOVERY AND DISCLOSURE; EVIDENCE; SANCTIONS; SETTLEMENT**

## SANCTIONS

### **Report of a Survey Concerning Rule 11, Federal Rules of Civil Procedure**

John Shapard, George Cort, Marie Cordisco, Thomas Willging, Elizabeth Wiggins & Kim McLaurin

1995, 15 pages

A report of the results of a Center survey that sought federal trial attorneys' and federal district judges' views of the effects of Rule 11 before 1993, the effects of amendments to Rule 11 that became effective December 1, 1993, and the merits of proposals that would in large measure reverse the 1993 amendments. The results suggest that a majority of respondents generally oppose the proposed changes to Rule 11, with one exception: a majority believe that the purpose of Rule 11 sanctions should encompass compensation of parties injured by violations of Rule 11 as well as deterrence of such violations.

### **FJC Directions, No. 2: Special Issue on Rule 11**

November 1991

Centered around a study undertaken by the Center to assess the operation and impact of Fed. R. Civ. P. 11, this issue of *FJC Directions* describes Rule 11 activity in the federal courts, answers central questions about use of the rule, reports judges' assessments of the rule, and outlines proposed changes to the rule. Included is the text of an amended Rule 11 proposed by the Judicial Conference Advisory Committee on Civil Rules.

### **The Rule 11 Sanctioning Process**

Thomas E. Willging

1988, 200 pages (available on WESTLAW)

A report that discusses the possible chilling effects and potential for creating satellite litigation of Federal Rule of Civil Procedure 11 (before the 1993 amendment that increased judges' discretion as to imposing sanctions). It also discusses the nature and adequacy of procedures used to implement the rule. The report is based on interviews with judges and lawyers in eight districts. The author describes his methodology and reports his empirical findings.

### **An Empirical Study of Rule 11 Sanctions**

Saul M. Kassin

1985, 81 pages (available on WESTLAW)

The results of a survey of 292 federal district judges concerning how they interpret and apply the 1983 amendments to Federal Rule of Civil Procedure 11 (before the 1993 amendments). Based on the judges' hypothetical reactions to actual cases in which Rule 11 sanctions were requested, the study outlines the judges' standards and rationales for imposing sanctions, the kinds of sanctions imposed, and the relationship between the judges' opinions and their expectations of how their colleagues would rule on the same issues.

## **SECURITIES LAW AND LITIGATION**

### **Federal Securities Law**

Thomas Lee Hazen

1993, 115 pages

An introduction to the intricacies of federal securities law. The author focuses on the issues that federal judges are most likely to encounter in litigation: basic registration, disclosure, and antifraud provisions.

## **SENTENCING**

### **Guideline Sentencing Update**

A newsletter with brief descriptions of cases, intended to inform judges and other judicial branch personnel of selected federal court decisions on the sentencing reform legislation of 1984 and 1987 and the Sentencing Guidelines. *Guideline Sentencing Update* is digested in *Guideline Sentencing: An Outline of Appellate Case Law on Selected Issues* (see below). It is available at [www.fjc.gov](http://www.fjc.gov) (and on the courts' intranet at [jnet.fjc.dcn](http://jnet.fjc.dcn)).

### **Guideline Sentencing: An Outline of Appellate Case Law on Selected Issues**

Jefri Wood

September 2000, 484 pages

A cumulative outline of issues covered in *Guideline Sentencing Update*.

### **U.S. Sentencing Guidelines: Results of the Federal Judicial Center's 1996 Survey—Report to the Committee on Criminal Law of the Judicial Conference of the United States**

Molly Treadway Johnson & Scott A. Gilbert

1997, 122 pages

Report on a survey that the Center undertook at the request of the Committee on Criminal Law of the Judicial Conference of the United States of all district and circuit judges and chief probation officers regarding their experiences with and views of the Federal Sentencing Guidelines. Overall, responses did not reflect a groundswell of support for major overhaul of the Sentencing Guidelines. In general, chief probation officers were less supportive of change to the current guideline sentencing system than were judges.

**The Consequences of Mandatory Minimum Prison Terms: A Summary of Recent Findings**

Barbara S. Vincent & Paul J. Hofer

1994, 35 pages

Using a growing body of data and scholarly research, this report examines whether federal mandatory minimum sentencing statutes have been successful in achieving the purposes of punishment. The authors suggest that the mandatory minimums may compromise the basic fairness and integrity of the federal criminal justice system and that their benefits could be better achieved through application of the Sentencing Guidelines.

**The General Effect of Mandatory Minimum Prison Terms: A Longitudinal Study of Federal Sentences Imposed**

Barbara Meierhoefer

1992, 29 pages

A report that examines the sentences imposed on federal offenders from 1984 through the first six months of 1990, a time during which the federal Sentencing Guidelines were promulgated and numerous mandatory minimum sentencing statutes were enacted. The report presents an overview of sentencing for the whole population, as well as a detailed analysis of mandatory minimum drug offenders over time, including the proportion who are sentenced at or above the mandatory minimum term and the changing influence of a number of offense and offender characteristics, such as prior record, role in the offense, age, sex, and race.

**Sentencing Federal Offenders for Crimes Committed Before November 1, 1987**

James B. Eaglin

1991, 78 pages

An update of a 1985 revised Center publication describing the statutory federal sentencing alternatives for offenders convicted of crimes committed before the effective date of the U.S. Sentencing Commission's Sentencing Guidelines. The report relates sentencing alternatives to policies of the agencies that carry out the sentences, such as the Federal Bureau of Prisons and the Parole Commission. The report includes limited comparisons of old and new law.

**Home Confinement: An Evolving Sanction in the Federal Criminal Justice System**

Paul J. Hofer & Barbara Meierhoefer

1987, 75 pages (available on WESTLAW)

An evaluation of home confinement as an alternative to imprisonment in the federal system. The authors examined selection procedures and criteria, types of monitoring, the role of probation officers, and other elements of home confinement programs. They reviewed the role of home confinement within traditional models of sentencing as well as the likely impact of the 1984 Sentencing Reform Act (which took effect after the report was written) on the availability of home confinement as a sentencing tool.

**The Effects of Sentencing Councils on Sentencing Disparity**

1981, 16 pages

A report on the effects of sentencing councils on sentencing disparity in four district courts. (Sentencing councils were used before the 1984 Sentencing Reform Act in an effort to reduce unwarranted sentencing disparity.) The report concludes that the effect of introducing a sentencing council into a court cannot be predicted without knowledge of many court characteristics; that sentencing councils can either reduce or increase sentencing disparity, depending on the characteristics of the court; and that sentencing councils can polarize sentencing attitudes.



**An Evaluation of the Probable Impact of Selected Proposals for Imposing Mandatory Minimum Sentences in the Federal Courts**

James Eaglin & Anthony Partridge

1977, 83 pages

A comparison of sentencing practices in fiscal 1976 with sentencing proposals offered in the second session of the 95th Congress. The authors conclude that few sentences imposed by federal judges would conflict with the legislative proposals, except those in the opiate, bank robbery, and aggravated assault offense categories.

*see also* **PROBATION AND PRETRIAL SERVICES**

**SETTLEMENT**

**Likely Consequences of Amendments to Rule 68, Federal Rules of Civil Procedure**

John E. Shapard

1995, 72 pages

A report that uses trial attorneys' responses to a Center survey concerning 800 federal civil cases in assessing then proposed amendments to Fed. R. Civ. P. 68 to make it more effective in encouraging settlement and reducing litigation. The results indicate that a more effective Rule 68 would be well received by most attorneys and would likely influence litigation in about 50% of civil cases, resulting in more and earlier settlements at reduced expense and with limited effects for litigants of modest means.

**Settlement Strategies for Federal District Judges**

D. Marie Provine

1986, 103 pages (available on WESTLAW)

A discussion of various techniques for settlement, such as judicial mediation, court-annexed arbitration, the use of special masters, summary jury trials, minitrials, and settlement conferences conducted by magistrate judges. The report is based on a conference of judges experienced in different types of settlement, interviews with court personnel, and literature in the field.

*see also* **ALTERNATIVE DISPUTE RESOLUTION**

**SPECIAL MASTERS**

**Special Masters' Incidence and Activity: A Report to the Judicial Conference's Advisory Committee on Civil Rules and Its Subcommittee on Special Masters**

Thomas E. Willging, Laural L. Hooper, Marie Leary, Dean Miletich, Robert Timothy Reagan & John Shapard

2000, 125 pages

The Special Masters' Subcommittee of the Advisory Committee on Civil Rules of the Judicial Conference asked the Center to examine how often judges appointed special masters and what functions they asked masters to perform. This report documents the incidence of recent special master consideration and appointment. The authors found that such activity was rare and occurred primarily in high-stakes cases that were especially complex. Party initiative, consent, or acquiescence provided the foundation for appointments and the basis for authorizing activities not contemplated by Rule 53. The subcommittee used the report along with other information in framing a proposed revision of Rule 53 that was published in August 2001.

*see also* **EVIDENCE**

## **SPEEDY TRIAL**

### **Legislative History of Title I of the Speedy Trial Act of 1974**

Anthony Partridge

1980, 384 pages

A research aid for those engaged in interpreting the Speedy Trial Act. Excerpts from congressional hearing records and committee reports are arranged according to the sections of the statute to which they pertain. Materials related to both the original enactment and the 1979 amendments are included. The book contains the full text of Title I as it appeared in successive versions of the bill as well as an introductory essay about the genesis and development of the act.

## **STARE DECISIS**

### **Stare Decisis**

Edward D. Re

1975, 21 pages

An exploration of the doctrine of precedent in the judicial process.

## **STATE–FEDERAL JUDICIAL RELATIONSHIPS**

### **Manual for Cooperation Between State and Federal Courts**

James G. Apple, Paula L. Hannaford & G. Thomas Munsterman

1997, 248 pages

published jointly by the Federal Judicial Center, the National Center for State Courts & the State Justice Institute

This manual seeks to promote cooperation between state and federal courts and provides many practical ways of doing so. It contains examples of practical steps state and federal judges and courts can take to save resources through sharing or other means, to avoid scheduling or other conflicts that adversely affect court operations and the bar, and plan programs and other services that benefit both judiciaries. This manual also includes sample forms that provide the means to these ends.

### **FJC Directions, No. 5: Special State–Federal Issue**

August 1993

This issue of *FJC Directions* provides highlights of the papers presented at the National Conference on State–Federal Judicial Relationships, held in April 1992, and of the discussions the papers prompted. Included are summaries of participants' ideas, of the keynote address, and of panel commentary on the address; a discussion of planning using the National Judicial Council of State and Federal Courts; results of a survey on state–federal administrative cooperation nationwide.

## **VOTING RIGHTS**

### **Redistricting Litigation: An Overview of Legal, Statistical, and Case-Management Issues**

Bruce M. Clarke & Robert Timothy Reagan

2002, 71 pages

This monograph consists of an overview of the law of redistricting, a summary of statistical techniques frequently used in redistricting litigation, and a discussion of some of the major case-management challenges presented by such cases. The legal overview focuses on Voting Rights Act, Equal Protection Clause, and one person-one vote cases. The Center prepared this monograph as a resource for judges assigned cases challenging legislative redistricting plans developed in response to the 2000 census.

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By statute, the Chief Justice of the United States chairs the Center's Board, which also includes the director of the Administrative Office of the U.S. Courts and seven judges elected by the Judicial Conference.

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